

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Ryan Evans	:	
	:	
v.	:	C-2024-3046429
	:	
PPL Electric Utilities Corporation	:	

INITIAL DECISION

Before
John M. Coogan
Administrative Law Judge

INTRODUCTION

This Initial Decision grants Complainant’s unopposed Petition for Leave to Withdraw the Formal Complaint against PPL Electric Utilities Corporation without prejudice because it is unopposed and in the public interest.

HISTORY OF THE PROCEEDING

On February 13, 2024, Ryan Evans (Dr. Evans or Complainant) filed a Formal Complaint with the Pennsylvania Public Utility Commission (Commission) against PPL Electric Utilities Corporation (PPL or Company). The Formal Complaint was served on PPL on February 14, 2024. In his Complaint, Dr. Evans alleged that he was having a reliability, safety or quality problem with his utility service. Specifically, Dr. Evans stated that he is having a safety concern with an electric pole in an inaccessible area of his back yard. Dr. Evans alleged that the pole and its lines have been downed

several times starting two fires and endangering his family and livestock. As relief, Dr. Evans would like PPL to move the pole to the front of his property where PPL can easily access it.

On March 5, 2024, PPL filed an answer and new matter to Dr. Evans' Complaint. PPL admits that Complainant has experienced certain momentary and extended outages at the service address, but denies other outages alleged in Dr. Evans' Complaint. PPL denies the outages experienced by Complainant constitute unreasonable or unreliable service, or that PPL's distribution line presents a safety hazard. PPL confirms that the distribution line is not easily accessible by mechanized equipment, but states that it is accessible by maintenance crews. PPL states that most outages experienced by Complainant over the last two years are due to vegetation from outside of the Company's right-of-way, which is not within PPL's control. PPL's new matter, which included a notice to plead, denies that Complainant has experienced unreasonable or unreliable service, and describes various actions related to resolving Dr. Evans' concerns about PPL service at the service address. No response was filed to PPL's new matter.

On April 3, 2024, the Commission issued an interim order setting a resolution conference. The Parties were unable to resolve their case through mediation. On August 5, 2024, the Commission issued an initial telephonic hearing notice, assigning me to this proceeding and setting a call-in telephonic hearing for this matter for October 18, 2024 at 10:00 a.m. In anticipation of that hearing, I issued a prehearing order on August 6, 2024, setting forth various rules that would govern the October 18, 2024 hearing.

On October 11, 2024, I received an e-mail from counsel for PPL, requesting that the October 18, 2024 hearing be continued to a later date or alternatively, in the hopes of settlement, not rescheduled. Counsel for PPL explained that counsel for

Complainant indicated a desire to withdraw the Complaint, but an agreement had not been reached on the method of closing the complaint, e.g., through filing a certificate of satisfaction or differently. On October 11, 2024, counsel for Complainant stated by e-mail that Dr. Evans agreed to a continuance and requested that Dr. Evans be allowed to withdraw his Complaint without prejudice. On October 15, 2024, I sent an e-mail to the parties, stating that the October 18, 2024 hearing was cancelled, and that if Dr. Evans would like to withdraw his complaint, a petition for leave to withdraw may be filed pursuant to 52 Pa. Code § 5.94. Alternatively, either counsel for Complainant or PPL may file a certificate of satisfaction pursuant to 52 Pa. Code § 5.24. In anticipation of the filing of a petition for leave to withdraw or a certificate of satisfaction, the Commission issued a hearing cancellation notice on October 15, 2025, cancelling the October 18, 2024 hearing.

On December 3, 2024, I issued a continuance order, again detailing the steps parties may take to either file a petition for leave to withdraw or a certificate of satisfaction. The continuance order stated that a prehearing conference may be scheduled to discuss the status of this proceeding if a petition for leave to withdraw or a certificate of satisfaction is not filed.

On January 15, 2025, the Commission issued a telephonic prehearing conference notice setting a call-in prehearing conference for this matter for February 25, 2025, at 10:00 a.m.

The prehearing conference was held as scheduled. Counsel for PPL, Peter J. Kramer, Esquire, appeared. Dr. Evans appeared with counsel, Brett Zankel, Esquire. During the prehearing conference, Mr. Zankel made an oral Petition for Leave to Withdraw Dr. Evans' Formal Complaint without prejudice.

The record closed on March 13, 2025, the date I received the transcript of the prehearing conference. The Petition for Leave to Withdraw will be granted without prejudice as it is unopposed and in the public interest.

FINDINGS OF FACT

1. The Complainant in this case is Ryan Evans.
2. The Respondent in this case is PPL Electric Utilities Corporation.
3. On February 13, 2024, Dr. Evans filed a Formal Complaint against PPL.
4. On March 5, 2024, PPL filed an answer and new matter.
5. A prehearing conference was convened on February 25, 2025.
6. During the February 25, 2025 prehearing conference, counsel for Dr. Evans made an oral Petition for Leave to Withdraw Dr. Evans' Formal Complaint against PPL Electric Utilities Corporation without prejudice. Tr. 5-6.
7. Complainant seeks leave to withdraw the Formal Complaint because he believes the initial proper forum for this case is the Court of Common Pleas. Tr. 6.
8. PPL does not object to the Petition for Leave to Withdraw without prejudice. Tr. 7.

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 “[a]n 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. This matter became a contested proceeding once PPL filed an answer to the Formal Complaint. *Pa. Pub. Util. Comm’n v. West Penn Utils.*, Docket No. C-2022-3031862 (Opinion and Order entered May, 18, 2023); *New Fizon Catering, Inc. v. PECO Energy Co.*, Docket No. C-2008-2065498 (Opinion and Order entered Jun. 24, 2009).

The Commission’s regulations provide that the Commission or presiding officer at any stage of an action or proceeding may disregard an error or defect of procedure which does not affect the substantive rights of the parties. 52 Pa. Code § 1.2(a).

Counsel for Complainant's oral Petition for Leave to Withdraw Dr. Evans' Formal Complaint against PPL Electric Utilities Corporation without prejudice does not comply with the Commission's regulations at 52 Pa. Code § 5.94(a). In particular, the request was not made in writing or filed with the Commission. I will exercise my discretion pursuant to Section 1.2(a) of the Commission's regulations and treat Counsel for Complainant's oral petition as a Petition for Leave to Withdraw the Complaint without prejudice. 52 Pa. Code § 1.2(a). PPL's substantive rights were not affected because PPL was provided an opportunity to respond at the February 25, 2025 prehearing conference, and PPL did not object to Complainant's oral Petition for Leave to Withdraw without prejudice.

Pursuant to the Commission's regulations, I must consider any objection to the Petition, and the public interest, when determining whether the Petition will be granted. PPL did not object to the Petition. Counsel for Dr. Evans explained that the Petition for Leave to Withdraw Dr. Evans' Formal Complaint against PPL Electric Utilities Corporation without prejudice was being made because he believed the initial proper forum for this case was the Court of Common Pleas. Tr. 6-7. It would not be in the public interest to have the parties in this matter further litigate this proceeding when Complainant no longer wishes to pursue the Formal Complaint at this time. Granting the Petition will save the parties and the Commission additional costs in time and money they would otherwise incur in further litigating this case. Furthermore, the Complaint is being dismissed without prejudice, and therefore the Commission may hear these issues in the future, if necessary. Therefore, the Petition will be granted in the ordering paragraphs below.

CONCLUSIONS OF LAW

1. 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).

2. 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 ten days. 52 Pa. Code § 5.94(a).

3. 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).

4. The Commission or presiding officer at any stage of an action or proceeding may disregard an error or defect of procedure which does not affect the substantive rights of the parties. 52 Pa. Code § 1.2(a).

5. It is in the public interest to allow Complainant to withdraw his Formal Complaint. 52 Pa. Code § 5.94.

