

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Darcy and Larry Jones	:	
	:	
v.	:	C-2023-3041906
	:	
PECO Energy Company	:	

**INITIAL DECISION**

Before  
Eranda Vero  
Administrative Law Judge

**INTRODUCTION**

This Initial Decision grants Darcy and Larry Jones’ request to withdraw their Complaint, as there was no objection to the request, and granting the request is in the public interest.

**HISTORY OF THE PROCEEDING**

On July 26, 2023, Darcy, and Larry Jones (Mr. and Mrs. Jones or Complainants) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against PECO Energy Company (PECO, Company, or Respondent) alleging that a power surge on June 25, 2023, caused electrical damage to one outlet and two heating pumps, amounting to approximately \$14,000 in damaged property. The Complainants also averred that “Our power goes out frequently. Sometimes just in the middle of the day with no storms in the area.” Complaint ¶ 6. As relief, Complainants requested to be reimbursed for their insurance deductible on the property damages that they incurred, in the amount of \$3,420.

On August 14, 2023, Respondent filed an Answer and New Matter. In its Answer, PECO denied the material allegation of the Complaint and averred that there was evidence of a downed tree on PECO's facilities in the Complainants' area occurring on or around June 25, 2023, which may have caused a power surge. According to PECO, Section 12.1 of the Company's Commission-approved tariff provides that "[t]he Company is also not liable for any damages due to accident, strike, storm, riot, fire, flood, legal process, state or municipal interference, or any other cause beyond the Company's control." In the New Matter, PECO stated that, to the extent that the Complainants seek an award of monetary damages against PECO for damage caused to their property, such relief is beyond the power of the Commission to order.

Also on August 14, 2023, the Respondent filed a Preliminary Objection seeking to dismiss the Formal Complaint as legally insufficient, averring that the Commission lacks jurisdiction to award damages pursuant to 52 Pa. Code § 5.101(a)(1), and that, to the extent the Complainants are requesting a monetary award for costs, the Complainants are not entitled to relief under the law. Preliminary Objection ¶¶ 14-15.

The Complainants did not file a response to Respondent's Preliminary Objection.

A Motion Judge Assignment Notice dated September 21, 2023, notified the parties that the matter was assigned to me. On October 16, 2023, I issued an Order denying in part, and granting in part, PECO's Preliminary Objection. In particular, the Order granted the Preliminary Objection to the extent the Complaint requested monetary damages and denied the Objection on the remaining issues. The matter was set for an evidentiary hearing.

By Hearing Notice dated October 19, 2023, a telephonic hearing was scheduled for Tuesday, November 28, 2023.

By emails dated October 24 and 25, 2023, Darcy Jones informed the Commission that she and her husband, Larry Jones wished to withdraw the present Complaint. In her communications, Mrs. Jones explained, "My neighbors are all starting to file [their complaints

against PECO] and we are hoping to file together because we have our state's representative's office involved now.”

On October 25, 2023, copies of Mrs. Jones’ emails were sent to PECO’s counsel in this matter, Khadijah Scott, Esq. Also, on October 25, 2023, Ms. Scott informed the undersigned that PECO had no objections to Complainants’ request to withdraw the Complaint.

The record closed on October 25, 2023.

For the reasons set forth below, the Complainants’ request to withdraw their Complaint is granted.

#### FINDINGS OF FACT

1. The Complainants are Darcy and Larry Jones, who reside at 780 North Reeds Road, Downingtown, PA 19335.
2. The Respondent is PECO Energy Company.
3. On July 26, 2023, Darcy and Larry Jones filed a Formal Complaint against PECO alleging that a power surge on June 25, 2023, caused electrical damage to one outlet and two heating pumps, amounting to approximately \$14,000 in damaged property.
4. The Complainants also averred that “Our power goes out frequently. Sometimes just in the middle of the day with no storms in the area.” Complaint ¶ 6.
5. As relief, Complainants have requested to be reimbursed for their insurance deductible on the property damages that they incurred, in the amount of \$3,420.
6. On August 14, 2023, Respondent filed an Answer and New Matter.

7. In its Answer, PECO denied the material allegation of the Complaint and averred that there was evidence of a downed tree on PECO's facilities in the Complainants' area occurring on or around June 25, 2023, which may have caused a power surge.

8. In the New Matter, PECO stated that, to the extent that the Complainants seek an award of monetary damages against PECO for damage caused to their property, such relief is beyond the power of the Commission to order.

9. Also on August 14, 2023, the Respondent filed a Preliminary Objection seeking to dismiss the Formal Complaint as legally insufficient, averring that the Commission lacks jurisdiction to award damages pursuant to 52 Pa. Code § 5.101(a)(1), and that, to the extent the Complainants are requesting a monetary award for costs, the Complainants are not entitled to relief under the law. Preliminary Objection ¶¶ 14-15.

10. Complainants did not file a response to Respondent's Preliminary Objection.

11. An Order issued on October 16, 2023, denied in part, and granted in part PECO's Preliminary Objection.

12. By Hearing Notice dated October 19, 2023, a telephonic hearing was scheduled for Tuesday, November 28, 2023.

13. By emails dated October 24 and 25, 2023, Darcy Jones informed the Commission that she and her husband, Larry Jones, wished to withdraw the present Complaint.

14. In her communications, Mrs. Jones explained, "My neighbors are all starting to file [their complaints against PECO] and we are hoping to file together because we have our state's representative's office involved now."

15. On October 25, 2023, counsel for PECO indicated that the Respondent had no objections to the Complainants' request to withdraw the Complaint.

### DISCUSSION

The Commission's Rules of Practice and Procedure at 52 Pa. Code § 5.94 permit parties to withdraw pleadings in a contested proceeding. The provision at 52 Pa. Code § 5.94(a) allows withdrawal of pleadings by filing, with the Commission and service to parties, a petition for leave to withdraw the pleading. The petition is granted only by permission of the presiding officer or the Commission. *Id.* 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.* Pursuant to 52 Pa. Code § 1.2, the Commission may, in order to secure the just, speedy, and inexpensive determination of actions or proceedings, disregard an error or defect of procedure which does not affect the substantive rights of the parties. For purposes of this decision, the Complainants' written statement that they no longer desire to proceed with their Complaint against PECO Energy Company will be treated as a Petition for Leave to Withdraw the Complaint. 52 Pa. Code § 1.2.

By emails dated October 24 and 25, 2023, Darcy Jones informed the Commission that she and her husband, Larry Jones, wished to withdraw the present Complaint. In her communications, Mrs. Jones explained, "My neighbors are all starting to file [their complaints against PECO] and we are hoping to file together because we have our state's representative's office involved now." On October 25, 2023, counsel for PECO indicated that PECO had no objections to Complainants' request to withdraw the Complaint.

The Commission has no interest in mandating that Complainants continue litigation when they have indicated that they no longer wish to proceed with their complaint. In the present case, the Complainants have effectively abandoned their Complaint. Thus, evaluating their claims and preparing a decision would not be in the public interest. Further, the Complaint does not allege any facts that would impact the public interest. The Complaint does not contain any novel issues or issues of public interest. Under these circumstances, granting the

Complainants' request to withdraw their Complaint is in the public interest because doing so will eliminate the need for further litigation and save the parties any additional costs in time and money they would otherwise incur litigating the case. Accordingly, the Complainants' request to withdraw the present Complaint is granted. The evidentiary hearing scheduled for November 28, 2023, was cancelled.

### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties to and subject matter of this proceeding. 66 Pa.C.S. § 701.

2. In order to secure the just, speedy, and inexpensive determination of actions or proceedings, the Commission may disregard an error or defect of procedure which does not affect the substantive rights of the parties. 52 Pa. Code § 1.2.

3. 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.

4. In determining whether to permit withdrawal of the pleading, the presiding officer or Commission must consider the petition, any objections thereto and the public interest. 52 Pa. Code § 5.94.

5. Granting the Complainants' withdrawal request is in the public interest.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Petition of Darcy and Larry Jones for Leave to Withdraw their Complaint filed at Docket No. C-2023-3041906 is granted.
2. That the Complaint of Darcy and Larry Jones in Darcy and Larry Jones v. PECO Energy Company filed on July 26, 2023, at C-2023-3041906 is withdrawn.
3. That the evidentiary hearing scheduled for November 28, 2023, was cancelled.
4. That the Secretary's Bureau shall mark Docket No. C-2023-3041906 closed.

Date: January 26, 2024

\_\_\_\_\_/s/  
Eranda Vero  
Administrative Law Judge