

Before the  
Federal Communications Commission  
Washington, D.C. 20554

Frontier West Virginia Inc.,	)	
	)	
Complainant,	)	
	)	
v.	)	File No. EB-12-MD-004
	)	
Appalachian Power Company and	)	
Wheeling Power Company,	)	
	)	
Respondents.	)	

**ORDER OF DISMISSAL**

**Adopted:** February 12, 2014

**Released:** February 12, 2014

By the Chief, Market Disputes Resolution Division, Enforcement Bureau:

1. On June 22, 2012, the above-named complainant (Frontier) filed with the Commission a pole attachment complaint<sup>1</sup> against Appalachian Power Company and Wheeling Power Company (collectively, AEP) pursuant to Section 224 of the Communications Act of 1934, as amended (Act),<sup>2</sup> and Sections 1.1401 *et seq.* of the Commission’s rules (Complaint).<sup>3</sup> On August 17, 2012, AEP served its response to the Complaint.<sup>4</sup> On November 1, 2012, the Public Service Commission of West Virginia (PSC) filed a Petition to Intervene and a Motion to Dismiss or Remand, noting that on March 2, 2012, AEP filed a complaint against Frontier with the PSC (PSC Complaint).<sup>5</sup> On March 25, 2013, the Commission’s Enforcement Bureau held the Complaint in abeyance pending resolution of the PSC Complaint.<sup>6</sup>

2. On January 31, 2014, Frontier and AEP filed a Joint Motion for Voluntary Dismissal with Prejudice, requesting that the Complaint be dismissed with prejudice (Joint Motion).<sup>7</sup> In the Joint Motion, the parties state that they have entered into a settlement agreement resolving the Complaint and the PSC Complaint, and that on November 19, 2013 the PSC entered an order approving the parties’ settlement agreement and dismissing the PSC Complaint with prejudice.<sup>8</sup>

<sup>1</sup> Pole Attachment Complaint, File No. EB-12-MD-004 (filed June 22, 2012).

<sup>2</sup> 47 U.S.C. § 224.

<sup>3</sup> 47 C.F.R. §§ 1.1404–1.1418.

<sup>4</sup> Response to Pole Attachment Complaint, File No. EB-12-MD-004 (filed Aug. 17, 2012).

<sup>5</sup> Petition to Intervene of the Public Service Commission of West Virginia and a Motion to Dismiss or Remand, File No. EB-12-MD-004 (filed Nov. 1, 2012).

<sup>6</sup> Letter from Rosemary McEnery, Acting Chief, Market Disputes Resolution Division, to Christopher Huther and Claire Evans, Wiley Rein LLP, Counsel for Complainant, and Eric Langley, Balch & Bingham LLP, Counsel for AEP, File No. EB-12-MD-004 (dated Mar. 25, 2013).

<sup>7</sup> Joint Motion for Voluntary Dismissal with Prejudice, File No. EB-12-MD-004 (filed Jan. 31, 2014).

<sup>8</sup> *Id.* at 2, paras. 5–6.

3. We are satisfied that granting the Joint Motion will serve the public interest by promoting the private resolution of disputes, eliminating the need for further litigation, and conserving the resources of the parties and this Commission.

4. Accordingly, IT IS ORDERED, pursuant to Sections 1, 4(i), 4(j), and 224 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), and 224, and the authority delegated in Sections 0.111, 0.311, and 1.1401–1.1418 of the Commission’s rules, 47 C.F.R. §§ 0.111, 0.311, and 1.1401–1.1418, that the Joint Motion is GRANTED, and that this proceeding is DISMISSED with prejudice.

FEDERAL COMMUNICATIONS COMMISSION

Rosemary H. McEnery  
Chief, Market Disputes Resolution Division  
Enforcement Bureau