

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Richard Myers	:	
	:	
v.	:	C-2024-3045577
	:	
PPL Electric Utilities Corporation	:	

INITIAL DECISION

Before
Erin L. Gannon
Administrative Law Judge

INTRODUCTION

This Initial Decision grants the Complainant’s Petition for Leave to Withdraw the Formal Complaint against PPL Electric Utilities Corporation because it is unopposed and in the public interest.

HISTORY OF THE PROCEEDING

On January 19, 2024, Richard Myers (Complainant) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against PPL Electric Utilities Corporation (Respondent or PPL). The Complaint was served on PPL on the same date.

In his Complaint, Mr. Myers stated that he had initiated the process of relocating the smart meter mounted on his house to his front yard/roadside property

line. Complainant argued that PPL was being unreasonable because it was not allowing him to use the existing utility poles to connect the relocated smart meter and, instead, was requiring him to install two additional utility poles which would be redundant and unnecessarily increase his costs. For relief, Mr. Myers requested that the Commission order PPL to allow him to use the existing utility poles to reconnect the smart meter.

On February 8, 2024, Respondent timely filed an answer denying the material allegations of fact and conclusions of law in the Complaint and requesting that the Complaint be dismissed with prejudice.

On February 13, 2024, an interim order was issued by Chief Administrative Law Judge Charles E. Rainey, Jr., referring this matter to the mediation unit of the Office of Administrative Law Judge (OALJ).

On April 25, 2024, Respondent filed a Certificate of Satisfaction, in which PPL certified that Mr. Myers advised that he no longer wished to pursue the Complaint.

On May 6, 2024, Mr. Myers filed a reply to the Certificate of Satisfaction stating:

Correct, I have withdrawn my request to use PPL Electric poles to reconnect service when I relocate my smart meter farther from my house, but I do so under duress. I believe PUC's ruling that smart meter installations are mandatory is an illicit act....

May 6, 2024 Objection at 1.

On November 8, 2024, PPL filed a Certificate of Satisfaction, which stated that Respondent and Complainant jointly certified that the smart meter had been relocated farther from Mr. Myers' home and the Complaint can be closed.

On November 12, 2024, Complainant filed a reply to the second Certificate of Satisfaction, stating his disagreement with closing his Complaint because the relocation of the smart meter from his house to his front yard "does not eliminate the risk of harm to me or anyone on my lawn." As relief, Mr. Myers requested:

Please direct PPL and PUC to show me the tests and scientific studies that prove all the thousands of scientific studies, researchers, victims and physicians reporting harms are wrong. Then I will sign a Certificate of Satisfaction to close my Complaint.

November 12, 2024 Objection at 1.

By Initial Call-In Telephone Hearing Notice dated November 21, 2024, a hearing was scheduled for January 14, 2025, and the matter was assigned to me.

Based on my review of the parties' filings, I determined to hold a prehearing conference to help ensure that all parties understood the scope and status of outstanding problems in the case and to discuss how the case would go forward.¹ Accordingly, on December 4, 2024, the Commission issued a Hearing Type Change Notice, converting the January 14, 2025, evidentiary hearing to a prehearing

¹ In essence, Mr. Myers' original Complaint was about PPL's requirement that he relocate his meter using new utility poles rather than existing PPL poles. However, Mr. Myers filed objections to two separately filed certificates of satisfaction for his Complaint, in which he raised issues about the health effects of radiation from smart meters. Based on those filings, it appeared that Mr. Myers did not consider his Complaint to be satisfied because he objects to having a smart meter altogether.

conference. On the same date, I issued a Prehearing Conference Order.

The Initial Call-In Telephone Hearing Notice, Hearing Type Change Notice and Prehearing Conference Order were eServed to Complainant, consistent with his registration of an eFiling account with the Commission. All three documents provided the date, time and call-in information for the prehearing conference. Further, the Prehearing Conference Order provided notice that:

Failure of a party to participate in the conference, after being served with notice of the date, time, and location thereof, without good cause shown, shall constitute a waiver of all objections to the agreements reached, and an order or ruling with respect thereto. 52 Pa. Code § 5.222(e).

Prehearing Conference Order at 4-5.

The prehearing conference was convened as scheduled at 10:00 a.m. on January 14, 2025. Mr. Peter J. Kramer, Esquire, appeared for PPL. Mr. Myers did not appear. I recessed the conference for fifteen minutes to allow time for Complainant to appear. Mr. Myers did not call into the prehearing conference or communicate with me or the OALJ to ask for a continuance or explain why he did not participate. Therefore, the prehearing conference proceeded in Mr. Myers' absence.

During the prehearing conference, I advised counsel for Respondent that I would deem the statements in Mr. Myers' written objections to the two Certificates of Satisfaction to be an amendment to the Complaint (Amended Complaint).² On their face, those statements appeared to expand the scope of the Complaint and request relief beyond the original Complaint.

² 52 Pa. Code § 5.91(a).

On January 22, 2025, I issued an interim order, which memorialized the procedural matters discussed at the prehearing conference. I afforded Respondent twenty days to respond to any new issues raised by the Amended Complaint, which is the same amount of time provided for responding to a written amendment filed pursuant to 52 Pa. Code §§ 5.91-5.93.³

On February 11, 2025, Respondent timely filed an answer and new matter to the Amended Complaint. Also, on February 11, 2025, Respondent timely filed preliminary objections. The new matter and preliminary objections included notices to plead and were served to Complainant by email and First-Class Mail.⁴

In its answer, PPL denied the material allegations of fact and conclusions of law in the Amended Complaint. In its new matter, Respondent averred that the Amended Complaint was barred by 66 Pa.C.S. § 316, as well as *res judicata* and collateral estoppel because claims and issues related to PPL's installation of Advanced Metering Infrastructure (AMI) meter(s) at Complainant's residence were, or could have been, raised and ruled on in Mr. Myers' complaint proceeding at Docket Number C-2017-2620710. Respondent requested that the Amended Complaint be dismissed with prejudice. In its preliminary objections, PPL argued that the Amended Complaint was legally insufficient because it is barred by 66 Pa.C.S. § 316 and the relief requested in the Amended Complaint cannot be granted by the Commission.

Mr. Myers did not respond to Respondent's new matter or preliminary objections regarding the Amended Complaint.

Given the passage of time since Mr. Myers had acted in this proceeding, I

³ 52 Pa. Code § 5.65(a).

⁴ 52 Pa. Code §§ 5.63(a) (replies to new matter to be filed within 20 days), 5.101(a), (f)(1) (answer to preliminary objections to be filed within 10 days).

issued an interim order on March 5, 2025, giving Complainant an opportunity to explain whether he wanted to pursue any of the issues in his Complaint and, if so, why he did not appear at the prehearing conference. Mr. Myers was afforded until March 26, 2025 to file a response and instructed that failure to timely respond would result in dismissal of all matters raised in the original Complaint and Amended Complaint without a hearing. I held ruling on PPL's preliminary objections in abeyance until Complainant responded to the interim order or expiration of the time for doing so.

On March 25, 2025, Mr. Myers filed a timely response (Response to March 2025 Interim Order), in which he addressed his objections to the Commission's smart meter mandate. Regarding pursuit of his Complaint, he stated:

To claim smart meter harms and risks are not a violation of Section 1501 is indefensible and blatantly dishonest in my view and countless others. It is no different than DHS Secretary Mayorkas claiming the southern border is secure. PUC Officials have betrayed public trust.

Accordingly, I do not want to waste my time dealing with PUC or window dressing on this Complaint any more (sic). However, I do predict it is inevitable and just a matter of time that PUC's smart meter mandate will collapse like a house of cards.

Response to March 2025 Interim Order at 2 (emphasis added). Mr. Myers did not mention the utility pole issue.

On April 28, 2025, I issued an interim order directing the scheduling of a further prehearing conference. In that interim order, I explained that I did not find sufficient basis to deem Mr. Myers statements as a petition for leave to withdraw his Complaint, in its entirety, given that he had filed two prior objections to resolving his original Complaint about the utility pole issue. At the further prehearing conference,

Mr. Myers would have the opportunity to orally state on the record whether he wanted to pursue or withdraw his Complaint. The interim order also explained that if Mr. Myers wanted to withdraw his Complaint prior to the further prehearing conference, he could file a petition for leave to withdraw the Complaint, as provided under 52 Pa. Code § 5.94. I continued to hold ruling on PPL's preliminary objections in abeyance pending the further prehearing conference or, if applicable, a ruling on a petition for leave to withdraw the complaint.

On April 30, 2025, a notice was issued scheduling the further prehearing conference for May 21, 2025.

On May 15, 2025, Mr. Myers emailed OALJ and parties a response to the April 28, 2025 interim order (Response to April 2025 Interim Order). Complainant stated:

Pursuant to the Interim Order by Administrative Law Judge Erin L. Gannon dated April 28, 2025 I petition herewith to withdraw my Formal Complaint dated January 19, 2024.

Response to April 2025 Interim Order at 1. He stated two reasons for withdrawing the Complaint, first, that the use of the existing PPL utility poles was no longer at issue because, following PPL's denial of his request, he had paid to trench the wiring underground instead. *Id.* Second, he stated:

But more precisely I withdraw my Formal Complaint because I want nothing to do with PUC bureaucrats and attorneys any longer. Their callous disregard for customers suffering from smart meter radiation, forced to live without electricity, or spending thousands of dollars to abate microwave radiation intensities and protect their health is inexcusable and repugnant. No less indefensible is PUC's rejection of the massive and overwhelming numbers of scientific studies validating these victims' claims and their physician reports of adverse health effects. PUC officials

and lawyers have betrayed public trust and their oaths of office since the filing of Formal Complaints began 15 years ago.

Id.

By email sent on May 16, 2025, I asked the parties to advise me by noon on May 20, 2025 if they objected to the prehearing conference being canceled and, further, whether there was any objection to Complainant's request to withdraw the Complaint.

By email sent on May 19, 2025, Devin T. Ryan, Esquire, counsel for PPL, advised me and Complainant that PPL did not object to a petition for leave to withdraw being granted. Mr. Myers did not respond to my May 16, 2025 email.

On May 20, 2025, I advised the parties by email that the telephonic prehearing conference scheduled for May 21, 2025 was canceled. On May 21, 2025, the Commission issued a written notice confirming the cancellation.

On May 29, 2025, I was notified that the Secretary's Bureau had received and accepted for filing the mailed copy of Complainant's Response to Interim Order.

On May 30, 2025, I issued an interim order that closed the record and memorialized the email exchanges since May 16, 2025.

Mr. Myers' request to withdraw the Complaint will be granted as it is unopposed and in the public interest.

FINDINGS OF FACT

1. The Complainant in this case is Richard Myers.

2. The Respondent in this case is PPL Electric Utilities Corporation.
3. On January 19, 2024, Mr. Myers filed a Formal Complaint against PPL.
4. On February 8, 2024, PPL filed an answer.
5. On April 25, 2024, Respondent filed a Certificate of Satisfaction.
6. On May 6, 2024, Mr. Myers filed an objection to the Certificate of Satisfaction.
7. On November 8, 2024, PPL filed a second Certificate of Satisfaction.
8. On November 12, 2024, Complainant filed an objection to the second Certificate of Satisfaction.
9. A prehearing conference was convened on January 14, 2025.
10. Complainant did not attend the January 14, 2025 prehearing conference.
11. During the January 14, 2025 prehearing conference, I advised counsel for Respondent that I would deem the statements in Complainant's written objections to the two Certificates of Satisfaction to be an amendment to the Complaint.
12. On February 11, 2025, Respondent timely filed an answer, new matter, and preliminary objections to the Amended Complaint.

13. Complainant did not file an answer to the new matter or preliminary objections.

14. On March 5, 2025, I issued an interim order giving Complainant an opportunity to explain whether he wanted to pursue any of the issues in his complaint and, if so, why he did not appear at the prehearing conference.

15. On March 25, 2025, Complainant filed a timely response, in which he addressed his objections to the Commission's smart meter mandate and stated that he did not want to waste his time anymore before the Commission. Response to March 2025 Interim Order at 2.

16. In his Response to March 2025 Interim Order, Complainant did not mention the utility pole issue that was the subject of his original Complaint.

17. On April 28, 2025, I issued an interim order directing the scheduling of a further prehearing conference where Complainant would have the opportunity to orally state on the record whether he wanted to pursue or withdraw his Complaint.

18. The April 28, 2025 interim order also explained that if Complainant wanted to withdraw his Complaint prior to the further prehearing conference, he could file a petition for leave to withdraw the Complaint, as provided under 52 Pa. Code § 5.94.

19. On April 30, 2025, a notice was issued scheduling the further prehearing conference for May 21, 2025.

20. On May 15, 2025, Complainant emailed the Office of Administrative Law Judge and parties a document titled Response to Interim Order.

21. In the Response, Complainant stated “I petition herewith to withdraw my Formal Complaint dated January 19, 2024.” Response to April 2025 Interim Order at 1.

22. Complainant seeks leave to withdraw his Complaint because he has already paid to have his wiring trenched underground. Response to April 2025 Interim Order at 1.

23. Also, Complainant seeks leave to withdraw his Complaint because he says the Commission has disregarded the impact of smart meters on customers seeking to avoid or abate radiation intensities and the scientific studies and physician reports validating complaints about adverse health effects. Response to April 2025 Interim Order at 1.

24. By email sent on May 16, 2025, I asked the parties to advise me by noon on May 20, 2025 whether there was any objection to Complainant’s request to withdraw the Complaint.

25. By email sent on May 19, 2025, Devin T. Ryan, Esquire, counsel for PPL, advised me and Complainant that PPL did not object to a petition for leave to withdraw being granted.

26. Complainant did not respond to my May 16, 2025 email.

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. 52 Pa. Code § 1.8; *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).

Pursuant to the Commission’s regulations, I must consider any objection to Mr. Myers’ petition for leave to withdraw his Complaint,⁵ and the public interest, when determining whether the withdrawal will be permitted. Mr. Myers explained his reasons

⁵ Although Mr. Myers did not specifically label his filing as a petition for leave to withdraw his Complaint, his request was filed with the Commission, served on the other parties, set forth the reason for withdrawal, and expressly stated “I petition herewith to withdraw my Formal Complaint dated January 19, 2024.” Response to April 2025 Interim Order at 1. The Commission’s regulations specifically authorize presiding officers to disregard defects, particularly in proceedings involving *pro se* litigants. See 52 Pa. Code § 1.2(a), (d); see also *Ulishney v. West Penn Power Co.*, Docket No. C-2021-3024487 (Opinion and Order entered May 9, 2022).

for not pursuing the issues raised in his original and amended complaint. He no longer wants to pursue the utility pole issue because he paid to have the wiring trenched underground instead. Response to April 2025 Interim Order at 1. He no longer wants to pursue his smart meter issues because he disagrees with the Commission's rulings on prior complaints about cost and health impacts of mandatory smart meter installation. *Id.*; *see also* Response to March 2025 Interim Order at 2. PPL did not object to the withdrawal of the Complaint.

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 Complaint. 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. Therefore, the Petition will be granted in the ordering paragraphs below.

In light of the above, the preliminary objections filed by PPL in this matter are moot and will be dismissed in the ordering paragraphs below.

CONCLUSIONS OF LAW

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

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

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Petition for Leave to Withdraw the Formal Complaint made by Richard Myers at Docket No. C-2024-3045577 is granted;

2. That the Formal Complaint filed in the matter of Richard Myers v. PPL Electric Utilities Corporation at Docket No. C-2024-3045577 is withdrawn;

3. That PPL Electric Utilities Corporation's Preliminary Objections are dismissed as moot; and

