

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Julius Flynn	:	
	:	
v.	:	C-2023-3039458
	:	
Philadelphia Gas Works	:	

INITIAL DECISION

Before
Michael J. Mroczka
Special Agent

INTRODUCTION

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

HISTORY OF THE PROCEEDING

On March 31, 2023, Julius Flynn (Complainant) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against Philadelphia Gas Works (PGW or Respondent). The Complaint alleges that Respondent is threatening to shut off his electric service and that he would like a payment arrangement.

On April 24, 2023, PGW filed an Answer to the Complaint denying in part, and admitting, in part, the allegations in the Complaint. In its Answer, PGW states, *inter alia*, that the Complainant has had multiple PGW-issued payment arrangements that have not been satisfied as well as one PUC-issued payment arrangement that has not been satisfied.

By Hearing Notice dated April 26, 2023, an Initial Call-In Telephonic Hearing was scheduled for June 5, 2023.

A Prehearing Order was issued on May 30, 2023, reminding the parties of the date and time of the scheduled hearing, and informing them of the procedures applicable to this proceeding.

On May 30, 2023, the Office of the Administrative Law Judge received an email from Complainant stating, “[R]egarding this file I would like to dismiss it altogether. I’ve already worked out a resolution with PGW and am content with everything as is. Please cancel this hearing as I do not wish to move forward with it.”

On May 30, 2023, I forwarded the email received from Complainant to PGW’s attorney, Anita Murray, Esquire, copying Mr. Flynn, and asked if PGW objected to Mr. Flynn withdrawing his Complaint.

On May 31, 2023, attorney Murray replied to my email, copying Mr. Flynn. Attorney Murray stated that she confirmed with Mr. Flynn that he is withdrawing his Complaint and that PGW has no objection to the withdrawal. Mr. Flynn replied to the email, stating this is correct.

On May 31, 2023, a Hearing Cancellation Notice was served on the parties, cancelling the hearing scheduled for June 5, 2023.

For the reasons discussed below, the Complainant’s email request will be treated as a Petition for Leave to Withdraw the Formal Complaint and will be granted.

FINDINGS OF FACT

1. The Complainant is Julius Flynn.
2. The Respondent is Philadelphia Gas Works.

3. On March 31, 2023, the Complainant filed a Formal Complaint against PGW.

4. On April 24, 2023, PGW filed an Answer to the Complaint denying, in part, and admitting, in part, the allegations in the Complaint.

5. By Hearing Notice dated April 26, 2023, an Initial Call-In Telephonic Hearing was scheduled for June 5, 2023.

6. On May 30, 2023, I received an email from Complainant stating that he would like to “dismiss this altogether” and requesting that I cancel the hearing because Complainant did not wish to move forward with it.

7. On May 30, 2023, I forwarded the email I received from Complainant to PGW and asked if PGW objected to Mr. Flynn withdrawing his Complaint.

8. On May 31, 2023, PGW replied to my email stating that they did not object to Complainant withdrawing 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. 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). Therefore, the Complainant's email stating that he wishes to withdraw his Complaint will be treated as a Petition for Leave to Withdraw the Complaint.

In his email Complainant stated, “[R]egarding this file I would like to dismiss it altogether. I've already worked out a resolution with PGW and am content with everything as is. Please cancel this hearing as I do not wish to move forward with it.” PGW does not object to the withdrawal. 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 matter the Complainant no longer wishes to pursue. Further, the Complaint does not contain any novel issue or issues that would impact the public interest. Accordingly, the Complainant's Petition to withdraw his Complaint will 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 the Formal Complaint. 52 Pa. Code § 5.94.

ORDER

THEREFORE,

IT IS ORDERED:

1. That Julius Flynn's Petition for Leave to Withdraw the Formal Complaint filed at Docket No. C-2023-3039458 is granted.

2. That the Formal Complaint of Julius Flynn at Julius Flynn v. Philadelphia Gas Works, Docket No. C-2023-3039458, is withdrawn.

3. That Docket No. C-2023-3039458 be marked closed.

Date: June 22, 2023

/s/
Michael J. Mroczka
Special Agent