

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Rita Seben	:	
	:	
v.	:	C-2022-3030734
	:	
Peoples Natural Gas Company LLC	:	

INITIAL DECISION

Before
Katrina L. Dunderdale
Administrative Law Judge

INTRODUCTION

This decision grants Complainant’s request to withdraw her formal complaint alleging there was a reliability, safety or quality problem with her natural gas service provided by Respondent because Complainant no longer wishes to pursue her formal complaint and the public interest benefits from granting the request.

HISTORY OF THE PROCEEDING

On January 25, 2022, Rita Seben (Ms. Seben or Complainant) filed a formal complaint with the Pennsylvania Public Utility Commission (Commission) against Peoples Natural Gas Company LLC (Peoples, PNG or Respondent) alleging there was a reliability, safety or quality problem with her natural gas service provided by Respondent. Complainant requested the Commission order PNG to find the cause of a strong natural gas smell at the service address which started in late September 2021 after Respondent’s contractor replaced the service line and gas meter at the service address.

On February 22, 2022, PNG filed an Answer in which PNG admitted it provides natural gas service to Complainant's residence, and has responded more than nine times since August 31, 2021, to Ms. Seben's complaint about a strong odor at the service address. Peoples further alleged the Commission's Pipeline Safety Division opened an investigation and closed the investigation after PNG ordered a special leak survey that found no leaks.

By Call-In Telephone Hearing Notice dated February 28, 2022, the Public Utility Commission's Office of Administrative Law Judge (OALJ) scheduled an initial call-in telephonic hearing for April 19, 2022, and sent the Notice to the parties.¹

On March 2, 2022, the presiding officer issued a Prehearing Order setting forth the date, time and manner of the scheduled hearing and advising the parties about prehearing procedural matters.

On April 19, 2022, the presiding officer convened the parties and conducted the initial hearing. Ms. Seben appeared represented by Jeffrey P. Brahan, Esquire who presented the testimony of Ms. Seben and offered two exhibits, marked Complainant Exhibits A and B. The two exhibits were admitted into evidence. Jennifer L. Petrisek, Esquire, appeared and represented PNG. Attorney Petrisek presented the testimony of two witnesses – Tim Collins and Dan Kuehn - and offered three exhibits, marked Peoples Exhibits A, B and C. The three exhibits were admitted into evidence. Complainant and Respondent made final statements on the record. The transcript of the hearing contained 99 pages.

The presiding officer closed the hearing record by issuing the Interim Order Closing the Hearing Record on May 26, 2022.

On July 8, 2022, Complainant's counsel filed the Petition to Re-Open Record (Petition). Complainant requested the hearing record be reopened for the purpose of taking additional evidence concerning test results from a methane gas detector purchased after the

¹ On March 2, 2022, the OALJ issued a Corrected Hearing Notice which corrected the telephone number and "PIN" number to be used by the parties to connect to the telephonic hearing.

initial hearing was conducted in April 2022 and which was received on July 7, 2022. Respondent neither opposed nor consented to the Petition.

On July 20, 2022, the presiding officer issued the First Post-Hearing Order which reopened the hearing record for the purpose of receiving additional documentation and scheduled a further hearing to be conducted on August 18, 2022.

On July 29, 2022, Complainant's counsel filed the Petition for Leave to Withdraw Complaint (Petition to Withdraw). Complainant alleged that Peoples performed work at the service address after the Petition was filed and the work "appears to have alleviated the natural gas odors"² which led to Complainant filing the formal complaint. Complainant requested the Commission withdraw her formal complaint and cancel the Further Hearing scheduled for August 18, 2022. On August 8, 2022, Peoples communicated via electronic mail that it had no objection to the Commission granting Complainant's Petition to Withdraw.

The hearing record closed on July 29, 2022, pursuant to 52 Pa.Code § 5.94 (relating to withdrawal of pleadings in a contested proceeding) and § 5.431(a) and (b) (relating to Close of the Record).

FINDINGS OF FACT

1. Complainant, Rita Seben, resides at 133 Argonne Drive, New Kensington, Pennsylvania 15068 (service address). (Tr. 10).
2. Respondent, Peoples Natural Gas Company LLC, provides natural gas service to Complainant at the service address. (Tr.11).
3. On July 29, 2022, counsel for Complainant, Jeffrey P. Brahan, Esquire, filed a Petition for Leave to Withdraw Complaint with the Commission which indicated

² See, Complainant's Petition for Leave to Withdraw Complaint, p. 1.

Complainant wished to withdraw her formal complaint without prejudice and notified Respondent of the need to respond within ten (10) days if Respondent had an objection.

4. Respondent does 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 originally sought an order from the Commission finding Respondent failed to locate the source of a strong natural gas odor at her residence and Respondent failed to correct the problem. Complainant now seeks an order from the Commission granting the 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 her formal complaint, Complainant alleged Respondent failed to correct the problem which produced a strong natural gas odor. As a result of the strong odor, Complainant contended she and her family were unable to use a bedroom located in the basement, and Complainant further asserted the windows had to be open to air out the odor, even in the winter. Complainant argued she wasted money heating the service address during the winter because she had to keep the windows open. She further argued that she felt unsafe in her home because she had to leave the windows open during the nighttime.

In this proceeding, it is clear through statements in Complainant’s Petition to Withdraw that Complainant no longer wishes to pursue her formal complaint. By letter dated

July 29, 2022, Complainant avers the problem – a strong natural gas odor – no longer exists. Respondent does not object to this 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 Ms. Seben to continue to pursue her complaint when she no longer wishes to pursue it. Ms. Seben 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 Petition for Leave to Withdraw Complaint of Rita Seben 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.
4. Complainant, as the party desiring to withdraw a pleading in a contested proceeding, has filed a Petition for Leave to Withdraw the Complaint, which petition sets forth a valid reason for the withdrawal. 52 Pa.Code § 5.94(a).
5. As Respondent did not object and no litigable matter remains in this proceeding, it is in the public interest to grant Complainant's request to withdraw the formal complaint, and to close the matter. 52 Pa.Code § 5.94(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That Complainant's Petition for Leave to Withdraw Complaint filed in Rita Seben v. Peoples Natural Gas Company at Docket No. C-2022-3030734 is granted.
2. That the formal complaint of Rita Seben at Rita Seben v. Peoples Natural Gas Company, at Docket No. C-2022-3030734 is hereby withdrawn without prejudice.
3. That the record in Docket No. C-2022-3030734 shall be marked closed.

Date: October 27, 2022

/s/
Katrina L. Dunderdale
Administrative Law Judge