

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

GTI Pennsylvania, LLC	:	P-2024-3050634
	:	C-2024-3050633
v.	:	
	:	
PPL Electric Utilities Corporation	:	

INITIAL DECISION

Before
Alphonso Arnold III
Administrative Law Judge

INTRODUCTION

This Initial Decision grants GTI Pennsylvania, LLC’s unopposed Petition to Withdraw Petition of GTI for Emergency Order because granting the Petition to Withdraw is in the public interest.

HISTORY OF THE PROCEEDING

On August 8, 2024, GTI Pennsylvania, LLC (“GTI”) filed a Petition for Emergency Order (“Petition”) against PPL Electric Utilities Corporation (“PPL”) with the Pennsylvania Public Utility Commission (“Commission”).¹ In its Petition, GTI alleged that it entered into a construction agreement with PPL to upgrade the electrical

¹ GTI is a medical marijuana facility that serves the needs of approximately 450,000 Pennsylvania medical marijuana patients.

infrastructure at its facility and that it is disputing an amount invoiced to GTI from PPL in the amount of \$477,866.36 (“disputed amount”), which represents the difference between the actual costs incurred by PPL in completing the contracted work and the estimated costs of the work that GTI paid to PPL upon execution of the contract (\$653,451.31). GTI alleged that PPL has threatened to terminate its electric service for failure to pay this disputed amount. GTI argued that PPL’s tariff does not permit PPL to terminate GTI’s service for nonpayment of the disputed amount and that PPL has not complied with the terms of the construction agreement entered into between the parties. For relief, GTI seeks an Emergency Order from the Commission enjoining and restraining PPL from terminating its electric service based on GTI’s nonpayment of the disputed amount until the dispute concerning the disputed amount is resolved. In support of the existence of an emergency for the grant of an Emergency Order, GTI argued, *inter alia*, that the termination of electric service at its facility would pose a clear and present danger to the patients that it services.² The Petition was docketed at P-2024-3050634.

Also on August 8, 2024, contemporaneously with the filing of the Petition, GTI filed a Formal Complaint against PPL. The Complaint was docketed at C-2024-3050633.

The Petition was made pursuant to Section 3.2 of the Commission’s regulations, 52 Pa. Code § 3.2, concerning petitions for issuance of emergency orders. However, given that a Formal Complaint was filed contemporaneously with the Complaint, the Petition was instead treated as a petition for an interim emergency order

² A petition for emergency order must be supported by a verified statement of facts which establishes the existence of an emergency, including facts to support the following: (1) The petitioner’s right to relief is clear; (2) The need for relief is immediate; (3) The injury would be irreparable if relief is not granted; and (4) The relief requested is not injurious to the public interest. 52 Pa. Code § 3.2(b).

made pursuant to Section 3.6 of the Commission’s regulations, 52 Pa. Code § 3.6, and assigned to the Office of Administrative Law Judge for disposition.

On August 14, 2024, a Hearing Notice was issued scheduling a hearing on the Petition for August 19, 2024, and assigning me as Presiding Officer.³

Also on August 14, 2024, PPL filed an Answer to Petition.⁴ In its Answer, PPL committed to not terminate electric service to GTI during the pendency of the Formal Complaint proceeding (i.e., until the Commission’s entry of a final appealable Order ruling on the Formal Complaint). Answer to Petition ¶ 12. PPL therefore argued that the Petition was moot. PPL further argued that GTI’s Petition did not establish the need for emergency relief. For relief, PPL requested that the Commission deny the Petition.

On August 15, 2024, my Prehearing Order was issued setting forth the procedural rules that would govern the August 19, 2024, hearing.

On August 16, 2024, GTI filed a letter with the Commission, stating that the representation of PPL in its Answer to Petition to not terminate GTI’s electric service during the pendency of the Formal Complaint proceeding grants GTI with the relief that it was seeking in its Petition. GTI therefore requested cancellation of the August 19, 2024, hearing.

³ Pursuant to the Commission’s regulations, a hearing must be held on the merits of a petition for interim emergency order within 10 days of the filing of the petition. 52 Pa. Code § 3.6(a).

⁴ Allegations set forth in the petition shall be deemed to have been denied by the opposing parties, and an answer is not required. A party may file an answer in the form set forth in § 5.61 (relating to answers to complaints, petitions and motions) no later than 5 days after service of a copy of the petition. 52 Pa. Code § 3.6(c).

Also on August 16, 2024, GTI filed a Petition to Withdraw Petition of GTI for Emergency Order (“Petition to Withdraw”). In its Petition to Withdraw, GTI stated that it was seeking to withdraw its Petition in reliance on PPL’s representation in its Answer to Petition that it will not terminate service to GTI during the pendency of the Formal Complaint proceeding. GTI also represented that its Petition to Withdraw is unopposed by PPL.

On August 19, 2024, the Commission issued a Hearing Cancellation Notice, cancelling the August 19, 2024, hearing. The record at Docket No. P-2024-3050634 was closed on this date.

For the reasons stated below, GTI’s Petition to Withdraw will be granted.

FINDINGS OF FACT

1. Petitioner is GTI Pennsylvania, LLC.
2. Respondent is PPL Electric Utilities Corporation.
3. On August 8, 2024, GTI filed a Petition for Emergency Order against PPL with the Commission, seeking an Emergency Order from the Commission enjoining and restraining PPL from terminating GTI’s electric service based on GTI’s nonpayment of a disputed amount until the dispute concerning the disputed amount is resolved.
4. Also on August 8, 2024, contemporaneously with the filing of the Petition, GTI filed a Formal Complaint against PPL.

5. On August 14, 2024, PPL filed an Answer to Petition, committing to not terminate electric service to GTI during the pendency of the Formal Complaint proceeding (i.e., until the Commission’s entry of a final appealable Order ruling on the Formal Complaint).

6. On August 16, 2024, GTI filed a Petition to Withdraw Petition of GTI for Emergency Order in reliance on PPL’s representation in its Answer to Petition that it will not terminate electric service to GTI during the pendency of the Formal Complaint proceeding.

7. PPL did not object to the Petition to Withdraw within 10 days of its service.

DISCUSSION

Commission regulations address the withdrawal of pleadings in a contested proceeding in relevant part as follows:

§ 5.94. Withdrawal of pleadings in a contested proceeding.

- (a) ... 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).

A “pleading” is defined as “An application, complaint, *petition*, answer, motion, preliminary objection, protest, reply, order to show cause, new matter and reply to new matter or other similar document filed in a formal proceeding.” 52 Pa. Code § 1.8 (emphasis added). Given that the regulations state that the allegations in a petition for interim emergency order shall be deemed to have been denied by the opposing parties (*see* 52 Pa. Code § 3.6(c)), this matter became contested upon the filing of the Petition.

In this matter, GTI filed its Petition seeking an Emergency Order from the Commission enjoining PPL from terminating its electric service. Contemporaneously with the filing of the Petition, GTI filed a Formal Complaint against PPL. PPL in its Answer to Petition committed to not terminate GTI’s service during the pendency of the Formal Complaint proceeding. GTI filed its Petition to Withdraw in reliance on PPL’s representation in its Answer to Petition to not terminate GTI’s service during the pendency of the Formal Complaint proceeding.

Pursuant to the Commission’s regulations, I must consider any objection to the Petition to Withdraw and the public interest when determining whether the Petition to Withdraw will be granted. PPL did not object to the Petition to Withdraw. As it relates to the public interest, it would not be in the public interest to have the parties in this matter further litigate the Petition proceeding when it is clear that PPL granted GTI the relief that it was seeking in its Petition. Granting the Petition to Withdraw therefore eliminates the need for further litigation which in turn will save the parties and the Commission the time and money that would be incurred in further litigating this case.

For the above reasons, the Petition to Withdraw will be granted in the Ordering paragraphs below. The Formal Complaint filed by GTI against PPL, at Docket No. C-2024-3050633, will proceed before the Commission.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the parties to this proceeding. 52 Pa. Code §§ 3.2, 3.6.

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 other parties. 52 Pa. Code § 5.94(a).

3. A petition to withdraw a pleading in a contested proceeding must set forth the reasons for the withdrawal and that a party may object to the petition within 10 days. 52 Pa. Code § 5.94(a).

4. After considering a petition to withdraw a pleading in a contested proceeding, 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 allow GTI to withdraw its Petition. 52 Pa. Code § 5.94.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Petition to Withdraw Petition of GTI for Emergency Order, made by GTI Pennsylvania, LLC, at Docket No. P-2024-3050634, is granted.
2. That the Petition for Emergency Order filed in the matter of GTI Pennsylvania, LLC v. PPL Electric Utilities Corporation, at Docket No. P-2024-3050634, is withdrawn.
3. That the Secretary's Bureau shall mark Docket No. P-2024-3050634 as closed.

Date: September 11, 2024

/s/
Alphonso Arnold III
Administrative Law Judge