

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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 Approval of Certain Affiliated Interest Agreements; and (3) for Any Other Approvals Necessary to Complete the Contemplated Transactions

A-2017-2587821

G-2017-2587822

INITIAL DECISION

Before
Elizabeth H. Barnes
Administrative Law Judge

INTRODUCTION

This decision approves an application for a certificate of public convenience to begin to furnish and supply electric transmission service in Franklin and York Counties, Pennsylvania and for the approval of affiliated interest agreements. The application, as modified by the unopposed settlement, is in the public interest.

HISTORY OF THE PROCEEDINGS

Transource Pennsylvania, LLC (Transource PA, Company, or Applicant) filed the above-captioned Application on February 7, 2017. Therein, Transource requested Commission approval, including necessary certificates of public convenience and affiliated interest agreement approvals pursuant to Sections 1101 and 2102 of the Public Utility Code, 66 Pa. C.S. §§ 1101 and 2102, authorizing Transource PA to begin to furnish and supply electric transmission service within two corridors to be located in Franklin and York Counties, Pennsylvania. Transource PA

is responsible for the Pennsylvania portion of the Independence Energy Connection Project (Independence Project) which includes two new electric substations in Pennsylvania and two new 230 kV interstate transmission lines between Maryland and Pennsylvania identified by PJM Interconnection, LLC (PJM) as Project 9A or Independence Project.¹

On February 27, 2017, Transource PA filed Proofs of Publication indicating that notice of the above-referenced proceeding was published in *The Public Opinion* on February 20, 2017; in *The York Dispatch/York Sunday News* and *York Daily Record* on February 20, 2017; and in *The Record Herald* on February 22, 2017. On March 6, 2017, OCA filed a Notice of Intervention, Protest and Public Statement. Also on March 6, 2017, Mid-Atlantic Interstate Transmission, LLC (MAIT) filed a Petition to Intervene. On April 14, 2017, PECO Energy Company (PECO) filed a Petition to Intervene. A prehearing conference was held on May 22, 2017. Transource PA filed its Direct Testimony on June 6, 2017. On July 3, 2017, an Order Suspending Litigation Schedule was issued granting leave to file a Joint Petition for Approval of Settlement and Statements in Support from the signatory parties. On July 10, 2017, a Joint Petition for Settlement with Statements in Support was filed. PECO filed a letter in non-opposition. Also on July 10, 2017, written Direct Testimony of Transource PA witnesses Peggy I. Simmons and Kamran Ali were filed. On August 1, 2017, I shared some questions I had regarding the affiliated interest agreements with the parties. Thereafter, on August 14, 2017, Supplemental Direct Testimony of Peggy I. Simmons pre-marked as Transource PA Statement No. 1-SD was served by Transource PA upon me and the other parties. No party objected to the admission of this Supplemental Testimony. The record closed on August 14, 2017. This Application is ripe for a decision.

TERMS OF SETTLEMENT

1. The Joint Petitioners agree to the following terms and conditions of Settlement:

¹ Described by PJM as baseline Upgrade Numbers b2743 and b2752.

2. The above-captioned Application of Transource PA for a Certificate of Public Convenience under Section 1101 of the Public Utility Code, 66 Pa. C.S. § 1101, should be approved subject to the conditions stated herein:

a. The certificate of public convenience issued to Transource PA under Section 1101 should demarcate a service area of Franklin and York Counties, Pennsylvania. The Commission's issuance of a certificate of public convenience and demarcation of a service area does not constitute approval of any project proposed for the service area, including the Independence Project.

b. The Joint Petitioners agree that the affiliated interest agreements filed by Transource PA at Docket No. G-2017-2587822 and attached to the above-captioned Application should be approved. Transource PA will seek Commission approval prior to modifying these affiliate agreements or entering into new affiliate agreements.

c. The Intervenors reserve all rights to challenge the need for the Independence Project when Transource PA files a Siting Application with the Commission or to challenge any other project proposed by Transource PA.

d. The Company acknowledges that if this Application is granted it will be subject to the jurisdiction and oversight of the Commission as is consistent with the Public Utility Code and the Commission's Regulations.

STIPULATIONS

3. The Joint Petitioners stipulate that Transource PA has the requisite technical, managerial and financial fitness to operate as a public utility in Pennsylvania.

4. The Joint Petitioners stipulate to the admission of the above-captioned Application that was filed on February 7, 2017, and all Appendices, including Appendix 1

through Appendix 13, as well as Transource PA Statement Nos. 1 and 2, and associated exhibits, into the record in this proceeding.

PUBLIC INTEREST

The Settlement was achieved by the Joint Petitioners after an investigation of Transource PA's Application. The Settlement provides the Intervenors with the right to challenge the need for the Independence Project in the Siting Application proceeding when it is filed by Transource PA or to challenge any other project proposed by Transource PA. All parties in the Independence Project proceeding will be able to challenge the need for the Independence Project. Acceptance of the Settlement will avoid the necessity of further administrative proceedings related to this Application.

CONDITIONS OF SETTLEMENT

The Settlement is conditioned upon the Commission's approval of the terms and conditions contained in this Settlement without modification. If the Commission modifies the Settlement, any Joint Petitioner may elect to withdraw from the Settlement and may proceed with litigation and, in such event, the Settlement shall be void and of no effect. Such election to withdraw must be made in writing, filed with the Secretary of the Commission and served upon all Joint Petitioners within five (5) business days after the entry of an Order modifying the Settlement. If the ALJ adopts the Settlement without modification, the Joint Petitioners waive their rights to file Exceptions.

DISCUSSION

Transource PA seeks public utility status from the Commission and certificates of public convenience under the Public Utility Code to:

1. Begin to furnish and supply electric transmission service to or for the public within a transmission service area from the new Rice Substation in Franklin County, Pennsylvania to the Pennsylvania/Maryland border; and

2. Begin to furnish and supply electric transmission service to or for the public within a transmission service area from the new Furnace Run Substation in York County, Pennsylvania to the Pennsylvania/Maryland border.

Additionally, Transource PA requests approval of the affiliated interest agreements attached to the Application as Appendices 5, 6, 11, 12 and 13 thereto; and any approvals necessary to carry out the transactions contemplated in the Application.

Legal Standards

Section 102 of the Public Utility Code defines “Public Utility” as

(1) Any person or corporation now or hereafter owning or operating in this Commonwealth equipment or facilities for:

(i) Producing, generating, *transmitting*, distributing or furnishing natural or artificial gas, *electricity*, or steam for the production of light, heat or power *to or for the public for compensation*.

66 Pa.C.S. § 102 (emphasis supplied).

Before the Commission may issue a certificate of public convenience it must find that the granting of such certificate is necessary or proper for the service, accommodation, convenience, or safety of the public.² Even where the Commission finds sufficient public benefit such that the granting of a certificate of public convenience is necessary or proper for the service, accommodation, convenience, or safety of the public without imposing any conditions, the

² 66 Pa.C.S. § 1103(a).

Commission nevertheless has discretion to impose conditions which it deems to be just and reasonable.³

The burden of proof in this proceeding is upon the Applicant.⁴ As the party bearing the burden of proof, the Applicant must prove by a preponderance of the evidence that the Commission’s issuance of a certificate of public convenience approving the Application as modified by the Settlement is in the public interest because it will affirmatively promote the service, accommodation, convenience, or safety of the public in some substantial way.⁵ However, the Commission is not required to secure legally binding commitments or to quantify benefits where this may be impractical, burdensome, or impossible in determining if the proposed transaction will affirmatively promote the service, accommodation, convenience, or safety of the public in some substantial way.⁶ Instead, the Commission “applies a preponderance of the evidence standard to make factually-based determinations (including predictive ones informed by expert judgment) concerning certification matters.”⁷

The Commission encourages parties in contested on-the-record proceedings to settle cases.⁸ Settlements eliminate the time, effort and expense of litigating a matter to its conclusion, which may entail review of the Commission’s decision by the appellate courts of Pennsylvania. Such savings benefit not only the individual parties, but also the Commission and

³ 66 Pa.C.S. § 1103(a).

⁴ 66 Pa.C.S. § 332(a).

⁵ *City of York v. Pa. Pub. Util. Comm’n*, 295 A.2d 825 (Pa. 1972).

⁶ *Popowsky v. Pa. Pub. Util. Comm’n*, 937 A.2d 1040 (Pa. 2007).

⁷ *Id.* at 611, 937 A.2d at 1057. *See also, Joint Application of Mid-Atlantic Interstate Transmission, LLC (MAIT); Metropolitan Edison Company (Met-Ed) and Pennsylvania-Electric Company (Penelec) for: (1) a Certificate of Public Convenience Under 66 Pa. C.S. § 1102(a)(3) Authorizing the Transfer of Certain Transmission Assets from Met-Ed and Penelec to MAIT; (2) a Certificate of Public Convenience Conferring Upon MAIT the Status of a Pennsylvania Public Utility Under 66 Pa. C.S. § 102; and (3) Approval of Certain Affiliate Interest Agreements Under 66 Pa. C.S. § 2102.* A-2015-2488903 *et seq.*, (Opinion and Order entered August 24, 2016).

⁸ *See* 52 Pa.Code § 5.231.

all ratepayers of a utility, who otherwise may have to bear the financial burden such litigation necessarily entails.

A “settlement” reflects a compromise of the positions that the parties of interest have held, which arguably fosters and promotes the public interest. When active parties in a proceeding reach a settlement, the principal issue for Commission consideration is whether the agreement reached suits the public interest.⁹ In their supporting statements, the joint petitioners aver that this settlement resolves the issues in this case, it fairly balances interests, is in the public interest, is consistent with the requirements of Sections 1102 and 2102 of the Public Utility Code,¹⁰ and should be approved.

The Parties’ Positions Regarding the Settlement

Under the Settlement, the Joint Petitioners (Transource PA and OCA) agree that the Commission should grant Transource PA’s Application to become a public utility to provide transmission service in Franklin and York Counties, Pennsylvania. Transource PA claims it has the requisite technical, financial and legal fitness to provide public utility service in Pennsylvania. Transource PA and its affiliates have significant experience in constructing, owning and operating transmission facilities.

Additionally, Transource PA claims there is a public need for additional electric transmission service in Franklin and York Counties to relieve transmission congestion as evidenced by the Designated Entity Agreement between PJM Interconnection, LLC and Transource Energy, LLC for itself and on behalf of Transource Maryland, LLC and Transource Pennsylvania, LLC.¹¹ As further evidence of need, Transource PA offers the testimonies Peggy I. Simmons and Kamran Ali in support of its claim as well as a PJM Staff Whitepaper dated August 2016 entitled *Transmission Expansion Advisory Committee (TEAC) Recommendations to*

⁹ Pa. Pub. Util. Comm’n v. CS Water and Sewer Associates, 74 Pa. PUC 767, 771 (1991).

¹⁰ 66 Pa.C.S. §§ 1102 and 2102.

¹¹ Application Appendix 2.

*the PJM Board*¹² and what appears to be a hardcopy of PowerPoint slides entitled *Transmission Expansion Advisory Committee Market Efficiency Update* dated May 12, 2016.¹³

Transource PA offers Direct and Supplemental Testimony of Peggy I. Simmons to support a finding that the Affiliated Interest Agreements attached to the Application as Appendices 5, 6, 11, 12, and 13 at Docket No. G-2017-2587822 should be approved.

OCA agrees the Application is in the public interest as long as OCA has preserved a right to intervene in any Siting Application for High Voltage (HV) Transmission lines and the Independence Project in the future.

It is noted that Intervenors PECO and MAIT filed letters of non-opposition to the Settlement. These letters state that although they are not signatory parties to the settlement, they do not oppose it.

Disposition

Before the Commission may issue a certificate of public convenience it must find that the granting of such certificate is necessary or proper for the service, accommodation, convenience, or safety of the public.¹⁴ Even where the Commission finds sufficient public benefit to find that the granting of a certificate of public convenience is necessary or proper for the service, accommodation, convenience, or safety of the public without imposing any conditions, the Commission nevertheless has discretion to impose conditions which it deems to be just and reasonable.¹⁵

¹² Application Appendix 3.

¹³ Application Appendix 4.

¹⁴ 66 Pa.C.S. § 1103(a).

¹⁵ 66 Pa.C.S. § 1103(a).

Per the Application, Transource PA is a limited liability company organized and existing under the laws of Delaware, and is a wholly-owned direct subsidiary of Transource Energy, LLC (Transource Energy). Transource PA was formed to construct, own, operate, and maintain electric transmission facilities and equipment within the Commonwealth of Pennsylvania. Upon receipt of all necessary approvals, Transource PA proposes to construct, own, operate, and maintain two new Pennsylvania substations and the Pennsylvania portions of two new 230 kV interstate transmission lines to be sited and located in Franklin and York Counties. Application at 4.

Transource MD is a limited liability company organized and existing under the laws of Maryland. Transource MD is a wholly-owned direct subsidiary of Transource Energy. Transource MD was formed to construct, own, operate, and maintain electric transmission facilities and equipment within the State of Maryland. Transource MD will construct, own, operate, and maintain the Maryland portions of two proposed new 230 kV interstate transmission lines. Application at 6.

Transource Energy is a limited liability company organized and existing under the laws of Delaware. Transource Energy is headquartered in Columbus, Ohio. Transource Energy is indirectly owned by a partnership between American Electric Power Company, Inc. (AEP) and Great Plains Energy Incorporated (GPE). AEP Transmission Holding Company, LLC, a direct wholly-owned subsidiary of AEP, owns 86.5% of Transource Energy, and GPE Transmission Holding Company, LLC, a direct, wholly-owned subsidiary of GPE, owns 13.5% of Transource Energy. Application at 4-6.

AEP is a corporation organized and existing under the laws of New York. Headquartered in Columbus, Ohio, AEP is an energy and utility holding company that, through its subsidiaries: (i) serves more than five million customers in eleven states; (ii) owns and operates more than 40,000 circuit miles of electric transmission lines, and approximately 224,000 miles of electric distribution lines; and (iii) has nearly 32,000 megawatts of generating capacity. Application at 5.

GPE is a corporation organized and existing under the laws of Missouri. Headquartered in Kansas City, Missouri, GPE is the holding company of Kansas City Power & Light (KCP&L) Company and KCP&L Greater Missouri Operations Company. The utilities operate under the trade name KCP&L and serve over 800,000 customers in Missouri and Kansas with a combined diverse generation platform of more than 6,100 MW of capacity. The KCP&L companies operate approximately 3,600 circuit miles of transmission lines. Application at 5-6.

In October 2014, PJM opened a Long-Term Proposal Window to solicit proposals to address, among other things, transmission congestion across the Pennsylvania and Maryland border. In response, Transource Energy submitted a proposal that consists of the following: (i) upgrades at existing substations in Maryland; (ii) two new substations in Pennsylvania; and (iii) two new interstate transmission lines between Maryland and Pennsylvania. Application at 8-9.

Transource PA indicates that PJM selected the Transource Energy's Market Efficiency project, also called Project 9A, to address the PA/MD congestion issues because the project provided the highest benefit-to-cost ratio and the greatest total congestion savings. On August 2, 2016, the PJM Board approved Project 9A, as baseline upgrade numbers b2743 and b2752. Project 9A is expected to save customers approximately \$620 million over 15 years in congestion costs.¹⁶ Application at 8-11.

PJM and Transource Energy, on behalf of Transource PA and Transource MD, executed a Designated Entity Agreement (DEA) such that Transource PA is responsible for the construction, ownership, maintenance, and operation of the two new substations in PA and the operation of the two new interstate transmission lines between MD and PA as part of Project 9A. Transource MD is responsible for the MD portion of the two new interstate transmission lines. On November 14, 2016, the DEA was filed with FERC in Docket No. ER17-349-000. FERC approved the DEA on January 12, 2017. As stated in the DEA, Transource PA and Transource MD are required to complete the Independence Project by June 1, 2020. Application 8-11.

¹⁶ *Transmission Expansion Advisory Committee (TEAC) Recommendations to the PJM Board, PJM Staff Whitepaper*, August 2016, Application Appendix 3.

Transource PA submits that the Pennsylvania portion of the Independence Project 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 and the Furnace Run-Conastone 230 kV Transmission Line, and associated structures, equipment, and other facilities necessary to operate the transmission lines. Application 8-11.

Transource PA notes that the new Rice-Ringgold 230 kV Transmission Line will extend approximately 27 miles, connecting the existing Ringgold Substation located near Smithsburg, Washington County, Maryland, and the new Rice Substation to be located in Franklin County, Pennsylvania. 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. The new Rice Substation will be constructed, owned, operated, and maintained by Transource PA. In addition to interconnection with the Ringgold Substation, the new Rice Substation will tie into the existing Hunterstown-Conemaugh 500 kV Transmission Line. Application 8-11.

Transource PA states that the new Furnace Run – Conastone 230 kV Transmission Line will extend approximately 15 miles, connecting the existing Conastone Substation located near Norrisville, Hartford County, Maryland, and the new Furnace Run Substation to be located in York County, Pennsylvania. Transource PA will be responsible for the construction, operation, and maintenance of the PA portion and Transource MD the MD portion of the line. The new Furnace Run Substation will interconnect with the Conastone Substation and tie into the existing Three Mile Island – Peach Bottom 500 kV Transmission Line. Application 8-11.

Transource PA provides that the proposed electric transmission service to be furnished by Transource PA is reasonably necessary for the accommodation or convenience of the public. Transource PA states that although the primary benefits resulting from the Pennsylvania portion of the Independence Project relate to market efficiency and the reduction of

congestion costs, these transmission facilities will also enhance the electrical strength and reliability of the area's electric transmission grid, provide additional and alternative paths to electricity in case of transmission outages, and facilitate the interconnection of future reliability, generation, and load projects in the area by virtue of the presence of these new transmission facilities as part of the area's transmission grid interconnected network. Application 8-11.

Transource PA avers that Transource PA and Transource Energy will have the required managerial and technical experience to own and operate the transmission facilities to be sited within Franklin and York Counties. Transource PA indicates that Transource Energy and Transource PA will be able to draw on the resources and experience of AEP's and GPE's project management practices. AEP and GPE currently employ approximately 300 people in transmission project management and construction management functions. Transource PA claims that combined, AEP and GPE annually manage more than \$2 billion in projects and have extensive experience in projects of a magnitude comparable to the Independence Project.

Transource PA provides that both AEP and GPE operate multiple, fully-functional control centers and employ more than 1,000 personnel in field operations to maintain, operate and restore transmission systems. AEP and GPE have over a 100+ year history of siting, designing, construction, and operating transmission grids consisting of approximately 44,000 miles of transmission lines. Transource PA avers that by combining the unique capabilities of AEP and GPE, Transource Energy and Transource PA will have the necessary experience and expertise to successfully construct, own, operate, and maintain the proposed electric transmission facilities within Pennsylvania.

Transource PA contends that it will be legally fit to own and operate electric transmission facilities within the Commonwealth of Pennsylvania. Transource PA claims that Transource Energy and its affiliates are complying in all material respects with federal and state laws in the jurisdiction in which they operate.

Transource PA maintains that it possesses the financial fitness to construct, own, maintain and operate the electric transmission facilities (*to be*) sited within Franklin and York

Counties. Transource PA states that it will have financial resources available from Transource Energy, through the equity contributions and the affiliate financing transactions included in its application. Transource PA declares that from time to time it will receive equity contributions from Transource Energy, its direct parent, through a capital call as well as obtain debt financing from Transource Energy via affiliate financing agreements which were attached to its application. Transource PA also included credit ratings of its parent company Transource Energy and states that the good credit rating of its parent company will benefit Transource PA customers by reducing the financing costs. On February 7, 2017, Transource PA filed the affiliated interest agreements related to the Independence Project at Docket No. G-2017-2587822.

Transource PA's Fitness and Public Need

I find that Transource PA has the requisite financial fitness to be a public utility in Pennsylvania. Transource PA will have significant financial resources through its affiliates to construct, own, operate and maintain its electric transmission facilities. (Transource PA St. No. 1, pp. 14-16.) AEP and GPE have combined liquid capital resources of approximately \$4 billion. In addition, Transource PA will have access to low cost debt through its parent Transource Energy because of its strong A2 Moody's credit rating.

I find that Transource PA has the requisite technical fitness as it and its affiliates have significant experience in constructing, owning and operating transmission facilities. Transource PA is owned by Transource Energy, which is indirectly owned by a partnership between American Electric Power Company, Inc. ("AEP") and Great Plains Energy Incorporated ("GPE"). AEP, through a subsidiary, owns 86.5% of Transource Energy and GPE, through a subsidiary, owns 13.5% of Transource Energy. (Transource PA St. No. 1, pp. 5-6.) An organizational chart was provided as Appendix 1 to the Company's Application.

AEP, through its subsidiaries, owns and operates more than 40,000 circuit miles of electric transmission lines. GPE, through its subsidiaries, owns and operates approximately 3,600 circuit miles of transmission lines. (Transource PA St. No. 1, p. 12.) In addition, both

AEP and GPE employ more than 1,000 personnel in field operations to maintain, operate and restore transmission systems. (Transource PA St. No. 1, pp. 12-13.) Therefore, I find Transource PA has the technical fitness to be an electric transmission provider in Pennsylvania.

I find that Transource PA has the necessary legal fitness to be a Pennsylvania public utility. Transource PA and its affiliates are complying in all material respects with federal and state laws in the jurisdiction in which they operate. (Transource PA St. No. 1, pp. 16-17.) Transource PA's legal fitness is further demonstrated by its request in the pending Application to become a public utility in Pennsylvania subject to the Commission's regulatory jurisdiction.

I find there is a public need for additional electric transmission service in Franklin and York Counties, Pennsylvania. Transource PA's witness, Mr. Ali, explained that in October 2014, PJM opened a Long-Term Proposal Window ("2014/15 RTEP Long Term Proposal Window") to solicit proposals to address congestion,¹⁷ including constraints in Pennsylvania and Maryland. (Transource PA St. No. 2, p. 7.) In response, Transource Energy, the parent of Transource PA, submitted several proposals to address the congestion issues, including a proposal referred to as "Project 9A." (Transource PA St. No. 2, p. 7.)

PJM¹⁸ evaluated multiple alternative proposals and selected Transource Energy's "Project 9A" proposal because it provided the most benefits, including the most total congestion savings, most production cost savings, and a benefit-to-cost ratio exceeding 1.25. (Transource

¹⁷ Congestion occurs when there is heavy use of the transmission system in a specified area. Congestion limits lower-priced energy from flowing freely, and generally raises the locational marginal price for electricity in congested areas. (Transource PA St. No. 2, p. 6.)

¹⁸ PJM is a FERC-approved Regional Transmission Organization responsible for ensuring the reliable and efficient operation of the electrical 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. In order to ensure reliable transmission service, PJM prepares an annual Regional Transmission Expansion Plan ("RTEP"). The RTEP is an annual planning process that encompasses a comprehensive series of detailed analyses to ensure electric power continues to flow reliably to customers under stringent reliability planning criteria. 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. 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 addresses those needs. (Transource PA St. No. 2, pp. 3-5)

PA St. No. 2, p. 8.) Therefore, PJM determined that “Project 9A” is necessary to alleviate transmission congestion and adopted the proposal as a base line project. (Transource PA St. No. 2, p. 10.) The core of this baseline upgrade project comprises the transmission facilities designated by PJM to be constructed, owned, maintained, and operated by Transource PA and Transource MD, which together are referred to as the Independence Project. (Transource PA St. No. 2, p. 8.) Transource PA is required by Schedule 6 of PJM’s Amended and Restated Operating Agreement and a FERC approved Designated Entity Agreement to build, own, and operate the Pennsylvania portion of the Independence Project. (Transource PA St. No. 2, pp. 11-12.)

Under the Competition Act, the Commission is required to work with the federal government and other states to establish independent system operators, such as PJM, to operate the transmission system. In addition, the Commission is required to work with the federal government, other states and PJM to ensure the continued provision of adequate, safe and reliable electric service. 66 Pa.C.S. § 2805(a). Approval of this Application is consistent with the policy of regional coordination of adequate, safe, and reliable electric service as adopted in the Competition Act.

Rights of Intervenors Preserved

The Settlement reserves all rights of the Intervenors to challenge the need for the Independence Project when Transource PA files its siting applications with the Commission or to challenge any other project proposed by Transource PA. This provision preserves Intervenors’ rights in future proceedings and is in the public interest.

Public utilities are required to file siting applications. *See* 52 Pa. Code §§ 57.71 *et seq.*, which requires public utilities to file siting applications prior to constructing HV transmission lines. Transource PA requests the Commission determine its public utility status prior to spending significant resources necessary to prepare full siting applications. (Transource PA St. No. 1, pp. 8-9.)

Under the Pennsylvania eminent domain code, public utilities have the right to enter onto land to conduct surveys and testing upon 10-days' notice to landowners. 26 Pa. C.S. § 309. Public utilities can survey and test land before filing a siting application, which facilitates the ability to avoid potential environmental and engineering/constructability issues, to the extent possible, when developing and evaluating alternative transmission line routes. Further, the ability to survey and test land as a public utility, as permitted under the Pennsylvania eminent domain code, may enable Transource PA to provide: detailed studies of reasonable alternative routes; studies of potential environmental impacts; location and identification of archaeological, geologic, historic, scenic or wildness areas; as well as safety considerations for designing, contributing and maintaining the line. See 52 Pa. Code § 57.72. Transource PA wishes to be able to perform these activities and seeks a certificate of public convenience and public utility status under 66 Pa. C.S. § 1101 to enter land it does not own and conduct surveys during a siting process. 66 Pa. C.S. § 1104.

Because Transource PA is not an incumbent utility, it does not currently possess this right. Granting Transource PA public utility status prior to the filing of the siting application will facilitate Transource PA's preparation of its siting application and help Transource PA with the early detection and avoidance of potential environmental issues to the extent possible. (Transource PA St. No. 1, p. 9.) The Commission and parties will also benefit because they will have more detailed and complete information upon which to evaluate the reasonableness of the Company's siting proposals.

Affiliated Interest Agreements

Ms. Simmons testified that the costs incurred under the service agreements will be at cost to the affiliates, and will be recovered through the Federal Energy Regulatory Commission (FERC) regulated rates instead of Pennsylvania Public Utility Commission regulated rates. Transource PA Statement No. 1-SD at 5. She explained that Transource PA will provide electric transmission service within transmission corridors in Franklin and York Counties, Pennsylvania. (Transource PA St. No. 1, p. 10.) Ms. Simmons further noted that the Company will be required to provide open access to its transmission systems under PJM rules

and that Transource PA will hold itself out and may be required to directly serve independent power producers and suppliers through the facilities and equipment to be located in Pennsylvania. (Transource PA St. No. 1, pp. 10-11.) The Company has shown that it will be transmitting electricity in Pennsylvania to or for the public for compensation. The Company also showed that it has the requisite technical, financial and legal fitness to provide public utility service in Pennsylvania.

The Office of Consumer Advocate is tasked with advocacy on behalf of consumers in matters before the Commission¹⁹ and OCA advocates that the proposed authority as modified by the Settlement is in the public interest. I agree that a certificate of public convenience and the related affiliated interest agreements are appropriate. The Commission has approved the transfer of transmission assets and approved certificates of public convenience to transmission companies in the past.²⁰ Commission approval of the Application will enable Transource PA to operate as a public utility in Pennsylvania; however, it will not serve as approval of any specific project. Under the terms of the Settlement, the OCA has specifically reserved its right to challenge the Independence Project or any other project filed by Transource PA in the future.

CONCLUSION

After due consideration of each party's position and reviewing the application as modified by the Settlement and supporting testimonies, I find that approval of this Application is necessary and proper for the service, accommodation, and convenience of the public. For these

¹⁹ Section 904-A of the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, *as amended*, 71 P.S. § 309-4.

²⁰ Application of Trans-Allegheny Line Company (TrAILCo) For Approval: 1) for a Certificate of Public Convenience to Offer, Render Furnish or Supply Transmission Service in the Commonwealth of Pennsylvania; (2) Authorization and Certification to Locate, Construct, Operate and Maintain Certain High-Voltage Electric Substation Facilities; 3) Authority to Exercise the Power of Eminent Domain for the Construction and Installation of Aerial Electric Transmission Facilities Along the Proposed Transmission Line Routes in Pennsylvania; 4) Approval of an Exemption from Municipal Zoning Regulation With Respect to the Construction of Buildings; and 5) Approval of Certain Related Affiliated Interest Arrangements, Docket Nos. A-110172 et al. (December 13, 2008); Application Of Pennsylvania Power Co. For (1) A Certificate Of Public Convenience Authorizing The Transfer Of Certain Transmission Assets To American Transmission Systems, Inc., And (2) Approval Of Certain Affiliated Interest Agreements Necessary To Effect The Transfer, Docket No. A-110450F0016 (July 14, 2000).

reasons, approval of the Application is in the public interest; thus, a Certificate of Public Convenience shall be granted and the Affiliated Interest Agreements shall be approved.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject-matter and parties to this proceeding. 66 Pa.C.S. §§ 501 *et seq.*
2. The Joint Petition for Stipulation and Settlement of All Issues is in the public interest.
3. Transource Pennsylvania, LLC is financially, technically and legally fit to offer, render, furnish or supply transmission service in the Commonwealth of Pennsylvania. 66 Pa.C.S. § 1102.
4. The affiliated interest agreements filed by the Applicant are reasonable and consistent with the public interest. 66 Pa.C.S. § 2102.
5. The Application as modified by the Settlement will produce an affirmative public benefit and meets the legal standard for issuance of certificates of public convenience established in *City of York v. Pa. Pub. Util. Comm'n*, 295 A.2d 825, 828 (Pa. 1972).
6. The Application as modified by the Settlement is necessary or proper for the service, accommodation, convenience, or safety of the public. 66 Pa.C.S. § 1103(a).

ORDER

THEREFORE

IT IS ORDERED:

1. That the 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 filed on February 2, 2017, as modified by the Joint Petition for Settlement filed on July 10, 2017, is granted.

2. That a Certificate of Public Convenience be issued to Transource Pennsylvania, LLC pursuant to 66 Pa. C.S. §§ 1101 and 1102(a)(1), conferring upon it the status of a Pennsylvania public utility as defined in Section 102 of the Public Utility Code, 66 Pa.C.S. § 102, pursuant to the terms of the Joint Petition for Full Settlement; and this shall be a certificate of public convenience under the Public Utility Code to:

a. Begin to furnish and supply electric transmission service to or for the public within a transmission service area from the new Rice Substation in Franklin County, Pennsylvania to the Pennsylvania/Maryland border; and

b. Begin to furnish and supply electric transmission service to or for the public within a transmission service area from the new Furnace Run Substation in York County, Pennsylvania to the Pennsylvania/Maryland border.

3. That nothing herein shall be construed to exempt Transource Pennsylvania, LLC, from obtaining all necessary permits and approvals from other state, federal, and local government agencies having jurisdiction.

4. That Transource Pennsylvania, LLC's affiliated interest agreements attached to the Application as Appendices 5, 6, 11, 12, and 13 at Docket No. G-2017-2587822 are hereby approved under Section 2102 of the Public Utility Code, 66 Pa.C.S. § 2102.

5. That Transource Pennsylvania, LLC shall file with the Commission an executed version of the Services Agreement by and between Transource Pennsylvania, LLC and Transource Energy, LLC as Provider within twenty (20) days of its execution at Docket Nos. A-2017-2587821 and G-2017-2587822.

6. That Transource Pennsylvania, LLC shall file an executed version within twenty (20) days of their execution, Notes and Capital Call Notices as depicted in Appendices 5 and 6 attached to the Application at Docket Nos. A-2017-2587821 and G-2017-2587822.

7. That Transource Pennsylvania, LLC shall seek Commission approval prior to modifying or terminating any Commission-approved agreement.

8. That Transource Pennsylvania, LLC shall seek Commission approval prior to entering into any new affiliate agreements.

9. That in the event Transource Pennsylvania, LLC files any siting applications or proposed projects for Commission-approval, Intervenor's Office of Consumer Advocate, PECO Energy Company, and Mid-Atlantic Interstate Transmission, LLC may intervene to challenge these in any future proceeding.

10. That Transource PA Statement No. 1- Direct Testimony of Peggy I. Simmons is admitted into the record.

11. That Transource PA Statement No. 1-SD – Supplemental Direct Testimony of Peggy I. Simmons is admitted into the record.

12. That Transource PA Statement No. 2 – Direct Testimony of Kamran Ali is admitted into the record.

Date: August 31, 2017

/s/
Elizabeth H. Barnes
Administrative Law Judge