

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Westmoreland County Housing Authority	:	
	:	
v.	:	C-2023-3042927
	:	
Duquesne Light Company	:	

INITIAL DECISION

Before

Emily I. DeVoe
Administrative Law Judge

INTRODUCTION

This Initial Decision grants the unopposed Petition for Leave to Withdraw the Complaint filed by Westmoreland County Housing Authority against Duquesne Light Company, because it is in the public interest.

HISTORY OF THE PROCEEDING

On September 12, 2023, the Westmoreland County Housing Authority (Complainant or WCHA) filed a Formal Complaint (Complaint) against Duquesne Light Company (Company, Respondent, or DLC) with the Pennsylvania Public Utility Commission (Commission), alleging it was experiencing reliability, safety, or quality problems with its service at Trafford Manor, 534 Brinton Avenue, Trafford, PA (service location). Specifically, WCHA averred,

[DLC] has provided 3 phase power that has been out of phase for nearly 13 months on various occasions and the power issues

shut down the air conditioning chiller system to a 100-unit elderly high-rise. The company technicians make adjustments but new regulators are needed to be installed. To date, the new regulators have not been installed.”

As relief, WCHA requested DLC make a permanent repair to address the issue.

The Formal Complaint was signed by Erik Spiegel, who is identified as Complainant’s Chief Operating Officer (COO).

On October 2, 2023, DLC filed an Answer and New Matter. DLC denied there were any reliability, safety, or quality issues with its service to the service location and denied its service has been “out of phase.” The Company avers it is providing electric service within the standard nominal service voltages set forth in Rule No. 3 of Duquesne Light’s Commission-approved tariff and within the variation limits outlined by Commission regulations.¹

In its New Matter, DLC argued Complainant, as a business entity, must be represented in this proceeding by an attorney licensed to practice law in the Commonwealth of Pennsylvania per the Commission’s rules.² Since Complainant’s Complaint was signed and filed by a non-attorney representative, DLC requested Complainant be directed to cause counsel to enter an appearance in order to further pursue the Complaint.

DLC’s Answer and New Matter also included a request that this matter be assigned to the Mediation Unit of the Commission’s Office of Administrative Law Judge (OALJ).

On October 4, 2023, William J. McCabe, Esq., filed an appearance on behalf of WCHA.

¹ 52 Pa. Code § 57.14.

² 52 Pa. Code §§ 1.21-22.

Also on October 4, 2023, the parties jointly filed a letter requesting this matter be assigned to the Mediation Unit.

On October 5, 2023, Chief Administrative Law Judge Charles Rainey issued an Interim Order Setting Resolution Conference, assigning this matter to the Mediation Unit.

On November 14, 2023, WCHA filed a Petition to Withdraw the Complaint.

On November 15, 2023, the Commission issued a Hearing Notice, reassigning this matter to me and scheduling an evidentiary hearing for February 7, 2023.

Also on November 15, 2023, DLC filed a letter advising it does not object to the Petition to Withdraw the Complaint.

On November 20, 2023, the Commission issued a Notice cancelling the evidentiary hearing for February 7, 2023, and I issued an Interim Order, closing the record in this matter.

This matter is now ripe for decision. The Petition for Leave to Withdraw will be granted in an Ordering Paragraph below as it is in the public interest.

FINDINGS OF FACT

1. On September 12, 2023, WCHA filed a Formal Complaint against DLC, alleging it was experiencing reliability, safety, or quality problems with its service at the service location.

2. On October 2, 2023, DLC filed an Answer and New Matter, denying it had violated any of the Commission's regulations or its Tariff.

3. On October 4, 2023, William J. McCabe, Esq., filed an appearance on behalf of WCHA.

4. On November 14, 2023, WCHA filed a Petition to Withdraw the Complaint.

5. On November 15, 2023, the Commission issued a Hearing Notice, reassigning this matter to me and scheduling an evidentiary hearing for February 7, 2023.

6. On November 15, 2023, DLC filed a letter advising it does not object to the Petition to Withdraw the Complaint.

7. On November 20, 2023, the Commission issued a Notice cancelling the evidentiary hearing for February 7, 2023, and I issued an Interim Order, closing the record in this matter.

DISCUSSION

The Commission's rules provide that a party in a contested proceeding may file for leave to withdraw a pleading with the Commission and serve it upon the other parties.³ Any objection to the petition must be filed within ten days of service.⁴ In this case, DLC filed its letter of non-opposition the day after WCHA filed its Petition.

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.⁵

In this case, WCHA filed a Petition for Leave to Withdraw the Complaint. DLC immediately filed a letter indicating it had no objection to the withdrawal.

There is no purpose in moving forward with the instant Complaint. It is in the public interest to grant WCHA's Petition for Leave to Withdraw the Complaint. Forcing the

³ 52 Pa. Code § 5.94(a).

⁴ *Id.*

⁵ *Id.*

parties to proceed to an evidentiary hearing in this matter would needlessly consume the Commission's and parties' time and resources. Therefore, I grant the Petition for Leave to Withdraw.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and the subject matter in this proceeding. 66 Pa.C.S. § 701.
2. 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. 52 Pa. Code § 5.94(a).
3. A party may object to a petition for leave to withdraw a pleading within ten days of service. 52 Pa. Code § 5.94(a).
4. After considering a petition for leave to withdraw a pleading, 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).
5. The withdrawal of this Complaint is in the public interest. 52 Pa. Code § 5.94(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the unopposed Petition for Leave to Withdraw the Formal Complaint filed by Westmoreland County Housing Authority, is granted.
2. That the Formal Complaint filed by Westmoreland County Housing Authority in Westmorland Housing Authority v. Duquesne Light Company at Docket No. C-2023-3042927 is hereby withdrawn without prejudice.
3. That the Docket at C-2023-3042927 be marked as closed.

Date: February 7, 2024

_____/s/
Emily I. DeVoe
Administrative Law Judge