

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Richard McDonald	:	
	:	
v.	:	C-2024-3049229
	:	
Pennsylvania-American Wastewater Company	:	

INITIAL DECISION

Before
Christopher P. Pell
Deputy Chief Administrative Law Judge

INTRODUCTION

This Initial Decision grants Richard McDonald’s unopposed Petition for Leave to Withdraw his Complaint without prejudice because doing so is in the public interest.

HISTORY OF THE PROCEEDING

On May 23, 2024, Richard McDonald (Complainant) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against Pennsylvania-American Water Company (Respondent or PAWC or the Company). The Complainant placed checkmarks in the box marked “[o]ther” and provided the following explanation of his Complaint:

The american water co. [sic] replaced a sewer line on my property approximately 20 ft deep x 157 long x 15 ft wide. Property restoration was not acceptable. They spread Japanese Knotweed [sic] all over my property. They also cleared an access road [sic] 15 to 20 ft. wide to allow access for their equipment to traverse in and out of area.

As relief, the Complainant requested the following:

I would like the american water co [sic] to remove 3ft to 4ft deep of all the land that they disturbed on my property and replace it with clean fill and appropriate good quality top soil and grass seed. Additionally I have to install a rubber barrier in a 5 ft trench to stop the adjacent properties, which contain knotweed that has been disturbed by the project from spreading onto my property.

On June 11, 2024, the Respondent filed an Answer admitting that it replaced a sewer line in the vicinity of the Complainant's property, which was completed on March 15, 2024. The Company denied that a new easement was needed to perform the work because the Company already possesses an easement. The Company denied that the property restoration following the completion of the sewer line replacement was not acceptable, noting that the Company contractor who performed the restoration work filled the ditch with topsoil that did not contain knotweed at the request of the Complainant. The Company further denied that it spread knotweed all over the Complainant's property. The Company averred that the property in question is an empty lot with a number of dead trees and stumps, and that to the extent knotweed exists at the property, it was there before the Company's project began. The Company further averred that the Company offered to remove some of the topsoil that was used to fill in the ditch and replace it with fresh topsoil to a depth of four feet, a width of eight feet (four feet on both sides from center of the main line), and the length from manhole to manhole, which was the actual area of work. Lastly, the Respondent requested that this matter be assigned to the Commission's mediation program.

On June 12, 2024, the Complainant filed a request for an expedited hearing.

By Interim Order dated June 18, 2024, Chief Administrative Law Judge Charles E. Rainey, Jr. assigned this matter to the Commission's mediation unit. Mediation was not successful.

On February 18, 2025, a Call-In Telephone Hearing Notice was served on the parties scheduling an initial telephonic hearing on April 14, 2025, at 10:00 a.m. and the case was assigned to me.¹

On February 19, 2025, a Prehearing Order was served on the parties which reminded the parties of the date and time of the hearing. The Prehearing Order also explained that the Complainant bears the burden of proof to establish that the Respondent violated its tariff, the Public Utility Code, or a Commission Order or regulation, and that he is entitled to the relief requested in the Complaint.

By Interim Order dated March 27, 2025, I granted the Complainant's March 25, 2025, Motion for Continuance.

On March 28, 2025, a Cancelled/Rescheduled Initial Telephonic Hearing Notice was served on the parties rescheduling an initial telephonic hearing for June 13, 2025, at 10:00 a.m.

By email received on June 10, 2025, Armand Olivetti, Esq., Counsel for the Complainant, requested to withdraw the Complaint on the Complainant's behalf. Mr.

¹ A Corrected Initial Call-In Telephone Hearing Notice was issued the same day. The date and time remained the same. The notice was issued to reflect corrections to the service list.

Olivetti copied Michael Gruin, Esq., Counsel for the Respondent, on his email. In light of the Complainant's desire to withdraw his Complaint, I instructed Mr. Olivetti to file a petition for leave to withdraw the Complaint with the Commission's Secretary in accordance with 52 Pa. Code § 5.94.

On June 12, 2025, the Complainant filed his Petition to Withdraw Complaint with the Commission's Secretary.²

To date, the Respondent has not objected to the Complainant's Withdrawal Request.

This matter is ripe for disposition.

FINDINGS OF FACT

1. The Complainant is Richard McDonald.
2. The Respondent is Pennsylvania-American Wastewater Company.
3. On May 23, 2024, the Complainant filed a Formal Complaint with the Pennsylvania Public Utility Commission against Pennsylvania-American Water Company.
4. On June 11, 2024, the Respondent filed an Answer to the Formal Complaint.

² Mr. Olivetti also emailed copies of the Petition to Withdraw to me and to Mr. Gruin on June 13, 2025.

5. By Call-In Telephone Hearing Notice dated February 18, 2025, an initial telephonic hearing was scheduled for April 14, 2025, at 10:00 a.m.

6. By Interim Order dated March 27, 2025, I granted the Complainant's March 25, 2025, Motion for Continuance.

7. By Cancelled/Rescheduled Initial Telephonic Hearing Notice dated March 28, 2025, the initial telephonic hearing was rescheduled for June 13, 2025, at 10:00 a.m.

8. On June 12, 2025, the Complainant filed his Petition to Withdraw Complaint without prejudice with the Commission's Secretary.

9. To date, the Respondent has not objected to the Complainant's request to withdraw his 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. 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 the Petition, the Complainant requested that his Complaint be withdrawn because it involves a claim for damages caused by entry onto a vacant property, and the Complainant understands that the Commission does not have jurisdiction over a claim for damages. To date, the Respondent has not objected to the Complainant's request to withdraw this Complaint. Under these circumstances, granting the Complainant's request to withdraw this 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 the case. Accordingly, the Complainant's request to withdraw this Complaint shall be granted.

CONCLUSIONS OF LAW

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

2. 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.

3. It is in the public interest to grant the Complainant's request to withdraw this Complaint.

