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December 17, 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 Filed Pursuant to 52 Pa. Code Chapter 57, Subchapter G, 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 Franklin and York Counties, 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 Rune Substation in York County, Pennsylvania is reasonably necessary for the convenience or welfare of the public Docket No. P-2018-3001883

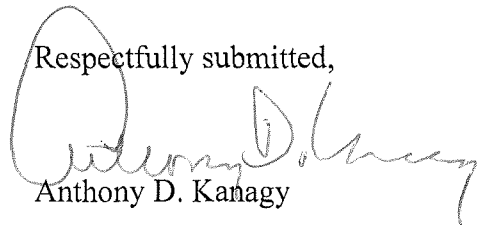
Application of Transource Pennsylvania, LLC for approval to acquire a certain portion of the lands of various landowners in York and Franklin Counties, Pennsylvania for the siting and construction of the 230 kV Transmission Lines associated with the Independence Energy Connection - East and West Projects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

Dear Secretary Chiavetta:

Rosemary Chiavetta, Secretary
December 17, 2018
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Enclosed for filing is the Answer of Transource Pennsylvania, LLC to the Motion to Amend the Procedural Schedule and to Strike Certain Testimony filed by Stop Transource Franklin County in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Anthony D. Kanagy". The signature is written in black ink and is positioned above the printed name.

Anthony D. Kanagy

ADK/kl
Enclosures

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

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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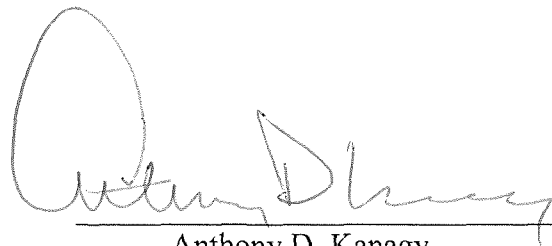
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Date: December 17, 2018



Anthony D. Kanagy

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Transource Pennsylvania, LLC	:	
for approval of the Siting and Construction of	:	Docket No. A-2017-2640195
the 230 kV Transmission Lines Associated	:	Docket No. A-2017-2640200
with the Independence Energy Connection –	:	
East and West Projects in portions of Franklin	:	
and York 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	:	Docket No. A-2018-3001881, <i>et al.</i>
lands of various landowners in York and	:	
Franklin Counties, Pennsylvania for the siting	:	
and construction of the 230 kV Transmission	:	
Lines associated with the Independence Energy	:	
Connection – East and West Projects as	:	
necessary or proper for the service,	:	
accommodation, convenience or safety of the	:	
public	:	

**ANSWER OF TRANSOURCE PENNSYLVANIA, LLC
TO THE MOTION OF STOP TRANSOURCE FRANKLIN COUNTY
TO AMEND THE PROCEDURAL SCHEDULE AND TO STRIKE CERTAIN
TESTIMONY**

I. INTRODUCTION

Transource Pennsylvania, LLC (“Transource PA or the “Company”), hereby submits this Answer to the Motion of Stop Transource Franklin County (“STFC”) to Amend the Procedural

Schedule and to Strike Certain Testimony (“Motion”). As explained herein, STFC’s request to amend the procedural schedule by allowing 150 additional days for the preparation of its surrebuttal testimony and STFC’s request to strike the rebuttal testimony of witness Cawley are unreasonable and should be denied.

As explained in more detail below, Transource PA has fully complied with 52 Pa. Code § 5.243 regarding the scope of rebuttal testimony. Transource PA testified that the Project would have reliability benefits in its direct testimony. OCA challenged this in its direct testimony and Transource PA responded in its rebuttal. This is not a new claim. STFC did not address this issue in testimony. STFC’s delay in seeking discovery or presenting testimony on the issue is not a basis for extending the schedule.

STFC also points to the length of Transource PA’s rebuttal testimony, “over 300 pages,” as justification for needing more time to prepare its surrebuttal (Motion, p. 5). STFC’s claim is without merit. By comparison, Transource PA responded to 1,900 pages of testimony provided at site visits and public input hearings and over 170 pages of written direct testimony presented by other parties. Transource PA has a right to respond to public input hearing testimony and to present new witnesses to do so. Given the magnitude of the testimony presented by opposing parties and at the public input hearings, the length of Transource PA’s rebuttal testimony is reasonable. Only two of the Company’s witnesses who presented rebuttal testimony respond to issues that were raised by STFC. The Company presented approximately nineteen pages of rebuttal testimony in response to issues raised in STFC’s direct case. It is not reasonable for STFC to request an extension of the schedule on the basis of needing additional time to review testimony on issues that STFC did not even raise.

STFC also argues that the recent delay in the in-service date justifies its request for an extension. This is completely incorrect. The delay in the in-service date was a direct result of prior delays in the schedule at the request of other parties (including STFC) and does not provide the basis for a further extension.

Parties' repeated requests to delay the schedule should not be accepted and are transparent attempts to use delay as a tactic to attempt to prevent construction. This is prejudicial to Transource PA and should not be accepted. The schedule in this proceeding is already significantly longer than other transmission line cases and should not be further delayed.

II. BACKGROUND

The procedural history in this case is lengthy. This background is limited to only the portions of the procedural history that are relevant to STFC's Motion. As explained herein, STFC's request for additional time to submit its surrebuttal testimony is simply another attempt to unnecessarily delay a ruling on the merits of the proposed Project and should be denied.

Almost one year ago, on December 27, 2017, Transource PA filed the "Application of Transource Pennsylvania, LLC filed Pursuant to 52 Pa. Code Chapter 57, Subchapter G, for Approval of the Siting and Construction of the 230 kV Transmission Line Associated with the Independence Energy Connection-East Project in Portions of York County, Pennsylvania." Also on December 27, 2017, Transource PA filed the "Application of Transource Pennsylvania, LLC filed Pursuant to 52 Pa. Code Chapter 57, Subchapter G, for Approval of the Siting and Construction of the 230 kV Transmission Line Associated with the Independence Energy Connection-West Project in Portions of Franklin County, Pennsylvania," (collectively, the "IEC Project"). Along with the Siting Applications, Transource PA filed the supporting direct testimony of six witnesses.

The IEC Project has two components—the IEC-West Project, which consists of the siting and construction of the Rice-Ringgold 230 kV Transmission Line in portions of Franklin County, Pennsylvania, and the IEC-East Project, which consists of the siting and construction of the Pennsylvania portion of the Furnace Run-Conastone 230 kV Transmission Line in portions of York County, Pennsylvania. As part of the IEC Project, Transource PA proposes to construct two new substations: the Furnace Run Substation to be located in York County, Pennsylvania and the Rice Substation to be located in Franklin County, Pennsylvania.

The IEC Project was approved by the PJM Board in August 2016 following TEAC and stakeholder review of the Project as described in the testimony of witness Herling (see Transource PA Statement No. 7-R, p. 4, adopting the direct testimony of Paul McGlynn at p. 33). The IEC Project was approved by PJM Interconnection, L.L.C. (“PJM”) to alleviate transmission congestion constraints in Pennsylvania, Maryland, West Virginia, and Virginia. Although the primary benefits from the IEC Project relate to market efficiency and the reduction of congestion costs, the new transmission facilities associated with the IEC Project will also enhance the electrical strength and reliability of the transmission system by virtue of the new transmission facilities in the area that will be part of the interconnected transmission grid, as originally explained in the Direct Testimony of Witness Ali, submitted on December 27, 2017. The IEC Project will provide additional and alternative paths for electricity in the event of outages on other Pennsylvania transmission facilities. The IEC Project will also allow the interconnection of future reliability, generation, and load projects in the area. Company Witness Ali explained these secondary reliability benefits in his direct testimony. See Transource PA Statement No. 2, pp. 11-12.

Following the submission of the Company's direct testimony, PJM re-evaluated the IEC Project. The results of the most recent re-evaluation were presented at the September 13, 2018 Transmission Expansion Advisory Committee ("TEAC") meeting. As explained in the rebuttal testimony of Company Witness Herling, the re-evaluation revealed that, while Project 9A was originally approved as a market efficiency project, it is now expected to provide reliability benefits because PJM has identified that, if the Project were not to go forward, reliability violations would occur on parts of the system (see Transource PA Statement No. 7-R, pp. 16-18).

Throughout the course of this proceeding, STFC and other parties have attempted to unreasonably delay a decision on Transource PA's Application. During the initial development of a procedural schedule, the OCA advocated for a schedule that set the deadline for filing reply briefs over a year from the date the Company filed its Application. STFC supported this schedule, which was nearly four months longer than the schedule proposed by the Company (Tr. at pp. 59-60). The OCA's preferred schedule was ultimately adopted, despite being much longer than schedules previously adopted in other transmission line siting applications.

On June 1, 2018, the OCA filed a motion requesting that the deadline for submitting intervenor direct testimony be extended by 60 days or until September 25, 2018. On June 26, 2018, the ALJs granted OCA's motion allowing intervenors until September 25, 2018 to submit their direct testimony (Third Prehearing Order, p. 10). The OCA then recommended that the remainder of the procedural schedule be extended so that reply briefs would be filed on April 17, 2019 (OCA Second Prehearing Memo, p. 11). STFC supported an even more extreme extension of the schedule, requesting that reply briefs be due on May 6, 2019 (STFC Second Prehearing Memorandum, Ex. 1). The Company proposed that the original reply brief date of February 28, 2019 be retained (Transource PA Second Prehearing Memo, p. 5). On July 30,

2018, the ALJs issued an order adopting the OCA's recommendation and setting a new reply brief date of April 17, 2019 (Fourth Prehearing Order, p. 14).

On September 25, 2018, the day that other parties' direct testimony was due, STFC filed a motion for thirty additional days to submit direct testimony. Transource PA opposed STFC's request. STFC was given until October 11, 2018 to submit its direct testimony (Fifth Prehearing Order, p. 4).

The Company has met its obligations under the previously approved procedural schedule. The Company filed its rebuttal testimony on November 27, 2018 in accordance with the new procedural schedule. The items in this rebuttal testimony were in direct response to the over 170 pages of direct testimony provided by other parties and the approximately 1,900 pages of testimony presented at the public input hearings and site visits. Under the existing procedural schedule, which already incorporates an extended schedule requested by STFC and other parties, surrebuttal testimony is due 50 days after the Company's rebuttal testimony, or on January 16, 2019. On December 13, 2018, (following similar motions by OCA on December 7, 2018 and Stop Transource York County on December 10, 2018, and after the ALJ's indication to the parties to the case that the ALJs intended to resolve the dispute before the holidays), STFC filed a motion to extend the deadline for filing surrebuttal testimony by an additional 150 days for a total of 200 days or approximately six and one-half months to prepare surrebuttal testimony.

As explained in Transource PA's responses to OCA's and Stop Transource York County's almost identical motions, further delay of this proceeding is clearly not reasonable and borders on the outrageous. Approximately thirty days remain until the due date for STFC's surrebuttal testimony. STFC has not offered sufficient justification as to why the time remaining in the existing procedural schedule is inadequate to prepare its surrebuttal testimony, especially

when it has raised *very limited issues* in its direct testimony. As explained below, Transource PA's rebuttal testimony responds to the direct testimony of other parties and the numerous public comments received at the public input hearings and site visits. The schedule is already much longer than procedural schedules that have been adopted in prior transmission line siting cases before the Pennsylvania Public Utility Commission ("Commission"). STFC's request for additional time to prepare its surrebuttal testimony when it still has approximately thirty days is unreasonable, unnecessary and should be denied.

III. ARGUMENT: STFC'S REQUEST TO EXTEND THE SCHEDULE IS UNREASONABLE AND SHOULD BE DENIED.

A. Transource PA has complied with 52 Pa. Code Section 5.243.

In its Motion, the STFC argues that Transource PA has not complied with 52 Pa. Code Section 5.243 (STFC Motion, p. 4). Section 5.243 of the Commission's regulations provides in relevant part:

- (e) A party will not be permitted to introduce evidence during a rebuttal phase which:
 - (1) Is repetitive.
 - (2) Should have been included in the party's case-in-chief.
 - (3) Substantially varies from the party's case-in-chief.

According to STFC, the Company's direct case did not sufficiently identify that this Project could address any potential future reliability issues (Motion, p. 6). This is simply not true. Company witness Ali explained in his direct testimony:

Although the primary benefits from the IEC Project relate to market efficiency and the reduction of congestion costs, the new transmission facilities associated with the IEC Project will also enhance the electrical strength and reliability of the transmission system by virtue of the new transmission facilities in the area that will be part of the interconnected transmission grid. The IEC Project will provide additional and alternative paths for electricity in the event of outages on other Pennsylvania transmission

facilities. The IEC Project will also allow the interconnection of future reliability, generation, and load projects in the area.

(Transource PA Statement No. 2, pp. 11-12).

The fact that the IEC Project will result in reliability benefits is not a “new claim.” Not only did the Company address the Project’s secondary reliability benefits in its direct case, the Company’s rebuttal testimony on the issue responds to the OCA’s claim in its direct testimony that the Project will not result in any reliability benefits (see OCA Statement No. 1, pp. 6, 18, 19, 35, 44; OCA Statement No. 2, p. 10).

The Company’s rebuttal testimony regarding reliability benefits is proper and complies with Section 5.243 because the Company did address reliability benefits in its direct case. Transource PA did not provide additional details because Project 9A is needed as a market efficiency project. OCA and other parties raised the issue in their direct testimony and at the public input hearings that Project 9A was not needed because it was not required to meet system reliability needs (OCA St. No. 2, p. 11). Transource PA certainly has a right to respond to this argument. The Company’s rebuttal testimony on the issue directly responds to the OCA’s claim that the Project will not result in any reliability benefits. Therefore, Section 5.243 of the Commission’s regulations provides no basis for allowing STFC more time to prepare its surrebuttal testimony or to strike Transource PA’s rebuttal testimony.

B. The Company’s presentation of rebuttal testimony regarding the proposed Project’s reliability benefits does not justify extending the existing procedural schedule or striking the testimony.

STFC argues that more time is needed to respond to Transource PA’s rebuttal testimony regarding the reliability benefits presented at the September 2018 TEAC meeting. STFC fails to demonstrate why more time is necessary to respond. Reliability is not a “new” issue in this case.

As explained above, Company witness Ali addressed the IEC Project's reliability benefits in his direct testimony (Transource PA Statement No. 2, pp. 11-12).

STFC did not even address need for the Project in its direct testimony even after availing itself of the opportunity to ask discovery regarding need for the Project and receiving the corresponding discovery responses from the Company. Thus, STFC should not be entitled to additional time to respond in surrebuttal to an issue that it did not even address in direct testimony. The Company's rebuttal testimony on reliability benefits does not justify STFC's request for additional time to prepare its surrebuttal testimony.

The rebuttal testimony of Company witnesses Ali, Herling, and Horger regarding reliability benefits is proper and should not be stricken. The rebuttal testimony of these witnesses is in response to the OCA's discussion of reliability in its direct testimony (see OCA Statement No. 1, pp. 6, 18, 19, 35, 44; OCA Statement No. 2, p. 10).

STFC also argues that Transource PA offers no reason for why the information regarding reliability violations identified at the TEAC meeting was not provided until now (Motion, p. 5). PJM re-evaluated Project 9A in September 2018 as part of its approved processes and presented the results of this analysis during PJM's TEAC meeting in September, which was open to the public and which STFC had an opportunity to attend, as in fact other stakeholders did. Transource PA advised the ALJs and the parties of this re-evaluation at the Second Prehearing Conference held on July 9, 2018 (see Fourth Prehearing Order, p. 13). When PJM conducted the re-analysis, it realized that the 1.42 benefit/cost ratio increased from the 1.32 benefit/cost ratio determined in the February 8, 2018 re-evaluation as it was explained during PJM's September 2018 open TEAC meeting. This increase suggested to PJM that power flows might have increased on facilities in the AP-South interface, leading to potential reliability criteria

violations. The reliability studies conducted by PJM in September 2018 confirmed that this was the case.

The September TEAC was held approximately four months prior to the due date for surrebuttal testimony. Parties have had this information for months, they did not just receive it. The September TEAC was public, and parties were certainly aware of it. STFC could have, and should have, started reviewing this information in September. This September – January period is more time than opposing parties have to file direct testimony in base rate proceedings, which is approximately 3 months from the date of the filing. Surrebuttal time periods in rate proceedings are often 3 weeks or less, not six months.

Further, STFC could have sought discovery regarding reliability benefits and the September TEAC analysis much earlier. Nearly three weeks have passed since the Company submitted its rebuttal testimony. STFC has yet to ask a single data request regarding the Company's rebuttal testimony. STFC should not be given more time to submit its surrebuttal testimony when it has voluntarily delayed seeking discovery.

Finally, the status of the IEC Project remains unchanged. The primary purpose of the Project is still market efficiency. The additional reliability benefits identified at the September 2018 TEAC have not resulted in the Project being designated as a reliability project or even a multi-value project. The approval requested is still the same as described in the Application and testimony filed on December 27, 2017.

C. The rebuttal testimony of new witnesses to address issues raised by other parties in their direct testimony and at the public input hearings does not justify extending the existing procedural schedule or striking the testimony.

STFC argues that the testimony of witnesses Chang and Stein are improper because they “introduce new benefits” and should have been presented in Transource PA's direct case (Motion, p. 6). STFC's argument is without merit. Both witness Chang and witness Stein

address issues raised by other parties in their testimony and at the public input hearings. This is proper rebuttal testimony.

The Project economics discussed by witness Chang in her rebuttal testimony were raised at the public input hearings. Various individuals argued that the Project does not provide employment or economic stimulus value to Pennsylvania (see, e.g., Tr. at pp. 1060, 1075, 1101, 1128, 1135). Transource PA has a right to respond to issues raised at the public input hearings just as it has a right to respond to issues raised in other parties' written direct testimony. Witness Chang's testimony also responds to the OCA's claim that PJM's market efficiency analysis overstates the IEC Project's benefits (OCA Statement No. 1, pp. 34, 42), as well as the OCA's claim that the addition of certain energy efficiency resources will reduce the need for the IEC Project (OCA Statement No. 3, p. 30).

Witness Stein's testimony regarding cost is in response to comments made at the public hearings that Transource PA has not updated its costs for the IEC Project (see, e.g., Tr. at p. 1956), as well as comments that construction of the line will impact property and infrastructure (YCPC St. No 1, pp. 14-16, 34; Shaw St. No. 1, p. 5), and comments regarding stormwater runoff and ground water sources (YCPC St. No. 1, pp. 28-29; Tr. at 243, 534, 684, 691, 1010, 1024). Therefore, witness Stein's rebuttal is proper responsive testimony and should not be stricken.

The Company has a right to add new witnesses at the rebuttal stage to address claims raised by other parties in their direct case, and it is customary and helpful to do so. Introducing new witnesses with specific technical knowledge to provide the best knowledge base to support rebuttal testimony addressing the specific issues raised by intervenor direct testimony does not justify a delay in the remaining procedural schedule. It is common practice to add new witnesses

in rebuttal testimony. For example, in the Susquehanna-Roseland case, Docket No. 2009-2082652, the Applicant added nine new witnesses in rebuttal, none of whom submitted direct testimony. Moreover, in its Prehearing Memorandum, Transource PA reserved the right to add additional witnesses to address issues in rebuttal (see Transource PA Prehearing Memorandum, p. 7).

STFC has not demonstrated why more time is needed to respond to witnesses who discuss issues that STFC did not even address in its direct case. STFC did not present any direct testimony on the issues discussed in the rebuttal testimony of witness Chang and witness Stein. Therefore, it is unreasonable to suggest that STFC should be given additional time to prepare surrebuttal testimony based on the addition of these new witnesses. STFC's Motion is simply another tactic to delay construction of this Project.

D. The rebuttal testimony of witness Cawley is proper and should not be stricken.

In its Motion, STFC seeks to strike the rebuttal testimony of witness Cawley on the basis that the testimony contains conclusions of law and is therefore improper (Motion, pp. 8-9). STFC mischaracterizes Mr. Cawley's testimony. Mr. Cawley's testimony is not offered as legal testimony. Rather, Mr. Cawley's testimony relates to his view of the Commission's policy on regional planning and PJM's selection of Project 9A. His analysis is based on his experience as a former Commissioner and understanding of PJM's role in regional planning and Commission policy. Most importantly, Mr. Cawley's testimony is responsive to issues raised in the direct testimony of the OCA, which offers similar policy opinions (OCA St. No. 1, pp. 2, 24-25; OCA St. No. 2, p. 12). As explained in more detail below, OCA witness Rubin cites extensively to statutes, regulations and court orders in his testimony. Mr. Rubin's testimony on the "*Effect of Recent Pennsylvania Legal Actions on the Review Process*" (OCA St. No. 1, pp. 13 – 16)

(emphasis added) is no different in that respect to Mr. Cawley's testimony with respect to the "*Importance of Regional Planning*" (Transource PA St. No. 9, pp. 7 – 15) that refute specific issues related to the Project's benefits to Pennsylvania, as explained more in detail below.

Mr. Cawley's testimony is proper rebuttal. Specifically, witness Cawley's testimony responds to several claims raised by the OCA, e.g., PJM's selection of the IEC Project (OCA St. No. 1, p. 2); OCA witness Rubin's disagreement with PJM's cost/benefit analysis for market efficiency projects (OCA St. No. 1, pp. 24-25); and the OCA's claim that the Project is not necessary because it is designed to reduce congestion (OCA St. No. 2, p. 12). Mr. Cawley offers his policy view on regional planning in response to the many witnesses that testify that the project should not be approved because it does not benefit Pennsylvania (see, e.g., Tr. at pp. 380, 805, 1101, 1024, 1060, 1099). Transource PA is entitled to present its own policy witness to refute these claims.

Mr. Cawley discusses his opinion of the importance of regional transmission planning regardless of whether Pennsylvania benefits from a particular project or whether the project is designed to increase reliability or reduce congestion restraints. Mr. Cawley states, in the context of Section 2805 of the Public Utility Code, that ". . . an RTO managing the grid across multi-state borders to achieve these far-reaching restructuring goals must undertake a great deal of continuous planning to manage the flow of electricity and the marketplace in energy and capacity. Interstate flow management must include regional transmission planning for both reliability-ensuring and congestion-curing projects" (Transource PA Statement No. 9-R, p. 10). Mr. Cawley's discussion of Section 2805 is limited to offering his opinion regarding the Commission's policy.

It is common in Pennsylvania for witnesses to offer testimony regarding a party's position or interpretation of issues related to the applicable law and policy in proceedings before the Commission. For example, in *Pa. PUC v. Philadelphia Suburban Water Co.*, 1986 Pa. PUC LEXIS 118 (Order entered Apr. 18, 1986), the OCA moved to strike portions of testimony regarding consolidated tax adjustment issues presented by a witness, a practicing attorney, on the basis that the testimony was legal opinion and argument. *Id.* at *66. “[T]he ALJ admitted the bulk of the testimony” and only struck the “limited portions which he determined to be speculative.” *Id.* On review of the ALJ's decision, the Commission considered, at length, the witness testimony on the interrelationship between consolidated tax adjustments and the Internal Revenue Code normalization provisions, including his summary of the applicable statutes and regulations. *Id.* at *68-75. Although the Commission ultimately disagreed with the witness's position on whether a consolidated tax adjustment should be made, it is undeniable that the Commission fully considered his analysis in rendering its decision. The ALJ and the Commission should have the same opportunity here.

There are too many other examples to cite them all, but a few are provided below. In Duquesne Light Company's most recent rate proceeding at Docket No. R-2018-30000124, OCA's witness Ashley Everette discussed the effect of Act 40 related to the consolidated tax adjustment on the ratemaking process (*See* OCA Statement No. 2, the Direct Testimony of Ashley E. Everette, pp. 24 - 27). The Bureau of Investigation and Enforcement's witness Cline cites to the Choice Act in support of his argument against the proposed microgrid in that proceeding (I&E St. No. 1, pp. 14 – 15). *See also* OCA Statement No. 1, the Direct Testimony of Dante Mugrace, pp. 59-60 in Columbia's most recent rate proceeding at Docket No. R-2018-2647577 (discussing the Act 40 requirements).

Moreover, in this proceeding, the OCA witness Rubin's (who is an attorney) testimony is replete with instances in which he offers his opinion and interpretation of the applicable law and legal policy (see, e.g., OCA Statement No. 1, pp. 12-18). For example, witness Rubin explains the Pennsylvania process for reviewing high-voltage transmission line applications (pp. 12-13), offers his opinion regarding recent legal actions, namely the Pennsylvania Supreme Court's decision in *Pennsylvania Environmental Defense Foundation v. Commonwealth* ("PEDF") and Act 45 of 2018, and their effects on the Commission's review process of siting applications. Witness Rubin characterizes his testimony as "a matter of public policy, and not as a legal opinion" (OCA Statement No. 1, p. 13). Mr. Rubin even goes so far as to offer his opinion as to whether the Company has complied with the Commission's regulations for siting applications (see OCA Statement No. 1, pp. 16-17). It would be fundamentally unfair and a violation of the Company's due process to allow the OCA to testify and offer legal policy opinions as to such issues but deny Transource PA the same opportunity.

STFC also fails to recognize that the PUC, as an administrative agency, is not strictly bound to the technical rules of evidence. As Judge Barnes has recently explained in another proceeding:

As a Commonwealth agency, the Commission is governed by the Commonwealth's Administrative Agency Law, 2 Pa. C.S. § 101, et seq. Section 505 of the Administrative Agency Law, 2 Pa. C.S. § 505, specifies that a Commonwealth agency is not bound by technical rules of evidence at an agency hearing. Specifically, 2 Pa. C.S. § 505, provides: "Commonwealth agencies shall not be bound by technical rules of evidence at agency hearings, and all relevant evidence of reasonably probative value may be received. Reasonable examination and cross-examination shall be permitted." Thus, if the evidence is relevant to the issues before the agency and of reasonable probative value, the agency may receive it. 2 Pa. C.S. § 505. Evidence is relevant if it tends to establish facts in issue. *LeRoi v. Pa. State Civil Service Commission*, 382 A.2d 1260 (Pa. Cmwlth. 1978).

Hoffman-Lorah v. PPL Elec. Utils. Corp., Docket No. C-2018-2644957, pp. 15-16 (Nov. 14, 2018) (Barnes, J.), *exceptions pending*; see *Frompovich v. PECO Energy Co.*, 2018 Pa. PUC LEXIS 160, at *22-23 (Order entered May 3, 2018) (stating the same). Mr. Cawley's rebuttal testimony should be admitted because it is relevant and has reasonable probative value to the importance of regional transmission planning.

STFC argues that Mr. Cawley's testimony as it relates to the Public Utility Code is not relevant and will not aid the Administrative Law Judges in their determination (Motion, p. 8). As explained above, Mr. Cawley's testimony directly responds to issues raised by the OCA concerning PJM's selection of Project 9A and congestion considerations in PJM's regional planning process. Therefore, Mr. Cawley's testimony is highly relevant to the issues in this case.

STFC also argues that witness Cawley is an attorney and that this supports their argument that his testimony should be stricken. This argument is without merit. OCA's witness Rubin is also an attorney, and so have been countless other witnesses in countless previous cases before the Commission.

The ALJs and the Commission should consider witness Cawley's testimony and determine the appropriate weight to give to it. If such testimony is struck now, however, the fact finder could be denied the opportunity to review and consider important background and policy considerations when analyzing these issues. This is further complicated by STFC's failure to cite the specific passages in Mr. Cawley's rebuttal testimony that it believes should be stricken. STFC merely cites "pages 8 – 15" of the testimony and alleges that it "primarily consists of Mr. Cawley's opinions on questions of law." (STFC Motion, p. 9) (emphasis added) As a result, Transource PA has not been given an opportunity to evaluate the specific portions of Mr. Cawley's testimony that STFC seeks to strike in order to directly respond to

STFC's assertion that the testimony should be stricken. Therefore, it would be more prudent and appropriate for the ALJ to admit the testimony and then determine the weight to give the testimony later in the proceeding.

Finally, these cases cited by STFC are distinguishable. In *Waters v. State Employees Retirement Board*, the expert's testimony on statutory construction was allowed by the hearing examiner. See *Waters v. State Emps. Ret. Bd.*, 955 A.2d 466, 470-71 (Pa. Cmwlth. 2008). On appeal, the Commonwealth Court expressed, in dicta, that this testimony should not have been allowed. See *id.* at 471 n.7. STFC wholly relies on this to support its claim that Mr. Cawley's rebuttal testimony should be stricken.

Further, the *Hoffman v. Pennsylvania Crime Victim's Compensation Board* case cited by STFC has no applicability to this proceeding. STFC quotes a passage from that case, which states that the court "cannot be bound by the remarks or understanding of an individual representative when endeavoring to ascertain legislative intent." *Hoffman v. Pa. Crime Victim's Comp. Bd.*, 405 A.2d 1110, 1112 n.2 (Pa. Cmwlth. 1979) (emphasis added). That quote refers to the statements of Pennsylvania State Representative Irvis on the floor of the house, regarding the intent of Senate Bill No. 153 in 1976. However, Mr. Cawley is not and has never been an elected state representative.

Witness Cawley's testimony is proper, and STFC's request to strike the testimony should be denied.

E. The Project's new in-service date is a result of STFC's and other parties' previous requests to extend the procedural schedule.

STFC states that Transource PA has voluntarily delayed the in-service date for the Project by five months, from June 1, 2020, to November 1, 2020 (STFC Motion, p. 2). For this reason,

STFC contends that no prejudice would result from granting its requested extension of the surrebuttal testimony due date and remaining procedural schedule.

STFC's characterization of the modified in-service date as "voluntary" is inaccurate. The new in-service date is a direct result of STFC's and other parties' previous attempts to delay the procedural and, ultimately, a Commission decision, which Transource PA opposed. As explained above, STFC has made multiple attempts to delay the procedural schedule in this case since it was filed on December 27, 2017. The OCA has made multiple similar attempts, which STFC has generally supported. The current schedule provides for a reply brief date of April 17, 2019. The existing schedule allows ample time for STFC to prepare its surrebuttal testimony. The OCA's request to further delay the schedule and, ultimately, a decision on the merits of the Project is unnecessary, unreasonable, and prejudicial. Therefore, it should be denied.

STFC is wrong to suggest that the procedural schedule in companion proceedings in Maryland justify a five-month delay in the Pennsylvania proceedings. Both the Maryland Application and the Pennsylvania Application were filed on December 27, 2017. As currently structured, the Maryland schedule is aligned with the Pennsylvania schedule to produce final decisions in both jurisdictions around the same time, assuming similar review periods by both Commissions. The Maryland hearings are scheduled to be conducted in April 2019. While the Pennsylvania application is initially being heard by an ALJ and is subject to further review by the Pennsylvania Commission, the Maryland Application will only be heard by the full Maryland Public Service Commission. The process is different in both states so it is not proper to just look at the hearing schedules. A delay in Pennsylvania would therefore be inconsistent with the Maryland schedule and would substantially prejudice the Company.

F. Other parties, including Stop Transource Franklin County, have repeatedly attempted to delay the procedural schedule in this proceeding.

STFC's Motion is just another attempt to delay a decision on the merits of the proposed Project. During the initial development of a procedural schedule, the OCA advocated for a schedule that set the deadline for filing reply briefs over a year from the date the Company filed its Application. The OCA's originally proposed schedule was as follows:

Prehearing Conference	March 13, 2018
Public Input Hearing and Site Visits (York County)	May 14-18, 2018
Public Input Hearing and Site Visits (Franklin County)	May 21-25, 2018
Additional Public Input Hearings/Rain Dates for Site Visits, if needed	June 4-8, 2018
Intervenor Direct Testimony	July 25, 2018
Rebuttal Testimony	October 3, 2018
Surrebuttal Testimony	November 7, 2018
Written Rejoinder	November 20, 2018
Hearings	December 4-7, 2018
Overflow Hearing Days (if needed)	December 10-12, 2018
Main Briefs	February 1, 2019
Rely Briefs	February 28, 2019

In comparison, the Company's proposed schedule was as follows:

Filing	December 27, 2017
Prehearing Conference	March 13, 2018
Public Input Hearings and Site Visits	April 2018

Other Parties Direct Testimony	June 20, 2018
Rebuttal Testimony	August 1, 2018
Surrebuttal Testimony	August 22, 2018
Written Rejoinder	September 5, 2018
Hearings	Week of September 10-14, 2018
Main Brief	October 12, 2018
Reply Brief	November 2, 2018

STFC supported OCA's proposed schedule, which was nearly four months longer than the schedule proposed by the Company (Tr. at pp. 59-60). This schedule was ultimately adopted, despite being much longer than schedules previously adopted in other transmission line siting applications.

Despite having approximately six months from the date of the Company's filing to prepare its direct testimony, on June 1, 2018, the OCA filed a motion requesting that the deadline for submitting intervenor direct testimony be extended by 60 days or until September 25, 2018, which Transource PA opposed. The ALJs granted OCA's motion allowing intervenors until September 25, 2018 to submit their direct testimony (Third Prehearing Order, p. 10). The OCA then recommended that the remainder of the procedural schedule be extended so that reply briefs would be filed on April 17, 2019 (OCA Second Prehearing Memo, p. 11). STFC proposed an even more extreme extension of the schedule, requesting that reply briefs be filed on May 6, 2019 (STFC Second Prehearing Memorandum, Ex. 1). Again, the Company opposed this extension of the schedule and instead proposed that the original reply brief date of February 28, 2019 be retained in order to avoid any delay in the Project's in-service date (Transource PA

Second Prehearing Memo, p. 5; Tr. at p. 1625). On July 30, 2018, the ALJs issued an order adopting the OCA's recommendation and setting a new reply brief date of April 17, 2019.

On September 25, 2018, the day that other parties' direct testimony was due, STFC filed a motion for thirty additional days to submit direct testimony. Transource PA opposed STFC's request. STFC was given until October 11, 2018 to submit its direct testimony (Fifth Prehearing Order, p. 4).

The Company timely filed its rebuttal testimony on November 27, 2018 in accordance with the new procedural schedule. Under the existing procedural schedule, the OCA's surrebuttal testimony is due within 50 days of rebuttal, or on January 16, 2019. The Motion requests that the deadline for filing surrebuttal testimony be extended by an additional 150 days. STFC's Motion is consistent with its pattern of repeated attempts to delay a decision on the merits of the Company's Application. STFC has offered no reasonable basis for extending the schedule even further, and its Motion should be denied. STFC has already argued for additional time, these arguments have resulted in the ALJs already approving a delayed comprehensive procedural schedule providing additional time for STFC, and STFC now needs to operate in good faith to meet the timeline that it, itself, supported.

G. The length of the procedural schedule in this case is already much longer as compared to other transmission line siting cases before the Commission.

The procedural schedule in this case is unprecedentedly long when compared to other transmission line cases before the Commission. The initial procedural schedule set forth by the OCA and adopted by the ALJs provided for a reply brief date that was over one year from the date of the Company's filing. In comparison, the reply brief date in the Susquehanna-Roseland proceeding was approximately 9 months after the filing date. See Docket No. A-2009-2082562. Likewise, in the Northeast Pocono proceeding, the reply brief date was approximately 8 ½

months after the filing date. See Docket No. A-2012-2340872. Even considering transmission line cases in which there was no requirement that the Commission issue a decision within one year from the date of the original application, these other cases were decided much faster than the current procedural schedule in this case allows. For example, in the case of Trans-Allegheny Interstate Line, Docket No. A-110172, the reply brief date was approximately eleven months after the application was filed. With respect to Pennsylvania Electric Company's recent Application for the Bedford North - Central City West 115 kV Transmission Line, the reply brief date was approximately ten months after the application was filed.

As a result of the continuous requests by STFC and other parties to delay the procedural schedule, the existing schedule in this case is now significantly longer. The existing schedule is as follows:

Application and Company Direct Testimony	December 27, 2017
Other parties' testimony	September 25, 2018
Rebuttal testimony	November 27, 2018
Surrebuttal testimony	January 16, 2019
Written rejoinder	January 30, 2019
Evidentiary hearing	February 21-22, and February 25-March 1, 2019
Main Briefs	March 28, 2019
Rely Briefs	April 17, 2019

The reply brief date provided for in the current schedule is now almost sixteen months after the Company filed its Application. STFC's most recent request would delay this proceeding even further, by at least an additional 150 days, such that the reply brief date would be approximately twenty-one months after the Company filed its Application. STFC's request is

so unreasonable that it now seeks triple the time it would have been allowed under the existing schedule to prepare its surrebuttal testimony. STFC has failed to offer a reasonable explanation as to why the Company's Siting Application should proceed at far slower pace before the Commission than other transmission line cases of comparable magnitude.

H. STFC's request to delay the schedule each time the Project's benefits are reevaluated would ultimately serve as a complete bar to any project ever being built.

As support for its requested extension, STFC cites to the new information concerning the Project's reliability benefits that was made available following the September 2018 TEAC, as addressed in the Company's rebuttal testimony (STFC Motion, pp. 5-7). According to STFC, this updated information warrants additional time for STFC to evaluate it and prepare its surrebuttal testimony. If STFC position were accepted, STFC could use this argument to delay the Project in perpetuity.

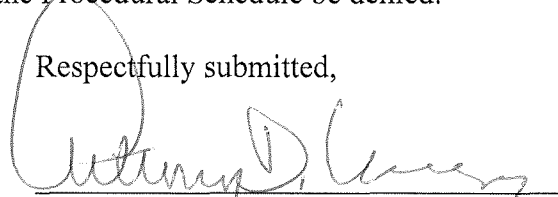
If procedural schedules were delayed every time updated information became available regarding a proposed project, the merits of transmission line cases would never be decided, and no new project would ever be built. This is because additional information is constantly available. As explained in the Company's direct testimony submitted on December 27, 2017, "to assure that projects selected by the PJM Board for market efficiency continue to be economically beneficial, both the costs and benefits of these projects will be reviewed periodically (nominally on an annual basis)" (Transource PA Statement No. 3, p. 23). Due to this, and the time required for the regulatory approval process, no project will be built under exactly the same transmission system conditions that existed when the project was introduced. PJM has reevaluated Project 9A consistent with the process described in the Company's direct testimony multiple times, namely September 2017, February 2018, and September 2018. Each time PJM has determined that the Project is needed. The Company, along with PJM, have performed multiple studies and

sensitivity analyses as outlined in direct and rebuttal testimony to address anticipated changes. OCA's continued requests to delay this proceeding are prejudicial to Transource PA because they attempt to thwart a final Commission decision on the merits.

IV. CONCLUSION

WHEREFORE, Transource Pennsylvania, LLC respectfully requests that Stop Transource Franklin County's Motion to Amend the Procedural Schedule be denied.

Respectfully submitted,



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Date: December 17, 2018

Attorneys for Transource Pennsylvania, LLC

VERIFICATION

I, Brian D. Weber, being the Managing Director of Transmission Development at American Electric Power hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: Dec 17, 2018