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MARK L. FREED
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April 27, 2018

Via Electronic Filing

Rosemary Chiavetta, Esquire
Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Lynn D. Etter and Mary W. Etter, DC Farms, LLC t/b/d/a Dream Farms, Daniel S. Long, Justin Dunlap and Sharla Dunlap, Allen W. Rice and Lori C. Rice, Richard L. Leshner and Agnes M. Leshner, Rodney A. Meyer and Karen I. Benedict, Roy M. Cordell and Emma L. Cordell, Leonard H. Kauffman and Mary P. Kauffman, and Lois White v. Transource Pennsylvania, LLC

Dear Secretary Chiavetta:

Attached for filing is a Petition for Interim Emergency Relief in the Nature of a Protective Order.

Thank you.

Very truly yours,



Mark L. Freed
For CURTIN & HEEFNER LLP

MLF:jmd
Enclosure
cc: Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

LYNN D. ETTER and MARY W. ETTER,
DC FARMS, LLC t/b/d/a DREAM FARMS,
DANIEL S. LONG,
JUSTIN DUNLAP and SHARLA DUNLAP,
ALLEN W. RICE and LORI C. RICE,
RICHARD L. LESHER and AGNES M. LESHER,
RODNEY A. MEYER and KAREN I. BENEDICT,
ROY M. CORDELL and EMMA L. CORDELL,
LEONARD H. KAUFFMAN and
MARY P. KAUFFMAN, and
LOIS WHITE,

Petitioners,

v.

TRANSOURCE PENNSYLVANIA, LLC,

Respondent.

Docket No. _____

**PETITION FOR INTERIM EMERGENCY RELIEF
IN THE NATURE OF A PROTECTIVE ORDER**

AND NOW comes Petitioners by and through their counsel, Curtin & Heefner LLP, and petition this Commission for a Protective Order pursuant to 52 Pa. Code §3.6 and in support thereof avers as follows:

1. Respondent Transource Pennsylvania, LLC (“Respondent”) seeks to perform testing and/or surveys upon the Petitioners’ properties as a predicate to its exercise of condemnation.

2. Petitioners are 10 of the property owners in Franklin County who own real estate that would be subject to the testing and/or surveying proposed by Respondent. Petitioners are members of Stop Transource Franklin County.

3. Petitioners seek a Protective Order precluding Respondent from performing the tests and/or surveys until the Public Utility Commission (“Commission”) has had the opportunity to consider and approve the proposed testing and surveys. Alternatively, Petitioners request that the Commission impose reasonable conditions to safeguard movements on any approval granted to Respondent.

4. Respondent filed Motions for Right of Entry to Survey and Test in the Franklin County Court of Common Pleas seeking a Court Order permitting it to enter upon the Petitioners’ properties for testing and surveying. See, e.g., Exhibit “A.”

5. Respondent also filed Complaints for Declaratory Judgment and Equitable Relief in Franklin County, seeking essentially the same relief. See, e.g., Exhibit “B.”

6. Petitioners filed Preliminary Objections to Respondent’s Motions for Right of Entry to Survey and Test challenging the jurisdiction of the Franklin County Court of Common Pleas to adjudicate the issue and asserting that there was an identical action filed in York County which should be coordinated with the Franklin County matter.

7. On April 3, 2018, a hearing was held in Franklin County Court of Common Pleas before The Honorable Todd M. Sponseller.

8. At the conclusion of the hearing, the Court found that the Franklin County Court of Common Pleas had jurisdiction over the issue, that the Preliminary Objections seeking coordination with the York County action were inappropriate, and an Order was entered overruling Petitioners’ Preliminary Objections.

9. The Court ordered that further hearing be held on May 8, 2018 to receive testimony regarding Respondent's request for permission to enter the Petitioners' properties for testing and surveying.

10. Respondent is asserting a right to perform testing and surveying pursuant to eminent domain authority under §309 of the Eminent Domain Code.

11. Respondent contends that it has been issued a certificate from the Commission identifying it as a public utility.

12. Respondent contends that this certificate entitles it to perform eminent domain activities such as testing and surveying before condemnation on the Petitioners' properties. However, public utility status, by itself, does not provide Respondent with eminent domain authority.

13. The Petitioners requested that Respondent identify, with reasonable specificity, the tests and surveys that would be performed, and when they were to be performed.

14. Respondent has failed or refused to provide a description of the specific activities it wishes to conduct, absent a general description that it would be geotechnical testing, tree pruning and bog turtle surveying. Respondent claims that it has to perform the bog turtle survey within a specific time and has offered no other information regarding the nature, scope, extent or timing of the testing or surveying. Respondent does not claim that any other activity is time sensitive.

15. The project for which the testing is allegedly needed is the Independence Energy Project ("IEC")-West Project.

16. Under the Public Utility Code, 66 Pa.C.S. § 101 *et seq.*, the Commission has exclusive jurisdiction over the regulation of electric public utilities and their facilities. *See, e.g.,*

Duquesne Light Company v. Monroeville Borough, 298 A.2d 252, 256 (Pa. 1972); *Lansdale Borough v. Philadelphia Electric Co.*, 170 A.2d 565, 566-67 (Pa. 1961).

17. The Commission has established regulations governing eminent domain proceedings for High Voltage (“HV”) transmission lines. See 52 Pa. Code §§ 57.75(i), 69.3103. Under these regulations, an applicant for transmission siting authority should file applications for all known eminent domain authority as separate filings, and simultaneously with the associated transmission siting applications. 52 Pa. Code § 69.3103. A public utility eminent domain proceeding may be consolidated with siting applications. 52 Pa. Code § 57.75(i).¹

18. As part of the approval process, Respondent submitted a Siting Application at PUC Docket No. A-2017-2640200. See Exhibit “C.”

19. In its Site Application, Respondent pledged that if it was unable to obtain Right-Of-Way Agreements with the Petitioners, that it would abide by the Commission’s requirements and return to the Commission to obtain the appropriate authority:

“54. Transource PA will continue to negotiate with all affected landowners in an effort to reach a reasonable and mutually acceptable right-of-way agreement and, thereby, avoid the need to condemn rights-of-way across the properties traversed by the IEC-West Project.

55. In the event that Transource PA is unable to acquire the rights-of-way needed for the IEC-West Project, Transource PA will promptly file separate applications seeking Commission approval to exercise of the power of eminent domain to acquire rights-of-way and easements for the proposed IEC-West Project. If any such condemnation applications become necessary, Transource PA will

¹ Even were it to be found that the Commission does not have exclusive jurisdiction, a court should abstain from exercising its jurisdiction over an eminent proceeding until the matter has first been considered by the Commission pursuant to the Doctrine of Primary Jurisdiction. The doctrine “... requires judicial abstention in cases where protection of the integrity of a regulatory scheme dictates preliminary resort to the agency which administers the scheme.” See *Elkin v. Bell Telephone Co. of Pennsylvania*, 420 A.2d 371 (Pa. 1980) (citations omitted).

request that they be consolidated and considered together with this Siting Application for the IEC-West Project.”

Exhibit C at ¶¶54, 55 (emphasis added).

20. Respondent’s Siting Application has not yet been approved.

21. Respondent has not yet applied for or received approval from the Commission to exercise the power of eminent domain.

22. Respondent has not reached agreement with the Petitioners concerning the entry upon their land.

23. Respondent has attempted to circumvent the process by seeking relief from the Franklin County Court of Common Pleas instead of complying with the pledge that it made in the Site Application.

24. The Franklin County Court of Common Pleas has declared that it has jurisdiction over the Petitioners and can compel them to allow entry onto their properties.

25. Absent the Commission’s intervention, Respondent will not be limited on the location or type of testing or surveying it can perform and the nature, scope and extent of the tests or surveys will have no known limits or time constraints.

26. The Petitioners’ properties are active farmlands which will, or are likely to, suffer damage due to the testing. Many also contain residential dwellings.

27. The Petitioners’ properties are subject to strict restrictions that safeguard the properties’ soils and pest control activities.

28. Respondent should be prohibited from accessing Petitioners’ properties until such time as it obtains eminent domain approval from the Commission.

29. In the alternative, any access, testing or surveys permitted by the Commission should be limited to a non-intrusive bog turtle survey. The Commission should prohibit the cutting

of trees and other vegetation, invasive testing such as geo-technical drilling, the use of heavy equipment, and any activity that will negatively impact or is inconsistent with Petitioners' businesses, farming operations, soils, pest control, and personal activities.

30. Any access, testing and surveys permitted by the Commission should be limited to normal business hours and upon reasonable notice to Petitioners.

31. Respondent must be required to provide Petitioners with financial assurance, proof of insurance, and indemnities, releases and hold harmless agreements related to its activities on the property.

32. Petitioners' right to relief is clear, as Respondent, having failed to seek eminent domain approval from the Commission, has no authority to exercise eminent domain authority under §309 of the Eminent Domain Code to gain access to Petitioner's properties.

33. Petitioners' need for relief is immediate, as the Court may grant Respondent access to their property as early as May 8, 2018. Such access presents a clear and present danger to Petitioners' properties.

34. Respondent's unfettered access and testing on Petitioners' properties would result in irreparable harm to Petitioners' properties and business operations. Among other things, it will crush and disrupt the soils, interfere with crop activity and/or risk the spread of pests and pesticides.

35. The relief requested is not injurious to the public interest. On the contrary, relief is required to safeguard the public interest. To the extent that Respondent claims that the relief will result in delay of its project, any such delay is the result of Respondent's failure to comply with the requirements of the Commission and are self-inflicted.

WHEREFORE, Petitioners request that the Commission issue an Emergency Protective Order precluding Transource Pennsylvania, LLC from performing tests or surveys upon

Petitioners' properties until the Public Utility Commission has had the opportunity to review and approve the proposed tests and surveys and properties upon which they will be performed. Alternatively, Petitioners request that the Commission impose reasonable restrictions on Respondent's activities. Petitioners further request that the Commission grant them such other relief as the Commission finds to be just and appropriate.

Respectfully submitted,

CURTIN & HEEFNER LLP



Date: April 27, 2018

By: _____

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VERIFICATION

I, Mark L. Freed, hereby state that the facts set forth in the foregoing Petition for Interim Emergency Relief in the Nature of a Protective Order are true and correct to the best of my knowledge, information and belief. This statement is made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.



Mark L. Freed

Date: April 27, 2018

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

: LYNN D. ETTER and MARY W. ETTER, :
: DC FARMS, LLC t/b/d/a DREAM FARMS, : Docket No. _____
: DANIEL S. LONG, :
: JUSTIN DUNLAP and SHARLA DUNLAP, :
: ALLEN W. RICE and LORI C. RICE, :
: RICHARD L. LESHER and AGNES M. LESHER, :
: RODNEY A. MEYER and KAREN I. BENEDICT, :
: ROY M. CORDELL and EMMA L. CORDELL, :
: LEONARD H. KAUFFMAN and :
: MARY P. KAUFFMAN, and :
: LOIS WHITE, :
: :
: Petitioners, :
: :
: v. :
: :
: TRANSOURCE PENNSYLVANIA, LLC, :
: :
: Respondent. :

CERTIFICATE OF SERVICE

I hereby certify that, on this date, I served a true and correct copy of the Petition for
Interim Emergency Relief in the above-captioned action on the following:

Via first class mail

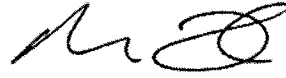
Transource Pennsylvania, LLC
1 Riverside Plaza
Columbus, OH 43215-2372

Via electronic service and first class mail

James J. Kutz, Esquire
Ryan Logan, Esquire
Post & Schell, P.C.
17 North Second Street, 12th floor
Harrisburg, PA 17101

CURTIN & HEEFNER LLP

By:



Allan D. Goulding, Esquire
Mark L. Freed, Esquire

Date: April 27, 2018

EXHIBIT A

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ATTORNEYS FOR TRANSOURCE
PENNSYLVANIA, LLC

TRANSOURCE PENNSYLVANIA,
LLC

Plaintiff,

v.

DC FARMS, LLC t/d/b/a DREAM
FARMS,

Defendant.

: IN THE COURT OF COMMON PLEAS
: OF FRANKLIN COUNTY,
: PENNSYLVANIA

: No. 2018-737

: Civil Division

TRANSOURCE PENNSYLVANIA, LLC'S VERIFIED OMNIBUS MOTION FOR
IMMEDIATE RIGHT OF ENTRY TO SURVEY AND TEST

ATTEST A TRUE COPY

TIMOTHY S. SPONSELLER PROTHONOTARY

**TRANSOURCE PENNSYLVANIA, LLC'S VERIFIED OMNIBUS MOTION FOR
IMMEDIATE RIGHT OF ENTRY TO SURVEY AND TEST**

Movant, Transource Pennsylvania, LLC (“Transource PA”), by its counsel, hereby moves for the immediate right of entry onto Defendants properties for the purposes of surveying the property and conducting required environmental and other testing. Said Motion is brought pursuant to 26 Pa.C.S. § 309 and, in the alternative, Pennsylvania Rules of Civil Procedure 4001, 4009.31 and 4009.32. In support of this Motion, Transource PA avers as follows:

INTRODUCTION

Transource PA, a public utility recognized by the Pennsylvania Utility Commission, is developing the Independence Energy Connection Project; the Project will increase consumer access to affordable power in Pennsylvania and Maryland. As a recognized public utility, 26 Pa.C.S. § 309 provides Transource PA “the right to enter upon any land or improvement in order to make studies, surveys, tests . . .” The Defendants in this underlying action have refused to provide Transource PA access to their property to obtain critical information, including various environmental studies (including wetland delineations, habitat assessments and threatened or endangered species surveys), appraisals, geotechnical surveys (including soundings and drillings for testing soil and bedrock), cultural resources surveys, civil surveys (including trimming or cutting vegetation necessary for survey purposes), and all other surveys and tests necessary to properly assess the area. design and construct the new line.

Critically, Transource PA must begin to conduct the aforementioned tests, appraisals, and surveys within the survey season of the bog turtle. The United States Fish and Wildlife Service,

as well as the Pennsylvania Fish & Boat commission, requires surveying to take place between April 15, 2018 and June 15, 2018. Transource PA is required to conduct four separate surveys, with each survey separated by a period of three (3) to six (6) days, depending on the month in which the survey is performed. As such, the bog turtle surveys must be completed within the requisite timelines for Transource PA to meet its in-service date.

Accordingly, without question, Defendants' denial of access to Transource PA to conduct these studies, surveys, and tests violates 26 Pa.C.S. § 309. Transource PA should be afforded immediate access to conduct these surveys, appraisals and tests.

PARTIES

1. Movant, Transource PA is a limited liability company organized and existing under the laws of Delaware.
2. Transource PA is a wholly-owned direct subsidiary of Transource Energy, LLC ("Transource Energy").
3. Transource Energy is a joint venture of American Electric Power ("AEP") and Great Plains Energy ("GPE").
4. Transource PA's address is 1 Riverside Plaza, Columbus, Ohio 43215-2372.
5. Transource PA was formed to construct, own, operate, and maintain electric transmission facilities and equipment within the Commonwealth of Pennsylvania.
6. Defendants are landowners potentially impacted by Transource PA's statutory right of entry for the purpose of surveying and testing.

THE INDEPENDENCE ENERGY CONNECTION PROJECT

7. Transource Energy through its wholly owned subsidiary, Transource PA, is developing the Independence Energy Connection Project (“IEC Project”), which is a new overhead electric transmission project in Pennsylvania and Maryland to increase consumer access to more affordable power in the region. See, Affidavit of Stephen P. Stein (“Stein Affidavit”), ¶ 7; see also, Affidavit of Ernie Basham (“Basham Affidavit”), ¶ 3, both of which are attached hereto as **Exhibits “A”** and **“B”**, respectively, and incorporated herein by reference.

8. PJM Interconnection, LLC (“PJM”), the regional transmission organization responsible for managing the high-voltage electricity grid for thirteen (13) states, including Pennsylvania, identified concerns with the delivery of electricity into the region and reviewed solution proposals from competitive transmission companies. See, Stein Affidavit, ¶ 8.

9. PJM selected Transource Energy’s IEC Project to address the congestion and market-efficiency issues, and awarded construction of the project to the company in August 2016. See, Stein Affidavit, ¶ 9.

10. At an estimated cost of \$320 million, the IEC project will connect two existing 500-kilovolt (kV) transmission lines in Pennsylvania with stations in Maryland, and provide two new additional pathways for electricity, to alleviate electric gridlock. See, Stein Affidavit, ¶ 10.

11. The IEC Project will be built in two segments, East (the “IEC-East Project”) and West (the “IEC-West Project”), totaling approximately forty-five (45) miles of transmission line in Pennsylvania and Maryland. See id.

12. The IEC Project also includes construction of two substations in Pennsylvania and upgrading two existing substations in Maryland. See id.

13. In developing the proposed lines, Transource PA hosted two rounds of open house meetings in the summer of 2017, and presented more than 250 miles of route options for review during the public sessions. See, Stein Affidavit, ¶ 11.

14. The proposed routes were announced in October 2017. See id.

15. The company received Pennsylvania public utility status on January 23, 2018. A true and correct copy of the Order granting Transource PA's application for public utility status is attached hereto as Exhibit "C", and incorporated herein by reference; see also, Stein Affidavit, ¶ 11. To date, no appeal to the PUC's Order has been filed.

16. Accordingly, Transource PA is a public utility corporation regulated by the Pennsylvania Public Utility Commission (the "Commission" or "PUC"), providing electricity services within Pennsylvania, subject to the Commission's oversight and jurisdiction.

17. As a Pennsylvania public utility, Transource PA has the power of eminent domain pursuant to the Pennsylvania Business Corporation Law of 1988, P.L. 1444, No. 177, as amended, 15 Pa.C.S. §§ 1101, et seq.

THE IEC-WEST PROJECT

18. Thereafter, on December 27, 2017, Transource PA applied for approval of the siting and construction of the Rice-Ringgold 230 kV Transmission Line, IEC-West Project, from the PUC and from the Maryland Public Service Commission. A true and correct copy of the

Pennsylvania Siting Application is attached to the Stein Affidavit as **Exhibits “B”**¹ and incorporated herein by reference, and incorporated herein by reference; see also, Stein Affidavit, ¶ 11.

19. That same day, the IEC-West Project Siting Application was docketed with the Commission at Docket No. A-2017-2640200.

20. The IEC-West Project includes approximately twenty-nine (29) miles of new overhead electric transmission line that will connect a new substation to be constructed in Southampton Township, Franklin County, Pennsylvania, to an existing substation in Washington County, Maryland. See, Stein Affidavit, ¶ 12; see also, Basham Affidavit, ¶ 4. The Pennsylvania portion of the IEC-West Project will extend approximately 24.4 miles from the new Rice Substation to the Pennsylvania-Maryland border, and the Maryland portion of the IEC-West Project will extend approximately 4.4 miles from the Pennsylvania-Maryland border to the existing Ringgold Substation. See, Stein Affidavit, ¶ 12; see also, Basham Affidavit, ¶ 4.

21. Moreover, Transource PA is obligated to begin construction in July 2019 in order to meet PJM’s in-service date of June 1, 2020. See, Stein Affidavit, ¶ 13.

TRANSOURCE PA’S IMMEDIATE NEED FOR PROPERTY ACCESS

22. Prior to permitting and construction, Transource PA must obtain critical information, including various environmental studies, (including, wetland delineations, habitat assessments and threatened or endangered species surveys), appraisals, geotechnical surveys

¹ The Pennsylvania Siting Application references numerous attachments. Due to the voluminous nature of the attachments, the attachments have been, but can be provided upon request. Moreover, the individual landowners have copies of the Siting Application with Attachments.

(including soundings and drillings for testing soil and bedrock), cultural resources surveys, civil surveys (including trimming or cutting vegetation necessary for survey purposes) and all other surveys and tests necessary to properly assess the area, design and construct the proposed electric transmission line (together, “Field Surveys”). See, Stein Affidavit, ¶ 14.

23. Many of the environmental tests must be completed in the spring. See, Stein Affidavit, ¶ 15.

24. Transource PA’s request is even more pressing, considering the Commonwealth’s requirement that Transource PA survey for bog turtles, a federally threatened and state endangered species. See, Stein Affidavit, ¶ 16.

25. The properties are in an area where Transource PA is required by the United States Fish and Wildlife Service and the Pennsylvania Fish & Boat Commission to survey for bog turtles. See, Stein Affidavit, ¶ 17.

26. Survey season for the bog turtles begins on April 15, 2018 and ends on June 15, 2018, and requires four separate surveys, with each survey separated by a period of three (3) to six (6) days depending on the month in which the survey is performed. See, Stein Affidavit, ¶ 18; see also United States Fish and Wildlife Service Regulations regarding the bog turtle, attached to the Stein Affidavit as **Exhibit “D”**, and incorporated herein; see also Pennsylvania Fish & Boat Commission Regulations, attached to the Stein Affidavit as **Exhibit “E”**, and incorporated herein; see also, February 2, 2018 Letter from the United States Department of the Interior, Fish and Wildlife Service regarding endangered species located on the western line, attached to the Stein Affidavit as **Exhibit “F”**, and incorporated herein.

27. As such, the bog turtle surveys must be completed within the requisite timelines for Transource PA to meet its in-service date. See, Stein Affidavit, ¶ 19.

28. Moreover, without the information from the Field Surveys sought herein, the IEC Project's design cannot be finalized and the project will be delayed; therefore, the IEC Project requirements will not be met. See, Stein Affidavit, ¶ 20.

29. Once Field Surveys are complete, Transource PA will work to satisfy all of the pre-construction designs and conditions to receive final approvals such that construction may commence across the IEC Project. See, Stein Affidavit, ¶ 21.

30. Currently, Transource PA is working on any other aspect of the project that it can, so that the IEC Project can be completed on time to serve the needs of consumers in 2020. See, Stein Affidavit, ¶ 22.

31. Given the time it will take for Transource PA to complete the Field Surveys, analyze the data to prepare permit drawings and revised alignment sheets, and survey new areas, which may be required by the results of the initial Field Surveys, Transource PA must have access to and possession of the Rights of Way by July, 2019, to ensure that it can complete its permit applications and receive the required approvals to begin construction in 2019 and place the IEC Project in-service June 1, 2020. See, Stein Affidavit, ¶ 23; see also, Basham Affidavit, ¶ 7.

32. Accordingly, and in order to complete the IEC Project as soon as commercially practicable, survey access is immediately required. See, Stein Affidavit, ¶ 24.

33. Indeed, pursuant to the statutory authority granted to Transource PA by Section 309 of the Eminent Domain Code (26 Pa.C.S. § 309), and the requirements for notice of its right of entry, on February 5, 2018, Transource PA requested that the landowners permit Transource PA's representatives entry onto their properties in order to conduct the necessary Field Surveys for the IEC-West Project. See, Basham Affidavit, ¶ 8; see also, Letters dated February 5, 2018, attached to the Basham Affidavit as **Exhibit "A"**, and incorporated herein by reference.

34. Prior to the 10-day notice letter, Transource PA routinely reached out to Landowners seeking permission for Transource PA's representatives to enter onto their properties. See, Basham Affidavit, ¶ 9.

35. Mr. Basham received regular reports on the status of negotiations with landowners while Transource PA's representatives sought permission to conduct Field Surveys. See, Basham Affidavit, ¶ 10.

36. The regular reports included every property owner in which Transource PA filed a Writ against. See, Basham Affidavit, ¶ 11.

37. The electric line's overall route is shown on the maps, attached to the Basham Affidavit as **Exhibit "B"**, and incorporated herein by reference, which identifies the Property in relation to the line's western segment. See, Basham Affidavit, ¶ 11.

38. As a public utility corporation, Transource PA enjoys the right of eminent domain under Section 1511 of the Pennsylvania Business Corporation Law ("BCL"), 15 Pa.C.S. § 1101 et seq.

39. In total, since October, 2017, Transource PA's representatives have had numerous contacts with the Landowners who refused to provide survey access on the western line. See, Table of Landowners, attached to the Basham Affidavit as **Exhibit "C"**; see also, Basham Affidavit, ¶ 14.

**TRANSOURCE PA, AS A PUBLIC UTILITY, HAS EMINENT DOMAIN AUTHORITY
UNDER THE BUSINESS CORPORATION LAW**

40. Transource PA received Pennsylvania public utility status on January 23, 2018, and is a public utility regulated by the PUC. See, **Exhibit "C"**, attached to Transource PA's Omnibus Motion.

41. Section 202 of the Pennsylvania Eminent Domain Code includes within the definition of condemners both public utilities pursuant to Section 102 of the Pennsylvania Public Utility Code (66 Pa.C.S. §102) and private entities. 26 Pa.C.S. § 202.

42. The authority granted to private entities is provided by Section 1511 of the Pennsylvania Business Corporation law ("BCL"), 15 Pa.C.S. § 1101 et seq., which grants eminent domain power to public utility corporations.

43. Section 1103 of the BCL provides:

'Public utility corporation.' Any domestic or foreign corporation for profit that: (1) is subject to regulation as a public utility by the Pennsylvania Public Utility Commission or an officer or agency of the United States; or (2) was subject to such regulation on December 31, 1980, or would have been so subject if it had been then existing.

15 Pa.C.S. § 1103.

44. Further, Section 1511 of the BCL grants eminent domain power to public utility corporations, specifically providing:

(a) General rule. – A public utility corporation shall, in addition to any other power of eminent domain conferred by any other statute, have the right to take, occupy and condemn property for one or more of the following principal purposes and ancillary purposes reasonably necessary or appropriate for the accomplishment of the principal purposes... (2) **The transportation of artificial or natural gas, electricity, petroleum or petroleum products or water or any combination of such substances for the public...**

15 Pa.C.S. § 1511(a) (emphasis added).

45. As a public utility, Transource PA also has the power to condemn property under Pennsylvania's Eminent Domain Code.² Id.

46. As Transource PA is a public utility, Transource PA is afforded the right to conduct pre-condemnation surveys and tests on properties that might be impacted by the route of the IEC-West Project.

**SECTION 309 OF THE PENNSYLVANIA EMINENT DOMAIN CODE PERMITS
ACCESS TO THE PROPERTIES FOR THE PURPOSE OF CONDUCTING SURVEYS
AND TESTING RELATED TO THE IEC PROJECT**

47. Pennsylvania law recognizes the necessity for surveys and tests and permits potential condemners to make pre-condemnation surveys and tests.

² The term "Public utility corporation" is not limited strictly to corporations, but also includes partnerships and limited liability companies. See, 15 Pa.C.S. § 8102(a)(2) ("A domestic or foreign partnership or limited liability company may exercise any right, power, franchise or privilege that a domestic or foreign corporation engaged in the same line of business might exercise under the laws of this Commonwealth, including powers conferred by section 1511 (relating to additional powers of certain public utility corporations" or other provisions of law granting the right to a duly authorized corporation to take or occupy property and make compensation therefor.").

48. Specifically, Section 309 of Pennsylvania Eminent Domain Code (26 Pa.C.S. § 309), provides that “prior to the filing of the declaration of taking, the condemnor or its employees or agents, shall have the right to enter upon any land or improvement in order to make studies, surveys, tests, soundings and appraisals.”³ 26 Pa.C.S. § 309(a).

49. The potential route of the transmission lines extend through the Properties.

50. Transource PA needs to conduct the Field Surveys in order to determine the exact path of the transmission lines.

51. Section 309 of the Eminent Domain Code requires that “the owner of the land or the party in whose name the property is assessed shall be notified ten days prior to entry on the property,” and that “any actual damages sustained by the owner of a property interest in the property entered upon by the condemnor shall be paid by the condemnor.” See, 26 Pa.C.S. 309.

52. Notably, Section 309 specifically states that the right to enter the property under this section does **not** constitute a condemnation. 26 Pa.C.S. § 309(d) (emphasis added).

53. Further, Section 309 of the Eminent Domain Code requires that “the owner of the land or the party in whose name the property is assessed shall be notified ten days prior to entry on the property,” and that “any actual damages sustained by the owner of a property interest in the property entered upon by the condemnor shall be paid by the condemnor.” See, 26 Pa.C.S. 309.

³ Pre-condemnation survey access does not require proof of the ultimate power to condemn. White v. Pennsylvania Department of Transportation, 738 A.2d 27, 31 (Pa. Cmwlth. 1999) (holding that PennDOT could access the petitioners property pursuant to 26 Pa.C.S. § 409 [the identical predecessor to section 309] even though it was unclear as to whether PennDOT would ultimately have the power to condemn the property.).

54. As stated above, Transource PA must perform the Field Surveys prior to construction.

55. Without the information from the Field Surveys, the IEC Project's design cannot be finalized and the project will be delayed; therefore, the IEC Project requirements will not be met. See, Stein Affidavit, ¶¶ 15-20, 25-26, 28.

56. In order to conduct the Field Surveys, Transource PA must physically access the Properties.

57. Before invoking Section 309 to enter a landowner's property for conducting the Field Surveys, Transource PA attempted to obtain the landowners' consents to entry. See, Basham Affidavit, ¶ 14.

58. On February 5, 2018, Transource PA sent the landowners a 10-day notice per the statute. See, Basham Affidavit, ¶ 8; see also, Letters dated February 5, 2018, attached to the Basham Affidavit as **Exhibit "A"**, and incorporated herein by reference; see also, 26 Pa.C.S. § 309.

59. Accordingly, Transource PA provided ten days' notice as required by Section 309.

60. In total, Transource PA contacted each landowner whose property the transmission line may be routed over. Of those landowners, twenty-four (24) have denied Transource PA access to their respective properties.

61. Transource PA will be required to reimburse Defendants for any damage(s) that occurs relating to Field Surveys. 26 Pa.C.S. § 309(b), (c).

62. Because Transource PA and its representatives are unable to obtain consent from Defendants to perform the necessary Field Surveys to determine the route of the transmission lines, Transource PA is proceeding with this Motion.

63. This Motion does not seek establishment of any easement or ownership right in the Properties.

64. Defendants are protected from any monetary loss that may occur as a result of Transource PA entering the Properties under Section 309, which requires Transource PA to pay actual damages sustained by Defendants. 26 Pa.C.S. § 309(b), (c).

**TRANSOURCE PA'S NECESSITY FOR ACCESS TO THE PROPERTIES TO AVOID
PUBLIC HARM**

65. Without performing the Field Surveys, it is impossible for Transource PA to determine the final route of the IEC-West Project.

66. Granting immediate access is in the public interest, because the IEC Project will provide the region's customers with greatly enhanced access to electricity, support the overall reliability and diversification of energy infrastructure in the market, and meet the anticipated increase in market demands. See, Stein Affidavit, ¶ 25.

67. It is in the public interest that Transource Energy be given possession of the Rights of Way for Field Surveys so that Transource Energy can verify the feasibility of the route, maintain its construction schedule, and comply with the requirements of all permits and environmental restrictions. See, Stein Affidavit, ¶ 26.

68. Defendants will suffer no damage as a consequence of granting immediate access, because any damage to the land will be remedied by the payment of money, per the statute. See, Stein Affidavit, ¶ 27.

69. On the other hand, if Transource PA does not have immediate, unobstructed access for surveys and testing, then the entire IEC Project schedule will be delayed. See, Stein Affidavit, ¶ 28.

70. Transource PA's request is even more pressing, considering the Commonwealth's requirement that Transource PA survey for bog turtles, a federally threatened and state endangered species. See, Stein Affidavit, ¶ 16.

71. The properties are in an area where Transource PA is required by the United States Fish and Wildlife Service and the Pennsylvania Fish & Boat Commission to survey for bog turtles. See, Stein Affidavit, ¶ 17.

72. Survey season for the bog turtles begins on April 15, 2018 and ends on June 15, 2018, and requires four separate surveys, with each survey separated by a period of three (3) to six (6) days depending on the month in which the survey is performed. See, Stein Affidavit, ¶ 18; see also United States Fish and Wildlife Service Regulations regarding the bog turtle, attached to the Stein Affidavit as **Exhibit "D"**, and incorporated herein; see also Pennsylvania Fish & Boat Commission Regulations, attached to the Stein Affidavit as **Exhibit "E"**, and incorporated herein; see also, February 2, 2018 Letter from the United States Department of the Interior, Fish and Wildlife Service regarding endangered species located on the western line, attached to the Stein Affidavit as **Exhibit "F"**, and incorporated herein.

73. As such, the bog turtle surveys must be completed within the requisite timelines for Transource PA to meet its in-service date. See, Stein Affidavit, ¶ 19.

74. Moreover, without the information from the Field Surveys sought herein, the IEC Project's design cannot be finalized and the project will be delayed; therefore, the IEC Project requirements will not be met. See, Stein Affidavit, ¶ 20.

75. Transource PA will not be able to begin construction in time to allow the Project to be completed to meet the in-service date set by PJM. See, Stein Affidavit, ¶ 28.

76. If Transource PA misses the PJM-mandated in-service date, the public will suffer irreparable harm in the form of continued electric gridlock, and delay or ultimate failure of the project. See id.

77. Furthermore, Transource PA will suffer irreparable harm as Transource Energy has invested considerable time and money to obtain the access rights to the majority of the route. See, Stein Affidavit, ¶ 29.

78. In fact, Transource PA has invested more than \$6.0 million to date in siting, design and engineering. See id.

79. The foregoing harms would also result if Transource PA's access is obstructed by Landowners, or other unauthorized and untrained third parties who are present on the Property in the vicinity of the work corridor at the invitation of Landowners. See, Stein Affidavit, ¶ 30.

80. Although Transource PA has the right to enter the Properties pursuant to Section 309, Transource PA does not wish to provoke an on-site confrontation with Defendants.

81. Consequently, Transource PA seeks an order from this Court granting Transource PA permission to enter onto the Properties pursuant to that Section.

82. Moreover, Transource PA avers that while the Field Surveys are necessary for each property in order to determine the proper route of the IEC-West Project, at this stage, Transource PA is not conducting any construction.

83. Indeed, Transource PA is attempting to locate the best possible route for the IEC-West Project that accommodates the landowners' continued use of their properties.

**IN THE ALTERNATIVE, TRANSOURCE PA'S IMMEDIATE NEED FOR PROPERTY
ACCESS PURSUANT TO PENNSYLVANIA RULES OF CIVIL PROCEDURE 4001,
4009.31 and 4009.32**

84. If this Court does not feel Transource PA is entitled to access pursuant to 26 Pa.C.S. § 309, Pennsylvania law permits Transource PA access to the Properties pursuant to Pennsylvania's Rules of Civil Procedure regarding discovery.

85. Pennsylvania Rule of Civil Procedure 4001 states "[t]he rules of this chapter apply to any civil action or proceeding brought in or appealed to any court which is subject to these rules including any action pursuant to the Eminent Domain Code of 1964..." See, Pa.R.C.P. 4001(a).

86. Moreover, Rule 4009.31 provides:

Any party may serve a request upon a party pursuant to Rule 4009.32... to permit entry upon designated property in the possession or control of the party or person upon whom the request is served for the purpose of *inspecting and measuring, surveying, photographing, testing, or sampling the property or any designated object or operation thereon...*

See, Pa.R.C.P. 4009.31 (emphasis added).

87. As parties to the above-listed civil actions, Transource PA is permitted to request entry onto the Properties.

88. Accordingly, pursuant to Rule 4009.32:

(a) The request may, without leave of court, be served upon the plaintiff after commencement of the action and upon any other party with or after service of the original process upon that party. The request shall describe with reasonable particularity the property to be entered and the activities to be performed.

(b) The party upon whom the request is served shall allow the requested entry unless the request is objected to within thirty days after service of the request, in which event the reasons for objection shall be stated. If objection is made to part of a request, the party shall be specified. The party submitting the request may move for an order under Rule 4019(a) with respect to any objection to or failure to respond to the request or any part thereof, or any failure to permit entry as requested.

See, Pa.R.C.P. 4009.32.

89. Transource PA submits this motion, in the alternative, as a request for entry pursuant to Rules 4009.31 and 4009.32 of the Rules of Civil Procedure.

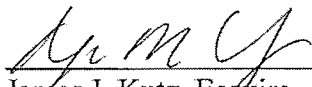
90. Pursuant to Franklin County Local Rule 39-208.2, given the denial of right of entry by Defendants, Defendants have made clear they do not concur in the filing of this motion.

WHEREFORE, Transource PA respectfully requests that this Court grant its Motion for Immediate Right of Entry to Survey and Test, and enter an Order, in the form attached, permitting Transource PA's employees, agents, and representatives to enter on the Properties to perform the required studies, surveys, tests, soundings, and appraisals as authorized by Section 309 of the Pennsylvania Eminent Domain Code, or, in the alternative, enter an Order, in the form

attached, permitting Transource PA's employees, agents, and representatives to enter on the Properties to perform the required studies, surveys, and appraisals as authorized by Pennsylvania Rules of Civil Procedure 4001, 4009.31 and 4009.32.

Respectfully submitted,

POST & SCHELL, P.C.

BY: 
James J. Kutz, Esquire
Supreme Court I.D. # 21589
Ryan M. Logan, Esquire
Supreme Court I.D. # 320720
17 North 2nd St., 12th Floor
Harrisburg, PA 17101
Telephone: (717) 731-1970
Facsimile: (717) 731-1985

Attorneys for Transource Pennsylvania, LLC

Date: Feb. 27, 2018

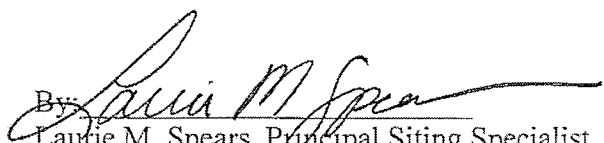
VERIFICATION

Upon my personal knowledge, information and belief, I, Laurie M. Spears, Principal Siting Specialist for Transource Pennsylvania, LLC, do hereby verify that the facts averred and statements made in the foregoing document are true and correct. I understand that false statements or averments therein made will subject me to the criminal penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.

Date: _____

2/23/18

By: _____


Laurie M. Spears, Principal Siting Specialist
Transource Pennsylvania, LLC

CONFIDENTIAL INFORMATION CERTIFICATION

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Respectfully submitted,



James J. Kutz, Esquire
PA I.D. No. 21589

Ryan M. Logan, Esquire
PA I.D. No. 320720

17 North Second Street
12th Floor

Harrisburg, PA 17101

Phone: (717) 731-1970

Fax: (717) 731-1985

Attorneys for Transource Pennsylvania, LLC

Dated: February 27, 2018

EXHIBIT B

PROFESSIONAL
 FRANKLIN COUNTY, PA
 DECEMBER 13 PM 2:17
 TIMOTHY S. SPENCER
 COUNTY CLERK
 FRANKLIN COUNTY, PA
 RECEIVED

POST & SCHELL, P.C.

James J. Kutz, Esquire
 PA I.D. No. 21589
 Ryan Logan, Esquire
 PA I.D. No. 320720
 17 North Second Street, 12th Floor
 Harrisburg, PA 17101
 Telephone: (717) 731-1970
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 Email: jkutz@postschell.com
 Email: rlogan@postschell.com

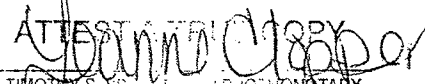
ATTORNEYS FOR TRANSOURCE
 PENNSYLVANIA, LLC

<p>TRANSOURCE PENNSYLVANIA, LLC</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>DC FARMS, LLC t/d/b/a DREAM FARMS,</p> <p style="text-align: center;">Defendant.</p>	<p>: IN THE COURT OF COMMON PLEAS : OF FRANKLIN COUNTY, : PENNSYLVANIA : : : No. 2018-737 : : : Civil Division : : :</p>
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

To: DC Farms, LLC t/d/b/a Dream Farms
 13689 Dream Highway
 Newburg, PA 17240

NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the

ATTEST

 TIMOTHY S. SPENCER, COUNTY CLERK

court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be enter against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Pennsylvania Lawyer Referral Service
Pennsylvania Bar Association
100 South St., P.O. Box 186
Harrisburg, PA 17108
1-800-692-7375
717-238-6715

POST & SCHELL, P.C.

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Email: jkutz@postschell.com
Email: rlogan@postschell.com

ATTORNEYS FOR TRANSOURCE
PENNSYLVANIA, LLC

**TRANSOURCE PENNSYLVANIA,
LLC**

Plaintiff,

v.

**DC FARMS, LLC t/d/b/a DREAM
FARMS,**

Defendant.

: **IN THE COURT OF COMMON PLEAS**
: **OF FRANKLIN COUNTY,**
: **PENNSYLVANIA**
:
:
: No. 2018-737
:
:
: Civil Division
:
:
:

**TRANSOURCE PENNSYLVANIA, LLC'S COMPLAINT FOR DECLARATORY
JUDGMENT AND EQUITABLE RELIEF**

NOW COMES Plaintiff, Transource Pennsylvania, LLC ("Transource PA"), by and through its attorneys, Post & Schell, P.C., files this Complaint for Declaratory Judgment and Equitable Relief for the immediate right of entry onto Defendant's property for the purposes of surveying the property and conducting required environmental and other testing, and in support thereof, alleges the following:

PARTIES

1. Plaintiff, Transource PA, is a limited liability company organized and existing under the laws of Delaware.

2. Transource PA is a wholly-owned direct subsidiary of Transource Energy, LLC (“Transource Energy”).

3. Transource Energy is a joint venture of American Electric Power (“AEP”) and Great Plains Energy (“GPE”).

4. Transource PA’s address is 1 Riverside Plaza, Columbus, Ohio 43215-2372.

5. Transource PA was formed to construct, own, operate, and maintain electric transmission facilities and equipment within the Commonwealth of Pennsylvania.

6. The company received Pennsylvania public utility status on January 23, 2018. A true and correct copy of the Order granting Transource PA’s application for public utility status is attached to Plaintiff’s Verified Omnibus Motion for Immediate Right of Entry to Survey and Test, filed of record at Docket Number 2018-737 on February 27, 2018 as **Exhibit “C”**, and incorporated herein by reference; see also, Stein Affidavit, ¶ 11. No appeal to the PUC’s Order was filed, and the time to file an appeal expired February 22, 2018.

7. Accordingly, Transource PA is a public utility corporation regulated by the Pennsylvania Public Utility Commission (the “Commission” or “PUC”), providing electricity services within Pennsylvania, subject to the Commission’s oversight and jurisdiction.

8. Defendant, DC Farms, LLC, is a Pennsylvania limited liability company with an address of 13689 Dream Highway, Newburg, Pennsylvania 17240.

9. Defendant owns the parcel located at 5730 Orphanage Road, Waynesboro, Pennsylvania 17268, County APN 19-0L12.-051.-000000 (the “Property”).

JURISDICTION AND VENUE

10. This action arises under the laws of the Commonwealth of Pennsylvania and is within the subject matter of this Court.

11. Jurisdiction is proper in this Court pursuant to 42 Pa.C.S. § 931(a).

12. As detailed above, the Property at issue is located within Franklin County.

13. Venue is proper in the Court of Common Pleas of Franklin County pursuant to Pa. R. Civ. P. 1006 and Pa. R. Civ. P. 2179 because the Property at issue is located within Franklin County.

OVERVIEW OF THE INDEPENDENCE ENERGY CONNECTION PROJECT

14. Transource Energy, through its wholly owned subsidiary, Transource PA, is developing the Independence Energy Connection Project (“IEC Project”), which is a new overhead electric transmission project in Pennsylvania and Maryland to increase consumer access to more affordable power in the region. See, Affidavit of Stephen P. Stein (“Stein Affidavit”), ¶ 7; see also, Affidavit of Ernie Basham (“Basham Affidavit”), ¶ 3, both of which are attached to Plaintiff’s Verified Omnibus Motion for Immediate Right of Entry to Survey and Test, filed of record at Docket Number 2018-737 on February 27, 2018, as Exhibits “A” and “B”, respectively, and incorporated herein by reference.

15. PJM Interconnection, LLC (“PJM”), the regional transmission organization responsible for managing the high-voltage electricity grid for thirteen (13) states, including

Pennsylvania, identified concerns with the delivery of electricity into the region and reviewed solution proposals from competitive transmission companies. See, Stein Affidavit, ¶ 8.

16. PJM selected Transource Energy's IEC Project to address the congestion and market-efficiency issues, and awarded construction of the project to the company in August 2016. See, Stein Affidavit, ¶ 9.

17. At an estimated cost of \$320 million, the IEC project will connect two existing 500-kilovolt (kV) transmission lines in Pennsylvania with stations in Maryland, and provide two new additional pathways for electricity, to alleviate electric gridlock. See, Stein Affidavit, ¶ 10.

18. The IEC Project will be built in two segments, East (the "IEC-East Project") and West (the "IEC-West Project"), totaling approximately forty-five (45) miles of transmission line in Pennsylvania and Maryland. See id.

19. The IEC Project also includes construction of two substations in Pennsylvania and upgrading two existing substations in Maryland. See id.

20. In developing the proposed lines, Transource PA hosted two rounds of open house meetings in the summer of 2017, and presented more than 250 miles of route options for review during the public sessions. See, Stein Affidavit, ¶ 11.

21. The proposed routes were announced in October 2017. See id.

22. 20. The IEC-West Project includes approximately twenty-nine (29) miles of new overhead electric transmission line that will connect a new substation to be constructed in Southampton Township, Franklin County, Pennsylvania, to an existing substation in Washington County, Maryland. See, Stein Affidavit, ¶ 12; see also, Basham Affidavit, ¶ 4.

23. The Pennsylvania portion of the IEC-West Project will extend approximately 24.4 miles from the new Rice Substation to the Pennsylvania-Maryland border, and the Maryland portion of the IEC-West Project will extend approximately 4.4 miles from the Pennsylvania-Maryland border to the existing Ringgold Substation. See, Stein Affidavit, ¶ 12; see also, Basham Affidavit, ¶ 4.

24. Thereafter, on December 27, 2017, Transource PA applied for approval of the siting and construction of the Rice-Ringgold 230 kV Transmission Line, IEC-West Project, from the PUC and from the Maryland Public Service Commission. A true and correct copy of the Pennsylvania Siting Application is attached to the Stein Affidavit as Exhibits “B” and incorporated herein by reference, and incorporated herein by reference; see also, Stein Affidavit, ¶ 11.

25. That same day, the IEC-West Project Siting Application was docketed with the Commission at Docket No. A-2017-2640200.

26. Transource PA is obligated to begin construction in July 2019 in order to meet PJM’s in-service date of June 1, 2020. See, Stein Affidavit, ¶ 13.

TRANSOURCE PA’S IMMEDIATE NEED FOR PROPERTY ACCESS

27. Prior to permitting and construction, Transource PA must obtain critical information, including various environmental studies, (including, wetland delineations, habitat assessments and threatened or endangered species surveys), appraisals, geotechnical surveys (including soundings and drillings for testing soil and bedrock), cultural resources surveys, civil surveys (including trimming or cutting vegetation necessary for survey purposes) and all other

surveys and tests necessary to properly assess the area, design and construct the proposed electric transmission line (together, “Field Surveys”). See, Stein Affidavit, ¶ 14.

28. Many of the environmental tests must be completed in the spring. See, Stein Affidavit, ¶ 15.

29. Transource PA’s request is even more pressing, considering the Commonwealth’s requirement that Transource PA survey for bog turtles, a federally threatened and state endangered species. See, Stein Affidavit, ¶ 16.

30. The properties are in an area where Transource PA is required by the United States Fish and Wildlife Service and the Pennsylvania Fish & Boat Commission to survey for bog turtles. See, Stein Affidavit, ¶ 17.

31. Survey season for the bog turtles begins on April 15, 2018 and ends on June 15, 2018, and requires four separate surveys, with each survey separated by a period of three (3) to six (6) days depending on the month in which the survey is performed. See, Stein Affidavit, ¶ 18; see also United States Fish and Wildlife Service Regulations regarding the bog turtle, attached to the Stein Affidavit as **Exhibit “D”**, and incorporated herein; see also Pennsylvania Fish & Boat Commission Regulations, attached to the Stein Affidavit as **Exhibit “E”**, and incorporated herein; see also, February 2, 2018 Letter from the United States Department of the Interior, Fish and Wildlife Service regarding endangered species located on the eastern line, attached to the Stein Affidavit as **Exhibit “F”**, and incorporated herein.

32. As such, the bog turtle surveys must be completed within the requisite timelines for Transource PA to meet its in-service date. See, Stein Affidavit, ¶ 19.

33. Moreover, without the information from the Field Surveys sought herein, the IEC Project's design cannot be finalized and the project will be delayed; therefore, the IEC Project requirements will not be met. See, Stein Affidavit, ¶ 20.

34. Once Field Surveys are complete, Transource PA will work to satisfy all of the pre-construction designs and conditions to receive final approvals such that construction may commence across the IEC Project. See, Stein Affidavit, ¶ 21.

35. Currently, Transource PA is working on any other aspect of the project that it can, so that the IEC Project can be completed on time to serve the needs of consumers in 2020. See, Stein Affidavit, ¶ 22.

36. Survey access is immediately required given the time it will take for Transource PA to complete the Field Surveys, analyze the data to prepare permit drawings and revised alignment sheets, and survey new areas, file permit applications and receive the required approvals to begin construction in 2019 and place the IEC Project in-service June 1, 2020. See, Stein Affidavit, ¶ 23; see also, Basham Affidavit, ¶ 7.

TRANSOURCE PA'S ATTEMPT TO WORK WITH DEFENDANT

37. As a Pennsylvania public utility, Transource PA has the power of eminent domain pursuant.

38. Pursuant to the statutory authority granted to Transource PA under the Eminent Domain Code (26 Pa.C.S. § 309), and the requirements for notice of its right of entry, on February 5, 2018, Transource PA requested that the landowners permit Transource PA's representatives entry onto their properties in order to conduct the necessary Field Surveys for the

IEC-East Project. See, Basham Affidavit, ¶ 8; see also, Letters dated February 5, 2018, attached to the Basham Affidavit as **Exhibit “A”**, and incorporated herein by reference.

39. Prior to the 10-day notice letter, Transource PA routinely reached out to landowners seeking permission for Transource PA’s representatives to enter onto their properties. See, Basham Affidavit, ¶ 9.

40. Mr. Basham received regular reports on the status of negotiations with landowners while Transource PA’s representatives sought permission to conduct Field Surveys. See, Basham Affidavit, ¶ 10.

41. The regular reports included every property owner in which Transource PA filed a Writ against commencing this Action. See, Basham Affidavit, ¶ 11.

42. In total, since October, 2017, Transource PA’s representatives have had numerous contacts with the Landowners, including the Defendant to this Action, who refused to provide survey access on the eastern line. See, Table of Landowners, attached to the Basham Affidavit as **Exhibit “C”**; see also, Basham Affidavit, ¶ 14.

43. Defendant is among those property owners who have refused to provide survey access.

COUNT I
Declaratory Judgment

44. Plaintiff incorporates the foregoing paragraphs as if fully set forth herein.

45. Under the Declaratory Judgments Act, this Court has the authority, *inter alia*, “to declare rights, status, and other legal relations whether or not further relief is or could be claimed

.... The declaration may be either affirmative or negative in form and effect, and such declaration shall have the force and effect of a final judgment or decree.” 42 Pa.C.S. § 7532.

46. Transource PA received Pennsylvania public utility status on January 23, 2018, and is a public utility regulated by the PUC. See, Exhibit “C”, attached to Transource PA’s Omnibus Motion.

47. Section 202 of the Pennsylvania Eminent Domain Code includes within the definition of condemnors both public utilities pursuant to Section 102 of the Pennsylvania Public Utility Code (66 Pa.C.S. §102) and private entities. 26 Pa.C.S. § 202.

48. The authority granted to private entities is provided by Section 1511 of the Pennsylvania Business Corporation law (“BCL”), 15 Pa.C.S. § 1101 et seq., which grants eminent domain power to public utility corporations.

49. Section 1103 of the BCL provides:

‘Public utility corporation.’ Any domestic or foreign corporation for profit that: (1) is subject to regulation as a public utility by the Pennsylvania Public Utility Commission or an officer or agency of the United States; or (2) was subject to such regulation on December 31, 1980, or would have been so subject if it had been then existing.

15 Pa.C.S. § 1103.

50. Further, Section 1511 of the BCL grants eminent domain power to public utility corporations, specifically providing:

(a) General rule. – A public utility corporation shall, in addition to any other power of eminent domain conferred by any other statute, have the right to take, occupy and condemn property for one or more of the following principal purposes and ancillary purposes reasonably necessary or appropriate for the

accomplishment of the principal purposes... (2) **The transportation of** artificial or natural gas, **electricity**, petroleum or petroleum products or water or any combination of such substances for the public...

15 Pa.C.S. § 1511(a) (emphasis added).

51. As a public utility, Transource PA also has the power to condemn property under Pennsylvania's Eminent Domain Code.¹ *Id.*

52. As Transource PA is a public utility, Transource PA is afforded the right to conduct pre-condemnation surveys and tests on properties that might be impacted by the route of the IEC-West Project.

53. Pennsylvania law recognizes the necessity for surveys and tests and permits potential condemners to make pre-condemnation surveys and tests.

54. Specifically, Section 309 of Pennsylvania Eminent Domain Code (26 Pa.C.S. § 309), provides that "prior to the filing of the declaration of taking, the condemnor or its employees or agents, shall have the right to enter upon any land or improvement in order to make studies, surveys, tests, soundings and appraisals."² 26 Pa.C.S. § 309(a).

¹ The term "Public utility corporation" is not limited strictly to corporations, but also includes partnerships and limited liability companies. *See*, 15 Pa.C.S. § 8102(a)(2) ("A domestic or foreign partnership or limited liability company may exercise any right, power, franchise or privilege that a domestic or foreign corporation engaged in the same line of business might exercise under the laws of this Commonwealth, including powers conferred by section 1511 (relating to additional powers of certain public utility corporations" or other provisions of law granting the right to a duly authorized corporation to take or occupy property and make compensation therefor.").

² Pre-condemnation survey access does not require proof of the ultimate power to condemn. *White v. Pennsylvania Department of Transportation*, 738 A.2d 27, 31 (Pa. Cmwlth. 1999) (holding that PennDOT could access the petitioners property pursuant to 26 Pa.C.S. § 409 [the identical predecessor to section 309] even though it was unclear as to whether PennDOT would ultimately have the power to condemn the property.).

55. The potential route of the transmission lines extends through the Defendant's Property.

56. As discussed in detail above, Transource PA needs to conduct the Field Surveys in order to determine the exact path of the transmission lines.

57. Without the information from the Field Surveys, the IEC Project's design cannot be finalized and the project will be delayed; therefore, the IEC Project requirements will not be met. See, Stein Affidavit, ¶¶ 15-20, 25-26, 28.

58. In order to conduct the Field Surveys, Transource PA must physically access the Property.

59. Section 309 of the Eminent Domain Code requires that "the owner of the land or the party in whose name the property is assessed shall be notified ten days prior to entry on the property," and that "any actual damages sustained by the owner of a property interest in the property entered upon by the condemnor shall be paid by the condemnor." See, 26 Pa.C.S. 309.

60. Notably, Section 309 specifically states that the right to enter the property under this section does **not** constitute a condemnation. 26 Pa.C.S. § 309(d) (emphasis added).

61. Further, Section 309 of the Eminent Domain Code requires that "the owner of the land or the party in whose name the property is assessed shall be notified ten days prior to entry on the property," and that "any actual damages sustained by the owner of a property interest in the property entered upon by the condemnor shall be paid by the condemnor." See, 26 Pa.C.S. 309.

62. As detailed above, on February 5, 2018, Transource PA sent the landowners a 10-day notice as required by Section 309. See, Basham Affidavit, ¶ 8; see also, Letters dated February 5, 2018, attached to the Basham Affidavit as **Exhibit “A”**, and incorporated herein by reference; see also, 26 Pa.C.S. § 309.³

63. Because Transource PA and its representatives are unable to obtain consent from Defendant to perform the necessary Field Surveys to determine the route of the transmission lines, Transource PA seeks a declaration that Defendant must provide Transource PA immediate access to its Property.

64. This Motion does not seek establishment of any easement or ownership right in the Properties.

65. Defendants are protected from any monetary loss that may occur as a result of Transource PA entering the Properties under Section 309, which requires Transource PA to pay actual damages sustained by Defendants. 26 Pa.C.S. § 309(b), (c).

66. Granting immediate access is in the public interest, because the IEC Project will provide the region’s customers with greatly enhanced access to electricity, support the overall reliability and diversification of energy infrastructure in the market, and meet the anticipated increase in market demands. See, Stein Affidavit, ¶ 25.

67. It is also in the public interest that Transource Energy be given possession of the Rights of Way for Field Surveys so that Transource Energy can verify the feasibility of the route,

³ As discussed in detail above, the Notice was in addition to the series of communications and attempts to obtain Defendant’s permission prior to filing this Action.

maintain its construction schedule, and comply with the requirements of all permits and environmental restrictions. See, Stein Affidavit, ¶ 26.

68. On the other hand, if Transource PA does not have immediate, unobstructed access for surveys and testing, then the entire IEC Project schedule will be delayed. See, Stein Affidavit, ¶ 28; see also, Stein Affidavit, ¶ 18 (discussing the bog turtle’s examination); see also United States Fish and Wildlife Service Regulations regarding the bog turtle, attached to the Stein Affidavit as **Exhibit “D”**, and incorporated herein; see also Pennsylvania Fish & Boat Commission Regulations, attached to the Stein Affidavit as **Exhibit “E”**, and incorporated herein; see also, February 2, 2018 Letter from the United States Department of the Interior, Fish and Wildlife Service regarding endangered species located on the eastern line, attached to the Stein Affidavit as **Exhibit “F”**, and incorporated herein.

69. If Transource PA misses the PJM-mandated in-service date, the public will suffer irreparable harm in the form of continued electric gridlock, and delay or ultimate failure of the project. See Stein Affidavit, ¶ 28.

70. Furthermore, Transource PA will suffer irreparable harm as Transource Energy has invested considerable time and money in attempting to obtain access rights to the route. See, Stein Affidavit, ¶ 29.

71. In fact, Transource PA has invested more than \$6.0 million to date in siting, design and engineering. See id.

72. The foregoing harms would also result if Transource PA's access is obstructed by Landowners, or other unauthorized and untrained third parties who are present on the Property in the vicinity of the work corridor at the invitation of Landowners. See, Stein Affidavit, ¶ 30.

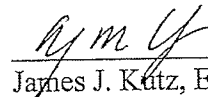
73. For all of these reasons, Transource PA seeks an order from this Court granting Transource PA permission for unobstructed entry onto Defendant's Property.

WHEREFORE, Transource PA respectfully requests that this Honorable Court declare Transource PA has the statutorily mandated immediate right of entry to survey and test, and permit Transource PA's employees, agents, and representatives to enter onto Defendant's Property without obstructions or delays to perform the required studies, surveys, tests, soundings, and appraisals as authorized by Section 309 of the Pennsylvania Eminent Domain Code.

Respectfully submitted,

POST & SCHELL, P.C.

BY:



James J. Kutz, Esquire
Supreme Court I.D. # 21589
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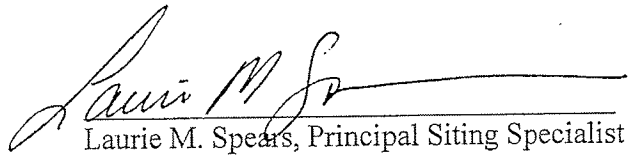
Attorneys for Transource Pennsylvania, LLC

Date: March 19, 2018

VERIFICATION

Upon my personal knowledge, information and belief, I, Laurie M. Spears, Principal Siting Specialist for Transource Pennsylvania, LLC, do hereby verify that the facts averred and statements made in the foregoing document are true and correct. I understand that false statements or averments therein made will subject me to the criminal penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.

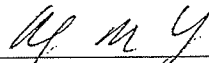
Date: 3/14/18


Laurie M. Spears, Principal Siting Specialist
Transource Pennsylvania, LLC

CONFIDENTIAL INFORMATION CERTIFICATION

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Respectfully submitted,



James J. Kutz, Esquire

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Phone: (717) 731-1970

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Attorneys for Transource Pennsylvania, LLC

Dated: March 19, 2018

CERTIFICATE OF SERVICE

I, Ryan M. Logan, Esquire, an attorney at the law firm of Post & Schell, P.C., do hereby certify that on the date set forth below, I did cause to be served a true and correct copy of the foregoing document upon the following individual(s) via U.S. Mail, First Class, postage prepaid, as follows:

DC Farms LLC t/d/b/a Dream Farms
13689 Dream Highway
Newburg, PA 17240

BY: *R M L*
RYAN M. LOGAN, ESQUIRE

Date: March 19, 2018

EXHIBIT C

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

APPLICATION OF TRANSOURCE PENNSYLVANIA, LLC

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Transource Pennsylvania, LLC (“Transource PA” or the “Company”) hereby files, pursuant to 52 Pa. Code § 57.72, this Siting Application requesting Pennsylvania Public Utility Commission (“Commission”) approval of the siting and construction of the Pennsylvania portion of the Rice-Ringgold 230 kV Transmission Line in portions of Franklin County, Pennsylvania. As explained below, the proposed Rice-Ringgold 230 kV Transmission Line is part of the Independence Energy Connection Project (“IEC Project”) approved by PJM Interconnection, L.L.C. (“PJM”) to alleviate transmission congestion constraints and provide reliability benefits in Pennsylvania, Maryland, West Virginia, and Virginia.

The IEC Project approved by PJM involves, among other things, the construction of two new overhead double-circuit 230 kV interstate transmission lines: (1) the Rice-Ringgold 230 kV Transmission Line or the Independence Energy Connection-West Project (“IEC-West Project”); and (2) the Furnace Run-Conastone 230 kV Transmission Line or the Independence Energy Connection-East Project (“IEC-East Project”). As explained below, Transource PA is obligated

to construct the Pennsylvania portion of the 230 kV transmission lines associated with the IEC Project.

Through this Siting Application, Transource PA seeks Commission approval of the siting and construction of the Pennsylvania portion of the 230 kV line associated with the IEC-West Project.¹ As explained below, Transource PA undertook a detailed analysis of feasible alternatives for the IEC-West Project. The Pennsylvania portion of the Proposed Route selected for the IEC-West Project will be sited to extend approximately 24.4 miles between the Maryland border and the new Rice Substation to be located in Franklin County, Pennsylvania.

Subject to the Commission's approval, construction of the IEC-West Project is scheduled to begin as soon as practicable following Commission approval to meet an in-service date of June 1, 2020. In support of this Application, Transource PA states as follows:

I. INTRODUCTION AND OVERVIEW

1. This Application is filed by Transource PA. Transource PA's address is as follows:

Transource Pennsylvania, LLC
1 Riverside Plaza,
Columbus, Ohio 43215-2372
Attention: Antonio Smyth

2. Transource PA's attorneys are:

¹ The Pennsylvania portion of the 230 kV transmission line associated with the IEC-East Project is the subject of a separate Siting Application. As explained in Section IX below, Transource PA is requesting that this Siting Application and the separate Siting Application for the IEC-East Project be consolidated for purposes of hearings, if necessary, and decision.

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Anthony D Kanagy (PA ID # 85522)
Christopher T. Wright (PA ID # 203412)
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Transource PA's attorneys are authorized to receive all notices and communications regarding this Application.

3. Transource PA is a limited liability company organized and existing under the laws of Delaware. Transource PA is a wholly-owned direct subsidiary of Transource Energy, LLC ("Transource Energy").

4. Transource PA was formed to construct, own, operate, and maintain electric transmission facilities and equipment within the Commonwealth of Pennsylvania.

5. On February 7, 2017, Transource PA filed an Application with the Commission requesting all necessary authority, approvals and certificates of public convenience authorizing Transource PA to begin to furnish and supply electric transmission service as a Pennsylvania public utility within two corridors to be located in Franklin and York Counties, Pennsylvania. *See Application of Transource Pennsylvania, LLC for All of the Necessary Authority, Approvals, and Certificates of Public Convenience (1) to Begin to Furnish and Supply Electric Transmission Service in Franklin and York Counties, Pennsylvania; (2) for Certain Affiliated Interest Agreements; and (3) for any Other Approvals Necessary to Complete the Contemplated Transactions*, Docket No. A-2017-2587821 ("Utility Application"). On July 10, 2017, the parties to the Utility Application proceeding filed a settlement agreeing that the Commission

should grant Transource PA's Utility Application. By Initial Decision issued September 14, 2017, the Administrative Law Judge approved the Utility Application as modified by the settlement. As of the time this Siting Application was prepared, Transource PA's Utility Application was pending before the Commission for final approval.

6. The IEC-West Project involves the siting and construction of the new Rice-Ringgold 230 kV Transmission Line that will extend approximately 28.8 miles to connect the existing Ringgold Substation located near Smithsburg, Washington County, Maryland and the new Rice Substation to be located in Franklin County, Pennsylvania. Approximately 24.4 miles of the IEC West Project will be located in Pennsylvania and approximately 4.4 miles will be located in Maryland. Transource PA herein seeks Commission approval of the siting and construction of the Pennsylvania portion of the IEC-West Project in Franklin County, Pennsylvania.²

7. Accompanying this Siting Application are the following Attachments that provide additional detailed information regarding the proposed Project:

- Attachment 1 Commission Regulation Cross-Reference Matrix
- Attachment 2 Necessity Statement
- Attachment 3 Siting Study
- Attachment 4 Engineering Description
- Attachment 5 List of Owners of Property within the Right-of-Way
- Attachment 6 Agency Requirements
- Attachment 7 List of Governmental Agencies, Municipalities, and Other Public Entities Receiving the Application

² As explained below, the Maryland portion of the IEC-West Project will be constructed and owned by Transource PA's Maryland affiliate.

- Attachment 8 List of Governmental Agencies, Municipalities, and Other Public Entities Contacted
- Attachment 9 List of Public Locations where the Siting Application can be Viewed by the Public
- Attachment 10 Electric and Magnetic Fields Policy and Practices of Transource Pennsylvania and Transource Maryland
- Attachment 11 Vegetation Management
- Attachment 12 Agency Coordination
- Attachment 13 Public Notice Requirements

8. Also accompanying this Siting Application are the following written direct testimonies further explaining and supporting this Application for approval to site and construct the Pennsylvania portion of the 230 kV lines associated with the IEC-West Project:

Transource PA St. No. 1: Peggy I. Simmons, Managing Director Transmission Asset Strategy for AEPSC – Provides an overview of the IEC Project; provides a description of Transource PA and other related entities; describes the process employed by Transource PA in developing, preparing and filing this Siting Application; explains the decision making process within Transource PA for selecting the transmission line route; explains how Transource PA will oversee the construction, operations and maintenance of the IEC Project; and provides a status on the right-of-way acquisitions.

Transource PA St. No. 2: Kamran Ali, Director of Transmission Planning for AEPSC – Explains the need for the IEC Project; describes the IEC Project selected by PJM Interconnection, L.L.C. (“PJM”); and describes the obligation of Transource PA to Complete the Project.

Transource PA St. No. 3: Paul F. McGlynn, Manager in the PJM Transmission Planning Department – Explains the PJM Process; explains the need for the IEC Project; and describes how the IEC Project was selected by PJM

Transource PA St. No. 4: Barry A. Baker, Department Manager for Environmental Services, AECOM – Explains the environmental assessment, siting analysis, public outreach efforts, evaluation of the Alternative Routes, and selection of the Proposed

Route for the new double-circuit 230 kV transmission line associated with the IEC-West Project.

Transource PA St. No. 5: Kent Herzog, Project Manager for Burns & McDonnell – Explains the design features of the IEC-West Project; describes the safety features that will be incorporated into the design of the new 230 kV transmission line.

Transource PA St. No. 6: Thomas Schaffer, Transmission Right of Way Manager for AEPSC – Explains the process used by Transource PA to attempt to acquire the rights-of-way and easements necessary for the IEC-West Project; and provides a summary of the status of negotiations with landowners.

9. This Siting Application, including the accompanying Attachments and Statements, which are incorporated herein by reference, contains all of the information required by 52 Pa. Code §§ 57.72(c), 69.1101, 69.3102 – 69.3107.

II. NEED FOR THE PROJECT

10. PJM is a FERC-approved Regional Transmission Organization charged with ensuring the reliable and efficient operation of the electric transmission system under its functional control, and coordinating the transmission of electricity in all or parts of thirteen states, including Pennsylvania, and the District of Columbia.

11. In order to ensure reliable transmission service, PJM prepares an annual Regional Transmission Expansion Plan (“RTEP”).³ The RTEP is an annual planning process that

³ PJM’s RTEP process is currently set forth in Schedule 6 of PJM’s Amended and Restated Operating Agreement (“Schedule 6”). Schedule 6 governs the process by which PJM’s members rely on PJM to prepare an annual regional plan for the enhancement and expansion of the transmission facilities to ensure long-term, reliable electric service consistent with established reliability criteria. In addition, Schedule 6 addresses the procedures used to develop the RTEP, the review and approval process for the RTEP, the obligation of transmission owners to build transmission upgrades included in the RTEP, and the process by which interregional transmission upgrades will be developed.

encompasses a comprehensive series of detailed analyses to ensure electric power continues to flow reliably to customers under stringent reliability planning criteria.⁴

12. In addition to the reliability analysis, PJM's RTEP includes a Market Efficiency Analysis to identify congestion on electric transmission facilities that has economic or wholesale market effects, as well as potential improvements to electric transmission economic efficiencies. The electric transmission needs identified in this analysis stem from the fact that the PJM transmission grid provides the means for generators to participate in a competitive wholesale market to supply electricity, both capacity and energy, to customers in PJM's geographic footprint no matter where in this area the electrical load is located.

13. The electric transmission infrastructure needs identified by the PJM Market Efficiency Analysis are addressed by market efficiency transmission projects, which are aimed specifically at improving electric transmission economic efficiencies and alleviating electric transmission constraints that have an economic impact on PJM's wholesale energy or capacity markets.

14. When PJM's Market Efficiency Analysis identifies a need to relieve congestion on electric transmission facilities, PJM opens a Long Term Proposal Window to solicit the submittal of potential solutions (*i.e.*, market efficiency projects) to address those needs. PJM's solicitation of market efficiency project submittals through its Long Term Proposal Window is a competitive process consistent with FERC Order No. 1000.⁵ Potential solutions are evaluated using two criteria: first, the project must address the congestion identified in the Market Efficiency Analysis; and, second, the project benefits must exceed the costs by at least 25

⁴ PJM Manual 14B outlines the RTEP process and reliability criteria used for this process. PJM Manual 14B is available at: <http://www.pjm.com/~media/documents/manuals/m14b.ashx>.

⁵ A summary of FERC Order No. 1000 is available at: <http://www.ferc.gov/industries/electric/indus-act/trans-plan.asp>.

percent.⁶ In addition, the project must meet PJM's congestion criteria and not create additional unacceptable congestion elsewhere on the system.

15. Market efficiency projects that are selected through PJM's Long Term Proposal Window are presented to stakeholders and recommended to the PJM Board of Managers ("PJM Board") for approval. If approved, such market efficiency projects are included in the RTEP as Baseline Projects.

16. Importantly, pursuant to Schedule 6 of PJM's Amended and Restated Operating Agreement, after the PJM Board approves a proposed market efficiency project, the successful project proponent is obligated to complete the project once PJM and the successful entity execute a Designated Entity Agreement, which specifically designates the entity or entities having construction responsibility for the project.

17. In October 2014, PJM opened a Long Term Proposal Window ("2014/15 RTEP Long Term Proposal Window") to solicit proposals to address, among other things, transmission congestion constraints in Pennsylvania, Maryland, Virginia, and West Virginia.⁷ In response, Transource Energy, the parent of Transource PA, submitted "Project 9A." The IEC Project is a major component of Project 9A.

18. After extensive evaluation and review with stakeholders, PJM selected Project 9A to address the needs identified in PJM's 2014/15 RTEP Long Term Proposal Window because it provided the highest benefit-to-cost ratio, the most total congestion savings, and the most

⁶ Project benefits are measured by comparing the benefits in the form of net load payments and/or production costs with and without the proposed project for a 15-year study period. The economic benefit/cost ratio threshold test is set forth in PJM Manual 14B, Attachment E, available at: <http://www.pjm.com/~media/documents/manuals/m14b.ashx>.

⁷ See PJM, LLC, "PJM RTEP - 2014/15 RTEP Long Term Proposal Window Problem Statement & Requirements Document," Version 2 (Oct. 30, 2014), available at <https://www.pjm.com/~media/planning/rtep-dev/expand-plan-process/ferc-order-1000/rtep-proposal-windows/2014-15-rtep-long-term-proposal-window-problem-statement-and-requirements-document.ashx>.

production cost savings.⁸ On August 2, 2016, the PJM Board approved Project 9A as Baseline Upgrade Numbers b2743 and b2752, which includes the IEC Project.⁹

19. Although the primary benefits from the IEC Project relate to market efficiency and the reduction of congestion costs, the new transmission facilities associated with the IEC Project will also enhance the electrical strength and reliability of the transmission system by virtue of the new transmission facilities in the area that will be part of the interconnected transmission grid. The IEC Project will provide additional and alternative paths for electricity in the event of outages on other Pennsylvania transmission facilities. The IEC Project will also allow the interconnection of future reliability, generation, and load projects in the area.

20. Pertinent to this Application, the IEC Project as approved by PJM involves: (i) construction of two new substations in Pennsylvania, namely the Rice Substation and Furnace Run Substation, and (ii) construction of the Pennsylvania portion of two new overhead double-circuit 230 kV interstate transmission lines, namely the Rice-Ringgold 230 kV Transmission Line (the IEC-West Project) and the Furnace Run-Conastone 230 kV Transmission Line (the IEC-East Project), and associated structures, equipment, and other facilities necessary to operate the transmission lines.

21. On November 2, 2016, PJM and Transource Energy executed a Designated Entity Agreement. FERC approved the Designated Entity Agreement on January 12, 2017, at Docket No. ER17-349-000.¹⁰ Pursuant to Schedule E of the FERC-approved Designated Entity

⁸ The recommendation of PJM staff to approve the IEC Project is available at: <http://www.pjm.com/~media/committees-groups/committees/teac/20160811/20160811-board-whitepaper-august-2016.ashx>.

⁹ PJM's 2014/2015 RTEP Baseline Upgrade Numbers b2743 and b2752 also includes upgrades to the existing Conastone and Ringgold Substations in Maryland and reconductoring of the Conastone-Northwest double-circuit 230 kV line and the Ringgold-Catoctin 138 kV line in Maryland. The upgrades to these existing facilities will be the responsibility of the incumbent utilities.

¹⁰ FERC's order approving the Designated Entity Agreement is available at:

Agreement, Transource PA is responsible for the construction, ownership, maintenance, and operation of the Pennsylvania portion of the IEC Project. Under the same agreement, Transource PA's Maryland affiliate, Transource Maryland, LLC ("Transource MD"), is responsible for the construction, ownership, maintenance, and operation of the Maryland portion of the IEC Project.

22. Accordingly, pursuant to Schedule 6 of PJM's Amended and Restated Operating Agreement and as stated in the Designated Entity Agreement, Transource PA and Transource MD are required to complete the IEC Project by June 1, 2020.

23. Detailed descriptions of the process used by PJM to select and approve market efficiency projects, the need for the proposed IEC Project as identified by PJM, and the obligation of Transource PA to complete the Pennsylvania portion of the IEC Project are provided in Attachment 2 to the this Siting Application and in the direct testimonies of Mr. Ali and Mr. McGlynn, Transource PA Statement Nos. 2 and 3.

HI. DESCRIPTION OF THE PROPOSED PROJECT

24. The IEC Project approved by PJM involves: (i) construction of two new substations in Pennsylvania, the Rice Substation and the Furnace Run Substation; and (ii) construction of two new overhead double-circuit 230 kV interstate transmission lines, the Rice-Ringgold 230 kV Transmission Line and the Furnace Run-Conastone 230 kV Transmission Line.

25. Upon receipt of all necessary approvals, the new Rice-Ringgold 230 kV Transmission Line will be sited to extend approximately 28.8 miles, connecting the existing Ringgold Substation located near Smithsburg, Washington County, Maryland, and the new Rice

https://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20170112-3047

Substation to be located in Franklin County, Pennsylvania. This transmission line project is referred to as the IEC-West Project and is the subject of this Siting Application.¹¹

26. The Pennsylvania portion of the IEC-West Project will extend approximately 24.4 miles from the new Rice Substation to the Pennsylvania-Maryland border, and the Maryland portion of the IEC-West Project will extend approximately 4.4 miles from the Pennsylvania-Maryland border to the existing Ringgold Substation. Transource PA will construct, own, operate, and maintain the Pennsylvania portion of the Rice-Ringgold 230 kV Transmission Line, and Transource MD will construct, own, operate, and maintain the Maryland portion of the line.

27. A map of the proposed IEC-West Project is provided in Attachment 2 to this Siting Application.

28. The Pennsylvania portion of the new IEC-West Project will require the installation of approximately 162 structures with an average height of 135 feet. Approximately 2 to 4 taller structures (up to approximately 250 feet) may be used in certain locations to maintain appropriate clearances for certain structures and existing utility facilities. The spans between the structures will be approximately 800 feet.

29. The Pennsylvania portion of the new IEC-West Project will largely consist of tubular steel monopole and multi-pole structures. In certain areas, steel lattice structure may be used to better accommodate topographical, construction, or land use constraints. Depictions of typical structures to be used for the IEC-West Project are provided in Attachment 4 to this Siting Application.

¹¹ The new Furnace Run-Conastone 230 kV Transmission Line will be sited to extend approximately 16 miles, connecting the existing Conastone Substation located near Norrisville, Harford County, Maryland, and the new Furnace Run Substation to be located in York County, Pennsylvania. Transource PA will construct, own, operate, and maintain the Pennsylvania portion of the Furnace Run-Conastone 230 kV Transmission Line, and Transource MD will construct, own, operate, and maintain the Maryland portion of the line. This transmission line project is referred to as the IEC-East Project and is the subject of a separate Siting Application.

30. The Rice-Ringgold 230 kV Transmission Line associated with the IEC-West Project will be a 230 kV double-circuit transmission line. The 230 kV double-circuit design will utilize twelve power conductors, with two conductors used for each of the six phase positions, and two overhead ground wires. An engineering description of the conductors and overhead ground wires is provided in Attachment 4 to the Siting Application.

IV. SITING ANALYSIS

A. SUMMARY OF THE SITING ANALYSIS

31. In accordance with the Commission's regulations at 52 Pa. Code § 57.72(c), Transource PA conducted an extensive, multi-faceted Siting Study to determine the overall best and most suitable route for a new 230 kV transmission line to connect the existing Ringgold Substation located near Smithsburg, Washington County, Maryland to the new Rice Substation to be located in Franklin County, Pennsylvania. The Siting Study for the IEC-West Project is provided in Attachment 3 to this Siting Application.

32. The Siting Study was used to develop feasible Alternative Routes, evaluate potential impacts associated with the Alternative Routes, and identify a Proposed Route to be constructed to meet the need for the IEC-West Project. The Siting Study provided Transource PA with a means to assess the human/built, environmental, engineering, and constructability variables associated with the different Alternative Routes so that a Proposed Route could be determined for the IEC-West Project.

33. Many sources of information were used to develop data for the Siting Study. These sources of information are summarized in Attachment 3 to this Siting Application.

34. The Siting Team also used a series of general siting guidelines and factors to direct the development, evaluation, and ultimate selection of routes. Using these routing guidelines and factors, the Siting Team identified opportunity and constraint features within the Study Area that would minimize potential impacts to the natural and human/built environments. Details of the opportunity and constraints used to develop the Alternative Routes are included in Attachment 3 to the Siting Application.

35. The route development process is inherently iterative with modifications made throughout the siting analysis as a result of the identification of new constraints, input from agencies, landowners, and other stakeholders, periodic re-assessment of routes with respect to the siting guidelines and factors, and adjustments to the overall route network to develop feasible Alternative Routes.

36. Once the Alternative Routes were identified, the Siting Team undertook a quantitative and qualitative analysis of potential impacts of each Alternative Route to the human/build environment, the natural environment, and engineering considerations. The Alternative Routes were reviewed in detail and compared using a combination of information collected in the field, Geographic Information System (“GIS”) data sources, public and agency input, engineering and constructability considerations, and the collective knowledge and experience of the Siting Team.

37. Using the quantitative and qualitative analysis described above, the Siting Team selected a Proposed Route that, on balance, best minimized the overall impacts of the project. The rationale for selecting the Proposed Route was derived from the accumulation of the siting decisions made throughout the process, the knowledge and experience of the Siting Team,

comments from the public and regulatory agencies, and the comparative analysis of potential impacts of each Alternative Route.

38. A detailed description of the process used to select the Proposed Route for the IEC-West Project is provided in Attachment 3 to the Siting Application.

B. SELECTION OF THE PROPOSED ROUTE

39. Using the siting process described above, the Siting Team identified three (3) Alternative Routes for the IEC-West Project: Alternative Route A, Alternative Route B, and Alternative Route C.

40. Alternative Route A extends approximately 30.4 miles (approximately 23.8 miles in Pennsylvania and approximately 6.6 miles in Maryland). Alternative Route B extends approximately 31.9 miles (approximately 25.3 miles in Pennsylvania and approximately 6.6 miles in Maryland). Alternative Route C extends approximately 28.8 miles (approximately 24.4 miles in Pennsylvania and approximately 4.4 miles in Maryland). A detailed description of these three Alternative Routes is provided Attachment 3 to this Siting Application.

41. The Siting Team undertook a qualitative and quantitative review and comparison of each Alternative Route. A detailed explanation of the qualitative and quantitative analysis and comparison of the Alternative Routes is provided in Attachment 3 to this Application.

42. As part of the review and comparison of the Alternative Routes, Transource PA conducted a public outreach program, which included two rounds of public open houses and a project website to inform the public about the IEC-West Project and obtain information from landowners about their properties. Feedback provided by the public was taken into consideration as the Siting Team analyzed the Alternative Routes. A summary of Transource PA's public outreach efforts is provided in Attachment 3 to this Siting Application.

43. The Alternative Routes were compared and a Proposed Route was selected based upon a detailed analysis and balance of impacts on the human/built environment, environmental impacts, and engineering and constructability considerations. Based on these evaluation processes, the Siting Team selected Alternative Route C as the Proposed Route for the proposed IEC-West Project.

44. The Proposed Route extends approximately 28.8 miles (approximately 24.4 miles in Pennsylvania and approximately 4.4 miles in Maryland). A general description of the Proposed Route is provided below:

- The Proposed Route exits the Rice Substation from the southwest corner and heads south, paralleling the east side of I-81 and spanning along the edge of agricultural fields for approximately 2.2 miles; along this stretch the Proposed Route crosses Mountain Run, designated a Coldwater Fishery (“CWF”).
- The Proposed Route turns sharply east to cross SR 696 perpendicularly and travels approximately 0.6 mile to the east-southeast through an agricultural field before turning sharply to the southwest.
- Travelling southwest for 0.7 mile, the Proposed Route crosses Phillaman Run (CWF) and then crosses Black Gap Road (SR 997) in a perpendicular fashion. The Proposed Route traverses for 0.6 mile around the perimeter of the Chambersburg Mall, generally following the outer edge of the parking lot on the northern and eastern sides of the mall, and then heading west to parallel with I-81 again.
- After reaching the eastern side of I-81, the Proposed Route turns sharply south, and parallels the interstate for approximately 1.4 miles and at this location I-81 and the route generally travel in a western direction. Along this section, the Proposed Route traverses the edge of agricultural fields and crosses an unnamed stream (CWF) and the Conococheague Creek (CWF).
- The Proposed Route turns sharply to the southwest and travels 0.4 until it reaches the existing FirstEnergy Corp. (“FE”) Letterkenny-Grand Point 138 kV transmission line. The route stays to the east of this system and parallels it south for approximately 1.6 miles toward U.S. Route 30, spanning along agricultural fields, around the Grand Point Substation, and over Walker Road. The Lost Acres Airport is located approximately 0.6 mile west of the route.
- Prior to crossing commercial lined U.S. Route 30, the Proposed Route first crosses over to the west side of the transmission line, which is now the FE Grand Point-Allegheny Energy 138 kV line, and then spans the highway. The route turns sharply

west and then south for 0.5 miles spanning across a parking lot and bypassing around a commercial building. After going around the building, the route again parallels the FE Grand Point-Allegheny Energy 138 kV line for 0.5 mile.

- The Proposed Route deviates from the transmission line corridor for 1.1 mile to bypass around homes along the line. Along this section, the route extends to the southwest and spans Falling Spring Branch (a High Quality-Cold Water Fishery), crosses Falling Spring Road, and traverses through a forested area where homes are present to the east. Within the forest, the route turns south, travels across an agricultural field and spans the FE Grand Point-Allegheny Energy 138 kV line near Henry Lane.
- After crossing this road, the Proposed Route extends to the southeast for approximately 4.6 miles over agricultural fields to Yohe Road, where it intersects with the FE Fayetteville-West Waynesboro 138 kV transmission line. This section involves crossing of two unnamed WWF streams, one CWF stream, several local roadways, and the FE Fayetteville-Allegheny 69 kV line.
- As the Proposed Route crosses Yohe Road, it also spans to the east side of the FE Fayetteville-West Waynesboro 138 kV transmission line and then turns sharply to the south to parallel this existing line for approximately 1.7 mile; an unnamed CWF stream is crossed in this section, as is Stamey Hill Road.
- A 0.6 mile deviation from the colocation is required in the vicinity of the Manheim Road crossing due residential development that has built up adjacent to the transmission line and the route then parallels the existing line for 0.5 miles on the eastern side.
- At Hess Benedict Road, the Proposed Route crosses over to the west side of the FE Fayetteville-West Waynesboro 138 kV transmission line to avoid agricultural and residential structures. The route parallels the line for another 3.7 miles, traversing agricultural fields, crossing Orphanage Road, Wayne Highway (SR 316), and Buchanan Trail East (SR 16), as well as an unnamed CWF stream.
- After crossing SR 16 and spanning the FE Antrim-West Waynesboro 69 kV lines, the Proposed Route turns sharply to the west and parallels this line for approximately 0.4 mile. This stretch includes a crossing of Cold Springs Road and an unnamed CWF stream.
- Turning to the south and then east, the Proposed Route extends for 1.2 miles to Marsh Road. The route traverses an agricultural field to avoid agricultural and residential structures, and crosses an unnamed CWF stream, the FE Reid-West Waynesboro 69 kV line, and the FE Ringgold-West Waynesboro 138 kV line.
- After crossing Marsh Road and an unnamed CWF stream, the Proposed Route turns sharply south to parallel the east side of the FE Ringgold-West Waynesboro 138 kV line for 2.1 miles. The Proposed Route crosses agricultural fields, Hagerstown Road

(SR 316), the FE West Waynesboro-East Waynesboro 138 kV line, and the West Branch Antietam Creek (CWF) along this stretch. The route extends away from the transmission line corridor to avoid residential structures near the southern end of this section prior to crossing Lyons Road.

- Spanning to the west side of the FE Ringgold-West Waynesboro 138 kV line, the Proposed Route turns south and crosses the Pennsylvania/Maryland state line. The route generally parallels the transmission line for approximately 2.6 miles until it intersects with Gardenhour Road. Some deviations are required along this stretch to avoid agricultural operations and structures. The route in this section crosses Rocky Forge Road, Ringgold Pike (SR 418), Poplar Grove Road, and Newcomer Road, as well as numerous crossings of various tributaries to Little Antietam Creek.
- The Proposed Route crosses Gardenhour Road paralleling the existing transmission line for 0.4 miles and traverses through an orchard.
- The Proposed Route extends out for 0.6 mile to the southwest from the transmission line to bypasses around residential structures along Rowe Road and traverses agricultural lands before spanning over to the south side of the FE Reid-Ringgold 138 kV transmission line.
- The Proposed Route turns east for 0.8 mile and extends into the southeastern corner of the Ringgold Substation, spanning the FE Ringgold-East Hagerstown 138 kV transmission line and Smithsburg Pike (MD 64) along the alignment.

45. The Siting Team determined that the cumulative environmental, human/built, engineering, and constructability impacts associated with the Proposed Route, Alternative Route C, will be significantly less than the other Alternative Routes. A detailed explanation of the selection of the Proposed Route is provided in Attachment 3 to this Application.

V. RIGHTS-OF-WAY

46. Transource PA's standard right-of-way width for a double circuit 230 kV transmission line is 130 feet, 65 feet either side of the proposed centerline of the transmission line. The right-of-way is determined by the structure type, design tensions, span length, and conductor "blowout" (the distance the wires are moved by a crosswind).

47. The right-of-way for the IEC-West Project will be approximately 130 feet but may vary in certain areas in order to accommodate environmental, engineering, and constructability issues, as well as ensure compliance with the National Electrical Safety Code (“NESC”) clearances.

48. There are a total of 119 different owners (99 in Pennsylvania) of 147 deeded properties (123 in Pennsylvania) along the route selected for the proposed IEC-West Project. Detailed maps showing the properties traversed by the right-of-way for the proposed IEC-West Project are provided at the end of Attachment 3 to this Siting Application.

49. Prior to attempting to contact landowners, Transource PA provided packets of information to fully notify landowners that Transource PA plans to negotiate to acquire additional rights-of-way and easements. This packet of information provided the notices and information required by the Commission’s regulations at 52 Pa. Code § 57.91 and 69.3102.

50. A description of the process Transource PA utilizes to attempt to acquire rights-of-way and easements for the transmission lines associated with the IEC-West Project is provided in Transource PA Statement No. 6.

51. PJM approved the IEC Project on August 2, 2016, with an in-service date of June 1, 2020. Following PJM’s approval, Transource PA began the lengthy and detailed process to develop and identify feasible Alternative Routes and ultimately select a Proposed Route for the IEC-West Project. The Proposed Route was selected in late October 2017. Because the Proposed Route was only recently identified, Transource PA has not yet been able to complete negotiations and acquire the rights-of-way needed for the IEC-West Project.

52. Additionally, at the time it prepared this filing, Transource PA’s status as a Pennsylvania public utility was pending before the Commission. As a result, Transource PA did

not have the access and survey rights granted to Pennsylvania utilities under Section 309 of the Pennsylvania Eminent Domain Code, 26 Pa.C.S. § 309, when it prepared this Siting Application. The lack of utility status has delayed Transource PA's ability to access land, complete negotiations, and acquire the rights-of-way needed for the IEC-West Project.

53. Given the construction schedule and in-service date for the IEC-West Project, it is necessary for Transource PA to file this Siting Application as it continues right-of-way negotiations with landowners.

54. Transource PA will continue to negotiate with all affected landowners in an effort to reach a reasonable and mutually acceptable right-of-way agreement and, thereby, avoid the need to condemn rights-of-way across the properties traversed by the IEC-West Project.

55. In the event that Transource PA is unable to acquire the rights-of-way needed for the IEC-West Project, Transource PA will promptly file separate applications seeking Commission approval to exercise of the power of eminent domain to acquire rights-of-way and easements for the proposed IEC-West Project. If any such condemnation applications become necessary, Transource PA will request that they be consolidated and considered together with this Siting Application for the IEC-West Project.

VI. HEALTH AND SAFETY

56. The proposed IEC-West Project will not create any unreasonable risk of danger to the public health or safety.

57. The new 230 kV transmission line associated with the IEC-West Project will be designed, constructed, operated, and maintained in a manner that meets or surpasses all applicable NESC minimum standards and all applicable legal requirements.

58. In addition to meeting the NESC standards, the IEC-West Project will also be designed to meet the recommendations outlined in the American Society of Civil Engineers (ASCE) Manual 74 (“Guidelines for Electrical Transmission Line Structural Loading”).

59. A description of Transource PA’s safety and design practices that will be incorporated into the IEC-West Project is provided in Attachment 4 to this Siting Application.

60. Attachment 10 accompanying this Application explains Transource PA’s standards for Electric and Magnetic Fields Policy and Practices, which will be applied to the IEC-West Project.

61. Transource PA is responsible for the safe operation and maintenance of its facilities and, therefore, is directly responsible for the management and maintenance of tall growing vegetation that could potentially effect the safe and reliable operation of its transmission lines. Attachment 11 accompanying this Siting Application explains Transource PA’s vegetation management practices that will be applied to the IEC-West Project.

62. Although the Proposed Route will traverse certain facilities, the IEC-West Project will not interfere with the operation of any communication towers, pipelines, or other utilities. Transource PA will work with the incumbent utilities to ensure proper clearances in order to safely operate and maintain the facilities.

63. Several major roadways will be spanned by the proposed IEC-West Project. If necessary, Pennsylvania Department of Transportation (“PennDOT”) Highway Occupancy Permits or equivalent type permits will be acquired by Transource PA for these major highways and all other state roads prior to construction.

64. The Lost Acres Airport is located approximately 0.6 miles west of the Proposed Route for the IEC-West Project. Transource PA does not anticipate any interference with airport

operations. However, if necessary, Transource PA will file all required documentation with the Federal Aviation Administration and the Pennsylvania Department of Transportation, Bureau of Aviation.

VII. COST AND IN-SERVICE DATE

65. The current estimated cost for the total IEC Project is approximately \$230 million. The estimated cost for the IEC-West Project is approximately \$132 million, which includes approximately \$47 million for substation work and approximately \$85 million for the new Rice-Ringgold 230 kV Transmission Line.

66. Subject to the Commission's approval, construction of the IEC-West Project is scheduled to begin as soon as practicable following Commission approval to meet an in-service date of June 1, 2020.

VIII. NOTICE AND SERVICE

67. As part of the review and comparison of the Alternative Routes, Transource PA conducted a public outreach program, which included two rounds of public open houses and a project website to inform the public about the Project and obtain information from landowners about their properties. Feedback provided through these outreach efforts was taken into consideration as the Siting Team analyzed the Alternative Routes and selected the Proposed Route for the IEC-West Project.

68. Prior to and subsequent to the open houses, Transource PA received and responded to comments from residents and other interested parties. Transource PA will continue responding to comments and inquiries, and provide periodic updates to residents and other

interested parties. Transource PA will continue its commitment of open communications and, where practical, will be responsive to input regarding the IEC-West Project from local residents and other interested parties.

69. A detailed explanation of Transource PA's public outreach efforts is provided in Attachment 3 to this Siting Application.

70. Transource PA has provided public notices in accordance with Sections 57.91 and 69.3102 of the Commission's regulations, 52 Pa. Code §§ 57.91, 69.3102. The public notices for this project are provided in Attachment 13 to this Application.

71. Copies of this Siting Application and Notices of Filing are being served in accordance with the provisions of Section 57.74 of the Commission's regulations, 52 Pa. Code § 57.74.

72. As soon as practicable after the filing of this Application, Transource PA will publish notice of the filing in newspapers of general circulation in the area of the proposed IEC-West Project. This notice will: (a) note the filing with the Commission; (b) provide brief description of the IEC-West Project and its location; (c) provide area locations where the complete application may be reviewed by the public; and (d) provide any additional information as directed by the Commission.

73. Transource PA also requests that the Commission publish notice of this Siting Application in the Pennsylvania Bulletin.

IX. RELATED PROCEEDINGS

74. Contemporaneously with the filing of this Application, Transource PA is filing the "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” (the “IEC-East Application”) with the Commission. Therein, Transource PA is requesting approval to site and construct the Pennsylvania portion of the 230 kV transmission line associated with the IEC-East Project.

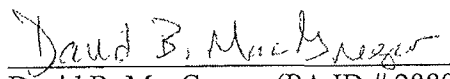
75. Issues related to the need for the IEC-East Project are interrelated with this Siting Application. Pursuant to 52 Pa. Code § 57.75(i)(1), Transource PA requests that these related proceedings be consolidated for purposes of hearings, if necessary, and decision.

76. As explained above, Transource PA has not yet been able to complete negotiations and acquire the rights-of-way needed for the IEC-West Project, and will continue to negotiate with all affected landowners in an effort to reach a reasonable and mutually acceptable right-of-way agreement. In the event that Transource PA is unable to acquire the rights-of-way needed for the IEC-West Project, Transource PA will promptly file separate applications seeking Commission approval to exercise of the power of eminent domain to acquire rights-of-way and easements for the proposed IEC-West Project. If any such condemnation applications become necessary, Transource PA will request that they be consolidated and considered together with this Siting Application for the IEC-West Project.

X. CONCLUSION

WHEREFORE, Transource Pennsylvania, LLC respectfully requests that the Pennsylvania Public Utility Commission: (1) consolidate this Siting Application with the IEC-East Application contemporaneously filed herewith; and (2) approve the siting and constructing of the Rice-Ringgold 230 kV Transmission Line associated with the IEC-West Project in portions of Franklin County, Pennsylvania as explained above and in the Attachments and Testimony submitted in support of this Siting Application.

Respectfully submitted,


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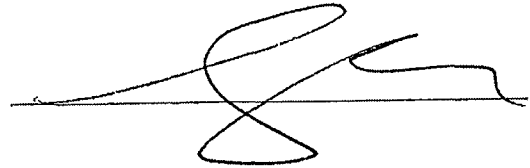
Date: December 27, 2017

Attorneys for Transource Pennsylvania, LLC

VERIFICATION

I, Antonio P. Smyth, being the President at Transource Pennsylvania, LLC, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect Transource Pennsylvania, LLC to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 12/26/17



AP Smyth