

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Brian Seng	:	
	:	
v.	:	C-2022-3033359
	:	
Philadelphia Gas Works	:	

INITIAL DECISION

Before
F. Joseph Brady
Administrative Law Judge

INTRODUCTION

This Initial Decision grants the Complainant’s Petition for Leave to Withdraw His Complaint because there is no objection to it and granting the Petition is in the public interest.

HISTORY OF THE PROCEEDING

On June 28, 2022, Brian Seng (Complainant) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against Philadelphia Gas Works (PGW or Respondent). In the Complaint, the Complainant asserts that when he moved into the service address, he did not realize he was responsible to place the gas service in his name due to a misunderstanding of his lease. Thus, the Complainant argues his landlord should be responsible for the outstanding gas bill accrued during the period before he placed the gas service in his name.

On July 18, 2022, PGW filed an Answer to the Complaint (Answer) denying in part, and admitting, in part, the allegations in the Complaint. In its Answer, PGW states that: on

February 24, 2022, the Complainant contacted PGW to place the gas service at the service address in his name; PGW determined that the Complainant was linked to the service address as of March 2021; and thus, PGW advised the Complainant that his account would be pro-rated to March 1, 2021.

By Hearing Notice dated July 20, 2022, an Initial Call-In Telephonic Hearing was scheduled for September 6, 2022.

A Prehearing Order was issued on August 16, 2022, advising the parties of the date and time of the scheduled hearing, and informing them of the procedures applicable to this proceeding.

On September 6, 2022, the hearing convened as scheduled. The Complainant appeared *pro se* and testified on his own behalf. PGW was represented by Graciela Christlieb, Esquire.

At the outset of the hearing, the Complainant orally indicated that he wanted to withdraw his Complaint. Counsel for PGW did not object to the request.

The record closed on September 7, 2022, upon submission of the transcript to the Commission.

FINDINGS OF FACT

1. The Complainant is Brian Seng.
2. The Respondent is Philadelphia Gas Works.
3. On June 28, 2022, the Complainant filed a Formal Complaint against PGW.

4. On July 18, 2022, PGW filed an Answer to the Complaint denying, in part, and admitting, in part the allegations in the Complaint.

5. By Hearing Notice dated July 18, 2022, an Initial Call-In Telephonic Hearing was scheduled for September 6, 2022.

6. The hearing convened as scheduled on September 6, 2022.

7. At the hearing, under oath, the Complainant requested to withdraw his Complaint. Tr. 4-5.

8. The Respondent did not object to the Complainant's request to withdraw his 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. 52 Pa. Code § 5.94. 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.*

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 Complainant's statement under oath that he wishes to withdraw his Complaint will be treated as a petition for leave to withdraw the Complaint.

This case arises from a disagreement between the Complainant and his landlord over the terms of his lease. There was no dispute the Complainant received gas service at the service address during the time frame for which he was billed by PGW. Prior to the hearing, the Complainant came to the conclusion that he no longer wished to pursue this matter. As a result, the Complainant now seeks to have his Complaint withdrawn. PGW did not object. Under these circumstances, granting the Complainant's request to withdraw his 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 landlord/tenant dispute over which the Commission has no jurisdiction. Further, the Complaint does not contain any novel issues or issues that would impact the public interest. Accordingly, the Complainant's request to withdraw his 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 Complainant's petition for leave to withdraw his Complaint. 52 Pa. Code § 5.94.

ORDER

THEREFORE,

IT IS ORDERED:

1. That Brian Seng's Petition for Leave to Withdraw his Complaint filed at Docket No. C-2022-3033359 is granted.

2. That the Complaint of Brian Seng at Brian Seng v. Philadelphia Gas Works, Docket No. C-2022-3033359 is withdrawn.

3. That Docket No. C-2022-3033359 be marked closed.

Date: October 21, 2022

/s/
F. Joseph Brady
Administrative Law Judge