

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Gary Bodkin	:	
	:	
v.	:	C-2021-3029830
	:	
Seneca Resources Company, LLC	:	

**INITIAL DECISION**

Before  
Steven K. Haas  
Administrative Law Judge

**INTRODUCTION**

This decision grants a petition to withdraw a complaint filed by the Complainant because granting it is in the public interest and there are no objections to the petition.

**HISTORY OF THE PROCEEDING**

On November 10, 2021, the Complainant, Gary Bodkin, filed a formal complaint with the Pennsylvania Public Utility Commission (Commission) against Seneca Resources Company, LLC (Seneca). In his complaint, Mr. Bodkin alleged that, beginning in August 2020, he began experiencing a vibration and associated humming noise at his property. Mr. Bodkin alleged that the vibration and humming noise have caused him to experience adverse health effects and have forced resident mammals from the area. He stated the vibration and noise is occurring on his property and in an area of approximately eight square miles around his property. He alleged he detected the identical vibration and hum six miles away from his property at coordinates 41.70040-78.49926. He alleged that Seneca has equipment located at or connected to the source of the

problem at these coordinates. By way of relief, Mr. Bodkin requested that Seneca reduce the flow/rate/pressure in its system to eliminate the vibration.

On January 20, 2022, Seneca filed preliminary objections (POs) in response to Mr. Bodkin's complaint, challenging the Commission's subject matter jurisdiction. On January 28, 2022, Seneca filed an answer to the complaint. In its answer, Seneca averred that it does not own or operate any equipment at the coordinates identified by Mr. Bodkin and denied that it was the source of the vibrations. Seneca requested that the complaint be dismissed. In its POs, Seneca argued that it is an exploration and production company, and not a pipeline company. It argued it is not a public utility company that provides public utility service and, accordingly, is not subject to Commission jurisdiction. Seneca admitted that it does own some natural gas pipeline facilities in Pennsylvania that fall under the Commission's jurisdiction. It averred, however, that its pipeline facilities are not located at the coordinates identified by Mr. Bodkin in his complaint. Seneca argued that the Commission does not have authority over oil and gas exploration and production operations. Seneca requested that its POs be granted and the complaint be dismissed.

On January 28, 2022, Mr. Bodkin filed a response to Seneca's POs. In his response, Mr. Bodkin averred that the point of origin of the vibration and humming noise is at coordinates 41.70040, 78.49926, which is located on property owned by Seneca. Mr. Bodkin argued that until ownership of the equipment located at that site is identified, the issue of Commission jurisdiction over Seneca cannot be determined and, consequently, preliminary dismissal of the complaint is inappropriate.

By Order dated March 24, 2022, I denied Seneca's POs and referred the case to the Commission's mediation unit for further consideration. In denying Seneca's POs, I stated:

Although Seneca denies having any equipment located at this location, it acknowledges that it does, in fact, own some natural gas pipeline facilities in Pennsylvania that fall under the Commission's jurisdiction. It avers, however, that these pipeline facilities are not located at the coordinates identified by Mr. Bodkin. Since I may only consider the allegations raised by Mr. Bodkin, however, I must accept as true that Seneca does

have equipment at the location identified by him and that these facilities may be the cause of the vibration and noise about which he is complaining. As noted, Seneca denies this allegation and will have an opportunity to challenge it at a hearing.

Order Denying Preliminary Objections, p. 4.

Following mediation efforts, Mr. Bodkin filed with the Commission on April 25, 2022, a petition to withdraw his complaint without prejudice, along with a Certificate of Service indicating that his petition was served on Seneca. In a cover letter attached to his petition, Mr. Bodkin stated that, although the vibration described in his complaint still exists, it is evident that Seneca is not the cause of the vibration. Accordingly, he requests that that his complaint be withdrawn.

The record in this case was closed on May 10, 2022, to allow time for Seneca to file an objection to Mr. Bodkin's petition. To date, no objection to the petition has been filed. Mr. Bodkin's petition to withdraw will be granted because it is in the public interest and there is no opposition to it.

#### FINDINGS OF FACT

1. The Complainant in this case is Gary Bodkin.
2. The Respondent in this case is Seneca Resources Company, LLC.
3. On November 10, 2021, Mr. Bodkin filed a formal complaint against Seneca alleging that equipment owned by Seneca is causing a vibration and humming noise at and around his home.
4. On January 20, 2022, Seneca filed preliminary objections to Mr. Bodkin's complaint.

5. On January 28, 2022, Seneca filed an answer to the complaint denying the allegations and averring that it does not own or operate any equipment in the area at issue.

6. On March 24, 2022, an order was issued denying Seneca's preliminary objections and referring the case to the Commission's mediation unit.

7. On April 27, 2022, Mr. Bodkin filed a petition to withdraw his formal complaint.

8. No objections were filed in response to Mr. Bodkin's petition to withdraw the complaint.

### DISCUSSION

Section 5.94(a) of the Commission's regulations provides that 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). Section 5.94 further provides that the petition must set forth the reasons for the withdrawal and that a party may object to the petition to withdraw within 10 days. Id. Finally, Section 5.94 also provides that, after considering the petition, any objection thereto and the public interest, the presiding officer or the Commission will determine whether the withdrawal will be permitted. Id.

In this case, Mr. Bodkin states in the cover letter to his petition that, "[w]hile the vibration /Kinetic Energy Release/Audible hum at issue still exists, it is evident the landowner [Seneca] is not the cause."

Mr. Bodkin's petition to withdraw his complaint will be granted because it is in the public interest and there is no objection to it. As noted, the case was referred to the Commission's mediation unit. Following informal discussions by the parties, Mr. Bodkin filed

his request to withdraw his complaint, stating that Seneca is not the cause of the vibration and humming noise he is experiencing.

It is reasonable to allow Mr. Bodkin to withdraw his complaint in this case because the parties, following informal discussions, are in agreement that Seneca's equipment and facilities are not the cause of the issues described by Mr. Bodkin in his complaint. There would be no purpose to requiring him to continue to pursue the complaint. It is in the public interest to allow Mr. Bodkin to withdraw his complaint because it will conserve the resources of the Commission and the parties. As noted, there are no objections to the petition to withdraw the complaint.

As a result, all elements of consideration of the request to withdraw the complaint have been considered pursuant to Section 5.94 of the Commission's regulations. 52 Pa. Code § 5.94(a). Such consideration warrants granting the request to withdraw. Therefore, Mr. Bodkin's petition to withdraw his complaint without prejudice against Seneca will be granted.

#### 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 10 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. It is in the public interest to allow Mr. Bodkin to withdraw its complaint.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the petition of Gary Bodkin to withdraw his formal complaint without prejudice filed on November 10, 2021 at Docket No. C-2021-3029830 is hereby granted.

2. That the formal complaint filed by Gary Bodkin against Seneca Resources Company, LLC at Docket No. C-2021-3029830 is withdrawn without prejudice.

3. That this matter be marked closed.

Date: June 15, 2022

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/s/  
Steven K. Haas  
Administrative Law Judge