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February 20, 2018

Rosemary Chiavetta, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street
Harrisburg, PA 17120

**Re: Application of Transource Pennsylvania, LLC Filed Pursuant to 52 Pa. Code Chapter 57 Subchapter G, for Approval of the Siting and Construction of the 230kV Project in Portions of Franklin County, Pennsylvania
Docket No. A-2017-2640200**

Dear Secretary Chiavetta:

Attached for electronic filing please find a Petition to Intervene and Protest of Stop Transource Franklin County in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully Submitted,

CURTIN & HEEFNER LLP

BY: 

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Counsel for:

Stop Transource Franklin County

Enclosure

cc: Honorable Elizabeth H. Barnes
Honorable Andrew M. Calvelli
Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Transource Pennsylvania, LLC :
Filed Pursuant to 52 Pa. Code Chapter 57, : Docket No. A-2017-2640200
Subchapter G, for Approval of the Siting and :
Construction of the 230 kV Transmission Line :
Associated with the Independence Energy :
Connection-West Project in Portions of :
Franklin County, Pennsylvania :

**PETITION TO INTERVENE AND PROTEST OF
STOP TRANSOURCE FRANKLIN COUNTY**

Pursuant to 52 Pa. Code § 5.71, *et seq.*, and the Pennsylvania Public Utility Commission (“PUC” or “Commission”) notice published on January 20, 2018, 48 Pa.B. 585, Stop Transource Franklin County hereby petitions to intervene in, and protests the above-captioned proceeding. In support thereof, Stop Transource Franklin County submits as follows:

1. The name and contact information of the Petitioner is as follows:

Stop Transource Franklin County
c/o Franklin County Visitor’s Bureau
37 South Main Street, # 100
Chambersburg, PA 17201

2. Stop Transource Franklin County’s attorneys in this matter, and all documents should be served upon:

Jordan B. Yeager, Esq.
Mark L. Freed, Esq.
Joanna A. Waldron, Esq.
Curtin & Heefner LLP

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3. Pursuant to 52 Pa. Code § 1.54(b)(3), the undersigned counsel consent to the electronic service of all documents at the email addresses shown above.

4. On December 27, 2017, Transource Pennsylvania, LLC (“Transource”) filed its Application filed Pursuant to 52 Pa. Code Chapter 57, Subchapter G, for Approval of the Siting and Construction of the 230 kV Transmission Line Associated with the Independence Energy Connection West Project in Portions of Franklin County, Pennsylvania (hereinafter “Siting Application”).

5. Transource’s Siting Application seeks the PUC’s approval to construct the Pennsylvania portion of the proposed extra-high voltage (“EHV”) electric transmission line, which includes a 130-foot wide right-of-way, and lattice towers that are 135 feet high and 30 feet wide, connecting the existing Ringgold Substation in Maryland to a proposed new Rice substation in Franklin County, Pennsylvania. Siting Application at 3-4.

6. The proposed 28-mile EHV 230kV transmission line is part of a pair of proposed lines, and pair of new substations that Transource seeks to site and construct in Pennsylvania: one in Franklin County and one in York County. See Application of Transource Pennsylvania, LLC, filed Pursuant to 52 Pa. Code Chapter 57, Subchapter G, for Approval of the Siting and Construction of the 230 kV Transmission Line Associated with the Independence Energy Connection East Project in Portions of York County, Pennsylvania (“East Siting Application”).

7. Stop Transource Franklin County is an association of Franklin County residents whose sole purpose is to stop the Transource Independence Project because the 230 kV HV electric transmission line and Independence Energy Connection Project do not benefit and are destructive to the people of Franklin, as well as to York County, Pennsylvania and Hartford and Washington Counties in Maryland.

8. Stop Transource Franklin County members own land in and around the proposed right-of-way, and live, work and operate businesses, including agricultural businesses, in and near the proposed right-of-way. Members enjoy the benefits of living and working in Franklin County's rural landscape and preserved agricultural character, which has been facilitated, in part, through the purchase of agricultural conservation easements that are intended to preserve farmlands for future generations. Members also include affected ratepayers.

9. Stop Transource Franklin County members have the right to protest the Siting Application on the basis of the factors that the PUC is mandated to consider, and on the rights and potential harms identified herein. 52 Pa. Code § 5.51(a).

10. A petition to intervene in this proceeding is permitted by a group representing "an interest which may be directly affected and which is not adequately represented by existing participants, and as to which the petitioner may be bound by the action of the Commission in the proceeding. 52 Pa. Code § 5.72(a)(2). See also Energy Conservation Council of Pennsylvania v. PUC, 995 A.2d 465 (Pa. Commw. Ct. 2010) (association has standing as long as an association has at least one member who has or will suffer a direct, immediate and substantial injury to an interest as a result of a challenged action).

11. The eligibility requirements for an interested party to intervene in an action before

the Commission is less strict and easier to satisfy than the common law standard for intervention. Petition of Metropolitan Edison Company for Waiver of 52 Pa. Code 56.97, Docket No. P-2013-2384967, n.1 (Order 2013) (authorizing intervention of unincorporated association); Application of Metropolitan Edison Co. for Approval to Construct An Electric Generating Unit Fueled By Natural Gas, PUC Docket No. A-110300 (Order 1994), (citing William Penn Parking Garage Inc. v. City of Pgh., 346 A.2d 269 (1975)).

12. Stop Transource Franklin County advocates to preserve the agricultural character of Franklin County, and the County's other local natural, scenic, and historic resources, and works on behalf of its members' property rights, consumer rights, and environmental rights.

13. Members of Stop Transource Franklin County may be bound by the action of the Commission, and may be harmed by the approval of the Application, because of member positions as, among others things, landowners in and near the right-of-way, business owners and participants in the Franklin County economy, and ratepayers who may be asked to pay a calculated fair share of any transmission upgrade.

14. The Commission also permits intervention by persons who represent "interests of such a nature that participation of the petitioner may be in the public interest." 52 Pa. Code §5.72(c).

15. Stop Transource Franklin County, on behalf of its members and the public, has an interest in ensuring the proposed siting and construction of these EHV electric transmission lines are a necessity to furnish service to the public and result in benefits to Franklin County, such as a reliability or lower prices. 66 Pa.C.S. § 1501 and 52 Pa. Code 57.75(e)(1) (See, e.g., Hess v. Pennsylvania PUC, 107 A.3d 246, 260 (Pa. Commw. Ct. 2014)(courts have found necessity

wherever a project resulted in an improvement to the reliability of service or lower prices).

16. Stop Transource Franklin County represents the interests of its members to ensure that the proposed siting and construction is in compliance with the applicable statutes and regulations providing for the protection of the natural resources of the Commonwealth under 52 Pa. Code § 57.76(a)(3).

17. Further, Stop Transource Franklin County also has an interest in ensuring that the Siting Application represents the minimum adverse environmental impact on Franklin County land use, soil and sedimentation, plant and wildlife habitats, terrain, hydrology, landscape, archeologic areas, historic areas, and scenic areas.

18. Based on the foregoing, Stop Transource represents the interests of such a nature that its participation is in the public interest.

19. Stop Transource Franklin County's interests in this proceeding are direct, immediate and substantial and are not adequately represented by any other parties that may seek to intervene.

20. Consequently, Stop Transource Franklin County satisfies the standards for intervention under Section 5.72 of the Commission's regulations. 52 Pa. Code § 5.72.

21. Based on a review of the Siting Application, Stop Transource Franklin County members object to the impact of siting, construction, operation and maintenance of the EHV transmission lines and new substation.

22. If approved, the proposed Project will violate the members' individual environmental rights, as set forth in the Pennsylvania Constitution, including the "right to clean air, pure water, and to the preservation of the natural, scenic, historic and aesthetic values of the

environment.” Pa. Const. art. 1, § 27.

23. The environmental rights of Pennsylvanians are on par with all of the “most sacred political and individual rights” contained in Article 1 of the Pennsylvania constitution, Pennsylvania Env'tl Def. Found. v. Com., 161 A.3d 911, 916 (Pa. 2017) (hereinafter “PEDF”).

24. Construction of the proposed Transource project, and its proposed 28-mile long, 130 foot wide, 135 foot tall towers and new substation, will impact and likely degrade the air and water quality; for example, the proposed route crosses 19 streams in Pennsylvania, including one high/exceptional/ special protection stream and the right-of-way spans over 39 acres of special natural areas. Siting Application at 50-51.

25. Transource’s transmission line project threatens the members’ individual rights to the existing rural, agricultural aesthetic of Franklin County by introducing 135-foot high towers every 800 feet for more than 24 miles¹, structures that are not compatible with existing agricultural landscapes.

26. Transource has failed to adequately evaluate the effect of the towers on the view and context of the landscape: for example, there are five historic districts and 44 National Historic Resource Preservation listed or eligible properties, including multiple farmsteads and farm properties within the Franklin County, Pennsylvania portion of Transource’s Project Study area. Siting Application at 65-67, 73.

27. In addition to ensuring an individual’s environmental rights, Article 1, Section 27 establishes the PUC’s duty as trustee of the natural resources of this Commonwealth for the benefit of the people of the Commonwealth, including future generations. Pa. Const. art. 1, § 27.

28. The second and third sentences of Article 1, Section 27, the “public trust clauses,” establish that “Pennsylvania’s public natural resources are the common property of all people, including generations to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all people.” Pa. Const. art. 1, § 27; PEDE, 161 A.3d at 931.

29. “The natural resources are the corpus of the trust, the Commonwealth is the trustee, and the people are named the beneficiaries.” PEDE, 161 A.3d at 931-32 (citing Robinson Twp., Delaware Riverkeeper Network, et al. v. Com., 83 A.3d 901, 956-57 (Pa. 2013) (hereinafter, “Robinson II”).

30. The PUC, like “all agencies and entities of the Commonwealth government, both statewide and local, [has] a fiduciary duty to act toward the corpus with prudence, loyalty, and impartiality.” PEDE, 161 A.3d at 932 n.23 (citing Robinson II, at 956-57).

31. Transource has not adequately evaluated the effect that the siting and construction of the EHV electric transmission lines on 228 acres of prime farmland soil in the right-of-way will have on the natural resources that the PUC holds in trust, including Franklin County’s farmland. Siting Application at 51.

32. Further, the Siting Application does not sufficiently assess the impacts of construction of and placement of the lines, towers and foundations may result in soil mixing and increased erosion, which has the potential to result in decreased agricultural yields.

33. The PUC, as the government agency authorized under 66 Pa.C.S. § 1501 to review siting applications for electric transmissions lines, as a trustee, “has greater degree of skill than that of a man of ordinary prudence” and therefore, “is liable for a loss resulting from the failure

¹ The proposed routes is 28.8 miles, approximately 4.6 miles of which are in Maryland. Siting Application at 28.

to use such skill as he has.” PEDF, 161 A.3d at 932 (quoting In re: Mendenhall, 398 A.2d 951, 953 (Pa. 1979) (quoting Restatement (Second) of Trusts § 174)).

34. In addition to violating the foregoing constitutional interests, the Siting Application fails to meet the statutory requirements of Section 1501 of the Public Utility Code, and the regulatory requirements at 52 Pa. Code Section § 57.71 et seq.

35. The PUC cannot grant the approval unless it finds

- (1) That there is a need for it;
- (2) That it will not create an unreasonable risk of danger to the health and safety of the public;
- (3) That it is in compliance with applicable statutes and regulations providing for the protection of the natural resources of this Commonwealth; and
- (4) That it will have the minimum adverse environmental impact, considering the electric power needs of the public, and the state of the available technology and available alternatives.

52 Pa. Code § 57.76.

36. The Siting Application does not adequately address the current and future need for this market efficiency project that PJM Interconnection, LLC (“PJM”) identified; whether the Commission is authorized to approve the Siting Application to remedy alleged “transmission congestion constraints” in Maryland, Virginia, West Virginia and Pennsylvania; and whether the Siting Application is the most cost-effective and least environmentally intrusive alternative to remedy alleged “transmission congestion constraints” in Maryland, Virginia, West Virginia and Pennsylvania. See 52 Pa. Code §§ 57.76, 75; Siting Application at § 17.

37. The PUC must conduct a formal investigation and evidentiary hearings to determine whether Transource satisfies the four requirements above, including whether there is a need for the project.

38. Under 52 Pa. Code § 57.75, the PUC must consider evidence on the “present and future necessity of the proposed HV line.”²

39. Transource identifies market efficiency as the basis for the project; however, on information and belief, the Siting Application fails to demonstrate sufficient evidence of present or future need, sufficient evidence that the proposed new facilities would lower the costs to customers, or sufficient evidence that the project benefits exceed its costs above the required ratio.

40. The PUC is required to consider the “impact and the efforts which have been, and will be, made to minimize the impact, if any, of the proposed HV line upon (i) land use, (ii) soil and sedimentation, (iii) plant and wildlife habitats, (iv) terrain, (v) hydrology, (vi) landscape, (vii) archeologic areas, (viii) geologic areas, (ix) historic areas, (x) scenic areas, (xi) wilderness areas, (xii) scenic rivers.” 52 Pa. Code § 57.75(3).

41. The Siting Application does not adequately address efforts to minimize the impact of the transmission lines on the above-enumerated factors.

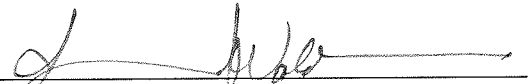
42. Stop Transource Franklin County reserves the right to raise other issues as necessary and appropriate during the course of the proceeding and to respond to issues raised by other parties.

WHEREFORE, Stop Transource Franklin County respectfully requests that the Commission grant this Petition to Intervene, providing Stop Transource Franklin County with full-party status in this proceeding; that the Public Utility Commission investigate and hold full evidentiary hearings; that the Commission deny the Application, and take such other actions as

² The Commission’s regulations classify all transmission lines over 100 kV as “High Voltage” or “HV” lines, with no distinction for voltages at or above the 230kV threshold.

are found to be appropriate under the circumstances.

Respectfully submitted,
CURTIN & HEEFNER LLP

By: 
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Dated: February 20, 2018

**CERTIFICATE OF
SERVICE**

Re: Application of Transource Pennsylvania, LLC Filed Pursuant to 52 Pa. Code Chapter 57 Subchapter G, for Approval of the Siting and Construction of the 230kV Transmission Line Associated with the Independence Energy Connection- West Project in Portions of Franklin County, Pennsylvania, Docket No. A-2017-2640200

I hereby certify that I have this day served a true copy of the foregoing Petition to Intervene upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated: February 20, 2018

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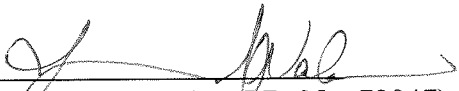
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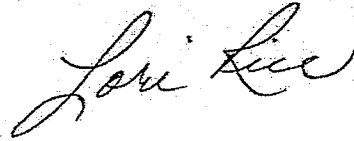
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Respectfully submitted,
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By: 
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Joanna A. Waldron (Pa. I.D. No. 84768)
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Doylestown, PA 18901

VERIFICATION

I, Lori Rice, am the President of Stop Transource Franklin County. I hereby state that the facts set forth herein are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements made herein are subject to the penalties of 18 Pa.C.S. Section 4904 concerning unsworn falsification to authorities.

A handwritten signature in cursive script that reads "Lori Rice". The signature is written in black ink and is positioned to the right of the main text block.

2/19/18