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September 25, 2018

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

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

**Application of Transource Pennsylvania, LLC filed Pursuant to 52 Pa. Code Chapter 57, Subchapter G, for Approval of the Siting and Construction of the 230kV Transmission Line Associated with the Independence Energy Connection-East Project in Portions of York County, Pennsylvania
Docket No. A-2017-2640195**

Dear Secretary Chiavetta:

Attached for filing is a Motion of Intervenor, Stop Transource Franklin County for an Extension of Time to Submit Written Testimony to be filed in the above-referenced matter. Thank you.

CURTIN & HEEFNER LLP



BY: _____

Jordan B. Yeager (Pa. I.D. No. 72947)

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Counsel for Stop Transource Franklin County

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

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Transource Pennsylvania, LLC :
Filed Pursuant to 52 Pa. Code Chapter 57, : Docket No. A-2017-2640195
Subchapter G, for Approval of the Siting and : Docket No. A-2017-2640200
Construction of the 230 kV Transmission Line :
Associated with the 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 : 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 : 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 : A-2018-3001881,
of various landowners in York and Franklin : *et al.*
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. :

**MOTION OF INTERVENOR, STOP TRANSOURCE FRANKLIN COUNTY FOR AN
EXTENSION OF TIME TO SUBMIT WRITTEN TESTIMONY**

Intervenor, Stop Transource Franklin County (“STFC”), by and through its attorneys,
respectfully requests an extension of time in which to file direct testimony pursuant to 52 Pa.
Code § 1.15, for thirty (30) additional days from the issuance of an order on the outstanding

Motion to Compel, and any required supplementation of discovery responses, whichever is later. Good cause for an extension exists because STFC has a pending motion to compel discovery responses that was filed on August 31, 2018. Further, Transource appears to have altered the proposed route, centerline and right-of-way without updating any information from the Siting Study dated December 2017. Transource has repeatedly failed to provide complete and or supplemental responses and documents in response to specific discovery requests of STFC. In support of this motion for an extension, STFC states as follows:

I. BACKGROUND

On December 27, 2018, Transource filed its Siting Application pursuant to 52 Pa. Code Chapter 57, Subchapter G. for Approval of the 230 kV Transmission Line Associated with the Independence Energy Connection-West Project in Portions of Franklin County. That Siting Application contains a Siting Study as Attachment 3, prepared by AECOM, dated December 2017.

The Public Utility Commission (“Commission”) issued a procedural order on March 28, 2018 in this proceeding setting forth a litigation schedule. The Commission’s schedule had to be amended, however, because Transource did not file eminent domain applications simultaneously with its Siting Application. In May 2018, Transource filed 133 Eminent Domain Applications, necessitating a Fourth Prehearing Order dated July 30, 2018. A true and correct copy of that Order is attached hereto as **Exhibit A**. Pursuant to that Order, written testimony is to be filed on September 25, 2018. Transource’s late addition of the eminent domain applications required the scheduling of additional public input hearings on the eminent domain matters in both Franklin and York County. Those hearings were held on September 18, 2018 in Franklin County and September 20, 2018 in York County. On September 12, 2018, just prior to the second round of public input hearings, Transource withdrew 48 Eminent Domain Applications, including eleven

(11) due to “Engineering modifications.”¹ Transource has not provided any information as to why these property owners are no longer listed as owning property within the right-of-way, and has failed to provide any information regarding the new right-of-way, centerline or proposed route. On September 20, 2018, counsel for STFC sent a letter seeking clarification on the proposed route, centerline, and right-of-way, and any supplemental information. A true and correct copy of the letter is attached hereto as **Exhibit B**. Transource’s Alternative Route Comparison contained in its Siting Application was conducted sometime prior to December 2017. Transource has not updated its Siting Study, or provided any updated alternative route comparison.

Further, Transource’s discovery responses are subject to a pending Motion to Compel. On April 18, 2018, STFC served two sets of discovery requests upon Transource in this matter: a First Set of Interrogatories and a First Request for Production of Documents. On May 9, 2018, Transource served its responses to a limited number of the First Set of Interrogatories and First Request for Production of Documents of STFC (the “Initial Responses”). On June 11, 2018, Transource served responses on the remaining portions of the First Set of Interrogatories. On June 27, 2018, the undersigned counsel for STFC wrote to counsel for Transource, highlighting with particularity the myriad deficiencies in Transource’s initial discovery responses. Ultimately, the parties were unable to agree, and STFC filed a Motion to Compel on August 31, 2018 with the Commission. STFC’s Motion to Compel Transource’s responses is outstanding, awaiting a determination. After STFC filed its Motion to Compel, Transource filed supplemental responses dated September 5, 2018, to a limited number of the outstanding

¹ Transource withdrew the remaining eminent domain applications because it reached agreements with the property owners.

requests. However, because Transource has not answered discovery completely, nor supplemented responses sufficiently, STFC is prevented from filing written testimony.

II. LEGAL STANDARD

Extensions of time are governed under 52 Pa. Code § 1.15, which provides that Commission may extend that time period “for good cause be extended upon motion made before the expiration of the period originally prescribed or previously extended...” 52 Pa. Code § 1.15. Good cause exists here because STFC cannot file its written testimony before Transource provides complete discovery responses, or the Commission otherwise rules on a pending Motion to Compel. Transource’s failure to provide the required information necessitates STFC’s request for an extension of time pending a ruling from this Commission. STFC respectfully suggests that 30 days from the provision of any information, or ruling is a reasonable extension under 52 Pa. Code § 1.15.

Commission regulations regarding discovery requests provide a broad scope of discovery. City of Pittsburgh v. Pennsylvania Public Utility Com'n, 526 A.2d 1243, 1249 (Pa. Cmwlth. Ct. 1987). Discovery is permitted of “any matter, not privileged, which is relevant to the subject matter involved in the pending action.” 52 Pa. Code § 5.321(c). Transource is required to answer discovery requests fully and completely, in the absence of an objection, and to answer those parts or subparts of interrogatories to which it has no objection. 52 Pa. Code § 5.342(a)(4). Moreover, when a party fails or refuses to answer interrogatories, the Commission's procedural regulations provide for the imposition of sanctions. 52 Pa. Code §§ 5.371, 372 (a)(3) and (4) (“catch-all” provision allowing for an order which is just).

III. LEGAL ARGUMENT

Transource’s Application and discovery responses to date fail to provide the Commission with enough information to meet its fiduciary obligations and satisfy its Constitutionally-

mandated pre-action analysis, and has failed to meet the minimum requirements for discovery supplementation under the Commission's rules. Transource's failure to answer discovery sufficiently likewise prevents STFC from filing written testimony.

A. Transource Has Failed To Supplement Application Information As Required Sufficient for STFC to Provide Written Expert Testimony and for the Commission to Meet Its Constitutional Pre-Action Analysis Obligations Under Art. 1, Section 27

Transource has asked this Commission to approve its Siting Application for the construction of a new transmission line over 29 miles of greenfield in Pennsylvania. Under the Pennsylvania Constitution Art. 1, Section 27 (“the Environmental Rights Amendment”), and Pennsylvania Env'tl. Def. Found. v. Com., 161 A.3d 911 (Pa. 2017) (“PEDEF”), the Commission serves as a fiduciary, has an obligation to act within its constitutional requirements to consider the rights of the citizens of Franklin County in advance of acting, and has a duty to refrain from infringing on the environmental rights of those citizens. As the Pennsylvania Supreme Court stated in PEDEF, the Environmental Rights Amendment “places a limitation on the state’ power to act contrary to this right.” PEDEF, 161 A.3d at 931 (citing Robinson Twp., Delaware Riverkeeper Network, et al. v. Com., 623 Pa. 564, 83 A.3d 901, 951 (2013) (Robinson II)).

Similarly, Transource has the burden under Commission's existing regulations applicable to transmission line siting to provide a complete application that allows the Commission to make a determination as to whether the application meets the four subsections of Section 57.76: (1) there is a need for it; (2) it will not cause an unreasonable risk of danger to the health and safety of the public; (3) it is in compliance with applicable statutes and regulations providing for the protection of the natural resources of this Commonwealth; (4) it will have minimum adverse

environmental impact considering the electric power needs of the public, the state of available technology and the available alternatives.

Here, Transource has repeatedly failed to provide and supplement its information on the proposed route, centerline and right-of-way since the 2017 Application. Any analysis of the comparison of alternative routes, or of “minimum adverse environmental impact” by either STFC experts or the Commission requires information on Transource’s centerline, right-of-way and proposed route. Transource’s failure to provide information on where the proposed route and centerline are impairs STFC’s ability to analyze the proposed route and any alternative route comparisons.

Transource’s recent withdrawals of eminent domain applications from certain property owners previously listed as within the proposed right-of-way is only one indication that Transource has altered the proposed right-of-way since submitting the 2017 Siting Application. To date, Transource has not provided an update or explanation. As a second example, Transource Witness Barry Baker provided an Aerial Mapbook at the Site Views conducted on May 28, May 29 and June 1, 2018, that did not conform with the Mapbook in the Application. That version of the Mapbook was not accepted into the record during the site views. See N.T. June 1, 2018 at 1451-1452; see also 52 Pa. Code 57.72(13) (requiring aerial depiction of the route of suitable detail). To date, Transource has not provided this version of the updated Mapbook from the site views (or any other one) in discovery. STFC is unable to provide written testimony analyzing a proposed route, right-of-way and centerline because Transource has not updated its proposed route.

B. Transource Has Failed to Supplement Discovery, Preventing STFC from Obtaining Information Transource Is Required to Produce

Transource has repeatedly failed to answer discovery and failed to supplement discovery pursuant to 52 Pa. Code § 5.332. STFC is awaiting a determination on its outstanding Motion to

Compel. STFC is entitled to discover “any matter, not privileged, which is relevant to the subject matter involved in the pending actions.” 52 Pa. Code § 5.321. STFC was forced to file a Motion to Compel to get information on which its experts would provide testimony. Further, the lateness of Transource’s discovery responses, as well as Transource’s failure to answer other requests at all and its failure to update information, prevents STFC from filing expert witness statement. For example, the Permit Matrix contained in Appendix 6 to the Siting Study proposes that many of the permits were to be filed by August 1, 2018, permits with the United State Army Corps of Engineers under Chapter 404 of the Clean Water Act, and Chapter 105. Transource has not provided any update of the Permit Matrix.

Transource will not suffer any undue prejudice because Transource’s failure to answer completely, and/or supplement information created the need for an extension. Transource could have provided the Mapbook used at the Site Views, and provided responses to discovery without necessitating discovery motion practice. It did not. The current litigation schedule affords Transource more than 60 days to provide Rebuttal Testimony. Any self-imposed delay in receiving certain written testimony from STFC will not prejudice Transource. It is reasonable to permit STFC additional time up to thirty (30) days from a ruling on the outstanding Motion to Compel, and the provision of information from Transource required by any ruling, within which to file written testimony.

IV. CONCLUSION

For the foregoing reasons, STFC respectfully requests that Administrative Law Judge Elizabeth H. Barnes and Administrative Law Judge Andrew M. Calvelli grant STFC an extension of time within which to file written testimony in this proceeding, pending ruling on the

outstanding Motion to Compel and Transource's supplementation of its discovery responses and/or Siting Application.

CURTIN & HEEFNER LLP



By: _____

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Dated: September 25, 2018

CERTIFICATE OF SERVICE

Consolidated Docket Nos. A-2017-2640200 and A-2017-2640195

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

VIA E-MAIL & FIRST CLASS MAIL

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By: _____
JOANNA A. WALDRON

Date: September 25, 2018

EXHIBIT A

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Transource Pennsylvania, LLC
for approval of the Siting and Construction of the
230 kV Transmission Line Associated with the
Independence Energy Connection - East and West Projects
in portions of York and Franklin Counties, Pennsylvania.

A-2017-2640195
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
is reasonably necessary for the convenience or welfare of the public.

P-2018-3001878

Petition of Transource Pennsylvania, LLC
for a finding that a building to shelter control equipment
at the Furnace Run Substation in York County, Pennsylvania
is reasonably necessary for the convenience or welfare of the public.

P-2018-3001883

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 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.

A-2018-3001881,
et al.

FOURTH PREHEARING ORDER

**Order Amending Procedural Schedule,
Admitting Photograph Exhibits of Site Views
And Granting Interventions**

On July 9, 2018 a Second Prehearing Conference was held in the above-captioned matter. Appearing for Transource Pennsylvania, LLC (Transource) were Anthony Kanagy, Esquire and Lindsay Berkstresser, Esquire. Appearing on behalf of the Office of Consumer Advocate (OCA) were Darryl Lawrence, Esquire and Dianne Dusman, Esquire. Appearing for

Stop Transource Franklin County were Joanna Waldron, Esquire and Jordan Yeager, Esquire. Appearing for Citizens to Stop Transource York County, Rose Tree Hunt Club, and Maple Lawn Farms, Inc. was Karen Moury, Esquire.¹ Appearing for York County Planning Commission was Whitney Snyder, Esquire. Appearing for Mid-Atlantic Interstate Transmission, LLC (MAIT) and West Penn Power Company (West Penn) was Teresa Harrold, Esquire. Appearing for Quincy Township was Linus Fenicle, Esquire. Appearing for PPL Electric Utilities, Inc. (PPL) was Amy Hirakis, Esquire. Appearing for PECO Energy Company (PECO) was Jennedy Johnson, Esquire. Appearing for the Owls Club, Inc. was Clinton Barkdoll, Esquire. Appearing for the Office of Small Business Advocate (OSBA) was Sharon Webb, Esquire. Appearing *pro se* and on behalf of his son, Jay McGinnis, was J. Ross McGinnis, Esquire. Janet Pollard, a representative of the Franklin County Visitors Bureau, was in attendance. Katie Hess, a representative for the South Mountain Partnership was in attendance. Also appearing were the following individuals: Dolores Krick, Kristyn Martin, Randall Stewart, Stephen Snell, Allan Stine, Lois White, Carol Pugh, Doreen Rice, Kim Calimer, Cathy Good, Deborah Macklin, Derek Dettinger, Courtney Dettinger, Allen Rice, Karen Benedict, and Gregory Goss.

Prehearing memoranda were submitted by Transource, OCA, MAIT, West Penn, Citizens to Stop Transource York County, Stop Transource Franklin County and York County Planning Commission.

ADMISSION OF PUC EXHIBITS 54 – 401

There being no objection to the admission of PUC Exhibits 54-401, photographs taken by Commission staff from the Bureau of Communications during site visits in Franklin County on May 29 and 30, 2018 and in York County on June 1, 2018, the photographs were marked as exhibits and admitted into the record. N.T. 1591. Also admitted into the record were the signed verifications of Cyndi Page and Karen Chevarria attesting to the accuracy of the depictions in the photographs and the veracity of their statements. N.T. 1590-1591.

¹ It is noted Ms. Moury also represents several Protestants to the Eminent Domain Applications including: RGRG Partners, Michael Hecner, Eva Hecner, Stephen Hecner and Theresa Norris.

PETITIONS TO INTERVENE AND PROTESTS

On May 15, 2018, Transource filed 133 Applications for Eminent Domain (40 referencing properties in York County and 93 referencing properties located in Franklin County). Each application was assigned a separate A-Docket Number by the Secretary's Bureau. Also, on May 15, 2018, Transource filed Petitions for findings that buildings to shelter control equipment at the Rice Substation in Franklin County and at the Furnace Run Substation in York County were reasonably necessary for the convenience or welfare of the public (Shelter Petitions). Notice of these filings and a Second Prehearing Conference Order were published in the Pennsylvania Bulletin on June 16, 2018 with a protest deadline of July 6, 2018. 48 Pa. B. 3679.

These 133 Applications for Eminent Domain and the two shelter petitions were consolidated to Docket No. A-2017-2640195 in the Third Prehearing Order dated June 26, 2018. Regarding Applications involving properties in York County, the following individuals/entities filed timely protests on or before July 6, 2018, at the above-captioned matter specific to Transource's applications to acquire portions of their property for the Independence Energy Connection (IEC) Project: Maple Lawn Farms, Inc. at A-2018-3001985, Kent and Nancy Blevins at A-2018-3001902; Glenn J. Bradley at A-2018-3001956; Amos L. and Elizabeth K. Esh at A-2018-3001923; Burton Family Partnership at A-2018-3001936; Troy W. Kline at A-2018-3001969; Carol K. Long at A-2018-3001971; Barbara and Dave Anderson, C. Kathleen and William Thompkins, M. Kathryn and Stephen M. Judy at A-2018-3001982; Richard D., Cathy M., Roger D. and Peggy L. Good at A-2018-3001954; Gregory and Melanie Goss at A-2018-3001904; Jonathan R. Hash at A-2018-3001957; James R. McGinnis at A-2018-3001943; McGinnis Limited Partnership at A-2008-3001929; J. Ross & Norma R. McGinnis at A-2018-3001925; R. Andrew and Deborah E. Macklin at A-2018-3001962; Francis and Mary Boone at A-2018-3001963; Derek J. and Courtney Dettinger at A-2018-3001988; Stephen and Dolores Krick at A-2018-3001965; John J. and Carol A. Hamilton at A-2018-3001989; Joseph and Barbara Lapp at A-2018-3001914; Henry M. and Glenda J. Sommer at A-2018-3001887; Leonard M. and Sandra J. Traynor at A-2018-3001968; Jeffrey C. Neutzel at A-2018-3001970; Thomas R. and April R. Krell at A-2018-3001958; Douglas E. and Martha J. Rohrer at A-2018-3001881; Dale and Barbara Torbert at A-2018-3001886; Randall and Peggy Stewart at A-2018-3001986; Gregory and Kristina Wilt at A-2018-3001933; RGRG Partners at A-2018-3001961;

Mervin S. and Gladys O. Miller at A-2018-3001922; Shane and Kristi Taylor at A-2018-3001966; George and Madelyn Treadway at A-2018-3001944; Yost Family Farms at A-2018-3001898; Michael Hecner, Eva Hecner, Stephen Hecner and Theresa Norris at A-2018-3001906;

Regarding properties located in Franklin County, West Penn Power Company filed a protest at A-2018-3002129. On July 6, 2018, Stop Transource Franklin County filed a Petition to Intervene and Protest to the Shelter Petitions and the Eminent Domain Applications in the Consolidated Proceedings. Specifically, Stop Transource Franklin County seeks to intervene and protest the following applications: STFC protests and petitions to intervene in the following Franklin County eminent domain application Docket Nos.: A-2018-3001987, A-2018-3001996, A-2018-3001999, A-2018-3002000, A-2018-3002001, A-2018-3002012, A-2018-3002013, A-2018-3002016, A-2018-3002019, A-2018-3002020, A-2018-3002021, A-2018-3002022, A-2018-3002028, A-2018-3002029, A-2018-3002030, A-2018-3002031, A-2018-3002032, A-2018-3002035, A-2018-3002037, A-2018-3002038, A-2018-3002039, A-2018-3002040, A-2018-3002041, A-2018-3002043, A-2018-3002046, A-2018-3002047, A-2018-3002048, A-2018-3002049, A-2018-3002051, A-2018-3002052, A-2018-3002053, A-2018-3002054, A-2018-3002055, A-2018-3002057, A-2018-3002061, A-2018-3002064, A-2018-3002065, A-2018-3002066, A-2018-3002067, A-2018-3002068, A-2018-3002069, A-2018-3002070, A-2018-3002071, A-2018-3002072, A-2018-3002074, A-2018-3002075, A-2018-3002099, A-2018-3002103, A-2018-3002104, A-2018-3002105, A-2018-3002107, A-2018-3002108, A-2018-3002111, A-2018-3002118, A-2018-3002119, A-2018-3002120, A-2018-3002124, A-2018-3002125, A-2018-3002128, A-2018-3002129, A-2018-3002137, A-2018-3002140, A-2018-3002141, A-2018-3002147, A-2018-3002162, A-2018-3002163, A-2018-3002167, A-2018-3002168, A-2018-3002169, A-2018-3002170, A-2018-3002172, A-2018-3002173, A-2018-3002189, A-2018-3002204, A-2018-3002207, A-2018-3002222, A-2018-3002232, A-2018-3002238, A-2018-3002240, A-2018-3002251, A-2018-3002255, A-2018-3002310, A-2018-3002311, A-2018-3002312, A-2018-3002332, A-2018-3002334, A-2018-3002346, A-2018-3002348, A-2018-3002352, and the following York County eminent domain application Docket Nos.: A-2018-3001881, A-2018-3001886, A-2018-3001887, A-2018-3001898, A-2018-3001902, A-2018-3001904, A-2018-3001906, A-2018-3001907, A-2018-3001914, A-2018-3001922, A-2018-3001923, A-2018-3001925, A-2018-3001929, A-2018-3001932, A-2018-3001933, A-2018-3001936, A-2018-3001943, A-2018-3001944, A-2018-3001954, A-2018-

3001957, A-2018-3001960, A-2018-3001961, A-2018-3001962, A-2018-3001963, A-2018-3001964, A-2018-3001965, A-2018-3001966, A-2018-3001969, A-2018-3001970, A-2018-3001971, A-2018-3001982, A-2018-3001984, A-2018-3001985, A-2018-3001986, A-2018-3001988, A-2018-3001989, and in the two Shelter Petitions, Docket Nos. P-2018-3001878 and P-2018-3001883.

Stop Transource Franklin County already has intervenor status in this consolidated proceeding. A petition to intervene is permitted by a group representing “an interest which may be directly affected, and which is not adequately represented by existing participants, and as to which the petitioner may be bound by the action of the Commission in the proceeding. 52 Pa. Code §5.72(a)(2). Members of Stop Transource Franklin County may be harmed by the approval of the Shelter Petitions and Applications for Eminent Domain. Also, as Transource PA did not object to Stop Transource Franklin County’s Petition to Intervene and Protest the Eminent Domain Applications and Shelter Petitions, the petition will be granted. N.T. 1591.

The following individuals/entities in Franklin County also protest Eminent Domain Applications: Allan A. Stine at A-2018-3002037 (N.T. 1590); Karen Benedict at A-2018-3002169; DC Farms, LLC and Allen Rice at A-2017-3002051. Franklin County Visitors Bureau mailed a Petition to Intervene at A-2018-3001881 et al. to the presiding officers. (N.T. 1590). This petition was unopposed by Transource PA at the prehearing conference. The petition to intervene and these individual protests are being attached to the case at A-2017-260195.

PRELIMINARY OBJECTIONS

On July 9, 2018, Stop Transource Franklin County filed Preliminary Objections to the Shelter Petitions at Docket Nos. P-2018-3001878 and P-2018-3001883. On July 17, 2018, Transource filed an Answer to Preliminary Objections. The Preliminary Objections will be addressed in a separate Order.

SERVICE OF DOCUMENTS

There are approximately 300 parties of record in this consolidated proceeding. OCA and Citizens to Stop Transource York County requested a communication go out to all active parties on the service list whereby protestants could opt in if they wanted to continue to receive hard copies or electronic service of discovery requests, responses and testimony. N.T. 1641-1642. Accordingly, the following applies to any person or entity which filed a protest on or before July 6, 2018:

If you want to receive service of all documents in this case, including voluminous discovery, testimony and exhibits, motions, interim rulings, correspondence and other documents associated with this case, you must notify the undersigned administrative law judges in writing by August 31, 2018 that you wish to receive service and specify whether you require regular mail hard-copy service or are willing to accept only electronic mail service. Please provide an e-mail address.

The Honorable Elizabeth H. Barnes
The Honorable Andrew M. Calvelli
Office of Administrative Law Judge
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg PA 17105-3265

If you do not provide a written response that you wish to receive copies of all documents, the other parties will not be required to serve you with the voluminous discovery, testimony and exhibits, motions, interim rulings, correspondence, briefs and other documents associated with this case. You still have the right to appear and testify at the public input hearings on September 18 and 20, 2018.

Any party may present testimony at the evidentiary hearings now scheduled to begin February 21, 2019 but will be required to submit prepared written testimony and associated exhibits in compliance with the schedule adopted herein and the regulations regarding written testimony, 52 Pa. Code § 5.412. Failure to serve prepared written testimony and associated exhibits will bar that party from presenting evidence at the evidentiary hearings.

LITIGATION SCHEDULE

On June 26, 2018, we granted OCA’s Motion to Amend Procedural Schedule and extended the deadline for pre-served written Intervenor Direct Testimony from July 25, 2018 to September 25, 2018. Transource PA would like to keep the reply brief deadline of February 28, 2019, as it seeks a Commission decision in June 2019. N.T. 1626. Considering the arguments of the parties the procedural schedule is modified as follows.

Public Input Hearings	September 18 & 20, 2018
Other Parties Direct Testimony	September 25, 2018
Rebuttal Testimony	November 27, 2018
Surrebuttal Testimony	January 16, 2019
Written Rejoinder	January 30, 2019
Evidentiary Hearings	February 12-15 and 18-22, 2019 Main
Briefs	March 28, 2019
Reply Briefs	April 17, 2019

PUBLIC INPUT HEARINGS

Further public input hearings will be held as follows.

Date: Tuesday, September 18, 2018

Time: 1:00 p.m. and 6:00 p.m.

Place: New Franklin Volunteer Fire Department Social Hall
3444 Wayne Rd.
Chambersburg, PA 17202

AND

Date: Thursday, September 20, 2018

Time: 1:00 p.m. and 6:00 p.m.

Place: Airville Volunteer Fire Department
3576 Delta Rd.
Airville, PA 17302

In the interest of giving landowners affected by the Eminent Domain Applications and Shelter Petitions more due process, anyone may testify and offer exhibits pertaining to the additional 133 Eminent Domain Applications and 2 Shelter Petitions filed on May 15, 2018. No one is barred from testifying if they have already testified at a site view or public input hearing; however, we encourage people to not duplicate testimony and exhibits already in the record. Signed written statements may be read or submitted as an exhibit into the record. If the signed statement is long, more than two pages, we recommend submitting it as an exhibit.

Transource Pennsylvania LLC shall be directed to have published in two newspapers of general circulation in the York and Franklin Counties areas once per week for two consecutive weeks, notice of the public input hearings to be held on September 20, 2018 concerning Docket No. A-2017-2640195 and public input hearings to be held on September 18, 2018, concerning Docket No. A-2017-2640200. Transource PA shall provide proof of advertisements by filing same to Docket Nos. A-2017-264015 and A-2017-2640200 by September 20, 2018.

ACT 45 ISSUES

On June 24, 2018, Act 45 of 2018 (“Act 45”) was signed into law. Act 45 amends Title 26 (Eminent Domain) of the Pennsylvania Consolidated Statutes. Section 208 provides for eminent domain of land subject to conservation easement.

With the 2018 amendment, Act 45 provides in pertinent part:

§208. Eminent domain of land subject to conservation to read:

(a) Approval required. Except as provided in subsection (g), no political subdivision, authority, public utility or other body having or exercising powers of eminent domain shall condemn any land subject to a conservation easement for any purpose, unless prior approval has been obtained from the orphans’ court of the county in which the land is located. The condemnation approval specified by this subsection shall not be required for an underground public utility facility that does not permanently impact the open space benefits protected by the conservation easement. The condemnation approval specified by this subsection shall not be required for any public utility facility or other project that is subject

to approval by a federal agency, the necessity for the proprietary and environmental effects of which has been reviewed and ratified or approved by the Pennsylvania Public Utility Commission or the Federal Energy Regulatory Commission, regardless of whether the right to establish and maintain such underground or other public utility facility is obtained by condemnation or by agreement with the owner.

(b) Determination of blight. The exercise of eminent domain powers based on a condition of land subject to a conservation easement shall not be authorized under section 205 (relating to blight) unless the orphans' court determines the exercise is necessary to protect the health and safety of the community.

(c) Notice. Any condemnor wishing to condemn property, the approval for which is required under this section, shall at least 30 days prior to taking such action, notify the orphans' court that the action is contemplated.

(d) Review. The orphans' court shall review the proposed condemnation and approve the proposed condemnation only if the court determines there is no reasonable and prudent alternative to the utilization of the land subject to a conservation easement for the project.

(e) Findings and decisions. The orphans' court shall render findings and decision of the court's review under subsection (d) and shall report the findings and decisions to the proposed condemnor.

(f) Injunctions. The orphans' court may request the Attorney General to bring an action to enjoin a condemnor from violating any provision of this section."

26 Pa. C.S. §§ 208(a) – (f)(Emphasis Added).

Stop Transource Franklin County argues the IEC Project is neither a public utility facility nor other project subject to approval by a federal agency. Therefore, it does not qualify for an exemption from the requirement that Transource PA request approval from the Orphan's Courts in Franklin and York Counties to condemn the land subject to a conservation easement for the project. 26 Pa. C.S. §208(d). The Orphan's Court must deny any proposed condemnation of lands subject to conservation easements unless there is no reasonable and prudent alternative. Stop Transource Franklin County argues Transource PA's request to condemn lands subject to conservation easements cannot be approved unless it shows there is no reasonable and prudent alternative.

Citizens to Stop Transource York County and Maple Lawn Farms question whether the proposed project would qualify as a public utility facility under Act No. 45, Section

208, when Transource PA only recently obtained a certificate of public convenience and is not currently operating as a public utility. OCA argues the Project is not subject to federal approval.

Additionally, Stop Transource Franklin County contends Transource PA cannot condemn properties within an Agricultural Security Area without Pre-Approval by the Agricultural Lands Condemnation Approval Board and Local Agencies. 3 P.S. §§ 911(a), 912; 7 Pa. Code § 1381.4. As properties Transource PA seeks to condemn fall within an Agricultural Security Area, Transource PA must seek ALCAB pre-approval and provide 30-day notice to ALCAB and the local governing bodies, including the counties and the respective agricultural securities committees. 3 P.S. § 913(c). ASAs exist in Franklin and York Counties and are overseen by the Franklin County Land Preservation Board and by the York County Agricultural Land Preservation Board. 71 P.S. § 106.

Stop Transource Franklin County argues approval by ALCAB, the local government and other boards is required unless the condemnation falls within an exception and this IEC Project does not fall within a limited exception as it is neither an underground facility nor an electric cooperative. Further, Stop Transource Franklin County argues the IEC Project has not been reviewed or ratified by the Commission and the Commission can only approve Eminent Domain Applications involving ASA lands where Transource has met the evidentiary standard required in an ALCAB hearing. 3 P.S. § 913(d).

Transource PA admits that portions of the land encompassed by the 133 Condemnation Applications filed by Transource PA are agricultural and subject to conservation easements. However, Act 45 specifically excludes “public utility facilities” from the required approval. Transource PA argues the proposed IEC Project falls within the meaning of a public utility facility as it is subject to review by the Commission. Therefore, the approval required under Act 45 does not apply to the Siting Applications and Condemnation Applications filed by Transource PA and has no effect on this proceeding. Act 45’s exclusion of public utility facilities from the required approval mirrors the exclusion for public utility facilities in the Agricultural Area Security Law. See 3 P.S. § 913(b). *See, e.g., In re Condemnation of Springboro Area Water Auth.*, 898 A.2d 6 (Pa. Cmwlth. 2006).

Transource PA contends that the Commission does not have authority to decide pursuant to the Eminent Domain Code. The Condemnation Applications request that the Commission find the service to be furnished through the proposed exercise of eminent domain is necessary or proper for the service, accommodation, convenience, or safety of the public. Separate Applications seeking to exercise eminent domain over the required properties will be made in the courts with jurisdiction where the properties are located. In the event a determination under Act 45 is needed, the Act expressly provides that the determination under the statute will be made by the Orphans' Court of the county in which the land is located.

We agree Act 45 provides that determination under the statute will be made by the Orphans' Court. It is for the courts to determine the intent of the legislature in amending 26 Pa. C.S. § 208, and to determine whether this IEC project falls under an exception to the general requirement that prior approval be obtained from the Orphans' Court of the Counties in which land subject to conservation easements is situated. The scope of the Commission's review is pursuant to Section 1511, a provision of the Business Corporation Law, 15 Pa. C.S. § 1511(c) which applies to public utility corporations. Transource PA must show that the exercise of eminent domain is "necessary or proper for the service, accommodation, convenience or safety of the public" to support the taking. If such takings are necessary to provide electrical service to members of the public who would otherwise be unserved by public electric utilities, they are for a public purpose. *Condemnation by Valley Rural Elec. Coop.*, 982 A.2d 566 (Pa.Cmwlth. 2009).

The certificate for public convenience Transource PA holds is narrowly tailored for one specific project and the Commission expressly declined to find that public need existed for additional electric transmission services in Franklin and York Counties. Further, the Commission made no determination of need for the IEC Project. Although the Commission approved a settlement and granted a certificate of public convenience, which generally requires a finding of public need for additional service within a service territory, the Commission specifically removed language from the Initial Decision to avoid any "predetermination of need." See Opinion and Order, Docket No. A-2017-2587821, January 23, 2018. Additionally, the Commission made no determination regarding the siting of the transmission lines and did not consider the environmental effects or impact on conserved agricultural land, property values, etc. along these proposed routes. The instant proceeding is intended to develop such a record

regarding need for transmission service in the areas most affected by the building of transmission lines as well as within the regional transmission organization's service territory. The costs and benefits to the IEC project as well as alternative feasible routes, environmental studies², evidence regarding impact on preserved agricultural property, other properties, businesses and individuals will all be considered by the Commission.

We are not inclined to stay the procedural schedule in this case pending Transource PA obtaining any pre-approval from the Orphans' Courts or the ALCAB. If Transource PA files for approval before the Orphans Courts and/or the Agricultural ALCAB and Local Agencies, separate litigation paths may run concurrent to the instant case.

FEASIBILITY OF ALTERNATIVE SITING ROUTES

The burden is upon Transource PA to identify and assess alternative siting routes that may have less of a negative impact on the communities in Franklin and York Counties. Transource PA has provided an analysis of three siting alternatives in each of its Siting Applications. Other parties have offered other siting proposals. Transource PA is addressing these alternative proposals in discovery and will address them in its Rebuttal Testimony in this proceeding.

PJM rejected FirstEnergy's Project 18H and West Penn Power protests an eminent domain application filed at A-2018-3002129 against it arguing this directly impacts West Penn's used and useful utility property in Greene Twp. and the right of way is too close to West Penn's substation. York County Planning Commissioners advocate the use of alternative routes that utilize existing transmission lines instead of the proposed construction of additional lines. PPL believes it would be feasible for the project to be routed on its right-of-way and are assessing whether to address this in testimony. N.T. 1608. Also, the Owl Club, Inc. is interested in the feasibility option because there are existing FirstEnergy transmission lines within a hundred yards of its property. Owl Club advocates for "piggybacking" this project on those existing lines. N.T. 1609.

² Environmental studies include surveying for bog turtles, a federally threatened species in Pennsylvania.
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DISCOVERY ISSUES AND TECHNICAL CONFERENCE

A technical conference with representatives from Transource PA, PJM and OCA was held on June 8, 2018. The parties have engaged in follow-up discovery regarding the technical conference.

On July 9, 2018, OCA filed a Motion to Compel Transource Pennsylvania, LLC to demonstrate that documents responsive to OCA Set XX qualify as Critical Energy Infrastructure Information (CEII) and provide full and complete answers to OCA Set XX, Questions 3(a) and 4(a). Transource PA filed an Answer to the Motion to Compel on July 16, 2018. We are issuing a separate order addressing the Motion to Compel.

COST/BENEFIT RATIO and ENVIRONMENTAL STUDIES

Transource PA believes there will be an update to the cost/benefit ratio for IEC Project 9A in October at a TEAC meeting. If the cost/benefit ratio is updated, an updated cost study should be provided as part of the update. N.T. 1611. We are interested in a breakdown analysis regarding costs/benefits to Pennsylvanians, particularly those residing in Franklin and York Counties. Additionally, environmental studies are being conducted. Section 57.76 of the Commission's regulations provides that a siting application will not be granted unless it is shown to have minimum adverse environmental impact and that it is in compliance with applicable statutes and regulations providing for the protection of the natural resources of the Commonwealth. 52 Pa. Code §§ 57.76(a)(3)(4). As information is available, we encourage Transource to update the cost/benefit ratio and environmental studies reports through its rebuttal testimony in November and the intervenors will be afforded an opportunity to address this evidence in their Surrebuttal testimonies.

THEREFORE,

IT IS ORDERED:

1. That Stop Transource Franklin County's Petition to Intervene and Protest 133 Eminent Domain Applications and 2 Shelter Petitions is granted.

2. That Franklin County Visitors Bureau's Petition to Intervene is granted.

3. That the procedural schedule is amended as follows.

Public Input Hearings	September 18 & 20, 2018
Other Parties Direct Testimony	September 25, 2018
Rebuttal Testimony	November 27, 2018
Surrebuttal Testimony	January 16, 2019
Written Rejoinder	January 30, 2019
Evidentiary Hearings	February 12-15 and 18-22, 2019 Main
Briefs	March 28, 2019
Reply Briefs	April 17, 2019

3. That Transource Pennsylvania LLC shall cause to be published in two newspapers of general circulation in the York and Franklin Counties areas once per week for two consecutive weeks, notice of the public input hearings to be held at 1:00 p.m. and 6:00 p.m. on September 20, 2018 concerning Docket No. A-2017-2640195 and public input hearings to be held at 1:00 p.m. and 6:00 p.m. on September 18, 2018, concerning Docket No. A-2017-2640200. Transource PA shall provide proof of advertisements by filing same to Docket Nos. A-2017-264015 and A-2017-2640200 by September 20, 2018.

4. That *pro se* Protestants/Intervenors wishing to receive copies of all documents, including the voluminous discovery, testimony and exhibits, motions, interim rulings, correspondence, briefs and other documents associated with this case, must inform the presiding officers in writing on or before August 31, 2018. Protestants who do not respond in writing have the right to appear and testify at a public input hearing.

5. That written testimony shall be prepared in accordance with 52 Pa. Code § 5.412 and shall be served on the parties of record and the presiding officers in accordance with the schedule set in this Order. Written testimony shall not be filed. Two copies shall be provided to the court reporter at the evidentiary hearings.

6. That copies of discovery requests or responses shall not be served on the presiding officers unless they are attached to a motion to compel.

7. That the parties will follow a common outline for initial briefs and parties are encouraged to work together to develop this. If no common outline is agreed-upon, the parties must submit recommendations one week prior to the evidentiary hearing.

8. That counsel for Transource PA will coordinate the order of witnesses and estimated time for cross-examination and will supply a witness matrix to the presiding officers by February 20, 2019.

9. That other than these amendments in the above Ordering Paragraphs Nos. 1-8, in all other respects the Procedural Order dated March 28, 2018 at

A-2017-2640195 and A-2017-2640200 as amended on April 2, 2018 remains in full force and effect.

Dated: July 30, 2018

/s/

Elizabeth H. Barnes
Administrative Law Judge

/s/

Andrew 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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September 20, 2018

Via Email

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

**Application of Transource Pennsylvania, LLC filed Pursuant to 52 Pa. Code Chapter 57, Subchapter G, for Approval of the Siting and Construction of the 230kV Transmission Line Associated with the Independence Energy Connection-East Project in Portions of York County, Pennsylvania
Docket No. A-2017-2640195**

Dear Mr. Kanagy:

We are in receipt of Transource's Petitions to Withdraw Eminent Domain Applications filed on September 12, 2018. We note that a number of these Applications are being withdrawn because of reported "engineering modifications." We also note that the majority of these are in Franklin County on the IEC West line, specifically the withdrawals of the request to exercise eminent domain over the properties owned by Dunlap, Lehman, Geesaman, Garber, Cordell, Peck, and Martin & Benedict. Transource removed these properties from the proposed route and right-of-way of IEC West. Further, Transource also apparently altered the proposed route and right-of-way of the IEC East line by filing to withdraw the Eminent Domain Applications against the Sommer, Lapp, Kline, and Dettinger properties due to reported engineering modifications.

Transource needs to supply the updated version of the proposed route, right-of-way and centerline to reflect these and other changes. Transource's Application and Siting Study provide a November 2017 version of the Aerial Mapbook in Appendix C showing a proposed route and centerline. As you will recall, the parties identified discrepancies during the May site views between the depictions in the 2017 Aerial Mapbook and the proposed route in Aerial Mapbook that Mr. Baker of AECOM supplied at the site view. Now, Transource has made additional engineering modifications to the proposed route and centerline. At the Public Input Hearings on

Anthony Kanagy
Page 2
September 20, 2018

Tuesday, September 18, 2018, you claimed that Transource's engineering modifications didn't require an update; however, Transource's removal of parcels from the right-of-way suggests that the centerline and right-of-way have been moved, even if the proposed route description has not changed. Transource's November 2017 Aerial Mapbook and the analysis of impacts on resources within so many feet of the centerline do not reflect the latest engineering modifications, movement of the centerline and associated right-of-way, or the current Aerial Mapbook. Please provide Transource's updated versions of the proposed route, the centerline, Aerial Mapbook and updates to the Siting Study analysis pursuant to 52 Pa. Code 5.332, on or before next Thursday, September 27.

We look forward to hearing from you.

Very truly yours,



Joanna A. Waldron
For CURTIN & HEEFNER LLP

CERTIFICATE OF SERVICE

Consolidated Docket Nos. A-2017-2640200 and A-2017-2640195

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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