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File #: 166570

November 5, 2018

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

**Re: 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 & West Projects in Portions of Franklin and York County, Pennsylvania
Docket No. 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
Docket No. 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 and necessary for the convenience or welfare of the public
Docket No. P-2018-3001883**

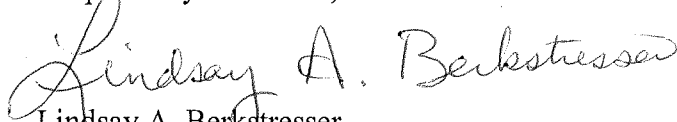
**Application of Transource Pennsylvania, LLC for approval to acquire a certain portion of lands of various landowners in York and Franklin Counties, Pennsylvania for the siting and construction of 230 kV Transmission Line associated with the Independence Energy Connection - East and West Projects is necessary or proper for service, accommodation, convenience or safety of the public
Docket Nos. A-2018-3001881, et al.**

Dear Secretary Chiavetta:

Rosemary Chiavetta, Secretary
November 5, 2018
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On November 2, 2018, a Motion to Compel Answers to Interrogatories and Requests for Production of Documents Propounded by Transource Pennsylvania, LLC – Sets I and II (“Motion”) was filed at Docket No. P-2018-3001833, which was an incorrect docket number. Therefore, enclosed is a corrected Motion for filing at Docket No. P-2018-3001883. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,


Lindsay A. Berkstresser

LAB/jl
Enclosures

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

CERTIFICATE OF SERVICE

Docket Nos. A-2017-2640195 & A-2017-2640200, et al.

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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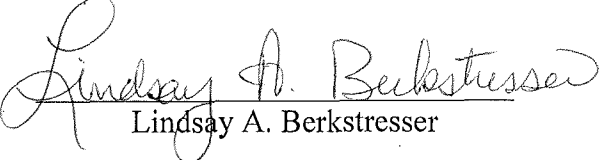
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Date: November 5, 2018


Lindsay A. Berkstresser

**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 : Docket Nos. A-2017-2640195
the Independence Energy Connection-East & : A-2017-2640200
West Projects in Portions of Franklin and York :
Counties, Pennsylvania :

Petition of Transource Pennsylvania, LLC for a :
finding that a building to shelter control :
equipment at the Rice Substation in Franklin : Docket No. P-2018-3001878
County, Pennsylvania is reasonably necessary :
for the convenience or welfare of the public :

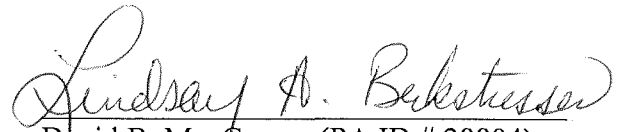
Petition of Transource Pennsylvania, LLC for a :
finding that a building to shelter control :
equipment at the Furnace Run Substation in : Docket No. P-2018-3001883
York County, Pennsylvania is reasonably and :
necessary for the convenience or welfare of the :
public :

Application of Transource Pennsylvania, LLC :
for approval to acquire a certain portion of :
lands of various landowners in York and : Docket Nos. A-2018-3001881, *et al.*
Franklin Counties, Pennsylvania for the siting :
and construction of the 230 kV Transmission :
Line associated with the Independence Energy :
Connection – East and West Projects is :
necessary or proper for the service, :
accommodation, convenience or safety of the :
public :

NOTICE TO PLEAD

YOU ARE HEREBY ADVISED THAT, PURSUANT TO 52 PA. CODE § 5.342(g)(1), YOU MAY FILE A REPLY TO THE ENCLOSED MOTION TO COMPEL WITHIN FIVE (5) DAYS AFTER THE DATE OF SERVICE. YOUR REPLY SHOULD BE FILED WITH THE SECRETARY OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION, P.O. BOX 3265, HARRISBURG, PA 17105-3265. A COPY OF YOUR REPLY SHOULD ALSO BE SERVED ON THE UNDERSIGNED COUNSEL.

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Date: November 2, 2018

Attorneys for Transource Pennsylvania, LLC

**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 : Docket Nos. A-2017-2640195
the Independence Energy Connection-East & : A-2017-2640200
West Projects in Portions of Franklin and York :
Counties, Pennsylvania :

Petition of Transource Pennsylvania, LLC for a :
finding that a building to shelter control :
equipment at the Rice Substation in Franklin : Docket No. P-2018-3001878
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 :
equipment at the Furnace Run Substation in : Docket No. P-2018-3001883
York County, Pennsylvania is reasonably and :
necessary for the convenience or welfare of the :
public :

Application of Transource Pennsylvania, LLC :
for approval to acquire a certain portion of :
lands of various landowners in York and : Docket Nos. A-2018-3001881, *et al.*
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 :

**MOTION TO COMPEL ANSWERS TO INTERROGATORIES AND REQUESTS
FOR PRODUCTION OF DOCUMENTS PROPOUNDED BY
TRANSOURCE PENNSYLVANIA, LLC – SETS I AND II**

**TO ADMINISTRATIVE LAW JUDGES ELIZABETH H. BARNES AND ANDREW M.
CALVELLI:**

As explained herein, Transource Pennsylvania, LLC (“Transource PA”) hereby files,
pursuant to 52 Pa. Code § 5.342, this Motion to Compel Answers to its Set I Interrogatories,
Questions 5 and 6 and Set II Interrogatories, Questions 7 and 8 directed to Stop Transource

Franklin County (“STFC”). The Motion to Compel requests that Administrative Law Judges Elizabeth H. Barnes and Andrew M. Calvelli direct STFC to provide full and complete responses to Set I Interrogatories, Questions 5 and 6 and Set II Interrogatories, Questions 7 and 8 as required by 52 Pa. Code § 5.342(a)(4). In support of its Motion, Transource PA states as follows:

I. BACKGROUND

On October 16, 2018, Transource PA served its Set I and II Interrogatories and Requests for Production of Documents on STFC. On October 22, 2018, counsel for STFC informally communicated STFC’s objections to certain of the Interrogatories and Requests for Production of Documents in Set I and Set II. On October 23, 2018, STFC served its formal objections to Set I, Questions 1, 2, 5, 6, 8, 9, 10, 11, 12, 13, 14, 16, 18, and 19 and Set II Questions 2, 7, and 8. On October 30, 2018, counsel for Transource PA and counsel for STFC were able to reach an agreement to resolve all of the objections except for STFC’s objections to Set I Interrogatories, Questions 5 and 6 and Set II Interrogatories, Questions 7 and 8, which are the subject of this Motion to Compel.¹

II. LEGAL STANDARD

Pursuant to Section 5.321(c), a party may obtain discovery of any matter not privileged that is relevant to a pending proceeding and that is reasonably calculated to lead to the discovery of admissible evidence. 52 Pa. Code § 5.321(c). Parties may also request documents “which are in the possession, custody or control of the party upon whom the request is served.” 52 Pa. Code § 5.349(a)(1). The Commission’s regulations prohibit discovery that would cause unreasonable

¹ Transource PA and STFC have agreed that STFC will respond to Set I, Questions 2 and 8 and Set II, Question 2 (as modified by Transource PA); Set I, Questions 1, 16, and 19; and Set I, Questions 12, 13, 14, and 18.

burden, expense, or delay, or that would cause the answering party to undertake an unreasonable investigation. 52 Pa. Code § 5.361(a)(2), (4).

III. ARGUMENT

A. STFC SHOULD BE COMPELLED TO PROVIDE A FULL AND COMPLETE RESPONSE TO QUESTION 5 OF THE SET I DISCOVERY AND QUESTION 7 OF THE SET II DISCOVERY.

Set I Question 5 provides as follows:

Identify every case within the past 5 years in which Dr. Sasowsky has provided testimony and provide copies of transcripts of the testimony.

Set II Question 7 provides as follows:

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

STFC objects to Set I, Question 5 and Set II, Question 7 on the basis that the documents requested are not within STFC's control and would be unduly burdensome to produce. STFC's objection is without merit and should be rejected.

Transource PA is entitled to seek information regarding the expert qualifications of Dr. Sasowsky and Mr. Dague, witnesses who submitted testimony on behalf of STFC in this proceeding. In order to be objectionable, a discovery request must be unduly burdensome. *See* 52 Pa. Code § 5.361(a)(2). Simply because Dr. Sasowsky and Mr. Dague may not readily maintain copies and/or transcripts of their prior testimony does not mean that requiring them to produce the copies and/or transcripts would create an unreasonable burden. Set I, Question 5 and Set II, Question 7 are not unreasonably burdensome and would not require an unreasonable search because they are limited to only those proceedings in which Dr. Sasowsky and Mr. Dague have testified within the past five years.

Transource is seeking transcripts and/or copies of Dr. Sasowsky's and Mr. Dague's own testimony. It is reasonable to require a witness to produce transcripts of his own testimony, especially when the question is limited in timeframe. STFC cannot legitimately claim that transcripts and/or copies of a witness's own testimony are not within that witness's custody or control. *See, e.g., Pa. PUC, et al. v. Equitable Gas Company*, Docket No. R-860315, 1986 Pa. PUC LEXIS 110 (May 16, 1986) (rejecting claim that documents held by the party's subsidiary were not within the party's custody or control). Certainly, the witness who sponsored the testimony is in a better position to obtain copies and/or transcripts of the testimony than Transource PA who was not even a participant in those proceedings.²

Transource PA would have no knowledge of the proceedings in which Dr. Sasowsky and Mr. Dague have previously testified unless Dr. Sasowsky and Mr. Dague identify them. Transource PA notes that it is willing to search for the requested documents if STFC identifies the proceeding, docket number, and date on which the testimony was provided. However, Transource PA requests that STFC be directed to provide copies and/or transcripts of any testimony that Transource PA is not able to obtain by conducting its own search.

Therefore, Transource PA respectfully requests that STFC be ordered to provide a full and complete response to Set I, Question 5 and Set II, Question 7.

B. STFC SHOULD BE COMPELLED TO PROVIDE A FULL AND COMPLETE RESPONSE TO SET I, QUESTION 6 AND SET II, QUESTION 8.

Set I, Question 6 provides as follows:

Re pp. 15-16 of Dr. Sasowsky's Direct Testimony. Provide copies of the referenced sources.

Set II, Question 8 provides as follows:

² Although STFC has not claimed that any of the testimony is confidential, to the extent that any of the information contained therein is confidential, it can be provided pursuant to the terms of the Protective Order in this proceeding.

Re pp. 6-7 of Mr. Dague's Direct Testimony. Provide copies of the referenced sources.

STFC objects to these interrogatories on the basis that the documents requested are not within the witness's custody or control and would create an unreasonable burden to produce. STFC's objection is without merit and should be rejected.

Set I, Question 6 and Set II, Question 8 seek copies of the sources that Dr. Sasowsky and Mr. Dague referenced in their testimony. It is unreasonable to suggest that the witnesses do not have these materials in their custody or control when they have stated that these sources were relied upon for their testimony. Dr. Sasowsky identifies eleven sources and Mr. Dague identifies seven sources.³ (Dague Testimony, pp. 6-7; Sasowsky Testimony, pp. 15-16) Requesting that the witnesses provide copies of these sources would not create an undue burden because the request is limited in scope to only those sources that the witnesses have already identified as having relied upon for their testimony. Transource PA notes that it is willing to limit these interrogatories as follows. For the referenced sources that are textbooks, provide only the relevant portion of the source relied upon.

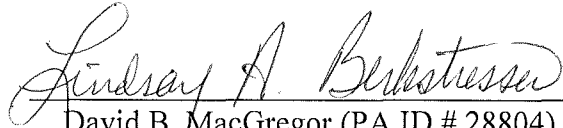
Therefore, Transource PA respectfully requests that STFC be ordered to provide a full and complete responses to Set I, Question 6 and Set II, Question 8.

³ Transource PA is not requesting that STFC produce copies of documents relied upon that have already been submitted in this proceeding, such as the direct testimony of other parties.

IV. CONCLUSION

WHEREFORE, for the foregoing reasons, Transource Pennsylvania, LLC respectfully requests that Administrative Law Judges Elizabeth H. Barnes and Andrew M. Calvelli grant this Motion to Compel and order Stop Transource Franklin County to fully answer Set I Interrogatories, Questions 5 and 6 and Set II Interrogatories, Questions 7 and 8.

Respectfully submitted,



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Date: November 2, 2018

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