**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Transource Pennsylvania, LLC :

for approval of the Siting and Construction of the : A-2017-2640195

230 kV Transmission Line Associated with the :

Independence Energy Connection - East and West Projects :

in portions of York and Franklin Counties, Pennsylvania. : A-2017-2640200

:

Petition of Transource Pennsylvania, LLC :

for a finding that a building to shelter control equipment :

at the Rice Substation in Franklin County, Pennsylvania : P-2018-3001878

is reasonably necessary for the convenience or welfare of :

the public. :

:

Petition of Transource Pennsylvania, LLC :

for a finding that a building to shelter control equipment :

at the Furnace Run Substation in York County, : P-2018-3001883

Pennsylvania is reasonably necessary for the convenience :

or welfare of the public. :

:

Application of Transource Pennsylvania, LLC :

for approval to acquire a certain portion of the lands of :

various landowners in York and Franklin Counties, :

Pennsylvania for the siting and construction of the 230 Kv : A-2018-3001881,

Transmission Line associated with the Independence Energy : *et al.*

Connection – East and West Projects as necessary or proper :

for the service, accommodation, convenience or safety of :

the public. :

**ORDER, GRANTING IN PART AND DENYING IN PART,**

**MOTION OF TRANSOURCE PENNSYLVANIA, LLC**

**TO COMPEL ANSWERS TO DISCOVERY REQUESTS**

**Introduction**

Before us is the Motion to Compel Answers to Discovery Requests (Motion) filed by Transource Pennsylvania, LLC (Transource). Initially, we note that these consolidated cases have a lengthy procedural history which will likely grow as the cases progress towards their conclusion. Therefore, for purposes of Transource’s Motion and the Answer filed by Stop Transource Franklin County (STFC), we will not discuss the procedural history of these cases but will instead focus on the procedural history directly relevant to disposing of the Motion and Answer to the Motion.

**Legal Standard**

Under the Commission’s regulations, the scope of discovery is broad. Section 5.321 outlines the scope of discovery as follows:

(c) *Scope*. Subject to this subchapter, a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of another party, including the existence, description, nature, content, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of a discoverable matter. It is not ground for objection that the information sought will be inadmissible at hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

52 Pa. Code § 5.321(c). Although the scope of discovery is broad, there are certain significant limitations thereon, as follows:

**§ 5.361. Limitation of scope of discovery and deposition.**

  (a)  Discovery or deposition is not permitted which:

    (1)  Is sought in bad faith.

    (2)  Would cause unreasonable annoyance, embarrassment, oppression, burden or expense to the deponent, a person or party.

    (3)  Relates to matter which is privileged.

    (4)  Would require the making of an unreasonable investigation by the deponent, a party or witness.

52 Pa. Code § 5.361.

On November 2, 2018, Transource filed its Motion to compel discovery. Transource then filed an Amended Motion (with corrected Docket Numbers) on November 5, 2018. STFC filed its Answer to the Motion on November 8, 2018. In the Motion, Transource contends that STFC has failed to provide complete responses to certain discovery requests of Transource. Specifically, Transource cites the following alleged failures to provide discovery:

**Transource’s Set I Discovery Question 5 and Set II Discovery Question 7**

Transource contends that STFC has improperly objected to the following discovery requests:

Identify every case within the past 5 years in which Dr. Sasowsky has provided testimony and provide copies of transcripts of the testimony. (Set I Question 5; Motion at p. 3).

Identify every case within the past 5 years in which Mr. Dague has provided testimony and provide copies of transcripts of the testimony. (Set II Question 7; Motion at p. 3).

Transource does not believe that it would be unduly burdensome to require STFC to fully respond to the above requests (Motion at p. 3). Transource also believes that it is reasonable to require STFC’s witnesses to provide copies of their own transcripts of testimony in other cases in which they have testified. (Motion at p. 4).

STFC, for its part, states that it has agreed to respond to Transource’s Set II Discovery Question 7. (Answer at p. 2). As this issue is not opposed by STFC, we will enter as part of our Order an Ordering Paragraph compelling an answer to this discovery request.

Regarding the Transource Set I Question 5 request, STFC contends that Dr. Sasowsky does not have copies of the requested transcripts and that it would be unduly burdensome to require STFC and/or Dr. Sasowsky to obtain those documents (Answer at p. 3). STFC does not address Transource’s request that STFC “identify every case within the past 5 years in which Dr. Sasowsky has provided testimony”; since STFC has not addressed this portion of the request, we consider this portion of the request to be unopposed and will enter as part of our Order an Ordering Paragraph compelling an answer to this portion of the request.

Regarding the production of copies of Dr. Sasowsky’s transcripts in other hearings, we agree with STFC that it would be unduly burdensome for STFC and/or Dr. Sasowsky to produce such information. It is our opinion that Transource is engaging in a fishing expedition to try to uncover possible prior inconsistent testimony from Dr. Sasowsky. As there is nothing in the record before us to indicate that there is any prior inconsistent testimony, we are not inclined to require STFC and/or Dr. Sasowsky to provide the materials; we believe that it is sufficient for STFC to provide the identifying information regarding prior testimony, including dates, case captions and courts or tribunals in which testimony was provided. Following the production of such information, Transource will be free to search those sources for any prior inconsistent testimony it might be able to uncover. We will therefore grant this request in part and deny it in part.

**Transource’s Set I Discovery Question 6 and Set II Discovery Question 8**

Transource contends that STFC has improperly objected to the following discovery requests:

Re pp. 15-16 of Dr. Sasowsky’s Direct Testimony. Provide copies of the referenced sources. (Set I Question 6; Motion at p. 4).

Re pp. 6-7 of Mr. Dague’s Direct Testimony. Provide copies of the referenced sources. (Set I Question 8; Motion at p. 5).

Transource does not believe that it would be unduly burdensome to require STFC to fully respond to the above requests (Motion at p. 5). Transource also believes that it is reasonable to require STFC’s witnesses to provide copies of sources relied upon in their own testimony.

STFC contends that its witnesses do not have copies of the requested source materials, and that it would be unduly burdensome to require STFC and/or the witnesses to obtain and produce those documents (Answer at p. 4).

We agree with Transource on this issue. It is unreasonable to suggest that a witness does not have source materials in their custody or control when those sources form the basis for the witness’ Direct Testimony. The witness could not have relied upon the source materials without actually reviewing and reading those materials; to state that the witness does not have custody or control of those materials is therefore disingenuous. We also do not think that is would be unduly burdensome for STFC and/or its witnesses to produce the source materials relied upon, especially where, as here, Transource is willing to accept copies of the relevant portions of textbooks that were relied upon by the STFC witnesses. (Motion at p. 5). We will therefore compel production of these materials, subject to the textbook reproduction limitation agreed to by Transource.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Motion of Transource Pennsylvania, LLC to Compel Answers to Discovery Requests, is granted in part, as follows:

a) Within 10 days of the date of this Order, Stop Transource Franklin County shall provide the following:

(i) Identify every case within the past 5 years in which Mr. Dague has provided testimony and provide copies of transcripts of the testimony.

(ii) Identify every case within the past 5 years in which Dr. Sasowsky has provided testimony.

(iii) In identifying cases under subparagraphs (i) and (ii) above, Stop Transource Franklin County shall provide the following information: 1) Court or venue in which testimony was provided; 2) Case Caption including Docket Number in which testimony was provided; 3) Dates during which testimony was provided.

(iv) Copies of the referenced sources for pages 15-16 of Dr. Sasowsky’s Direct Testimony. To the extent that the referenced sources are textbooks, Stop Transource Franklin County may provide copies of the relevant portions of those textbooks.

(v) Copies of the referenced sources for pages 6-7 of Mr. Dague’s Direct Testimony. To the extent that the referenced sources are textbooks, Stop Transource Franklin County may provide copies of the relevant portions of those textbooks.

1. That the Motion of Transource Pennsylvania, LLC to Compel Answers to Discovery Requests is denied in part, and that Stop Transource Franklin County is not required to produce copies of transcripts of prior testimony in other cases from Dr. Sasowsky.

Date: November 26, 2018 /s/

Elizabeth H. Barnes

Administrative Law Judge

/s/

Andrew M. Calvelli

Administrative Law Judge

**A-2017-2640195 & A-2017-2640200 ET AL- APPLICATION OF TRANSOURCE PENNSLYVANIA, LLC. FOR APPROVAL OF THE SITING AND CONSTRUCTION OF THE 230KV TRANSMISSION LINE ASSOCIATED WITH THE INDEPENDENCE ENERGY CONNECTION-EAST & WEST PROJECTS IN PORTIONS OF YORK & FRANKLIN COUNTIES.**

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ASHLEY HOSPELHORN  
116 WEST 3RD STREET  
WAYNESBORO PA 17268

DM FARMS LLC  
BRIAN BECHBILL  
13689 DREAM HIGHWAY  
NEWBURG PA 17240

CATHY PRIESTON  
263 WESTOVER WAY  
CHAMBERSBURG PA 17202  
  
DANIEL LONG  
6405 NUNNERY RD

WAYNESBORO PA 17268  
  
LANTZ SOURBIER  
LAURA SOURBIER  
64 EDGEWOOD CIR

CHAMBERSBURG PA 17202  
  
CONNIE HAIR  
MICHAEL HAIR  
1331 SPRINGVIEW DR  
CHAMBERSBURG PA 17202  
  
REBECCA CAMPBELL  
125 REED RD  
AIRVILLE PA 17302  
  
KAREN BENEDICT  
RODNEY MYER  
5413 MANHEIM RD  
WAYNESBORO PA 17268  
  
SUZANNE RANDELL  
4324 FETTERHOFF CHAPEL RD  
CHAMBERSBURG PA 17202

DALE & BARBARA TORBET

405 THRONE RD

FAWN GROVE PA 17321

ROBERT BURCHETT

JUDY BURCHETT

THOMAS BURCHETT

STACY BURCHETT

175 FROSTY MILL RD

AIRVILLE PA 17302

JOSEPH & BARBARA LAPP

142 CONOWINGO RD

QUARRYVILLE PA 17566

MERVIN & GLADYS MILLER

95 BURNS RD

BROGUE PA 17309

AMOS & ELIZABETH ESH

460A STRASBURG RD

PARADISE PA 17562

WILLIAM & JANE PETERS

2062 DRUID PARK DR

BALTIMORE MD 21211

BURTON FAMILY LP

3731 ABINGDON BEACH RD

ABINGDON MD 21009

GLEN BRADLEY

825 CEDAR VALLEY RD

NEW PARK PA 17352

D ARTHUR GROVE

DAVID R GROVE

489 DAVIS RD

NEW PARK PA 17352

RGRG PARTNERS

C/O RICHARD WILSON

1407 THISTLEWOOD LN

STEWARTSTOWN PA 17363

JEFFERSON & LAURA BRACEY

815 CEDAR VALLEY RD

NEW PARK PA 17352

BARLEY FARMS LP

175 CHESTNUT GROVE RD

CONESTOGA PA 17516

TROY KLINE

4886 MILL RD

BROGUE PA 17309

JOHN BLAIR

11611 PRICES CHURCH RD

WAYNESBORO PA 17268

MARY ANN & DUWAYNE FOX

6977 IRON BRIDGE RD

WAYNESBORO PA 17268

DONALD & BEVERLY FAHRNEY

9249 HARLEE RD

WAYNESBORO PA 17268

JACK & EMILY MARTIN

12574 POLKTOWN RD

WAYNESBORO PA 17268

JASON & MEGAN Martin

5102 POLKTOWN RD

WAYNESBORO PA 17268

JANE ZEIGER

5886 HESS BENEDICT RD

WAYNESBORO PA 17268

DONALD & ISABELL HESS

5215 HESS BENEDICT RD

WAYNESBORO PA 17268

DENVER & KATRINA MARTIN

6973 NUNNERY RD

WAYNESBORO PA 17268

JOSEPH WEAGLEY

6413 MARSH RD

WAYNESBORO PA 17268

DANIEL & ELAINE ESHELMAN

13310 N. HOOVERS MILL RD

WAYNESBORO PA 17268

ROGER & JOYCE DILLER

5505 OLDE SCOTLAND RD

SHIPPENSBURG PA 17257

GBR LINCOLN HWY, LLC ET AL

150 TARRYTOWN RD

WHITE PLAINS NY 10591

SUMMIT PARTNERS, LLC

100 COLONIAL WAY

WEST CHESTER PA 19382

JASON & ROSALIE HOSTETTER

2048 GUILFORD STATION RD

CHAMBERSBURG PA 17202

DARRYL BENDER

5079 YOHE RD

WAYNESBORO PA 17268

DONNA BENDER

1013 S FIFTH ST

CHAMBERSBURG PA 17202

SALT CREEK PARTNERS, LLC

1112 KENNEBEC DR

CHAMBERSBURG PA 17201

CHARLES MELLOTT

9702 WAYNE HWY

WAYNESBORO PA 17268

RONALD & DORIS STONER

11623 KOONS RD

WAYNESBORO PA 17268

HAROLD WENGER LIVING TRUST

C/O ELVA WENGER

2146 CIDER PRESS RD

CHAMBERSBURG PA 17202

JOHN & ALLISON STEIGER

5465 HESS BENEDICT RD

WAYNESBORO PA 17268

IVAN & ELLEN HORST

2732 SOLLENBERGER DR

CHAMBERSBURG PA 17202

GUILFORD WATER AUTHORITY

115 SPRING VALLEY RD

CHAMBERSBURG PA 17202

KENNETH & MARIE LEHMAN

6403 HESS BENEDICT RD

WAYNESBORO PA 17268

DONALD & DENISE MARTIN

1946 NEWCOMER RD

CHAMBERSBURG PA 17202

WILLIAM & DIANE NITTERHOUSE

1130 CIDER PRESS RD

CHAMBERSBURG PA 17202

LEMMA & O’CONNOR INVESTORS, LLC

3645 FOX HILL DR

CHAMBERSBURG PA 17202

ROY & REGINA MARTIN

4925 SHADY LN

WAYNESBORO PA 17268

CHAMBERSBURG AREA SCHOOL DISTRICT

511 S. SIXTH ST

CHAMBERSBURG PA 17202

CHARLES DILLER

90 MENNO VILLAGE

CHAMBERSBURG PA 17202

JAMES & MABLE DILLER

552 KOHLER RD

CHAMBERSBURG PA 17202

JOHN & MARGARET DILLER

550 KOHLER RD

CHAMBERSBURG PA 17202

MARY & CHARLES HENRY

MARION CARMACK

D YVONNE FRANK

506 SOUTH EDWARDS AVE

CHAMBERSBURG PA 17202

CHAMBERSBURG MALL REALTY LLC

150 GREAT NECK RD STE 304

GREAT NECK NY 11021

CHAMBERSBURG CH LLC

88 N 2ND STREET STE 100

HARRISBURG PA 17102

CHAMBERSBURG NASSIM LLC

1265 DRUMMERS LN STE 209

WAYNE PA 19087

MAHLON & DEBRA EBY

6685 ANTHONY HWY

WAYNESBORO PA 17268

RICHARD & AGNES LESHER

1126 CIDER PRESS RD

CHAMBERSBURG PA 17202

LAVERNE & ELLEN MARTIN

14578 WAYNE HWY

WAYNESBORO PA 17268

SAMUEL & MANDY JONES

7583 LYONS RD

WAYNESBORO PA 17268

CHARLES STAMY FOX

37 FIFTH AVENUE

CHAMBERSBURG PA 17201

MARLIN & CARRIE MARTIN

7665 ANTHONY HWY

WAYNESBORO PA 17268

OWLS CLUB, INC.

87 W MAIN ST

WAYNESBORO PA 17268

BRUCE NEIBERT JR

7353 IRON BRIDGE RD

WAYNESBORO PA 17268

LOWES HOME CENTERS, INC.

1600 LINCOLN WAY EAST

CHAMBERSBURG PA 17202

KEITH BENEDICT

7366 BRECHBILL LOOP RD

CHAMBERSBURG PA 17202

DEREK BENEDICT

1883 RAGGED EDGE RD

CHAMBERSBURG PA 17202

DARED BENEDICT

3210 CHURCH RD

CHAMBERSBURG PA 17202

PATRIOT FEDERAL CREDIT UNION

800 WAYNE AVE

CHAMBERSBURG PA 17201

CHARLES & EDNA FOX

37 FIFTH AVENUE

CHAMBERSBURG PA 17202

TUNDE TIJANI

503 BROOKVIEW DR

GREENCASTLE PA 17225

LAMAR & ESTHER HORST

11599 KOONS RD

WAYNESBORO PA 17268

IVAN & RUBY BENEDICT

3307 COLLEGE DR

CHAMBERSBURG PA 17202

RICHARD & FERN PECK

4017 ALTENWALD RD

WAYNESBORO PA 17268

MYRON & FERN MILLER

9180 GOODS DAM RD

WAYNESBORO PA 17268

WEST PENN POWER COMPANY

76 S MAIN ST

AKRON OH 44308

IESI PA BLUE RIDGE LANDFILL CORP

PO BOX 399

SCTOLAND PA 17254

KIMBERLY & DAVID NEIBERT

14898 WAYNE HWY

WAYNESBORO PA 17268

WILLIS LESHER

1153 SWAMP FOX RD

CHAMBERSBURG PA 17202

JOHN & EUNICE RUDOLPH

7270 BUTTERMILK RD

WAYNESBORO PA 17268

KYLE & KELLY SCHINDEL

22032 ROCKY FORGE RD

HAGERSTOWN MD 21740

LAMAR & EDNA RUDOLPH

5401 MANHEIM RD

WAYNESBORO PA 17268

DANIEL & DOREEN STRITE

6032 BUTTERMILK RD

WAYNESBORO PA 17268

KAREN BENEDICT

RODNEY MEYER

5419 MANHEIM RD

WAYNESBORO PA 17268

JOHN & PENNY GARBER

7787 BURKHOLDER RD

WAYNESBORO PA 17268

GERALD & JENNIFER ZEIGLER

PO BOX 121

WAYNESBORO PA 17268

MARK & SALLY GAYMAN

5460 STAMEY HILL RD

WAYNESBORO PA 17268

EDWIN & DAWN SHANK

3854 OLDE SCOTLAND RD

CHAMBERSBURG PA 17202

REK PROPERTIES, LLC

1658 LINCOLN WAY EAST

CHAMBERSBURG PA 17202

LYNN & MARY ETTER

5167 OLDE SCOTLAND RD

SHIPPENSBURG PA 17257

MARGARET MOWER

683 MOWER RD

CHAMBERSBURG PA 17202

J RAY & LINDA GEESAMAN

4986 MANHEIM RD

WAYNESBORO PA 17268

ELAM & MARY REIFF

275 GOODHART RD

SHIPPENSBURG PA 17257

CLARA & DANIEL BENEDICT

4574 ALTENWALD RD

WAYNESBORO PA 17268

J NORMAN & BONNA JANE DILLER

20660 MILLERS CHURCH RD

HAGERSTOWN MD 21742

GLENN & ELAINE EBERLY

78 GARAGE PLACE RD

GHENT NY 12075

DOUGLAS & NELLIE STRALEY

89 CHERRY AVENUE

CHAMBERSBURG PA 17202

JOSHUA & NICOLE DILLER

4913 OLDE SCOTLAND RD

SHIPPENSBURG PA 17257

TAMMY JO & RODERICK C.B. SALTER

MICHAEL & TAMRA FREDERICK

1218 GOLDEN WEST WAY

LUSBY MD 20657

KEVIN & FAYE GAYMAN

9611 PINE ROAD

ORRSTOWN PA 17244

GRANT GAYMAN

11742 GEHR RD

WAYNESBORO PA 17268

PAUL & MARY BAKER

4270 OAK HILL RD

WAYNESBORO PA 17268

FORRESTER FARMS, II, INC

3162 WHITE CHURCH RD

CHAMBERSBURG PA 17202

MARVIN & LOIS MARTIN

7016 MENTZER GAP RD

WAYNESBORO PA 17268

FRANKLIN COUNTY VISITORS BUREAU C/O JANET POLLARD  
37 SOUTH MAIN ST STE 100  
CHAMBERSBURG PA 17201  
  
CLINTON BARKDOLL ESQUIRE

KULLA, BARKDOLL & STEWART, P.C.

9 EAST MAIN STREET

WAYNESBORO PA  17268

**717.762.3374**