

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120**

Public Meeting held March 14, 2024

Commissioners Present:

Stephen M. DeFrank, Chairman
Kimberly Barrow, Vice Chair
Ralph V. Yanora
Kathryn L. Zerfuss
John F. Coleman, Jr.

Michael Moorefield

C-2023-3041919

v.

Duquesne Light Company

OPINION AND ORDER

BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is the Initial Decision (Initial Decision or I.D.) of Administrative Law Judge (ALJ) Emily I. DeVoe, issued on January 4, 2024, in the above-captioned proceeding. No Exceptions have been filed. However, we have exercised our right to review the Initial Decision pursuant to Section 332(h) of the Public Utility Code (Code), 66 Pa. C.S. § 332(h). For the reasons stated below, we shall modify the Initial Decision, consistent with this Opinion and Order.

History of the Proceeding

On July 21, 2023, Michael Moorefield (Mr. Moorefield or Complainant) filed a Formal Complaint (Complaint) with the Commission against Duquesne Light Company (DLC or Company). The Complainant avers that DLC was threatening to shut off his service or has already done so. In addition, the Complainant included the following documents: (1) a “Notice to Principle is Notice to Agent” dated July 17, 2023, and addressed to the Commission’s Secretary, Rosemary Chiavetta; (2) a Power of Attorney and Declaration of Representative Form (IRS Form 2848); (3) a Notice Concerning Fiduciary Relationship Form (IRS Form 56); (4) an Acquisition or Abandonment of Secured Property Form (IRS Form 1099-A); (5) a document entitled, “Notice and Warning to Utility Companies;” (6) a letter dated June 12, 2023, from DLC to the Complainant, regarding an invalid payment; copies of certified mail receipts; and (7) a June 22, 2023 letter, from the Complainant addressed to DLC.

The Complainant explains that he is acting as power of attorney over a trust created for the benefit of himself, Michael Moorefield and makes the following arguments: (1) that various federal laws and regulations¹ provide that he is owed “unearned interest” from DLC, that the only way to pay debts is to “accept credits and transfer,” and that he is entitled to pay his electric bill by “endorsing” “remittance coupons” which are actually “dividend checks;” and (2) that DLC is violating these federal statutes and regulations by insisting he pay his bill with United States currency.

On August 16, 2023, DLC filed an Answer to the Complaint, averring all its actions have been consistent with the Commission’s rules and regulations. In its

¹ In support of his arguments, he cites various federal statutes and regulations, including: 15 USC 1615; “Cestui que vie act 1666;” 18 U.S.C. § 8; House Joint Resolution 192 (HJR) (Public Law 7310); 15 U.S.C. §1681(a)(1)(2); Trading with the Enemy Act; and the National Bank Act.

Answer DLC states that on March 22, 2023 the Complainant established service in his name at the Port Vue, PA location (Service Address) and has not made any payments to account since that date. DLC argues that the Complainant is responsible for payment of his utility bill and may not pay with “remittance coupons.”

Also on August 16, 2023, DLC filed a Preliminary Objection to the Complaint in which it argued that the portions of the Complaint alleging violations of federal law should be dismissed on the basis that the Commission lacks jurisdiction to adjudicate those claims, thus rendering those portions of the Complaint legally insufficient.

On August 24, 2023, the Complainant filed a response to DLC’s pleadings, in which he essentially reiterates the same arguments raised in his Complaint.

On August 28, 2023, the Commission issued a Hearing Notice scheduling an evidentiary hearing for October 11, 2023. On August 31, 2023, the ALJ issued a Prehearing Order and an Interim Order granting the Preliminary Objection: (1) dismissing the alleged violations of federal law from the Complaint; and (2) advising the Parties that the hearing would convene as scheduled.

Subsequently, DLC’s counsel, Attorney Farah, contacted the ALJ via email requesting that the hearing be rescheduled due to a scheduling conflict. The Complainant did not oppose the request and the ALJ granted it. On September 19, 2023, the Commission issued a Hearing Notice rescheduling the hearing for October 10, 2023.

At 9:40 a.m. on October 10, 2023, twenty minutes prior to the scheduled start time for the hearing, Attorney Farah contacted the ALJ via email and advised the ALJ that “minutes ago, [she] received correspondence from Complainant indicating that he intends to withdraw his Complaint.” The Complainant was copied on the email to

the ALJ. Attorney Farah did not express any objection to the withdrawal and offered to submit a certificate of satisfaction in lieu of processing the withdrawal if the ALJ deemed it necessary.

At 9:44 a.m., the ALJ replied to both Attorney Farah and Mr. Moorefield that if Mr. Moorefield wanted to withdraw his Complaint, he may do so by sending an email to the ALJ before 10:00 am, expressing his intent to withdraw his Complaint. If the ALJ did not receive such the hearing would convene as scheduled.

At 9:53 a.m., Mr. Moorefield sent the ALJ an email and copying Attorney Farah in which he withdrew his Complaint. At 9:59 a.m., the ALJ emailed the Parties that the scheduled hearing was cancelled due to Mr. Moorefield's withdrawal of his Complaint.

On October 12, 2023, the ALJ closed the record via an Interim Order.

On January 4, 2024, the ALJ issued an Initial Decision granting the Complainant's Petition to withdraw his Complaint on the grounds that withdrawal of the Complaint was in the public interest.

Discussion

A. Legal Standards

Section 5.94 of the Commission's Regulations states the following:

Section § 5.94 Withdrawal of pleadings in a contested proceeding.

- (a) 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).

B. ALJ's Initial Decision

The ALJ made thirteen Findings of Fact and reached six Conclusions of Law. I.D. at 4-5, 6-7. We shall adopt and incorporate herein by reference the ALJ's Findings of Fact and Conclusions of Law, unless they are reversed or modified by this Opinion and Order, either expressly or by necessary implications.

The ALJ noted that the Complainant had submitted an email to the ALJ and DLC noting that he wished to withdraw his Complaint. I.D. at 6. The ALJ noted that, in exercising his discretion under the Commission's Regulations, the email sent by the

Complainant would be considered as a Petition for Leave to Withdraw. *Id.* The ALJ further noted that DLC did not object to the request for withdrawal. *Id.* The ALJ reasoned that the Petition should be granted because there was no basis for continuing with the Complaint and that it was in the public interest to allow the withdrawal because proceeding to an evidentiary hearing would unnecessarily waste time and resources of the Commission and the Parties. *Id.* Consequently, the ALJ issued the Initial Decision in which the Petition to Withdraw was granted and the Formal Complaint dismissed.

C. Disposition

We note that any argument or Exception that we do not specifically address shall be deemed to have been duly considered and denied without further discussion. The Commission is not required to consider, expressly or at length, each contention or argument raised by the parties. *Consolidated Rail Corp. v. Pa. PUC*, 625A.2d 741 (Pa. Cmwlth. 1993); *see also, generally, University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

While we agree that granting the Petition to Withdraw, as requested by Mr. Moorefield, is in the public interest,² we disagree that the Formal Complaint should be dismissed as directed by Ordering Paragraph No. 2 of the Initial Decision. The Commission generally does not dismiss a complaint at the same time it grants a request to withdraw a complaint. Rather, the Commission's usual practice is to grant a request to withdraw a complaint, acknowledge the complaint is withdrawn, and mark the matter closed.³ Consequently, Ordering Paragraph No. 2 of the Initial Decision should be revised to read that the Complaint is withdrawn. Therefore, we shall modify the Initial Decision consistent with this Opinion and Order.

² 52 Pa. Code § 5.94.

³ *See, e.g., Rice v Philadelphia Gas Works*, Docket No. C-2023-3039491 (Final Order entered August 15, 2023).

Conclusion

Based on our review of the ALJ's Initial Decision, the pleadings and the applicable law, we shall grant the Petition to Withdraw the Complaint and modify the ALJ's Initial Decision consistent with this Opinion and Order; **THEREFORE,**

IT IS ORDERED:

1. That the unopposed Petition for Leave to Withdraw the Complaint filed by Michael Moorfield against Duquesne Light Company at Docket No. C-2023-3041919 is granted, consistent with this Opinion and Order.

2. That the Initial Decision of Administrative Law Judge Emily I. DeVoe, issued on January 4, 2024, is adopted as modified, consistent with this Opinion and Order.

3. That the Formal Complaint filed by Michael Moorfield, on July 21, 2023, against Duquesne Light Company, at Docket No. C-2023-3041919, is withdrawn.

4. That this proceeding be marked closed.

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Rosemary Chiavetta". The signature is written in a cursive style with a large initial "R".

Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: March 14, 2024

ORDER ENTERED: April 23, 2024