

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Reading, Blue Mountain and Northern Railroad Company	:	
	:	
v.	:	C-2024-3049857
	:	
Panther Creek Operating, LLC	:	

INITIAL DECISION

Before
Steven K. Haas
Administrative Law Judge

INTRODUCTION

This initial decision grants the parties’ Joint Petition for Leave to Withdraw the Formal Complaint and the Petition for Emergency Relief because it is in the public interest to approve the joint request and the request is unopposed.

HISTORY OF THE PROCEEDING

On or about June 28, 2024, the Reading, Blue Mountain and Northern Railroad Company (Railroad) filed a Formal Complaint with the Pennsylvania Public Utility Commission (Commission) against Panther Creek Operating, LLC (Panther Creek) in which it alleged that a power surge on Panther Creek’s facilities damaged one of the Railroad’s automatic crossing control devices, resulting in an unsafe traffic condition at the crossing.

On or about July 12, 2024, Panther Creek filed a Petition for Interim Emergency Order by which it sought an order barring the Railroad from allowing its railroad operations to damage its transmission line facilities, and preventing the Railroad from denying to Panther

Creek personnel access to its electric facilities so that the company can make necessary repairs to its facilities.

A telephonic hearing was scheduled by the Commission for Monday, July 22, 2024, for purposes of addressing Panther Creek's emergency petition and the case was assigned to me.

On July 18, 2024, the parties filed a Joint Petition for Leave to Withdraw (Joint Petition) in which they (1) indicated their agreement to withdraw both the Formal Complaint and the Petition for Emergency Relief, (2) requested that the emergency hearing be canceled, and (3) asked that this matter be closed by the Commission. The Joint Petition is unopposed and, therefore, is ripe for review.

FINDINGS OF FACT

1. Complainant and Joint Petitioner in this proceeding is the Reading, Blue Mountain and Northern Railroad Company.
2. Respondent and Joint Petitioner is Panther Creek Operating, LLC.
3. On about June 28, 2024, Complainant filed a Formal Complaint against Respondent.
4. On or about July 12, 2024, Panther Creek filed a Petition for Interim Emergency Order
5. On July 18, 2024, the parties filed a Joint Petition for Leave to Withdraw the Formal Complaint and the Petition for Emergency Relief.
6. The Joint Petition is unopposed.

DISCUSSION

Commission regulations permit the withdrawal of pleadings in a contested proceeding:

§ 5.94. Withdrawal of pleadings in a contested proceeding.

(a) Except as provided in subsection (b), 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.

(b) A protest to an application may be withdrawn by filing a notice of withdrawal directed to the Commission or the presiding officer. The notice must state that the protest is withdrawn and provide the reasons for the withdrawal.

(c) Withdrawal or termination of an uncontested proceeding is governed by § 1.82 (relating to withdrawal or termination).

(d) Subsections (a)—(c) supersede 1 Pa. Code § 35.51 (relating to withdrawal of pleadings).

52 Pa. Code § 5.94.

Here, the Joint Petitioners have agreed to withdraw both the Formal Complaint and the Petition for Interim Emergency Order, and they jointly request that the Commission terminate this proceeding. Since the parties have resolved the issues raised in their respective pleadings to their mutual satisfaction, I find that it would be pointless to require them to continue to litigate this matter and there is no prejudice to either party in approving the withdrawal request. Under these circumstances, a hearing is not necessary in the public interest. Accordingly, the Joint Petition for Leave to Withdraw is granted and this matter will be marked closed.

CONCLUSIONS OF LAW

1. Withdrawal of a pleading in a contested proceeding is permitted under Commission regulations. 52 Pa. Code § 5.94.

2. The Commission may dismiss any complaint without a hearing if a hearing is not necessary in the public interest. 66 Pa.C.S. § 703(b).

3. A hearing in this matter is not necessary in the public interest.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Joint Petition for Leave to Withdraw filed by the Reading, Blue Mountain and Northern Railroad Company and Panther Creek Operating, LLC at Docket No. C-2024-3049857 is granted.

2. That the Formal Complaint and Petition for Interim Emergency Order filed by Reading, Blue Mountain and Northern Railroad Company in Reading, Blue Mountain and Northern Railroad Company v. Panther Creek Operating, LLC at Docket No. C-2024-3049857 are withdrawn.

