

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

600 Scranton LLC	:	
	:	
v.	:	C-2019-3014952
	:	
PPL Electric Utilities Corporation	:	

INITIAL DECISION

Before
Dennis J. Buckley
Administrative Law Judge

INTRODUCTION

This Initial Decision grants a request by the Complainant in this case, 600 Scranton LLC, asking permission for leave to withdraw its Complaint. The request is not opposed by Respondent, PPL Electric Utilities Corporation, and as will be explained, below, granting the request is in the public interest.

HISTORY OF THE PROCEEDING

On December 13, 2019, 600 Scranton LLC (600 Scranton or Complainant) filed a Complaint with the Pennsylvania Public Utility Commission (Commission) against PPL Electric Utilities Corporation (PPL or Respondent) alleging, in part, that PPL had misbilled Complainant and failed to provide a Notice of Termination of Service as required by Commission regulations. Issues with respect to whether Complainant is being billed at the proper, tariffed rate have also been raised as well as metering issues.

On January 2, 2020, PPL filed an Answer to the Complaint denying the allegations therein.

On January 9, 2020, a Hearing Notice was issued setting a telephonic hearing in this case for February 20, 2020.

On January 17, 2020, Complainant filed a Motion requesting that the hearing on February 20, 2020 be converted to a preliminary conference to facilitate discovery, among other matters. PPL has not filed an Answer to that Motion.

On February 6, 2020, AKSD Discount Stores a/k/a P&R Discounts (AKSD or Petitioner) filed a Petition to Intervene in this matter pursuant to 52 Pa. Code §§ 5.71–5.76.

On February 14, 2020, Complainant filed an Answer to AKSD's Petition to Intervene in which Complainant asked that the Petition be denied as factually inaccurate and legally insufficient.

On February 14, 2020, a Prehearing Order was issued.

On February 20, 2020, a telephonic initial prehearing conference took place originating from the Commission's office in Harrisburg, Pennsylvania. Tr. at 1-49. The conference was primarily concerned with the Petition to Intervene of AKSD Discount Stores. Myles R. Wren, Esquire, appeared representing AKSD; Kimberly G. Krupka, Esquire, appeared on behalf of PPL; and Thomas J. Jones, Esquire, appeared on behalf of 600 Scranton.

On March 11, 2020, an Initial Decision was issued denying the Petition to Intervene of AKSD. No Exceptions were filed, and the Commission adopted the Initial Decision on May 21, 2020, the Commission's Final Order being entered that day.

On August 4, 2020, a second telephonic prehearing conference convened. 600 Scranton was represented by Thomas J. Jones, Jr., Esquire. PPL was represented by

Graig M. Schultz, Esquire. It was tentatively agreed that an evidentiary hearing would convene December 15, 2020.

After an extended period for discovery, an evidentiary hearing was scheduled for April 15, 2021. The evidentiary hearing set for April 15, 2021, was converted to a further prehearing conference to address discovery issues. That third telephonic prehearing conference was held on April 15, 2021. Kimberly G. Krupka, Esquire, appeared on behalf of PPL, and Thomas J. Jones, Esquire, appeared on behalf of 600 Scranton.

On April 30, 2021, 600 Scranton filed an Amended Complaint limiting the scope of the proceeding.

On May 20, 2021, PPL filed an Answer to the Amended Complaint continuing to deny any violation of the Public Utility Code or the rules and regulations of the Commission.

On July 22, 2021, a fourth telephonic prehearing conference took place. Kimberly G. Krupka, Esquire, appeared on behalf of PPL, and Thomas J. Jones, Esquire, appeared on behalf of 600 Scranton. The purpose of that prehearing conference was to define and resolve outstanding discovery issues so that this case could proceed to hearing.

On August 25, 2021, 600 Scranton filed a Motion to Compel production of documents to establish the electric rate charged to the prior owner of the service location in June 2017, the month before Complainant took possession of the property so that Complainant could make a comparison of rates and ascertain whether it was overcharged by PPL. No Answer or responsive pleading was filed by PPL.

On January 28, 2022, an Order was issued granting 600 Scranton's Motion to Compel.

On February 3, 2022, a fifth telephonic prehearing conference took place. Kimberly G. Krupka, Esquire, appeared on behalf of PPL, and Thomas J. Jones, Esquire,

appeared on behalf of 600 Scranton. As with the preceding prehearing conferences, this conference took up the ongoing issue of whether the parties were engaging in productive discovery calculated to bring this matter to hearing.

On May 9, 2022, a Hearing Notice was issued setting June 23, 2022, as the date for a telephonic evidentiary hearing in this matter.

On June 7, 2022, Anthony D. Kanagy, Esquire, entered his appearance on behalf of PPL.

On June 23, 2022, a Cancellation Notice was issued cancelling an evidentiary hearing scheduled for that date as the Parties informed me that they had tentatively agreed to a resolution of this matter.

On August 2, 2022, 600 Scranton filed an unopposed Petition to Withdraw its Amended Complaint.

For the reasons stated, below, the Petition for Leave to Withdraw the Complaint is in the public interest and will be granted.

FINDINGS OF FACT

1. On December 13, 2019, 600 Scranton LLC filed a Formal Complaint against PPL Electric Utilities Corporation alleging, in part, that PPL had misbilled Complainant and failed to provide a Notice of Termination of Service as required by Commission regulations; issues with respect to whether Complainant is being billed at the proper tariffed rate have also been raised as well as metering issues.

2. On January 2, 2020, PPL filed an Answer to the Complaint denying the allegations therein.

3. On April 30, 2021, 600 Scranton filed an Amended Complaint.
4. On May 20, 2021, PPL filed an Answer to the Amended Complaint.
5. On August 2, 2022, 600 Scranton filed a Petition requesting that the Amended Complaint be withdrawn.
6. The request to withdraw the Amended Complaint is not opposed.

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. 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.

Considering any objections to the withdrawal of the Complaint, I note that PPL does not object to the proposed withdrawal. There are no other parties to this proceeding.

At the time of the filing of the Petition to Withdraw, this proceeding had been going on for two years and eight months. During this period of time, discovery was ongoing, and five prehearing conferences were held to address discovery issues. Neither a proposed settlement nor a certificate of satisfaction has been filed in this case, but both parties are represented by experienced counsel. While it is not possible to know the terms of the agreement that the parties have obviously reached, I am confident that any such agreement is mutually satisfactory, or the Petition for Leave to Withdraw would not have been filed. There are no intervenors in this case. I note that a similar matter involving 600 Scranton and the Pennsylvania-American Water Company was resolved with the filing of a Certificate of Satisfaction on April 25, 2022. See *600 Scranton LLC v. Pennsylvania-American Water Company* Docket No. C-2021-3020247 (April 25, 2022).

This matter having gone on for two years and eight months, it is clearly in the interest of the public as well as the parties to see this matter concluded. After considering the public interest in the wise use of Commission resources in avoiding unnecessary litigation as well as the Complainant's desire not to pursue the Complaint, the Petition for Leave to Withdraw will be granted. The public interest is best served by allowing withdrawal of the Complaint which Complainant no longer wishes to prosecute.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the parties to this proceeding. 66 Pa.C.S. § 701.
2. 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.
3. It is in the public interest to allow the withdrawal of the Formal Complaint at Docket No. C-2019-3014952.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Petition for Leave to Withdraw the Complaint filed by 600 Scranton LLC on August 2, 2022, at Docket No. C-2019-3014952 is granted.

2. That the Secretary of the Commission mark the Formal Complaint at Docket No. C-2019-3014952 closed.

Date: September 28, 2022

/s/
Dennis J. Buckley
Administrative Law Judge