

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

DOCKET NO. FD 36695

306844

ENTERED
Office of Proceedings
July 17, 2023
Part of
Public Record

**PETITION FOR DECLARATORY ORDER
AND INJUNCTIVE RELIEF – RAIL SERVICE TO PENNSYLVANIA
FEED MILLS & OTHER FACILITIES**

MOTION TO DISMISS

The Kellogg Company (“Kellogg”), Intervenor in this proceeding, hereby moves to dismiss with prejudice the Petition for Declaratory Order and Injunctive Relief (“Petition”) filed in this docket on April 24, 2023.¹ Kellogg and the National Railroad Passenger Corporation (“Amtrak”) previously informed the Surface Transportation Board (“Board”) on June 22, 2023 that they had reached a confidential agreement in principle to settle their differences, and the parties reported to the Board on July 10, 2023 that they were in active settlement discussions. Kellogg hereby informs the Board that a settlement agreement between it and Amtrak has been finalized and executed. Kellogg accordingly asks this Board to dismiss the Petition with prejudice, grant the pending motion to dismiss of Petitioners, and terminate this proceeding.

¹ This motion follows a similar Motion to Dismiss with prejudice filed on May 30, 2023 by the Petitioners in this proceeding, the Wenger Group, Inc. and Esbenshade, Inc. (now known as Green Park HGE Inc.). In a Decision served June 2, 2023, the Director of the Office of Proceedings acknowledged that the motion had been filed and stated “[t]he motion to dismiss will be addressed in a separate decision.” Footnote 1.

The undersigned is authorized to state that Amtrak joins in this motion and stipulates to dismissal of the Petition.

Respectfully submitted,

/s/ Thomas W. Wilcox

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July 17, 2023

CERTIFICATE OF SERVICE

I hereby certify that, on this 17th day of July 2023, a copy of the foregoing Motion to Dismiss was served by email on all parties on the official Service List for Docket No. 36695.

/ss/ Thomas W. Wilcox