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SERVICE DATE – AUGUST 15, 2011

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35393

PROVIDENCE AND WORCESTER RAILROAD COMPANY—PETITION FOR  
DECLARATORY ORDER—GARDNER BRANCH

Decided: August 12, 2011

On July 20, 2010, Providence and Worcester Railroad Company (P&W) filed a petition for a declaratory order, asking the Board to resolve a controversy between it and New England Power Company d/b/a National Grid (National Grid) with respect to P&W's Gardner Branch, a 26.1-mile line extending between Worcester and Gardner, Mass. P&W sought to construct a needed second track on a 2.9-mile section of the Gardner Branch right-of-way. National Grid also occupied the right-of-way with an electric transmission line, pursuant to a Pole and Wire Agreement that National Grid and Boston and Maine Corporation, the previous owner of the Gardner Branch, had entered into in 1966. The parties dispute whether federal or state law applies to this controversy.

In a decision served on May 26, 2011, the Board instituted a declaratory order proceeding and directed the parties to meet with Board staff to seek a resolution to the controversy. On August 2, 2011, P&W filed a motion to withdraw the petition for a declaratory order with prejudice, stating that it had reached a voluntary settlement with National Grid. The motion to withdraw with prejudice will be granted.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. P&W's motion to withdraw the petition for a declaratory order with prejudice is granted and this proceeding is discontinued.
2. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.