

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Michael and Jennifer Rando	:	
	:	
v.	:	F-2021-3027861
	:	
PECO Energy Company	:	

INITIAL DECISION

Before
F. Joseph Brady
Administrative Law Judge

INTRODUCTION

This Initial Decision grants the Complainants’ request to withdraw their Complaint because there is no objection to it and granting the request is in the public interest.

HISTORY OF THE PROCEEDING

On June 21, 2021, Michael, and Jennifer Rando (Complainants) filed a formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against PECO Energy Company (PECO or Respondent). In the Complaint, the Complainants admitted that there was foreign wiring at a duplex they owned, which resulted in PECO transferring one of the tenant’s outstanding balance to Complainants. In their Complaint, the Complainants stated that their “issue is with Pennsylvania Public Utility Code 66 Pa.C.S. § 1529.1, which requires electric service to be transferred into the name of the landlord until the wiring is properly corrected.”

On August 19, 2021, PECO filed an Answer to the Complaint (Answer) denying in part and admitting in part the allegations in the Complaint.

By Hearing Notice dated August 26, 2021, an Initial Telephonic Hearing was scheduled for October 19, 2021, at 10:00 a.m.

On October 19, 2021, the hearing convened as scheduled. The Complainants appeared *pro se*. PECO was represented by Khadijah Scott, Esquire.

At the outset of the hearing, the Complainants stated, under oath, that they wished to withdraw their Complaint. Tr. 5. PECO had no objections to the Complainants' request to withdraw. Tr. 5.

The record closed on November 4, 2021, upon the filing of the transcript with the Commission.

FINDINGS OF FACT

1. The Complainants are Michael and Jennifer Rando.
2. The Respondent is PECO Electric Utilities Corporation.
3. On June 21, 2021, the Complainants filed a formal Complaint against PECO.
4. On August 19, 2021, PECO filed an Answer to the Complaint denying in part and admitting in part the allegations in the Complaint.
5. The Complainants own a duplex at 5410 Chancellor Street, Philadelphia, PA, 19139 (Service Address) with two units that they rent out to Tenants A and B. Answer ¶4.
6. After discovering foreign wiring connected to Tenant A's unit, PECO transferred the outstanding balance from Tenant A to the Complainants pursuant to 66 Pa.C.S. §1529.1. Answer ¶4.

7. The Complainants do not dispute that there was foreign wiring, but rather, take issue with Pennsylvania Public Utility Code 66 Pa.C.S. §1529.1. Answer ¶4.

8. By Hearing Notice dated August 26, 2021, an Initial Telephonic Hearing was scheduled for October 19, 2021, at 10:00 a.m.

9. The hearing convened as scheduled on October 19, 2021.

10. The Complainants appeared for the hearing and requested to withdraw their Complaint. Tr. 5.

11. The Respondent does not object to the Complainants' request to withdraw their Complaint. Tr. 5.

DISCUSSION

The Commission's Rules of Practice and Procedure at 52 Pa. Code § 5.94 permit parties to petition to withdraw pleadings in a contested proceeding:

Except as provided in subsection (b), a party desiring to withdraw a pleading in a contested proceeding may file a petition for leave to withdraw the appropriate document with the Commission and serve it upon the other parties. The petition must set forth the reasons for the withdrawal. A party may object to the petition within 10 days of service. After considering the petition, an objection thereto and the public interest, the presiding officer or the Commission will determine whether the withdrawal will be permitted.

52 Pa. Code § 5.94(a).

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. 52 Pa. Code § 5.94.

A presiding officer or the Commission may disregard an error or defect of procedure or waive a requirement that does not adversely affect a substantive right of a party, particularly in proceedings involving *pro se* litigants. 52 Pa. Code §§ 1.2(a), (c), (d). Thus, the Complainants' statement under oath that they wish to withdraw their Complaint will be treated as a petition for leave to withdraw the Complaint.

In this case, the Complainants do not dispute the fact that foreign wiring was found on a property that they own. Likewise, they do not claim that PECO acted improperly when transferring the outstanding balance from the tenant to them pursuant to 66 Pa.C.S. § 1529.1. The Complainants only issue was they do not agree with 66 Pa.C.S. § 1529.1. Prior to the hearing, it was explained to the Complainants that neither I, nor the Commission, have the authority to change or make exceptions to 66 Pa.C.S. § 1529.1. Once the Complainants understood this, they sought to have their Complaint withdrawn. PECO did not object. Under these circumstances, granting the Complainants' request to withdraw their Complaint is in the public interest because doing so will eliminate the need for litigation and save the parties any additional costs in time and money they would otherwise incur litigating a case wherein the relief sought cannot be granted. Accordingly, the Complainants' request to withdraw their Complaint shall be granted.

CONCLUSIONS OF LAW

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

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

3. After considering the petition, any objection thereto and the public interest, the presiding officer or the Commission will determine whether the withdrawal will be permitted. 52 Pa. Code § 5.94(a).

4. A presiding officer or the Commission may disregard an error or defect of procedure or waive a requirement that does not adversely affect a substantive right of a party, particularly in proceedings involving *pro se* litigants. 52 Pa. Code §§ 1.2(a), (c), (d).

5. It is in the public interest to grant the Complainants' request to withdraw their Complaint. 52 Pa. Code § 5.94

ORDER

THEREFORE,

IT IS ORDERED:

1. That Michael and Jennifer Rando's Petition for Leave to Withdraw their Complaint filed at Docket No. F-2021-3027861 is granted.

2. That the Complaint of Michael and Jennifer Rando against PECO Energy Company filed at Docket No. F-2021-3027861 is withdrawn.

3. That Docket No. F-2021-3027861 be marked closed.

Date: November 17, 2021

_____/s/
F. Joseph Brady
Administrative Law Judge