

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Andrea Leiba	:	
	:	
v.	:	C-2020-3017429
	:	
Philadelphia Gas Works	:	

INITIAL DECISION

Before
Eranda Vero
Administrative Law Judge

INTRODUCTION

This Initial Decision grants Andrea Leiba’s request to withdraw her Complaint, as there was no objection to the request, and granting the request is in the public interest.

HISTORY OF THE PROCEEDING

On January 31, 2020, Andrea Leiba (Complainant or Ms. Leiba) filed a formal Complaint (Complaint) against Philadelphia Gas Works (PGW or Respondent) with the Pennsylvania Public Utility Commission (Commission). In the Complaint, Ms. Leiba averred that PGW is holding her responsible for the theft of gas service perpetrated by her tenant. As relief, she requested the Commission’s assistance in resolving the matter and removing the charges assessed by PGW.

On February 24, 2020, PGW filed an Answer denying all material allegations of fact and conclusions of law in the Complaint.

By Hearing Notice dated June 2, 2020, a telephonic hearing was scheduled for Friday, July 10, 2020, and the matter was assigned to me.

The hearing convened as scheduled on July 10, 2020. Ms. Leiba appeared *pro se* and testified on behalf of the Complaint. During cross-examination, Ms. Leiba revealed that she had filed a Chapter 7 bankruptcy petition in federal court. Counsel for PGW, Laureto Farinas, Esq., confirmed that Respondent had been notified of Ms. Leiba's bankruptcy filing.

Upon receiving this information, I informed the parties that a bankruptcy petition filed under either Sections 301, 302 or 303 of the United States Bankruptcy Code operates as a stay and bars the commencement or continuation of a judicial, administrative or other action or proceeding against the debtor, including the issuance or employment of a process, which action or proceeding was commenced prior to the start of the bankruptcy proceeding, or to recover a claim against the debtor that arose before the commencement of the bankruptcy proceeding.¹ I further explained that, in view of Ms. Leiba's recent bankruptcy petition, it is reasonable to stay the proceeding before this Commission for the period of time the bankruptcy judge takes to rule on her case. Consequently, the hearing was recessed, and by Order dated July 10, 2020, the matter at Docket No. C-2020-3017429 was stayed pending resolution of the Complainant's bankruptcy petition. The parties were instructed to file a status report with the Commission every 60 days until the conclusion of the bankruptcy proceeding. Neither party submitted a status report.

By Order dated June 22, 2021, the parties were ordered to file a status report with the Commission by no later than July 10, 2021. In lieu of a status report, PGW's attorney in this matter, Mr. Farinas, copied me in an email dated July 9, 2021, and addressed to Ms. Leiba, which included a summary of an earlier telephone communication between Mr. Farinas and Ms. Leiba. The content of the email revealed that Ms. Leiba is no longer pursuing the bankruptcy matter that resulted in the stay of the present proceeding, and that she had converted the utility usage to all electricity at 4902 Brown Street (Service Address). The email indicated that, as a result of these developments, Ms. Leiba is not interested in pursuing the litigation in the

¹ 11 U.S.C.S. § 362(a)(1).

present matter and that she intends to withdraw the Complaint. The email also stated that PGW does not object to Ms. Leiba's withdrawal of the Complaint.

By email dated July 9, 2021, I instructed the Complainant to file a written request for withdrawal of the Complaint with the Commission. Another email dated July 28, 2021, repeated the same instructions to Ms. Leiba. Having received no response from the Complainant, on August 19, 2021, I sent a letter to Ms. Leiba explaining the process for filing a petition for withdrawing the Complaint and instructing her to do so by no later than September 6, 2021.

Because no written petition for leave to withdraw the Complaint was filed by the due date, the Commission issued a Further Telephonic Hearing Notice on September 23, 2021, informing the parties that a further telephonic hearing was scheduled in this matter on Friday, October 15, 2021.

On September 23, 2021, Ms. Leiba informed the Commission, via email, that she "[does] not want to go forward with this case." In view of the content of Mr. Farinas' email dated July 9, 2021, I interpreted Ms. Leiba's communication to be a Petition for Leave to Withdraw her Complaint and cancelled the further telephonic hearing.

The record closed on September 23, 2021, the date Ms. Leiba submitted her Petition for Leave to Withdraw.

For the reasons set forth below, the Complainant's request to withdraw her Complaint is granted.

FINDINGS OF FACT

1. The Complainant is Andrea Leiba.
2. The Respondent is Philadelphia Gas Works.

3. On January 31, 2020, the Complainant filed a Complaint with the Commission against the Respondent.

4. On February 24, 2020, Respondent filed an Answer denying all material allegations of fact and conclusions of law in the Complaint.

5. By Hearing Notice dated June 2, 2020, an initial call-in hearing was scheduled in this matter for July 10, 2020, at 10:00 a.m.

6. The hearing convened as scheduled on July 10, 2020.

7. During the hearing, Ms. Leiba testified that she had filed a Chapter 7 bankruptcy petition in federal court. Tr. 31-34, 37.

8. An Order dated July 10, 2020, informed the parties that the matter at Docket No. C-2020-3017429 was stayed pending resolution of the Complainant's bankruptcy petition and instructed them to file a status report with the Commission every 60 days until the conclusion of the bankruptcy proceeding.

9. By Order dated June 22, 2021, the parties were ordered to file a status report with the Commission by no later than July 10, 2021.

10. By email dated July 9, 2021, counsel for PGW indicated that the Complainant is no longer pursuing the bankruptcy matter that resulted in the stay of the present proceeding, that she is no longer using gas service at the Service Address, and that she intended to withdraw her present Complaint.

11. The July 9, 2021 email explained that PGW does not object to Ms. Leiba's withdrawal of the Complaint.

12. By emails dated July 9, and 28, 2021, and a letter dated August 19, 2021, the Complainant was instructed to file a written request for withdrawal of the Complaint with the Commission.

13. On September 23, 2021, the Commission issued a Further Telephonic Hearing Notice informing the parties that a further telephonic hearing was scheduled in this matter on Friday, October 15, 2021.

14. On September 23, 2021, Ms. Leiba informed the Commission, via email, that she “[does] not want to go forward with this case.”

DISCUSSION

The Commission’s Rules of Practice and Procedure at 52 Pa. Code § 5.94 permit parties to withdraw pleadings in a contested proceeding. The provision at 52 Pa. Code § 5.94(a) allows withdrawal of pleadings by filing, with the Commission and service to parties, a petition for leave to withdraw the pleading. The petition is granted only by permission of the presiding officer or the Commission. *Id.* The presiding officer or Commission must consider the petition, any objections thereto and the public interest in determining whether to permit withdrawal of the pleading. *Id.* Pursuant to 52 Pa. Code § 1.2, the Commission may, in order to secure the just, speedy and inexpensive determination of actions or proceedings, disregard an error or defect of procedure which does not affect the substantive rights of the parties. For purposes of this decision, the Complainant’s written statement that she no longer desires to proceed with her Complaint against Philadelphia Gas Works will be treated as a Petition for Leave to Withdraw the Complaint. 52 Pa.Code § 1.2

In an email dated July 9, 2021, and sent in lieu of a status report on the progress of Ms. Leiba’s bankruptcy petition, counsel for PGW provided a summary of an earlier telephone communication with Ms. Leiba. The content of the email revealed the Complainant is no longer pursuing the bankruptcy matter that resulted in the stay of the present proceeding, and that she is no longer using gas service at the Service Address. The email indicated that, because

of these developments, Ms. Leiba is not interested in pursuing the litigation in the present matter and that she intends to withdraw the Complaint. The email also stated that PGW does not object to Ms. Leiba's withdrawal of the Complaint. In a separate email dated September 23, 2021, Ms. Leiba confirmed her intentions to withdraw her Complaint against PGW by stating that she "[does] not want to go forward with this case."

The Commission has no interest in mandating that a complainant continue litigation when she has indicated that she no longer wishes to proceed with her complaint. In the present case, the Complainant has effectively abandoned her Complaint. Thus, evaluating Ms. Leiba's claims and preparing a decision would not be in the public interest. Further, the Complaint does not allege any facts that would impact the public interest. The Complaint does not contain any novel issues or issues of public interest. Under these circumstances, granting the Complainant's request to withdraw her Complaint is in the public interest because doing so will eliminate the need for further litigation and save the parties any additional costs in time and money they would otherwise incur litigating the case. Accordingly, the Complainant's request to withdraw the present Complaint is granted.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties to and subject matter of this proceeding. 66 Pa.C.S.A. § 701.

2. In order to secure the just, speedy and inexpensive determination of actions or proceedings, the Commission may disregard an error or defect of procedure which does not affect the substantive rights of the parties. 52 Pa. Code § 1.2,

3. The Commission's Rules of Practice and Procedure at 52 Pa. Code § 5.94 permit parties to withdraw pleadings in a contested proceeding by permission of the presiding officer or Commission.

4. In determining whether to permit withdrawal of the pleading, the presiding officer or Commission must consider the petition, any objections thereto and the public interest. 52 Pa. Code § 5.94.

5. Granting the Complainant's withdrawal request is in the public interest.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Petition of Andrea Leiba for Leave to Withdraw her Complaint filed at Docket No. C-2020-3017429 is granted.

2. That the Complaint of Andrea Leiba against Philadelphia Gas Works filed on January 31, 2020, at Docket No. C-2020-3017429 is withdrawn.

3. That the Secretary's Bureau shall mark Docket No. C-2020-3017429 closed.

Date: November 16, 2021

/s/
Eranda Vero
Administrative Law Judge