**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Janice Wideman de Hoff :

: F-2015-2473981

v. :

:

PPL Electric Utilities Corporation :

**INITIAL DECISION**

Before

Conrad A. Johnson

Administrative Law Judge

This decision grants Complainant’s Petition for Leave to Withdraw Complaint.

HISTORY OF THE PROCEEDING

On March 17, 2015, Complainant Janice Wideman de Hoff (Complainant or Ms. de Hoff) filed a Complaint with the Pennsylvania Public Utility Commission (Commission) against PPL Electric Utilities Corporation (Respondent or PPL).[[1]](#footnote-1) Complainant alleges, in part, that there are incorrect charges on her bill and PPL failed to reimburse her $418.75 in charges resulting from a foreign load at the service address. As relief, Complainant requests that the Commission order Respondent to reimburse her $418.75 and fine Respondent “for violations of both the letter and spirit of lawful commerce.”

On April 16, 2015, PPL filed an Answer admitting that on March 28, 2013, Complainant contacted PPL about a possible foreign load at the service address. According to PPL, upon discovering a foreign load, the account for the service address was placed in the name of the landlord. Respondent denied that it improperly issued billings to Complainant or failed to comply with the Commission’s regulations. On April 17, 2015, Respondent filed an Amended Answer to amend Complainant’s initial contact date from March 28, 2013 to March 28, 2014.

By notice dated June 8, 2015, the Commission informed the parties that the proceeding was assigned to me for a telephonic hearing on July 30, 2015 at 10:00 a.m. On June 9, 2015, I issued a Prehearing Order reminding the Parties of the time, date and manner of the hearing and the applicable procedural rules. On July 23, 2015, Respondent filed a Certificate of Satisfaction, asserting that all legal and factual issues in this proceeding had been resolved and requesting that the docket be terminated. As a result, the July 30, 2015 telephonic hearing was cancelled.

By facsimile sent to me on July 27, 2015, Complainant asserted, “‘I do not agree “that PPL Electric will apply a credit to Complainant’s account in the amount of $418.75.’” Complainant further asserted, “All legal and factual issues in this proceeding have not been resolved. I ask that the docket in this matter remain open.”

I treated Complainant’s July 27, 2015 facsimile as an objection to the Certificate of Satisfaction and forwarded the facsimile to the Commission’s Secretary’s Bureau (Secretary) for docketing. Afterwards a notice was issued to the Parties informing them that a telephonic hearing in this proceeding was scheduled for September 16, 2015 at 10:00 a.m.

By letter dated September 14, 2015, counsel for PPL, Kimberly G. Krupa, Esquire, requested a continuance of the September 16, 2015 hearing because her witness was unavailable for medical reasons. Attorney Krupa represented that Ms. de Hoff did not object to the continuance request. Therefore, I issued an interim order granting the continuance request and encouraged the Parties to discuss settlement.

On October 27, 2015, a notice was issued to the Parties informing them that the initial telephonic hearing in this proceeding would be conducted by me on November 30, 2015 at 10:00 a.m.

On November 25, 2015, Respondent filed a second Certificate of Satisfaction, again asserting that all legal and factual issues in this proceeding had been resolved and requesting that the docket be terminated. As a result, the November 30, 2015 telephonic hearing was cancelled.

On December 3, 2015, Ms. de Hoff filed with the Secretary her “Objection to PPL’s Second Certificate of Satisfaction (Objection).” Ms. de Hoff attached to her Objection a copy of PPL’s Convenience Check No. 1513, in the name of payer, Ronald L. Hoffman PPL Electric Utilities Corp, signed by Ronald L. Hoffman and payable to Ms. de Hoff in the amount of $418.75, with the word “VOID” handwritten across the check.

As a result of Complainant’s Objection, on December 18, 2015, a notice was issued to the Parties informing them that the initial telephonic hearing in this proceeding was scheduled before me for February 10, 2016 at 10:00 a.m.

On January 25, 2016, Complainant filed with the Secretary her “Proposal to Resolve Legal and Factual Issues” setting forth the conditions under which her Complaint could be resolved. She further maintained, “I will not accept a check drawn from the PPL Electric Utilities Corp. account of Ronald L. Hoffman.” However, Ms. de Hoff asserted she could accept a check payable to her on PPL Corporation’s account.

On February 2, 2016, Ms. de Hoff sent a “Withdrawal of 3/17/15 Formal Complaint” (Withdrawal) to the Secretary and copied counsel for PPL. In her Withdrawal, Ms. de Hoff stated, “I am withdrawing my 3/17/15 Formal Complaint to the Pennsylvania Public Utility Commission on today’s date.” Ms. de Hoff further asserted, “I would need a lawyer to continue, and the issues raised by my complaint may belong in another court or legal venue.” I received a copy of the Withdrawal on February 4, 2016. PPL did not file a response to the Withdrawal. The Withdrawal was made public when it was docketed by the Secretary on February 11, 2016.

The telephonic hearing convened as scheduled on February 10, 2016, at 10:00 a.m. However, neither Complainant nor Respondent was present when the hearing convened. The hearing was briefly recessed at 10:11 a.m. to provide additional time for the Parties to appear. The hearing reconvened at 10:23 a.m.; however, neither Complainant nor Respondent was present. Accordingly, the hearing proceeded in their absences.

I noted on the record that the Commission’s regulations at Chapter 52 of the Pennsylvania Code, Section 5.94(a) permit a party to withdraw a pleading in a contested proceeding. 52 Pa.Code § 5.94(a). Therefore, I treated Ms. de Hoff’s Withdrawal as a Petition for Leave to Withdraw Complaint. I further noted on the record that under Section 5.94(a) a party may object to the Petition within 10 days of service. To date, no objection has been filed to the Petition.

The telephonic hearing generated a 10-page transcript, which was filed with the Commission on March 1, 2016, and received by me on March 3, 2016. The record was closed by interim order entered on March 4, 2016.

For the reasons set forth below, I will grant Ms. de Hoff’s Petition for Leave to Withdraw Complaint.

FINDINGS OF FACT

1. Complainant Janice Wideman de Hoff is a ratepayer of Respondent.

2. Respondent PPL Electric Utilities Corporation is a jurisdictional public utility providing electric service to Pennsylvania customers.

3. On March 17, 2015, Complainant filed a Complaint against Respondent.

4. On April 16, 2015, Respondent filed an Answer to the Complaint and amended its Answer on April 17, 2015.

5. On February 2, 2016, Complainant filed a “Withdrawal of 3/17/15 Formal Complaint” (Withdrawal), stating she was withdrawing her Complaint with the Commission as of February 2, 2016.

6. In her Withdrawal, Complainant stated, “I would need a lawyer to continue, and the issues raised by my complaint may belong in another court or legal venue.”

7. Respondent did not file a response to Complainant’s Withdrawal.

8. By Telephone Hearing Notice dated December 18, 2015, the Commission scheduled this matter for a telephonic hearing on Wednesday, February 10, 2016 at 10:00 a.m.

9. The Commission sent the Telephone Hearing Notice to Complainant and Respondent by regular first-class mail to the addresses stated on their Complaint and Amended Answer, respectively.

10. The Commission’s Telephone Hearing Notice was not returned to the Commission by the U.S. Postal Service as undeliverable to either Complainant or Respondent.

11. Neither the Complainant nor Respondent participated in the hearing conducted on February 10, 2016.

DISCUSSION

Legal Standards

Section 5.94 of the Commission’s regulations, 52 Pa.Code § 5.94, in relevant part, provides as follows:

(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.

Although Mr. de Hoff’s Withdrawal does not conform to the requirements of a formal petition for leave to withdraw a pleading under Section 5.94(a) of the Commission’s regulations, waiver of this requirement is permitted. Under Section 1.2, 52 Pa.Code § 1.2, a presiding officer at any stage of an action or proceeding may waive a requirement of a rule when necessary or appropriate, if waiver does not adversely affect a substantive right of a party. Such are the circumstances in this case. Therefore, Complainant’s Withdrawal for purposes of this decision is treated as a petition for leave to withdraw a pleading (Petition), and the procedural defects will be disregarded.

Analysis

The filing of Ms. de Hoff’s Complaint and PPL’s Amended Answer thereto constitutes a contested or adversarial proceeding. [[2]](#footnote-2) Therefore the Petition must be considered under the provisions of Section 5.94, cited above. In her Petition, Ms. de Hoff stated she was withdrawing her complaint as of February 2, 2016. She further asserted she may need a lawyer to continue and her Complaint may belong in another court or legal venue. Ms. de Hoff did not participate in the telephone hearing convened in this proceeding on February 10, 2016 to give any further explanation as to the reason(s) for withdrawing her Complaint. PPL did not file a response to the Petition. PPL also did not participate in the telephone hearing conducted in this proceeding.

Considering the above, the Commission has no interest in mandating that Ms. de Hoff continue litigation when she has indicated she has no interest in prosecuting her Complaint. In the instant case, Ms. de Hoff has effectively abandoned her Complaint.

Accordingly, granting Complainant’s request for leave to withdraw her Complaint will terminate the litigation, and thereby save the parties and the Commission the time and money in continuing litigation costs, without impacting the public interest.

CONCLUSIONS OF LAW

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

2. Section 1.2 of the Commission’s Rules of Practice and Procedure, 52 Pa.Code § 1.2, provides that a presiding officer at any stage of an action or proceeding may waive a requirement of a rule when necessary or appropriate, if waiver does not adversely affect a substantive right of a party.

3. Section 5.94 of the Commission’s Rules of Practice and Procedure, 52 Pa.Code § 5.94, permits a party to withdraw a pleading in a contested proceeding by permission of the presiding officer or Commission.

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

ORDER

THEREFORE,

IT IS ORDERED:

1. That Complainant Janice Wideman de Hoff’s Petition for Leave to Withdraw Complaint filed in the matter of Janice Wideman de Hoff v. PPL Electric Utilities Corporation at Docket No. F-2015-2473981 is granted.

2. That the Complaint of Janice Wideman de Hoff filed against PPL electric Utilities Corporation at Docket No. F-2015-2473981 is hereby withdrawn.

3. That the Secretary’s Bureau shall mark Docket No. F-2015-2473981 closed.

Date: March 9, 2016 /s/

Conrad A. Johnson

Administrative Law Judge

1. Complainant seeks review of the Commission’s Bureau of Consumer Services’ (BCS) January 29, 2015 decision closing her informal complaint at BCS No. 3245803. [↑](#footnote-ref-1)
2. An adversarial proceeding is defined as, “[a] proceeding initiated by a person in order to seek authority, approvals, tariff changes, enforcement, fines, remedies or other relief from the Commission which is contested by one or more other persons and which will be decided on the basis of a formal record.” 52 Pa.Code § 1.8. [↑](#footnote-ref-2)