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August 13, 2020

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

VIA ELECTRONIC FILING

**RE: National Railroad Passenger Corporation v. PPL Electric Utilities Corporation;
Docket No. C-2019-3010398**

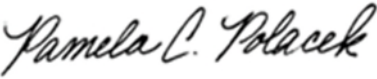
Dear Secretary Chiavetta:

Please find attached for filing with the Pennsylvania Public Utility Commission ("PUC" or "Commission") the National Railroad Passenger Corporation's ("Amtrak") Petition to Withdraw Complaint, in the above-referenced proceeding.

As shown by the attached Certificate of Service and per the Commission's March 20, 2020, Emergency Order, all parties to this proceeding are being duly served via email only due to the current COVID-19 pandemic. Upon lifting of the aforementioned Emergency Order, we can provide parties with a hard copy of this document upon request.

Sincerely,

McNEES WALLACE & NURICK LLC

By 
Pamela C. Polacek

Counsel to National Railroad Passenger Corporation

Enclosures

cc: Deputy Chief Administrative Law Judge Joel H. Cheskis
Certificate of Service

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CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of Section 1.54 (relating to service by a participant).

VIA E-MAIL

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Pamela C. Polacek

Counsel to the National Railroad Passenger
Corporation

Dated this 13th day of August, 2020, in Harrisburg, Pennsylvania.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

National Railroad Passenger Corporation	:	
	:	
v.	:	C-2019-3010398
	:	
PPL Electric Utilities Corporation	:	

PETITION TO WITHDRAW COMPLAINT

AND NOW, the National Railroad Passenger Corporation ("Amtrak"), pursuant to 52 Pa. Code §§ 5.41 and 5.94, submits this Petition to Withdraw Amtrak's pending complaint in the above-referenced proceeding ("Petition" or "Petition to Withdraw") and requests presiding Administrative Law Judge ("ALJ") Joel H. Cheskis to recommend that the Pennsylvania Public Utility Commission ("Commission" or "PUC") grant this Petition. In support of this Petition, Amtrak states as follows:

1. On May 30, 2019, Amtrak filed a Complaint against PPL Electric Utilities Corp. ("PPL") with the Commission asking the Commission to, among other things, determine that the retail transmission charges assessed to Amtrak by PPL have been and continue to be unjust, unreasonable, and unduly discriminatory.

2. On May 30, 2019, Amtrak filed a Complaint against PPL and PJM Interconnection, L.L.C. ("PJM") with the Federal Energy Regulatory Commission ("FERC"), alleging that the rates that Amtrak is being charged for transmission service through PPL and PJM are unjust, unreasonable, and unduly discriminatory in violation of the Federal Power Act.

3. Amtrak filed Complaints against PPL at both the Commission and FERC because both commissions have authority and jurisdiction to adjudicate the subject matter of the complaints, and neither commission has exclusive or primary jurisdiction.

4. On June 18, 2020, FERC issued an order ("June 18 Order") denying Amtrak's Complaint.¹

5. On July 20, 2020, Amtrak filed a Request for Rehearing of the June 18 Order, arguing, among other things, that the June 18 Order failed to address Amtrak's cost-causation arguments and permitted a rate outcome that is, and has been, unjust, unreasonable, unduly discriminatory, and preferential. Amtrak also asserted that FERC did not evaluate PPL's failure to file its Network Service Peak Load ("NSPL") methodology with FERC and failed to evaluate PPL's non-transparent metering practices and non-transparent application of its NSPL methodology to Amtrak's retail transmission obligations.

6. In the Request for Rehearing of the June 18 Order, Amtrak also requested FERC clarify that its jurisdiction over the calculation and application of NSPL is concurrent. The actions by FERC and the PUC in both complaint proceedings indicate that concurrent jurisdiction exists between FERC and the PUC with respect to retail transmission obligations and the issues raised in Amtrak's complaints.

7. Because FERC has now issued an order on Amtrak's complaint, Amtrak desires to focus its efforts on obtaining rate relief by further prosecuting its FERC complaint.

8. While there is no single determinative factor or set of criteria for the Commission's disposition of a petition to withdraw a pleading under Section 5.94 of the Commission's regulations, 52 Pa. Code § 5.94, the "guiding principle will be a balancing of the factors in any given case to ascertain whether the withdrawal will be contrary to the public interest or substantially prejudicial to a party." *See Petition of PPL Electric Utilities for Approval of its Phase*

¹ "Order Denying Complaint," *Nat'l R.R. Passenger Corp. v. PPL Elec. Utils. Corp. and PJM Interconnection, L.L.C.*, 171 FERC ¶ 61,237 (2020) (hereinafter "June 18 Order" or "Order").

III Act 129 Energy Efficiency and Conservation Plan, Docket No. M-2015-2515642, 2018 Pa. PUC LEXIS 389 at *17-19 (Order entered Nov. 8, 2018).

9. Granting this Petition to Withdraw Amtrak's Complaint is in the public interest because it promotes administrative comity, the conservation of the Commission's resources, as well as that of the parties to this proceeding. No parties to this proceeding will be prejudiced or harmed if the Petition is granted. Therefore, Amtrak petitions to withdraw its complaint pending before the Commission without prejudice.

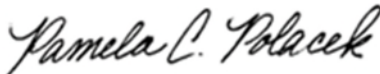
10. Amtrak seeks to withdraw its complaint at this time in good faith in light of FERC's recent order and its indication that FERC has jurisdiction over the issues raised in Amtrak's complaints. Amtrak believes that FERC and the PUC have concurrent jurisdiction over the issues raised in Amtrak's complaints, and that the PUC nevertheless has the authority to adjudicate Amtrak's complaint. However, Amtrak petitions to withdraw its PUC complaint without prejudice to save resources and focus its efforts on prosecuting the FERC complaint. The FERC Order is not final and unappealable at this time. To the extent subsequent decisions by FERC or any federal appellate court determine that state utility commissions retain exclusive or primary jurisdiction on retail transmission obligations, such as the NSPL, Amtrak may need to return to the PUC for relief. As a result, withdrawal without prejudice is appropriate in this instance.

CONCLUSION

WHEREFORE, Complainant National Railroad Passenger Corporation hereby requests that the Presiding Administrative Law Judge recommend that the Commission grant the Petition to Withdraw Amtrak's Complaint without prejudice.

Respectfully submitted,

Dated: August 13, 2020

By 
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