

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Rhonda Kane

v.

Philadelphia Gas Works

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F-2023-3043036

INITIAL DECISION

Before
F. Joseph Brady
Administrative Law Judge

INTRODUCTION

This Initial Decision grants the Complainant’s request to withdraw her Formal Complaint because there is no objection to it and granting the request is in the public interest.

HISTORY OF THE PROCEEDING

On August 30, 2023, Rhonda Kane (Complainant) filed a Formal Complaint (Complaint) against Philadelphia Gas Works (PGW or Respondent) with the Pennsylvania Public Utility Commission (Commission).¹ In the Complaint, the Complainant placed a checkmark in the box indicating: “The utility is threatening to shut off my service or has already shut off my service.” The relief requested by the Complainant was a new payment agreement.

¹ The Complaint is a timely appeal from the determination of the Commission’s Bureau of Consumer Services (BCS), at BCS No. 3935467. A timely BCS appeal is subject to *de novo* review. 52 Pa. Code § 56.173(a).

On October 6, 2023, PGW filed an Answer to the Complaint. In its Answer, PGW either admitted or denied the various averments of the Complaint. PGW alleged that on August 21, 2023, the Commission's Bureau of Consumer Services issued the Complainant a payment arrangement. PGW requested that the Complaint be dismissed.

By Corrected Hearing Notice dated November 9, 2023,² an Initial Call-In Telephonic Hearing was scheduled for December 8, 2023.

On December 8, 2023, the hearing convened as scheduled. The Complainant appeared *pro se* and testified on her own behalf. PGW was represented by Graciela Christlieb, Esquire.

At the outset of the hearing, the Complainant stated that she wanted to withdraw her Complaint. Counsel for PGW did not object to the request.

The record closed on January 1, 2024, upon the filing of the transcript with the Commission. This decision grants the Complainant's Petition to Withdraw the Complaint without objection.

FINDINGS OF FACT

1. The Complainant is Rhonda Kane.
2. The Respondent is Philadelphia Gas Works.
3. On August 30, 2023, the Complainant filed a Formal Complaint against PGW.
4. On October 6, 2023, PGW filed an Answer to the Complaint either admitting or denying the various averments of the Complaint.

² The original Hearing Notice of the same date contained an incorrect hearing date and time.

5. By Corrected Hearing Notice dated November 9, 2023, an Initial Call-In Telephonic Hearing was scheduled for December 8, 2023.

6. The hearing convened as scheduled on December 8, 2023. Tr. 1-4.

7. At the hearing, under oath, the Complainant requested to withdraw her Complaint. Tr. 3.

8. PGW does not object to the request to withdraw. Tr. 3.

DISCUSSION

First, it should be recognized that 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). Thus, the Complainant's request to withdraw her Complaint, under oath at the outset of the hearing, will be treated as a Petition for Leave to Withdraw the Complaint.

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:

[e]xcept 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).

In this case, the Complainant filed a Complaint *pro se* seeking a different payment agreement than the one issued by the BCS on August 21, 2023. Prior to the hearing, the Complainant decided she would like to remain with the payment agreement issued by the BCS. As a result, the Complainant now seeks to have her Complaint withdrawn. PGW does not object.

Under these circumstances, granting the Complainant's request to withdraw the 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 case wherein the relief sought cannot be granted. Further, the Complaint does not contain any novel issues or issues that would impact the public interest. Accordingly, the Complainant's Petition for Leave to Withdraw the 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. 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).

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. 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).

5. It is in the public interest to grant the Complainant's Petition for Leave to Withdraw the Complaint. 52 Pa. Code § 5.94.

