

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2022-3031340
Larry Wolfe	:	C-2022-3033223
	:	
v.	:	
	:	
York Water Company – Water Division	:	

INITIAL DECISION

Before
Katrina L. Dunderdale
Administrative Law Judge

INTRODUCTION

This decision grants Complainant’s request to withdraw a formal complaint alleging York Water Company is wrong to propose a general water rate increase in Supplement No. 143 to Tariff Water - Pa. P.U.C. No. 14 (to become effective August 1, 2022), which would result in an increase of \$18,853,738 (or 33.8%) per year. Complainant no longer wishes to pursue his formal complaint, and the public interest benefits from granting the request.

HISTORY OF THE PROCEEDING

On May 27, 2022, York Water Company (York Water, YWC or Company) filed with the Pennsylvania Public Utility Commission (Commission) Supplement No. 143 to Tariff Water - Pa. P.U.C. No. 14 to become effective August 1, 2022, in which the Company proposed a general increase in water rates of \$18,853,738 (or 33.8%) per year. The proceeding is docketed at Docket No. R-2022-3031340, *et al.*¹

¹ Simultaneously, the Company filed Supplement No. 14 to Tariff Wastewater – PA. P.U.C. No. 1 to become effective on August 1, 2022, proposing a general increase in wastewater rates of \$1,456,792 (or 35%) per year. That proceeding was consolidated with the Water Division proceeding, and it is docketed at Docket No. R-2022-3032806, *et seq.*

On June 8, 2022, Larry L. Wolfe (Mr. Wolfe or Complainant) filed a formal complaint to a rate increase proposed by York Water Company – Water Division alleging the Company’s proposed base rate increase over 30% was too high and should be limited to the current rate of inflation (8%). Mr. Wolfe also objected to the proposal to allocate revenue from water customers to the wastewater division. York Water Company did not file an answer to the formal complaint because the formal complaint is associated with a pending base rate proceeding, pursuant to 52 Pa. Code § 5.61(d).

On July 13, 2022, OALJ scheduled a call-in telephonic prehearing conference for July 21, 2022, to be conducted telephonically on the Commission’s conference bridge number. Prehearing Memoranda were submitted by York Water, the Commission’s Bureau of Investigation and Enforcement (BIE), the Office of Consumer Advocate (OCA) and the Office of Small Business Advocate (OSBA) prior to the start of the prehearing conference.

On July 14, 2022, the Commission entered an order suspending the implementation of Supplement No. 143, and opened an investigation to determine the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained in the proposed Supplement No. 143. Further, the matter was assigned to the Office of Administrative Law Judge (OALJ) to schedule such hearings as necessary to develop a record in this proceeding.

On July 18, 2022, Complainant sent electronic mail to the presiding officer and the parties entitled “Prehearing Memorandum of Larry L. Wolfe” in which Complainant requested the Commission withdraw his formal complaint and remove his name from all service lists.

On July 21, 2022, the presiding officer conducted a telephonic prehearing conference. During the prehearing conference, the parties present indicated there was no objection to granting Mr. Wolfe’s request to withdraw his formal complaint. On July 26, 2022, the presiding officer issued a Prehearing Order setting forth the litigation schedule and advising the parties about prehearing procedural matters.

FINDINGS OF FACT

1. Complainant, Larry L. Wolfe, resides at 2698 Forest Road, York, Pennsylvania 17402 (service address). (Complaint, p. 1).
2. Respondent, York Water Company, provides water service to Complainant at the service address. (Complaint, p. 1).
3. On July 18, 2022, Complainant filed a request to withdraw his complaint which indicated Complainant wished to withdraw his formal complaint and no longer receive service of documents.
4. Respondent did not object to the withdrawal.

DISCUSSION

The Commission is empowered and charged with the duty to enforce the requirements of the Public Utility Code. 66 Pa.C.S. § 501(a). In this proceeding, Complainant objected to the proposed base rate increase and opposed the proposal to allocate water division revenue to the wastewater division. Complainant now seeks an order from the Commission granting his request to withdraw the formal complaint.

Pursuant to 52 Pa. Code § 5.94(a):

[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.

In his formal complaint, Complainant alleged Respondent's request to increase the base rate by more than thirty percent (30%) was too high, and he opposed reallocating revenue from the Company's water customers to the Company's wastewater operations. For relief, Complainant requested the increase be limited to the current rate of inflation (or 8%), and that the Commission deny the allocation request.

In this proceeding, it is clear through Complainant's statements that he no longer wishes to pursue the formal complaint.² Respondent and all other parties at the prehearing conference indicated they consented to the withdrawal request.

The presiding officer notes the withdrawal of a formal complaint is within a complainant's prerogative if a complainant no longer wishes to pursue the allegations. The public interest is not served or benefitted if the Commission requires Mr. Wolfe to continue to pursue the formal complaint when he no longer wishes to pursue it. Mr. Wolfe had the opportunity to be heard on these issues but no longer wishes to do so. Therefore, it is in the public interest to allow Complainant to withdraw the formal complaint. Accordingly, the request to withdraw will be granted.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and the subject matter of this proceeding. 66 Pa.C.S. § 701.
2. The Commission has the power, and the duty, to enforce the requirements of the Public Utility Code. 66 Pa.C.S. § 501(a).
3. Pursuant to 66 Pa.C.S. § 332(a), the burden of proof in this proceeding is on Complainant as the proponent of a Commission Order.

² Complainant's request in the Prehearing Memorandum to withdraw his formal complaint was accepted as a Petition for Leave to Withdraw, pursuant to 52 Pa. Code § 1.2. *See also, Ulishney v. W. Penn Power Co.*, C-2021-3024487 (Opinion and Order entered May 19, 2022).

