

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Borough of Eddystone	:	
	:	
v.	:	C-2019-3015101
	:	
Consolidated Rail Corporation,	:	
CSX Transportation Inc., and	:	
Pennsylvania Department of Transportation	:	

INITIAL DECISION

Before
Christopher P. Pell
Deputy Chief Administrative Law Judge

INTRODUCTION

This Initial Decision grants the Borough of Eddystone’s Petition for Leave to Withdraw this Formal Complaint as it is unopposed and granting the Petition is within the public interest.

HISTORY OF THE PROCEEDING

On December 23, 2019, the Borough of Eddystone (Borough or Complainant) filed a Formal Complaint (Complaint) against Consolidated Rail Corporation (Conrail), CSX Transportation Inc. (CSX), and the Commonwealth of Pennsylvania, Department of Transportation (PENNDOT) (Collectively, Respondents) with the Pennsylvania Public

Utility Commission (Commission). In the Complaint, the Complainant placed a checkmark in the box marked “[o]ther,” next to which it provided the following statement:

The retaining wall under the railroad bridge is deteriorating and, because of that, debris is falling onto the pedestrian walkway under the railroad bridge. This is located at Eddystone Avenue underpass in Eddystone Borough, Delaware County, Pennsylvania. There is a problem with the inlets being inundated with silt and debris and the deteriorating retaining wall is contributing to this problem, as well as causing the problem with debris on the walkway.

Complaint ¶ 4. As relief, the Complainant requested that the Commission “order Conrail to repair or replace the deteriorating retaining wall.” Complaint ¶ 5.

On January 13, 2020, PENNDOT filed an Answer to the Formal Complaint.

On January 16, 2020, Conrail filed an Answer with New Matter to the Formal Complaint. In its New Matter, Conrail averred that they inspected the retaining wall in question and removed two stone blocks that had fallen off. Conrail further averred that the remaining wall was in stable condition, and that it found no evidence of silt and debris from its facilities or the retaining wall clogging the storm sewer inlets at the crossing, or causing a problem with debris on the walkway under the bridge. Conrail averred that the matters about which the Borough complained were resolved.

On February 5, 2020, the Complainant filed an Answer to Conrail’s New Matter.

On May 17, 2024, the Commission’s Bureau of Technical Utility Services (TUS) issued a letter to the parties of record, advising that a Commission Staff engineer had made numerous informal attempts to determine if the Complainant’s Complaint had been

satisfied, and that the Complainant had not responded. TUS requested that, within 20 days of the date of the letter, the Complainant file a certificate of satisfaction, a request to withdraw the Complaint, a request for an onsite field conference, or a request to prosecute through the Commission's Office of Administrative Law Judge (OALJ). TUS advised that if no Borough filing on the record occurred, the Commission would dismiss the case and deem all matters satisfied.

The Complainant did not file a response to TUS' May 17, 2024, letter.

By Secretarial Letter dated December 9, 2024, the Complainant was advised that the Secretarial Letter would serve to close the case and deem all matters satisfied, or serve to elicit a formal response stating otherwise on the record from the Complainant within 20 days of the date of the letter. The letter further advised that if the Complainant was dissatisfied with the resolution of this matter, the Complainant could file a Petition for Reconsideration from Staff Action with the Commission within 20 days of the letter.

On December 26, 2024, the Complainant filed a Petition for Reconsideration from Staff Action with the Commission (Petition). In the Petition, the Complainant averred that the public crossing required further inspection and corrective action to be made safe.

By Secretarial Letter dated April 2, 2025, the parties of record were advised that the matter would be referred to the Commission's OALJ for any appropriate action deemed necessary.

By Initial Telephonic Prehearing Conference Notice dated April 4, 2025, a Prehearing Conference was scheduled for May 13, 2025, at 10:00 a.m. and the matter was assigned to me.

On April 10, 2025, I issued a Prehearing Conference Order in this matter.

On April 17, 2025, the Complainant filed a Praeceptum to Withdraw Complaint with the Commission.

On May 1, 2025, the May 13, 2025, Prehearing Conference was cancelled.

To date, no party to this proceeding has objected to the Complainant's withdrawal request.

This matter is ripe for disposition.

FINDINGS OF FACT

1. The Complainant is the Borough of Eddystone.
2. The Respondents are Consolidated Rail Corporation, CSX Transportation Inc. and PENNDOT.
3. On December 23, 2019, the Borough of Eddystone filed a Formal Complaint against Consolidated Rail Corporation, CSX Transportation Inc., and the Commonwealth of Pennsylvania, Department of Transportation with the Pennsylvania Public Utility Commission.
4. On January 13, 2020, the Commonwealth of Pennsylvania, Department of Transportation filed an Answer to the Formal Complaint.
5. On January 16, 2020, Consolidated Rail Corporation filed an Answer with New Matter to the Formal Complaint.

6. On February 5, 2020, the Complainant filed an Answer to Consolidated Rail Corporation's New Matter.

7. By Secretarial Letter dated December 9, 2024, the Complainant was advised that the Secretarial Letter would serve to close the case and deem all matters satisfied or serve to elicit a formal response stating otherwise on the record from the Complainant within 20 days of the date of the letter.

8. The December 9, 2024, Secretarial Letter further advised that if the Complainant was dissatisfied with the resolution of this matter, the Complainant could file a Petition for Reconsideration from Staff Action with the Commission within 20 days of the letter.

9. On December 26, 2024, the Complainant filed a Petition for Reconsideration from Staff Action with the Commission.

10. By Secretarial Letter dated April 2, 2025, the parties of record were advised that the matter would be referred to the Commission's Office of Administrative Law Judge for any appropriate action deemed necessary.

11. By Initial Telephonic Prehearing Conference Notice dated April 4, 2025, a Prehearing Conference was scheduled for May 13, 2025, at 10:00 a.m.

12. On April 17, 2025, the Borough of Eddystone filed its Preacipe to Withdraw Complaint with the Commission.

13. To date, the Respondents have not objected to the Complainant's request to withdraw this Complaint.

DISCUSSION

The Commission's Rules of Practice and Procedure at 52 Pa. Code § 5.94 permit parties to petition to withdraw pleadings in a contested proceeding:

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.

52 Pa. Code § 5.94(a).

The petition is granted only by permission of the presiding officer or the Commission. The presiding officer or Commission must consider the petition, any objections thereto, and the public interest in determining whether to permit withdrawal of the pleading. 52 Pa. Code § 5.94. For purposes of this decision, the Complainant's Praecepto to Withdraw Complaint will be treated as a Petition.

In the Petition, the Complainant requested that the Complaint of Eddystone Borough be withdrawn as the site has been satisfactorily cleaned up by Amtrak. To date, no Respondent has objected to the Complainant's request to withdraw this Complaint. Under these circumstances, granting the Complainant's request to withdraw this Complaint is in the public interest because doing so will eliminate the need for litigation and save the parties any additional costs in time and money they would otherwise incur litigating the case. Accordingly, the Borough of Eddystone's request to withdraw this Complaint shall be granted.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties to and subject matter of this proceeding. 66 Pa.C.S. § 701.
2. The Commission's Rules of Practice and Procedure permit parties to withdraw pleadings in a contested proceeding by permission of the presiding officer or Commission. 52 Pa. Code § 5.94.
3. The presiding officer or Commission must consider the petition, any objections thereto, and the public interest in determining whether to permit withdrawal of the pleading. 52 Pa. Code § 5.94.
4. It is in the public interest to grant the Complainant's request to withdraw this Formal Complaint.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Borough of Eddystone's Petition for Leave to Withdraw the Formal Complaint filed at Docket No. C-2019-3015101 is granted;
2. That the Formal Complaint of the Borough of Eddystone against Consolidated Rail Corporation, CSX Transportation Inc., and the Commonwealth of

