

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

The Terrace at Montgomery Homeowners Association (formerly Kim Warmuth)	:	
	:	
	:	
v.	:	C-2023-3038626
	:	
PECO Energy Company	:	

INITIAL DECISION

Before
Eranda Vero
Administrative Law Judge

INTRODUCTION

This Initial Decision grants the Complainant’s Petition For Leave to Withdraw the Complaint because the request is in the public interest, and it is not opposed.

HISTORY OF THE PROCEEDING

On March 1, 2023, Kim Warmuth (Ms. Warmuth) filed a Formal Complaint (Complaint) with the Pennsylvania Public utility Commission (Commission) against PECO Energy Company (PECO, Company or Respondent) alleging a reliability, safety or quality problem with PECO’s electric service. In particular, Ms. Warmuth states that she represents the interests of residents at her property building, Terrace at Montgomery. She avers that PECO is causing health issues for a family of tenants located at 106 Jene Court. As relief, Ms. Warmuth requested the Commission's assistance in resolving the issue.

On March 20, 2023, PECO filed an Answer denying all material allegations of fact and conclusions of law in the Complaint. In particular, PECO questioned Ms. Warmuth's standing to bring forth the present Complaint. PECO added that it was investigating the matter with the Complainant and had scheduled a visit to the property. In addition, the Company requested that the matter be assigned to the Mediation Unit of the Office of Administrative Law Judge.

By Interim Order dated March 20, 2023, Chief Administrative Law Judge Charles E. Rainey, Jr. set the matter for a resolution conference.

A Hearing Notice dated February 21, 2024, notified the parties that an initial call-in telephonic hearing was scheduled on April 24, 2024, at 10:00 a.m.

A Prehearing Order was issued on March 6, 2024, reminding the parties of the date and time of the scheduled hearing, informing them of the procedures applicable to this proceeding, and directing the submission of documents prior to the hearing.

On April 23, 2024, Whitney E. Snyder, Esq. entered her appearance as counsel on behalf of the "Terrace at Montgomery Homeowners Association (formerly Kim Warmuth)" in the present Complaint. Attorney Snyder provided no explanation for this arbitrary change of the case caption. However, neither Ms. Warmuth nor PECO objected to it. I believe that the change was in response to PECO's questioning Ms. Warmuth's standing to bring forth the present Complaint and/or a natural development in the case following mediation proceedings. In view of this, and in accordance with the provisions of 66 Pa.C.S. §§ 331(d)(4), (7) and 52 Pa. Code § 5.483(a), I will affirm the change of Complainant, from Kim Warmuth to Terrace at Montgomery Homeowners Association, as well as the resulting change in the case caption, in the Ordering Paragraphs below.

Also on April 23, 2024, the Terrace at Montgomery Homeowners Association, (Complainant) through its counsel, Ms. Snyder, filed a Petition for leave to Withdraw the Complaint in this proceeding without prejudice. Ms. Snyder stated that she had conferred with counsel for PECO and was authorized to represent that PECO did not oppose the request to dismiss this

proceeding without prejudice. Complainant also requested that the telephonic hearing scheduled for April 24, 2024, be cancelled.

By email dated April 23, 2024, I informed the parties that the request to cancel the April 24, 2024, hearing was granted.

A Hearing Cancellation Notice was issued on April 23, 2024.

The record closed on April 23, 2024.

FINDINGS OF FACT

1. The Complainant in this proceeding is the Terrace at Montgomery Homeowners Association (formerly Kim Warmuth).
2. The Respondent in this proceeding is PECO Energy Company.
3. On March 1, 2023, the Complainant filed a Formal Complaint against PECO, alleging a reliability, safety or quality problem with PECO's electric service.
4. As relief, the Complainant requested the Commission's assistance in resolving the issue.
5. On March 20, 2023, PECO filed an Answer denying all material allegations of fact and conclusions of law in the Complaint.
6. By Interim Order dated March 20, 2023, Chief Administrative Law Judge Charles E. Rainey, Jr. set the matter for a resolution conference.
7. A Hearing Notice dated February 21, 2024, notified the parties that an initial call-in telephonic hearing was scheduled on April 24, 2024, at 10:00 a.m.

8. A Prehearing Order was issued on March 6, 2024, reminding the parties of the date and time of the scheduled hearing, informing them of the procedures applicable to this proceeding, and directing the submission of documents prior to the hearing.

9. On April 23, 2024, the Complainant filed a Petition to Withdraw the Complaint in this proceeding without prejudice.

10. The Respondent did not oppose the Complainant's request to withdraw this proceeding without prejudice.

11. A Hearing Cancellation Notice was issued on April 23, 2024, cancelling the telephonic hearing scheduled for April 24, 2024.

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. 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. For purposes of this decision, the Complainant's letter seeking leave to withdraw Complaint in this proceeding without prejudice will be treated as a Petition for Leave to Withdraw the Complaint. *See* 52 Pa. Code § 1.2.

The Terrace at Montgomery Homeowners Association, (Complainant) through its counsel, Ms. Snyder, filed a letter petition seeking leave to withdraw the Complaint in this proceeding without prejudice. Ms. Snyder stated that she had conferred with counsel for PECO and was authorized to represent that PECO did not oppose the request to withdraw this proceeding

without prejudice. Complainant also requested that the telephonic hearing scheduled for April 24, 2024, be cancelled.

The Complainant has indicated that it wants to withdraw the Complaint in this proceeding without prejudice. The Respondent did not object to Complainant's request for leave to withdraw the Complaint. Under these circumstances, granting the Complainant's Petition for Leave 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 the case. Accordingly, the Complainant's request to withdraw the Complaint is 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. The Commission's Rules of Practice and Procedure at 52 Pa. Code § 5.94 permit parties to withdraw pleadings in a contested proceeding by permission of the presiding officer or Commission.
3. 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.
4. Granting the Complainant's withdrawal request is in the public interest.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Complainant in this case is the Terrace at Montgomery Homeowners Association (formerly Kim Warmuth).
2. That the Terrace at Montgomery Homeowners Association's (formerly Kim Warmuth) Petition for Leave to Withdraw the Complaint filed at Docket No. C-2023-3038626 is granted.
3. That the Complaint of the Terrace at Montgomery Homeowners Association (formerly Kim Warmuth) against PECO Energy Company filed on March 1, 2023, at Docket No. C-2023-3038626 is withdrawn.
4. That the Secretary's Bureau shall mark Docket No. C-2023-3038626 closed.

Date: July 19, 2024

_____/s/_____

Eranda Vero
Administrative Law Judge