

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Naval Square Condominium Association	:	
	:	
	:	
v.	:	C-2024-3051227
	:	
Vicinity Energy Philadelphia, Inc.	:	

**INITIAL DECISION**

Before  
F. Joseph Brady  
Administrative Law Judge

**INTRODUCTION**

This Initial Decision grants the Complainant’s request to withdraw its Formal Complaint because there is no objection to it and granting the request is in the public interest.

**HISTORY OF THE PROCEEDING**

On September 18, 2024, Naval Square Condominium Association (Association or Complainant) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against Vicinity Energy Philadelphia, Inc. (VEPI or Respondent) seeking an injunction against VEPI for excavation work being done on or around the Complainant’s property.

On October 8, 2024, VEPI filed an Answer with New Matter (Answer) along with a Notice to Plead. In its Answer, VEPI denied all material allegations in the Complaint. In its New Matter, VEPI alleged that it hired a third-party contractor to remediate a water infiltration issue adjacent to the Association's property and there was no damage.

On October 23, 2024, the Association filed a Reply to New Matter denying all material allegations in the New Matter.

By Hearing Notice dated November 1, 2024, an Initial Call-In Telephonic Hearing was scheduled for January 16, 2025, and the matter was assigned to me.

By Hearing Type Change Notice dated December 19, 2025, the Initial Call-In Telephonic Hearing was changed to a prehearing conference.

On January 13, 2025, Counsel for the Association informed me, via email, that it would like to withdraw the Complaint.

On January 14, 2025, Counsel for VEPI informed me, via email, that it did not object to the withdrawal request.

On February 5, 2025, the Association formally filed a Petition for Leave to Withdraw the Complaint with the Commission.

#### FINDINGS OF FACT

1. The Complainant is Naval Square Condominium Association.
2. The Respondent is Vicinity Energy Philadelphia, Inc.

3. On September 18, 2024, the Complainant filed a Formal Complaint against VEPI.

4. On October 8, 2024, VEPI filed an Answer with New Matter to the Complaint denying all material allegations in the Complaint.

5. On February 5, 2025, the Complainant filed a Petition for Leave to Withdraw the Complaint.

6. VEPI does not object to the Petition for Leave to Withdraw the Complaint.

### DISCUSSION

The Commission's Rules of Practice and Procedure at 52 Pa. Code § 5.94 permit parties to petition to withdraw pleadings in a contested proceeding:

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).

The petition is granted only by permission of the presiding officer or the Commission. *Id.* 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. 52 Pa. Code § 5.94.

In this case, the Complainant filed a Complaint seeking an injunction against VEPI for work being done and possibly reimbursement for damages allegedly caused by VEPI. Given that both parties were represented by counsel, the amount of time that had passed, and the well settled law that the Commission does not have jurisdiction to award monetary damages,<sup>1</sup> I converted the initial hearing scheduled for January 16, 2025, into a prehearing conference. However, prior to the prehearing conference, I was informed by Counsel for the Complainant that it wished to withdraw the Complaint. Thereafter, on February 5, 2025, the Complainant filed a Petition for Leave to Withdraw the Complaint. VEPI does not object.

Under these circumstances, granting the Complainant's request 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 a case wherein the relief sought cannot be granted. Further, the Complaint does not contain any novel issues or issues that would impact the public interest. Accordingly, the Complainant's Petition for Leave to Withdraw the Complaint shall be granted.

#### CONCLUSIONS OF LAW

1. 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.

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<sup>1</sup> See, *DeFrancesco v. W. Pa. Water Co.*, 453 A.2d 595 (Pa. 1982); *Elkin v. Bell Tel. Co. of Pa.*, 420 A.2d 371 (Pa. 1980); *Feingold v. Bell of Pa.*, 383 A.2d 791 (Pa. 1977); *Poorbaugh v. Pa. Pub. Util. Comm'n*, 666 A.2d 744 (Pa. Cmwlth. 1995).

2. After considering the petition, 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).

3. It is in the public interest to grant the Complainant's Petition for Leave to Withdraw the Complaint. 52 Pa. Code § 5.94.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Complainant's Petition for Leave to Withdraw the Complaint is granted.

2. That the Complaint of Naval Square Condominium Association in the matter of Naval Square Condominium Association v. Vicinity Energy Philadelphia, Inc., at Docket No. C-2024-3051227 is withdrawn.

3. That Docket No. C-2024-3051227 be marked closed.

Date: March 31, 2025

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/s/  
F. Joseph Brady  
Administrative Law Judge