

Decision No. R20-0220

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19F-0690G

COLORADO JEWISH RECONSTRUCTIONISTS FEDERATION,

COMPLAINANT,

V.

PUBLIC SERVICE COMPANY OF COLORADO,

RESPONDENT.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
ACKNOWLEDGING COMPLAINT
WITHDRAWAL AND CLOSING PROCEEDING**

Mailed Date: April 6, 2020

I. STATEMENT

A. Summary.

1. This Decision acknowledges the “Notice of Withdrawal of Complaint,” and closes this proceeding.

II. BACKGROUND, FINDINGS, AND CONCLUSIONS

2. This Decision only recounts the procedural history necessary to understand the conclusions herein. On December 5, 2019, the Colorado Jewish Reconstructionist Federation, doing business as B’nai Havurah (B’nai Havurah or Complainant) initiated this matter by filing a Complaint with the Public Utilities Commission against Public Service Company of Colorado (Public Service). Since then, Public Service filed an Answer; and a procedural and hearing schedule was set, modified, and then vacated after the parties indicated they required more time

to determine if a resolution could be reached. *See* Unopposed Motion for Extension of Dispositive Motions Deadlines and Waiver of Response Time; Unopposed Motion for a 30-Day Stay of Procedural Schedule; and Decision Nos. R20-0107-I issued February 18, 2020 and R20-0120-I issued February 20, 2020. As such, there is no hearing currently scheduled in this matter.

2. Consistent with Decision No. R20-0120-I's requirements, Public Service filed a Status Report on March 23, 2020, which states that the parties reached a mutually agreeable resolution of the matter, and that B'nai Havurah intends to make a filing withdrawing the Complaint by the end of the week. On March 31, 2020, B'nai Havurah filed a Notice of Withdrawal of Complaint (Notice). The Notice states that B'nai Havurah wishes to withdraw the Complaint, and that Public Service does not object to this. The Notice cites Rule 1309(d) as providing helpful guidance for withdrawing a complaint without Commission leave. Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1, Rule 1309. The Notice acknowledges that Rule 1309 does not apply to complaints.

3. Generally, Rule 1309 governs amending pleadings, withdrawing applications, petitions, advice letters, and tariffs. 4 CCR 723-1. Rule 1309 does not include language addressing how a party may withdraw a complaint. *Id.* Nonetheless, the ALJ agrees with Complainant that Rule 1309(d) provides a helpful framework for withdrawing a complaint. Specifically, Rule 1309(d) allows parties to withdraw an application or petition by filing and serving a notice at least 45 days prior to the first day of the hearing. Rule 1309(d), 4 CCR 723-1. After that time, a party must file a motion seeking leave from the Commission to withdraw the application or petition. *Id.* The ALJ applies the same framework here.

4. There is no hearing currently scheduled in this proceeding. As such, the facts here most closely align with Rule 1309(d)'s provision allowing a party to withdraw a complaint without leave from the Commission upon notice to the Commission and all parties. The ALJ acknowledges B'nai Havurah's withdrawal of the Complaint, and closes the proceeding.

5. Pursuant to § 40-6-109, C.R.S., the ALJ transmits the record of this proceeding, this recommended decision containing findings of fact and conclusions thereon, and a recommended order to the Commission.

III. ORDER

A. The Commission Orders That:

1. Consistent with the above discussion, the Complaint in this proceeding is withdrawn.

2. Proceeding No. 19F-0690G is closed.

3. This Recommended Decision will be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

4. As provided by § 40-6-106, C.R.S., copies of this Recommended Decision will be served upon the parties, who may file exceptions to it.

a. If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the recommended decision is stayed by the Commission upon its own motion, the recommended decision will become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

b. If a party seeks to amend, modify, annul, or reverse a basic finding of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated

in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge; and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

5. If exceptions to this Recommended Decision are filed, they must not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MELODY MIRBABA

Administrative Law Judge