

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joseph McGuckin	:	
	:	
v.	:	C-2022-3033313
	:	
PECO Energy Company	:	

**INITIAL DECISION**

Before  
Darlene Heep  
Administrative Law Judge

**INTRODUCTION**

The Complainant, Joseph McGuckin, would like to withdraw his Formal Complaint against Philadelphia Gas Works. The Complainant’s Petition for Leave to Withdraw his Formal Complaint will be granted.

**HISTORY OF THE PROCEEDING**

On June 23, 2023, Joseph McGuckin, Complainant, filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (“Commission”) against PECO Energy Company (PECO, Respondent or the Company). In the Complaint, Mr. McGuckin averred that PECO did not properly restore his property after PECO construction involving replacement of electric circuits and cables.

On July 13, 2023, PECO filed an Answer to the Complaint. In the Answer, PECO denied all material allegations of fact and stated that it has not identified any substandard work or safety hazards at the Complainant’s property.

An Interim Order Setting Resolution Conference was issued on July 14, 2023. The matter was not resolved, and on January 3, 2024, an Initial Call-In Telephonic Hearing Notice was issued, setting a hearing for March 14, 2024 at 10:00 a.m.

PECO filed a Motion to Dismiss on January 19, 2024.

A Prehearing Order was issued on January 22, 2024.

After the parties advised that there may be a standing issue to address, on February 20, 2024, a Telephonic Prehearing Conference Notice was issued setting the conference for February 27, 2024.

On February 26, 2024, Mr. McGuckin sent an email stating that he would like to withdraw his Complaint. A Hearing Cancellation Notice was issued on February 29, 2024.

The record closed on February 29, 2024; the date the hearing was cancelled.

#### FINDINGS OF FACT

1. On June 23, 2023, Joseph McGuckin, Complainant, filed a Formal Complaint with the Commission against PECO.
2. On July 13, 2023, PECO filed an Answer to the Complaint.
3. On January 3, 2024, an Initial Call-In Telephonic Hearing Notice was issued, setting a hearing for March 14, 2024 at 10:00 a.m.
4. A Prehearing Order was issued on January 22, 2024.

5. A Telephonic Prehearing Conference Notice was issued on February 20, 2024.

6. On February 26, 2024, Mr. McGuckin sent an email stating that he would like to withdraw his complaint.

7. A hearing cancellation notice was issued on February 29, 2024.

8. PECO did not object to Complainant's request to withdraw the Formal Complaint.

### DISCUSSION

Commission regulations address the withdrawal of pleadings in a contested proceeding at Section 5.94(a) of Title 52 of the Pennsylvania Code, which states:

#### **§ 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).

On February 26, 2024, the Complainant emailed a letter stating that he wished to withdraw his Formal Complaint against PECO due to schedule issues. The Code provides that pleadings shall be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which it is applicable. *See*, 52 Pa. Code § 1.2(a). 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. 52 Pa. Code § 1.2(c). Here, the email sent by Mr. McGuckin will be treated as a Petition for Leave to Withdraw his Formal Complaint (Petition) as it will not affect the substantive rights of PECO.

Granting the Complainant's Petition is in the public interest and does not prejudice PECO. Further, granting the Petition ends the use of resources to continue a proceeding that the Complainant no longer wishes to pursue. Additionally, Respondent PECO does not oppose the request to withdraw. Accordingly, the Complainant's Petition for Leave to Withdraw his Formal Complaint will be granted.

#### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties to and the 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. The email from the Complainant requesting to withdraw the Complaint was liberally construed to be a Petition for Leave to Withdraw his Formal Complaint to secure the just, speedy, and inexpensive determination of this action. *See*, 52 Pa. Code § 1.2(a).

4. Granting the Petition for Leave to Withdraw his Formal Complaint is in the public interest. 52 Pa. Code § 5.94.

