

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joanna Pierce

v.

Philadelphia Gas Works

:
:
:
:
:

C-2023-3040631

INITIAL DECISION

Before
Dennis J. Buckley
Administrative Law Judge

INTRODUCTION

This Decision grants the letter/Petition to Withdraw the Formal Complaint (Complaint) filed in this matter by Joanna Pierce (Complainant). The Complaint was filed against Philadelphia Gas Works (PGW), which has no objection to the requested withdrawal.

HISTORY

On May 5, 2023, Complainant filed a Complaint with the Commission at this docket alleging misbilling and damage to a boiler-heater in the residence of her deceased brother, attributing the damage to the actions of PGW. Complainant requested that the Commission order PGW to pay \$5,000 to Complainant, which Complainant contended was the cost of replacing the boiler-heater.

Complainant alluded to an underlying proceeding which may have been a determination of the Commission's Bureau of Consumer Services (BCS), but no Case Number was provided, and this Complaint is not an appeal from a BCS determination. Further, and as addressed in an Order at this docket issued on August 25, 2023, to the extent that Complainant raised complaints about the actions of a Commission employee (and this is not altogether clear), it was explained to Complainant in an Order issued August 26, 2023, that the formal complaint process is not the forum in which to make such a complaint. While a Commission Administrative Law Judge (ALJ) may rule on disputes between customers and utilities, ALJs have no jurisdiction whatsoever in matters involving Commission employees.

On May 30, 2023, PGW filed an Answer and New Matter to the Complaint in which it averred that Complainant is not a customer of record with PGW, and that PGW is not providing service to Complainant, the service having been disconnected at Complainant's request after the death of her brother. The New Matter was properly endorsed with a Notice to Plead, but Complainant filed no Answer or responsive pleading to the New Matter.

Also on May 30, 2023, PGW filed Preliminary Objections to the Complaint, again endorsed with a Notice to Plead, in which PGW asserted that the Commission is without jurisdiction to award damages and asked that the Complaint be dismissed. Complainant filed no Answer or responsive pleading to the Preliminary Objections.

On July 6, 2023, a telephonic hearing Notice was issued in this matter scheduling a hearing for September 5, 2023.

On August 26, 2023, an Order was issued granting in part the Preliminary Objections of PGW relative to the lack of authority on the part of the Commission to

award damages but holding in abeyance a ruling on quality of service issues until an evidentiary hearing could be held.

On August 31, 2023, a rescheduled hearing Notice (Notice) was issued changing the date of the hearing in this case from September 5, 2023, to October 17, 2023.

On October 17, 2023, a hearing was held in this matter, pursuant to the Notice. Graciela Christlieb, Esquire, appeared on behalf of PGW. Complainant did not appear, and it was brought to the attention of the undersigned by Commission personnel that Complainant had, the previous day, filed a letter/Petition for leave to withdraw her Complaint. Counsel for PGW stated that she had no objection to the withdrawal and had in fact discussed it with Complainant.

After the hearing adjourned, the undersigned confirmed that Complainant had filed her letter/Petition with the Secretary's Bureau on October 16, 2023. The letter did not set forth a reason for the requested withdrawal.

On October 24, 2023, a seven-page hearing transcript was filed by the court reporting service.

This matter is ready for decision.

FINDINGS OF FACT

1. The Complainant in this case is Joanna Pierce, who resides at 5639 Catharine Street, Philadelphia, PA.

2. Respondent is Philadelphia Gas Works, a natural gas distribution company certificated by the Commission.

3. Respondent is a “public utility” as defined at 66 Pa.C.S. § 102.

4. On May 5, 2023, Complainant filed a Formal Complaint with the Commission at this docket alleging misbilling and damage to a boiler-heater in the residence of her deceased brother because of the actions of PGW.

5. On May 30, 2023, PGW filed an Answer and New Matter to the Complaint in which it averred that Complainant is not a customer of record with PGW, and that PGW is not providing service to Complainant, the service having been disconnected at Complainant’s request after the death of her brother.

6. Also on May 30, 2023, PGW filed Preliminary Objections to the Complainant, again endorsed with a Notice to Plead, in which PGW asserted that the Commission is without jurisdiction to award damages and asked that the Complaint be dismissed.

7. On October 17, 2023, a hearing was held in this matter, pursuant to Notice.

8. Complainant did not appear at the hearing but instead filed a letter/Petition for Leave to Withdraw her Complaint on October 16, 2023.

9. At the hearing, Counsel for PGW stated that PGW had no objection to the requested withdrawal. Tr. at 4.

DISCUSSION

The Commission's Rules of Practice and Procedure permits parties to withdraw pleadings in a contested proceeding. 52 Pa. Code § 5.94. Section 5.94(a) allows the withdrawal of pleadings by a petition for leave to withdraw the pleading. 52 Pa. Code § 5.94(a). The petition must set forth the reasons for the withdrawal and will be 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.¹

Having reviewed the request to withdraw, the lack of any objection to the request and considering the public interest, I conclude that the Petition for Leave to Withdraw the Complaint in this matter should be granted.² Granting the request to withdraw will not adversely impact the public interest and will conserve administrative hearing resources.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the parties to this proceeding. 66 Pa.C.S. § 701.

¹ The Commission or presiding officer at any stage of an action or proceeding may waive a requirement of this subpart when necessary or appropriate, if the waiver does not adversely affect a substantive right of a party. 52 Pa. Code § 1.2(c). Further, this subpart shall be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which it is applicable, and in particular in proceedings involving pro se litigants. 52 Pa. Code § 1.2(a), (d).

² See *Ulishney, v. West Penn Power Co.*, Docket No. C-2021-3024487 (Opinion and Order entered May 19, 2022) (holding Complainants' email correspondence clearly communicated that they did not intend to pursue their Complaint before the Commission).

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 the Commission.

3. In determining whether to permit withdrawal of the pleading, the presiding officer or the Commission must consider the petition, any objections thereto and the public interest. 52 Pa. Code § 5.94(a).

4. Granting the Petition to Withdraw the Complaint against PGW at Docket No. C-2023-3040631 is in the public interest.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Petition for Leave to Withdraw the Complaint filed by Joanna Pierce against Philadelphia Gas Works at Docket No. C-2023-3040631 is hereby granted as in the public interest.

2. The Formal Complaint filed by Joanna Pierce in Joanna Pierce v. Philadelphia Gas Works at Docket No. C-2023-3040631 is withdrawn.

3. That the record at Docket No. C-2023-3040631 is to be marked closed.

Date: April 16, 2025

/s/
Dennis J. Buckley
Administrative Law Judge