

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement

v.

Larry Bittinger t/a Bittinger Trucking

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C-2022-3035745

INITIAL DECISION

Before
Christopher P. Pell
Deputy Chief Administrative Law Judge

INTRODUCTION

This Initial Decision grants the Bureau of Investigation and Enforcement's Petition for Leave to Withdraw this Complaint.

HISTORY OF THE PROCEEDING

On September 29, 2022, the Bureau of Investigation and Enforcement (I&E) filed a formal Complaint against Larry Bittinger (Respondent) with the Pennsylvania Public Utility Commission (Commission). In the Complaint, I&E alleged that the Respondent failed to pay its 2021-2022 Fiscal Year Assessment Invoice of \$129. As relief, I&E requested that the Respondent be ordered to pay a total of \$179, which consists of its outstanding assessment balance of \$129 and a total civil penalty of \$50 for the violation. I&E further requested that if payment of the assessment and civil penalty is not made: that the Commission issue an Order cancelling the Respondent's Certificate of Public Convenience; that this matter be referred to the Pennsylvania Office of

Attorney General for appropriate action; and that the Commission certify automobile registrations to the Pennsylvania Department of Transportation for suspension or revocation.

By Secretarial Letter dated September 30, 2022, the Commission served upon the Respondent a copy of the formal Complaint along with instructions on how to proceed.

The Respondent did not file an Answer to I&E's Complaint.

On October 24, 2022, I&E filed its Petition of the Bureau of Investigation and Enforcement for Leave to Withdraw Complaint with the Commission (Petition).

By Motion Judge Assignment Notice dated November 15, 2022, the matter was assigned to me for disposition.

For the reasons set forth below, I&E's Petition for Leave to Withdraw will be granted.

FINDINGS OF FACT

1. The Complainant is the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement.
2. The Respondent is Larry Bittinger t/a Bittinger Trucking.
3. On September 29, 2022, the Complainant filed a formal Complaint against the Respondent with the Pennsylvania Public Utility Commission in which it alleged that the Respondent failed to pay its 2021-2022 Fiscal Year Assessment Invoice of \$129.
4. The Respondent did not file an Answer to the Complaint.

5. On October 24, 2022, I&E filed its Petition of the Bureau of Investigation and Enforcement for Leave to Withdraw Complaint with the Commission.

6. To date, the Respondent has not objected to the Complainant's request to withdraw his Complaint.

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.

52 Pa. Code § 5.94.

In its Petition, the Complainant indicated that on August 1, 2022, the Respondent filed an Application for Abandonment at Docket No. A-2022-3034360 which was granted by the Commission on October 19, 2022. The Respondent's certificate of public convenience was cancelled effective October 19, 2022. Upon grant of the Respondent's Application for Abandonment, the Commission referred the Respondent's outstanding assessment balance to the Office of Attorney General. Complainant averred that, given that the Respondent's certificate of

public convenience was cancelled and that the Commission has referred the Respondent's outstanding balance to the Office of Attorney General, there is no longer any relief to be granted by the Commission regarding I&E's Complaint.

To date, the Respondent has not objected to the Complainant's request to withdraw this Complaint. Under these circumstances, granting the Complainant's request to withdraw this 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 the case. Accordingly, I&E's request to withdraw this 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. It is in the public interest to grant the Complainant's request to withdraw this Complaint.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Bureau of Investigation and Enforcement's Petition for Leave to Withdraw the Complaint filed at Docket No. C-2022-3035745 is granted.

2. That the Complaint in the Bureau of Investigation and Enforcement v. Larry Bittinger t/a Bittinger Trucking filed at Docket No. C-2022-3035745 is withdrawn.

3. That Docket No. C-2022-3035745 be marked closed.

Date: January 10, 2023

_____/s/_____
Christopher P. Pell
Deputy Chief Administrative Law Judge