

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Transource Pennsylvania, LLC :
for approval of the Siting and Construction of the : Docket No. A-2017-2640195
230 kV Transmission Line Associated with the : Docket No. A-2017-2640200
Independence Energy Connection - East and West :
Projects in portions of York and Franklin Counties, :
Pennsylvania. :

Petition of Transource Pennsylvania, LLC :
for a finding that a building to shelter control : Docket No. P-2018-3001878
equipment at the Rice Substation in Franklin :
County, Pennsylvania 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 : Docket No. P-2018-3001883
equipment at the Furnace Run Substation in York :
County, 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 : Docket No. A-2018-3001881, *et al.*
of various landowners in York and Franklin :
Counties, Pennsylvania for the siting and :
construction of the 230 kV Transmission Line :
associated with the Independence Energy :
Connection – East and West Projects as necessary or :
proper for the service, accommodation, convenience :
or safety of the public. :

Application of Transource Pennsylvania, LLC :
filed Pursuant To 15 Pa.C.S. § 1511(c) for a :
Finding and Determination that the Service to be : Docket No. A-2018-3001961
Furnished by the Applicant through its Proposed :
Exercise of the Power of Eminent Domain to :
Acquire a Certain Portion of the Lands of RGRG :
Partners in Fawn Township, York County, :
Pennsylvania for the Siting and Construction of the :
230 kV Transmission Line Associated with the :
Independence Energy Connection-East Project is :
Necessary or Proper For the Service, :
Accommodation, Convenience or Safety of the :
Public :

**PROTEST OF RGRG PARTNERS TO
APPLICATION OF TRANSOURCE PENNSYLVANIA, LLC**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Through undersigned counsel, RGRG Partners (“Landowner(s)”) herein file(s) this Protest, pursuant to 52 Pa. Code § 5.51 and the notification published in the *Pennsylvania Bulletin* on June 16, 2018 (48 Pa.B. 3679), to the Application filed by Transource Pennsylvania, LLC (“Transource PA”). By its filing, Transource PA seeks a finding and determination by the Pennsylvania Public Utility Commission (“Commission”) that the service to be furnished through the proposed exercise of the power of eminent domain to acquire a right-of-way and easement over a certain portion of the lands of Landowner(s) in York County, Pennsylvania for the siting and construction of the 230 kV transmission lines associated with the proposed Independence Energy Connection-East Project (“IEC-East Project”) is necessary or proper for the service, accommodation, convenience, or safety of the public (“Eminent Domain Application”). Landowner(s) file(s) this Protest in opposition to the Eminent Domain Application on the basis that: A) the proposed IEC-East Project is not necessary or proper for the service, accommodation, convenience, or safety of the public; and B) the proposed exercise of eminent domain is capricious and would be wantonly injurious to the property and interests of Landowner(s). Pursuant to 52 Pa. Code § 57.91, Landowner(s) hereby request(s) the opportunity for a public hearing on the Eminent Domain Application. In further support of this Protest, Landowner(s) state(s) as follows:

1. This Protest is filed by Landowner(s) who owns the land described in the Eminent Domain Application.

2. As acknowledged by Transource PA, the Commission may not approve the Eminent Domain Application unless it finds that the exercise of eminent domain for the proposed IEC-East Project is “necessary or proper for the service, accommodation, convenience or safety of the public.” 15 Pa. C.S. § 1511(c).

3. Further, in *Application of Trans-Allegheny Interstate Line Company*, Docket No. A-110172 (Order entered December 12, 2008) (“*TrAILCo Order*”), the Commission noted that an exercise of eminent domain will not be authorized if the determination of the location of the land was not made in good faith, was capricious or would be wantonly injurious to the landowner. *TrAILCo Order* at 54.

4. By this Protest, Landowner(s) oppose(s) the Eminent Domain Application on the grounds that: A) the proposed IEC-East Project is not necessary or proper for the service, accommodation, convenience, or safety of the public; and B) the proposed exercise of eminent domain is capricious and would be wantonly injurious to the property and interests of Landowner(s).

5. The Furnace Run-Conastone 230 kV Transmission Line associated with the proposed IEC-East Project will be a 230 kV double-circuit transmission line. The Pennsylvania portion of the proposed IEC-East Project will consist of tubular steel monopoles, multi-pole structures and steel lattice structures.

6. In granting Transource PA a certificate of public convenience, the Commission expressly declined to find a public need for the additional electric transmission services in Franklin and York Counties. Specifically, “[i]n order to prevent any possible predetermination of need,” the Commission modified the Initial Decision of the Administrative Law Judge by striking a

discussion of public need for the IEC-East Project. *Application of Transource Pennsylvania, LLC*, Docket No. A-2017-2587821 (Order entered January 23, 2018), at 8-9.

7. The proposed IEC-East Project is not necessary or proper for the service, accommodation, convenience, or safety of the public because: (A) other reasonable alternatives exist, including the use of nearby existing transmission lines (and accompanying rights-of-way that are underutilized); (B) the proposed project is not designed to address reliability concerns but is rather described by Transource PA as a market efficiency project that will reduce congestion costs, primarily in the District of Columbia metropolitan area; and (C) the cost-benefit ratio of the proposed IEC-East Project does not justify the construction of the transmission line.

8. Notably, the original benefit-cost ratio for the proposed IEC-East Project of 1.32 barely met the standards of PJM Interconnection LLC (“PJM”), which will not approve a project that has a benefit-cost ratio less than 1.25. A re-evaluation of the proposed IEC-East Project is expected to be presented to PJM during the October 2018 TEAC. Due to rising costs of steel and aluminum since the original evaluation, it is anticipated that the benefit-cost ratio will be less favorable. Further, the benefit-cost ratio does not consider all of the costs of the proposed IEC-East Project, including the costs to the affected landowners in terms of property values and loss of business revenues, or factor in the possibility of the construction costs exceeding their estimates.

9. By failing to consider other reasonable alternatives that exist and proposing a project that is not needed for reliability reasons and for which the costs are likely to exceed the benefits, Transource’s proposal to exercise eminent domain was not made in good faith and is capricious. The proposed route selection would also be wantonly injurious to Landowner(s) as further described below.

10. The Transource PA proposal to traverse a portion of the lands owned by Landowner(s) would adversely affect this property in several key ways, including but not limited to: A) the destruction and permanent scarring of its aesthetic qualities and breathtaking view shed; B) the devastating impact on the use of my land for farming; C) the disruption to the environment, including natural wildlife; and D) the negative financial impact on my land.


11. While Landowner(s) is/are aware that eminent domain has long been a tool to public utilities to gain access to property that is needed for projects that would benefit the greater good, the IEC-East Project is being proposed by an out-of-state entity that only recently obtained public utility status and is actually not currently providing utility services to the public. Indeed, the Commonwealth Court has recognized that the reason that a public utility has eminent domain power is because of its statutory obligation to provide safe and reliable service to its customers. *Hess v. Pa. P.U.C.*, 107 A.3d 246 (2014) at *249. Here, no such rationale or logic exists.

12. Finally, it is noteworthy that on June 24, 2018, Governor Wolf signed into law Act No. 45 of 2018 (Senate Bill 2468), which places limitations on the use of eminent domain when necessary to protect natural resources, farmlands, scenic areas, historic sites and open spaces. While public utility facilities or other projects that are subject to approval by a federal agency are exempt from the protections afforded by Act No. 45, it is not clear whether Commission approval alone exempts such projects or if the projects also need to be subject to federal approval. In any event, the General Assembly's commitment to the protection of natural resources, farmlands, scenic areas, historic sites and open spaces supports a denial of the Eminent Domain Application.

13. Pursuant to 52 Pa. Code § 57.91, a public hearing is requested so that additional information can be provided regarding the Eminent Domain Application.

WHEREFORE, Landowner(s) respectfully requests that the Pennsylvania Public Utility Commission deny the Eminent Domain Application filed by Transource Pennsylvania LLC.

Respectfully submitted,



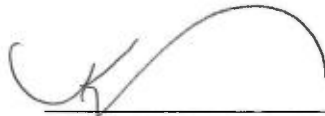
July 6, 2018

Karen O. Moury
PA Attorney ID #36879
Eckert, Seamans, Cherin & Mellott LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101
717.237.6036.
komoury@eckertseamans.com

Verification

I, Karen O. Moury, state that I am an Attorney of Record for RGRG Partners and that as such I am authorized to make this verification on its behalf. I hereby state that the facts contained in the foregoing Protest are true and correct (or are true and correct to the best of my knowledge, information and belief). I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.

July 6, 2018



Karen O. Moury, Esquire
Attorney for
RGRG Partners

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of the Protest upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

Via First Class Mail and Electronic Mail

Anthony D. Kanagy, Esq.
David B. MacGregor, Esq.
Lindsay A. Berkstresser, Esq.
17th N. Second St., 12th Fl.
Harrisburg, PA 17101-1601
akanagy@postschell.com
dmacgregor@postschell.com
lberkstersser@postschell.com

Amanda Riggs Conner, Esq.
Hector Garcia, Esq.
American Electric Power Service Corp.
1 Riverside Plaza, 29th Fl.
Columbus, OH 43215
arconner@aep.com
hgarcial@aep.com

Hon. Elizabeth Barnes
Hon. Andrew Calvelli
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265
ebarnes@pa.gov
acalvelli@pa.gov

July 6, 2018



Karen O. Moury, Esq.