

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Edward Sueta, Jr.	:	
	:	
v.	:	F-2025-3055495
	:	
NTherm LLC	:	

INITIAL DECISION

Before
Barbara Shadie Nause
Administrative Law Judge

INTRODUCTION

This Initial Decision grants the customer’s request to Withdraw the Formal Complaint against NTherm LLC because there is no objection to the request and granting the request is in the public interest.

HISTORY OF THE PROCEEDING

On May 23, 2025, Edward Sueta, Jr., as President of Ed Sueta Music Publications, Inc. (Mr. Sueta or Complainant), filed a Formal Complaint (Complaint) against NTherm LLC (NTherm or Company)¹ with the Pennsylvania Public Utility Commission (Commission).

¹ The Complaint is a timely appeal from the determination of the

The Complaint was served on NTherm on June 2, 2025. In his Complaint, Mr. Sueta stated that the Complaint was regarding Ed Sueta Music Publications, Inc. Mr. Sueta alleged that NTherm billed Ed Sueta Music Publications, Inc. at an unconscionable rate contrary to NTherm's representation that their rates were competitive with the rates of PECO Energy Company (PECO). Complaint ¶ 4. As relief, Mr. Sueta requested that the Commission order NTherm to refund the unconscionable bills which ranged from 80% to 306% over the cost of the gas price compared to PECO bills. Complaint ¶ 5.

On August 18, 2025, an Initial Telephonic Hearing Notice was filed scheduling a hearing for October 7, 2025. Of relevance, the Hearing Notice states the following:

REPRESENTATION. If you are an individual, you may represent yourself or you may have an attorney represent you. All others, including a partnership, corporation, trust, association, or governmental agency or subdivision, must be represented by an attorney licensed to practice law in Pennsylvania, or admitted *pro hac vice*. Only an attorney may represent someone else.

August 18, 2025, Hearing Notice.

On August 21, 2025, a Prehearing Order was issued to the parties, providing the parties with the procedural rules that would govern the hearing. Of relevance, the Prehearing Order states the following:

REPRESENTATION. If you are an individual, you may represent yourself or you may have an attorney represent you. All others, including a partnership, corporation, trust,

Commission's Bureau of Consumer Services (BCS), at BCS No. 4046553, which dismissed Complainant's informal complaint. A timely BCS appeal is subject to de novo review. 52 Pa. Code § 56.173(a).

association, or governmental agency or subdivision, must be represented by an attorney licensed to practice law in Pennsylvania, or admitted *pro hac vice*. And, unless you are an attorney, you may not represent someone else.

August 21, 2025, Prehearing Order.

On October 6, 2025, NTherm requested a continuance, which was unopposed by Complainant, to discuss settlement and the hearing was rescheduled for December 9, 2025.

On November 12, 2025, NTherm, through counsel, filed an Answer and New Matter.² In its Answer, the Company admitted in part and denied in part the various material allegations of the Complaint. Specifically, NTherm argued that Complainant's allegations were too vague, speculative, hypothetical and non-specific.

In NTherm's New Matter, properly endorsed with a Notice to Plead, NTherm stated that Complainant is a commercial business and pursuant to Sections 1.21 and 1.22 of the Commission's regulations, 52 Pa. Code §§ 1.21-1.22, Complainant must be represented by an attorney once the matter became adversarial upon the filing of the Answer. Answer and New Matter ¶ 15. In addition, NTherm argued that Complainant was properly billed in full accordance with the terms and agreed upon supply contract with NTherm and requested that the Commission dismiss the Formal Complaint. Answer and New Matter ¶ 19

No response to NTherm's New Matter was filed.

² I note that NTherm's Answer and New Matter were filed late, and pursuant to 52 Pa. Code § 5.61 (c), a respondent failing to file an answer within the applicable period (20 days) may be deemed in default and relevant facts in the pleadings may be deemed admitted. However, here the parties were engaged in settlement and no objection was filed to the late filing of the Answer and New Matter.

On November 14, 2025, I issued Interim Order #1, which directed Mr. Sueta to have counsel enter his or her appearance on behalf of Ed Sueta Music Publications, Inc., on or before December 1, 2025. Pursuant to Interim Order #1, Mr. Sueta was notified that failure to comply with the Order will result in cancellation of the hearing and dismissal of the Complaint.

Mr. Sueta did not comply with Interim Order #1.³

On December 19, 2025, NTherm requested that since no attorney has entered his or her appearance on behalf of Complainant, that the Formal Complaint be dismissed with prejudice for failure to comply with Interim Order #1.

On December 29, 2025, Mr. Sueta sent an e-mail to the Office of Administrative Law Judge (OALJ) and counsel for NTherm, stating in relevant part:

I apologize for the delay in my response. The amount in controversy precludes us from incurring the expense of retaining counsel. Please withdraw our claim.

The record closed on December 29, 2025, the date I received the Complainant's e-mail withdrawal request. I will treat Mr. Sueta's request as a Petition for Leave to Withdraw his Formal Complaint (Petition), and I will grant the Petition as it is unopposed and in the public interest.

³ Although this matter was not dismissed for Complainant failing to comply with Interim Order #1, the Commission has dismissed complaints when a complainant failed to comply with an order of the presiding officer directing it to have an attorney enter his/her appearance on its behalf. *See Am. Housing Sols. v. York Water Co.*, Docket No. F-2023-3043623 (Final Order entered July 2, 2024); *Application of Home Concept Sers. LLC for approval to provide paratransit serv. in Phila., Montgomery, Bucks and Delaware Cntys*, Docket No. A-2022-3034706 (Opinion and Order entered Apr. 20, 2023); *Yea Ryong Church c/o David Wong v. Metro. Edison Co.*, Docket No. C-2017-2626578 (Final Order entered May 9, 2018).

FINDINGS OF FACT

1. Complainant in this case is Edward Sueta, Jr., as President of Ed Sueta Music Publications, Inc. Complaint ¶ 11.
2. The Formal Complaint involves utility service provided to Ed Sueta Music Publications, Inc.
3. Respondent in this case is NTherm, LLC.
4. On May 23, 2025, Mr. Sueta, as President of Ed Sueta Music Publications, Inc., filed a Formal Complaint against NTherm.
5. The Formal Complaint was served on NTherm on June 2, 2025.
6. On November 12, 2025, NTherm, through counsel, filed an Answer and New Matter.
7. On November 14, 2025, I issued Interim Order #1, which directed Mr. Sueta to have counsel enter his or her appearance on behalf of Ed Sueta Music Publications, Inc., on or before December 1, 2025.
8. Complainant failed to comply with Interim Order #1 and he did not have counsel enter his or her appearance on or before December 1, 2025.
9. On December 19, 2025, NTherm requested that since no attorney has entered his or her appearance on behalf of Complainant, that the Formal Complaint be dismissed, with prejudice, for failure to comply with Interim Order #1.

10. On December 29, 2025, Complainant sent an email to the office of the undersigned, copying counsel for Respondent, requesting to withdraw the Complaint.⁴

11. Counsel for NTherm did not object to Complainant's request to withdraw the Complaint within 10 days.

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] 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).

⁴ In the interests of transparency, I forwarded Complainant's email request to the Secretary Bureau, and requested that it be docketed since it is being treated herein as a petition to withdraw the Complaint.

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.

The Formal Complaint was filed by Mr. Sueta on behalf of Ed Sueta Music Publications, Inc. His matter became a contested proceeding once NTherm filed an Answer and New Matter to the Formal Complaint. *Pa. Pub. Util. Comm’n v. W. 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). Therefore, once the Answer was filed, this proceeding became an “adversarial proceeding” as defined by the Commission’s regulations.

Persons in adversarial proceedings must be represented by an attorney or certified legal intern. 52 Pa. Code § 1.21(b). Mr. Sueta did not indicate that he was an attorney licensed to practice law in Pennsylvania in the Complaint; therefore, he cannot be permitted to represent Ed Sueta Music Publications, Inc. in this adversarial proceeding. Further, no attorney⁵ is identified in paragraph 10 of the Complaint form titled “legal representation” and no attorney has entered their appearance in this proceeding on behalf of Ed Sueta Music Publications, Inc. Therefore, Ed Sueta Music Publications, Inc is unrepresented in this adversarial proceeding.

On November 14, 2025, by Interim Order #1, Mr. Sueta was directed to have counsel enter his or her appearance on behalf of Ed Sueta Music Publications, Inc., on or before December 1, 2025. Further, he was notified that failure to comply with the Order will result in cancellation of the hearing and dismissal of the Complaint.

⁵ Although not an attorney, Mr. Sueta provided his contact information in paragraph 10 of the Complaint.

Mr. Sueta did not comply with Interim Order #1 and on December 19, 2025, NTherm requested that since no attorney has entered his or her appearance on behalf of Complainant, that the Complaint be dismissed with prejudice for failure to comply with Interim Order #1.

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). The liberal construction provisions apply with particularity in proceedings involving *pro se* litigants. 52 Pa. Code § 1.2(d).

On December 29, 2025, Mr. Sueta sent an e-mail to the OALJ and counsel for NTherm. After apologizing for the delay in response, Mr. Sueta explained that the amount in controversy “precludes us from incurring the expense of retaining counsel.” *See* Petition to Withdraw. Next, the Complainant requested to withdraw its claim.

Complainant's e-mail requesting that his Formal Complaint be withdrawn does not comply with the Commission's regulations at Section 5.94, 52 Pa. Code § 5.94(a). In particular, although the request was sent to counsel for NTherm, the request was not filed with the Commission. However, I will exercise my discretion pursuant to Sections 1.2(a) and 1.2(d) of the Commission's regulations and treat Complainant's e-mail as a Petition for Leave to Withdraw the Complaint. *See Ulishney v. W. Penn Power Co.*, Docket No. C-2021-3024487 (Opinion and Order entered May 19, 2022) (finding that an e-mail requesting withdrawal of a complaint constituted a petition to withdraw). NTherm's substantive rights are not affected because counsel for NTherm was included on Mr. Sueta's email request and NTherm had the opportunity to object to Mr. Sueta's request.

Pursuant to the Commission's regulations above, I must consider any objection to the Petition, and the public interest, when determining whether the Petition will be granted. NTherm did not object to the Petition. 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. 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 does not contain any novel issues or issues of public interest. Therefore, the Petition will be granted in the ordering paragraphs below.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter of and the parties to 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. The liberal construction provisions apply with particularity in proceedings involving *pro se* litigants. 52 Pa. Code § 1.2(d).

7. A party's e-mail request to withdraw his/her complaint constitutes a petition to withdraw a pleading under 52 Pa. Code § 5.94(a). *Ulishney v. W. Penn Power Co.*, Docket No. C-2021-3024487 (Opinion and Order entered May 19, 2022).

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

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Petition for Leave to Withdraw the Formal Complaint submitted by Edward Sueta, Jr. on December 29, 2025, at Docket Number F-2025-3055495, is granted;

2. That the Formal Complaint filed by Edward Sueta, Jr. in the matter of Edward Sueta, Jr. v. NTherm LLC, at Docket Number F-2025-3055495, is withdrawn; and

