
Anthony D. Kanagy
Principal

akanagy@postschell.com
717-612-6034 Direct
717-720-5387 Direct Fax
File #: 166570

September 25, 2020

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 and West Projects in Portions of Franklin and York Counties, Pennsylvania - Docket No. A-2017-2640195 & A-2017-2640200

Petitions of Transource Pennsylvania, LLC for a finding that a building to shelter control equipment at the Rice Substation in Franklin County, Pennsylvania and the Furnace Run Substation in York County, Pennsylvania are reasonably necessary for the convenience or welfare of the public - Docket Nos. P-2018-3001878 & 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:

Attached for filing is the Reply Brief of Transource Pennsylvania, LLC and PPL Electric Utilities Corporation in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Rosemary Chiavetta, Secretary
September 25, 2020
Page 2

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Anthony D. Kanagy". The signature is fluid and cursive, with a large initial "A" and "K".

Anthony D. Kanagy

ADK/ks
Attachment

cc: Honorable Elizabeth Barnes
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).

VIA E-MAIL & FIRST CLASS MAIL

PHILLIP D DEMANCHICK, ESQUIRE
DAVID T EVRARD, ESQUIRE
DARRYL A LAWRENCE, ESQUIRE
OFFICE OF CONSUMER ADVOCATE
555 WALNUT STREET 5TH FLOOR
FORUM PLACE
HARRISBURG PA 17101

SHARON E WEBB, ESQUIRE
OFFICE OF SMALL BUSINESS
ADVOCATE
555 WALNUT STREET
FORUM PLACE, 1ST FLOOR
HARRISBURG PA 17101

JACK GARFINKLE, ESQUIRE
JENNEDY S JOHNSON, ESQUIRE
ROMULO L DIAZ, JR., ESQUIRE
PECO ENERGY COMPANY
2301 MARKET STREET
LEGAL DEPT S23-1
PHILADELPHIA PA 19103

JOANNA A WALDRON, ESQUIRE
MARK L FREED, ESQUIRE
CURTIN & HEEFNER LLP
DOYLESTOWN COMMERCE CENTER
2005 S EASTON ROAD SUITE 100
DOYLESTOWN PA 18901
STOP Transource Franklin County

TERESA HARROLD, ESQUIRE
FIRSTENERGY
2800 POTTSVILLE PIKE
PO BOX 16001
READING PA 19612-6001
MAIT

KIMBERLY A KLOCK, ESQUIRE
MICHAEL J. SHAFER, ESQUIRE
PPL ELECTRIC UTILITIES
TWO NORTH NINTH ST
ALLENTOWN PA 18101
PPL Electric Utilities Corporation

KAREN O MOURY, ESQUIRE
ECKERT SEAMANS
213 MARKET ST
HARRISBURG PA 17101
*Maple Lawn Farms, Inc.,
Rose Tree-Blue Mountain Hunt Club, Inc.
& Citizens to Stop Transource*

THOMAS J SNISCAK, ESQUIRE
WHITNEY E SNYDER, ESQUIRE
HAWKE MCKEON AND SNISCAK LLP
100 N TENTH STREET
HARRISBURG PA 17101
York County Planning Commission

LINUS E FENICLE, ESQUIRE
REAGER & ADLER PC
2331 MARKET ST
CAMP HILL PA 17011
Quincy Township

BARRON SHAW
JANA SHAW
445 SALT LAKE RD
FAWN GROVE PA 17321

JOHN L MUNSCH, ESQUIRE
800 CABIN HILL DRIVE
GREENSBURG PA 15601
MAIT & WEST PENN POWER

*SCOTT T WYLAND, ESQUIRE
G BRYAN SALZMANN, ESQUIRE
ISAAC P WAKEFIELD, ESQUIRE
SALZMANN HUGHES PC
112 MARKET STREET, 8TH FLOOR
HARRISBURG, PA 17101
Franklin County Board of Commissioners*

VIA FIRST CLASS MAIL

BYRON JESS BOYD
831 NEW PARK ROAD
NEW PARK PA 17352

ALLEN & LORI RICE
1430 HENRY LANE
CHAMBERSBURG PA 17202

LOIS WHITE
1406 WALKER ROAD
CHAMBERSBURG PA 17202

HUGH MCPERSON
2885 NEW PARK ROAD
NEW PARK PA 17352

J ROSS MCGINNIS ESQUIRE
41 WEST MAIN STREET
FAWN GROVE PA 17321

FRED BYERS
1863 COLDSMITH RD
SHIPPENSBURG PA 17257

KAREN BENEDICT
RODNEY MYER
5413 MANHEIM RD
WAYNESBORO PA 17268

LEONARD KAUFFMAN
MARY KAUFFMAN
4297 OLDE SCOTLAND RD
CHAMBERSBURG PA 17202

WILLA WELLER KAAL
67 SUMMER BREEZE LANE
CHAMBERSBURG PA 17202

DANIELLE BERNECKER
1827 WOOD DUCK DR E
CHAMBERSBURG PA 17202

JAN HORST
GEORGIANA HORST
826 NEW FRANKLIN RD
CHAMBERSBURG PA 17202

ROY CORDELL
EMMA CORDELL
4690 FETTERHOFF CHAPEL ROAD
CHAMBERSBURG PA 17202

ASHLEY HOSPELHORN
8010 HIDDEN VALLEY LN
WAYNESBORO PA 17268

ASHLEY HOSPELHORN
116 WEST 3RD STREET
WAYNESBORO PA 17268

LANTZ SOURBIER
LAURA SOURBIER
64 EDGEWOOD CIR
CHAMBERSBURG PA 17202

MICHAEL CORDELL
4219 ALTENWALD RD
WAYNESBORO PA 17268

AARON KAUFFMAN
MELINDA KAUFFMAN
4220 OLD SCOTLAND RD
CHAMBERSBURG PA 17202

ALLAN STINE
HEATHER STINE
867 CIDER PRESS ROAD
CHAMBERSBURG PA 17202

COLT MARTIN
KRISTYN MARTIN
8020 HIDDEN VALLEY RD
WAYNESBORO PA 17268

COURTNEY DETTINGER
DEREK DETTINGER
24 CHANCEFORD RD
BROGUE PA 17309

JAMES MCGINNIS JR
290 WOOLEN MILL ROAD
NEW PARK PA 17352

DARWYN BENEDICT
410 N GRANT STREET
WAYNESBORO PA 17268

CLINT BARKDOLL
OWLS CLUB, INC.
87 W MAIN ST
WAYNESBORO PA 17268

DELORES KRICK
MUDDY CREEK MEADOWS
RIDING STABLE
699 FROSTY HILL ROAD
AIRVILLE PA 17302

KATHRYN URBANOWICZ
CLEAN AIR COUNCIL
135 SOUTH 19TH ST
SUITE 300
PHILADELPHIA PA 19103

Date: September 25, 2020



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, *et al.*
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 :

**REPLY BRIEF OF TRANSOURCE PENNSYLVANIA, LLC.
AND PPL ELECTRIC UTILITIES CORPORATION**

Hector Garcia (VA ID # 48304)
American Electric Power Service Corporation
1 Riverside Plaza, 29th Floor
Columbus, OH 43215

David B. MacGregor (PA ID # 28804)
Anthony D. Kanagy (PA ID # 85522)
Lindsay A. Berkstresser (PA ID #318370)
Post & Schell, P.C.
17 North Second Street, 12th Floor
Harrisburg, PA 17101-1601

Counsel for Transource Pennsylvania, LLC

Michael J. Shafer (PA ID # 205681)
PPL Services Corporation
Office of General Counsel
Two North Ninth Street
Allentown, PA 18106
Phone: 610-774-2599
Fax: 610-774-6726
E-mail: mjshafer@pplweb.com

Date: September 25, 2020

Counsel for PPL Electric Utilities Corporation

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I. INTRODUCTION

On August 11, 2020, pursuant to the schedule adopted by Administrative Law Judge Elizabeth H. Barnes (“ALJ”), Transource Pennsylvania LLC (“Transource PA”) and PPL Electric Utilities Corporation (“PPL Electric”) (collectively the “Joint Applicants”), Office of Consumer Advocate (“OCA”), The County of Franklin (“Franklin County”), and Stop Transource Franklin County (“STFC”) filed Main Briefs in these consolidated proceedings. Transource PA and PPL Electric, in their joint Main Brief, anticipated and responded to many of the arguments raised by the other parties. In this Reply Brief, Transource PA and PPL Electric will respond to the issues raised by the other parties in their Main Briefs but will attempt to minimize repetition of arguments provided in Transource PA’s and PPL Electric’s Main Brief.

II. STATEMENT OF THE CASE

Transource PA and PPL Electric provided their statement of the case in the Main Brief and a procedural history is provided in Appendix A thereto.

III. SUMMARY OF ARGUMENT

This joint siting application for approval of Settlement 9A proposes a project of crucial importance to the Commonwealth of Pennsylvania and the region. In addition to preventing significant reliability violations projected to occur in 2023 if the project is not constructed, Settlement 9A is the first market efficiency transmission line project to be decided by the Commission.

Settlement 9A is the result of an extensive selection process within the context of PJM’s Regional Transmission Expansion Plan and ensuing state regulatory processes. The competitive window for PJM’s market efficiency planning process arises from the Federal Energy Regulatory Commission’s (“FERC”) Order No. 1000, which is the culmination of a process by which FERC directed RTOs such as PJM to implement reforms requiring regional transmission planning in

order to mitigate congestion in the transmission system in order to ensure that FERC-jurisdictional services are provided at just, reasonable and not unduly discriminatory rates. FERC Order No. 1000 was subject to numerous requests for rehearing and appeal which affirmed FERC's authority to require the transmission reforms contained therein.

PJM implemented its market efficiency planning process in compliance with FERC Order No. 1000. PJM's market efficiency process was adopted pursuant to PJM's stakeholder process and approved by FERC. It is also set forth in PJM's Operating Agreement.

Under PJM's market efficiency planning process, PJM's solicited proposals to address congestion on the AP South and related constraints. In response, PJM received 41 different proposals to address this driver and selected Transource 9A as the more efficient, cost effective solution. The Project also provides significant reliability benefits by resolving five major NERC violations on facilities in Pennsylvania that were identified by PJM to occur in 2023 without the Project. One of these violations is an N-0 violation on a 500 kV line and the other four are N-1 violations. These violations must be resolved. No other solutions have been identified that would address these significant and imminent violations in an effective and timely manner.

Despite these clear facts, the other parties argue that the Project is not needed and does not meet the need requirements under Pennsylvania law. Their primary argument is that the Commission must solely focus on Pennsylvania benefits, and they then allege that this Project does not benefit Pennsylvania. They are wrong on both counts.

Pennsylvania is part of the interstate, regional transmission system and is required by statute to work with other states to establish independent system operators, such as PJM, to operate the transmission system and interstate power pools. Once part of a regional interstate transmission and power pool, the Commission cannot solely focus on Pennsylvania to determine

need for an interstate transmission line. The Commonwealth Court has also held that the Commission must determine need from a regional perspective.

Pennsylvania is part of PJM, which has determined through its FERC-approved and tariffed market efficiency planning process, that this Project is needed to address congestion on the interstate transmission system. PJM has determined that this Project is needed and this determination supports a finding of need under Pennsylvania law.

In addition, this Project provides benefits to Pennsylvania. Foremost, this Project resolves five significant reliability violations on major transmission facilities in Pennsylvania. The Project also provides economic benefits to Franklin and York Counties and strengthens the transmission system, which supports new generation, including gas-fired generation and renewable generation.

In their Briefs, the other parties misconstrue the law in an attempt to support their positions. They attempt to establish a standard of review under the Environmental Rights Amendment (“ERA”) that goes well beyond the standards established by the Courts and this Commission. They argue that the Commission must revisit its siting regulations due to *PEDF*, an argument that has been rejected by the Commission and the Commonwealth Court. They also argue that Transource PA is required to obtain prior approval from the Orphans Court and/or the ALCAB before exercising the power of eminent domain over preserved farmland. The other parties cite no legal support for this argument, and it is directly contrary to the statutory exemptions for public utility facilities, the Commission’s exclusive jurisdiction over siting of public utility facilities and prior practice.

The other parties criticize FERC’s wholesale market structure and PJM’s implementation of the market efficiency planning process. These issues are FERC jurisdictional issues over the

structure and operation of the wholesale power markets, and they should not be considered by this Commission. The other parties criticize PJM's benefit-to-cost methodology, which again is a FERC-jurisdictional issue that should not be considered by the Commission. The other parties' criticisms of PJM's benefit-to-cost methodology primarily focus on the fact that PJM does not consider changes in wholesale prices in unconstrained areas in its analysis, and would have the Commission graft an inappropriate consideration of zones that are *not* allocated costs for the project. As further explained herein and in the Joint Applicants' Main Brief, the other parties proposed methodology would perpetuate the continuation of unjust, unreasonable and unduly discriminatory wholesale power prices, which is contrary to FERC's directive in Order No. 1000. It is further important to emphasize that the other parties' criticisms center on wholesale prices, not retail prices. Wholesale market issues are solely within FERC's exclusive jurisdiction.

The other parties also argue that the Project should be denied because it will have adverse environmental impacts. Transource PA and PPL Electric have demonstrated that the Project will have a minimum adverse impact in compliance with the Commission's regulations and Pennsylvania law. For York County, the settlement route utilizes existing PPL Electric infrastructure and ROW to the extent reasonably possible. For Franklin County, the proposed route parallels existing infrastructure for over 40% of the route.

One of the primary concerns of the Franklin County residents is the impact on farmland. Transource PA has taken every reasonable effort to minimize the impact on farming. The original project design called for lattice tower structures. Transource PA changed from lattice towers to monopoles to reduce the impact on farmland. The monopole structures take up less than ½ acre, in total, in Franklin County. In addition, Transource PA has worked with farmers to relocate poles to minimize farming impacts wherever practical.

This Project will provide significant congestion benefits to the region and will provide significant reliability benefits to Pennsylvania. For the reasons explained herein, in the Joint Applicants' Main Brief and in their testimonies, Settlement 9A should be expeditiously approved so that the Project can be constructed in time to resolve the identified reliability violations that will occur in 2023 if the Project is not constructed.

IV. BURDEN OF PROOF

Please refer to Transource PA's and PPL Electric's Main Brief for the Joint Applicants' position regarding the burden of proof.

V. APPLICABLE LEGAL STANDARDS

A. THE OTHER PARTIES MISSTATE THE STANDARD UNDER THE ERA

As discussed in the Joint Applicants' Main Brief, the Commission has already determined that the application of its siting regulations satisfies its duty as trustee under Article I, Section 27 of the Pennsylvania Constitution (the "Environmental Rights Amendment" or "ERA") and *Pennsylvania Environmental Defense Foundation v. Commonwealth*, 161 A.3d 911 (Pa. 2017) ("*PEDF*"). Joint Applicants' M.B., pp. 28-29.

Other parties' criticisms of the IEC Project are based upon the application of incorrect legal standards. In their Main Briefs, OCA, STFC and Franklin County apply the incorrect standard for analyzing the IEC Project under the ERA and *PEDF*. In concluding that Transource PA has failed to meet its burden, OCA contends that Transource PA has a "heavy burden" under the ERA. OCA M.B., pp. 1, 22, 28, 70. STFC advocates for a "strict scrutiny" standard in determining whether the Commission has unreasonably impaired Pennsylvanians' constitutional rights. STFC, M.B., p. 27. The Commission has specifically rejected OCA's and STFC's arguments that the ERA establishes an intensified burden. *See Application of PPL Electric Utilities Corporation filed pursuant to 52 Pa. Code Chapter 57, Subchapter G, for approval of*

the siting and construction of transmission lines associated with the Northeast-Pocono Reliability Project in portions of Luzerne, Lackawanna, Monroe, and Wayne Counties, Pennsylvania, Docket No. A-2012-2340872, 2013 Pa. PUC LEXIS 620 (R.D. October 8, 2013; Order entered January 9, 2014) (rejecting other parties’ argument that applicant has an “intensified burden” under the ERA to show that the environment has been considered in its planning and that every reasonable effort has been made to reduce the environmental incursion to a minimum) citing *Application of PPL Electric Utilities Corporation Filed Pursuant to 52 Pa. Code Chapter 57, Subchapter G, for Approval of the Siting and Construction of the Pennsylvania Portion of The Proposed Susquehanna-Roseland 500 kV Transmission Line in Portions of Lackawanna, Luzerne, Monroe, Pike and Wayne Counties, Pennsylvania*, Docket No. A-2009-2082652, *et al.* (Order entered February 12, 2010) (the assertion that every reasonable effort should be made to reduce the environmental impacts to a minimum was without merit).

STFC argues that the Commission’s regulations are not a substitute for the fiduciary duties of a trustee as provided for in *PEDF*. STFC M.B., p. 24. According to STFC, the Commission must “revisit its regulations on transmission line siting to ensure that they meet the standard of the Environmental Rights Amendment of Article I, Section 27, of the Pennsylvania Constitution. . .” STFC M.B., p. 2. Likewise, Franklin County contends that the Commission must “adjust its evaluation of the IEC Project to address these newly emphasized environmental equities.” Franklin County M.B., p. 22. STFC and Franklin County fail to recognize that the Commission has already determined this issue. The Commission has reviewed high voltage (“HV”) transmission line projects subsequent to *PEDF* and determined that the impartial application of its existing regulations satisfies its duty as trustee under the ERA. *See Application of Pennsylvania Electric Company Seeking Approval to Locate, Construct, Operate and*

Maintain a High-Voltage Transmission Line Referred to as the Bedford North-Central City West 115 kV HV Transmission Line Project, Docket No. A-2016-2565296 (Order entered March 8, 2018) (“*Bedford North-Central City West*”). In *Bedford North-Central City West*, the Commission stated:

The Commission’s regulatory scheme for high-voltage line transmission siting cases, therefore, provides for a robust, evidence-based deliberative process that provides due process for all interested parties. The Commission, consistent with our role as a fiduciary responsible for the preservation of the Commonwealth’s natural resources, and consistent with *PEDF*, acts with prudence, loyalty and impartiality when adhering to these regulations. In this manner, we fulfill our responsibility to protect the public’s natural resources from depletion or degradation, while also allowing legitimate development that improves the lot of Pennsylvania’s citizenry, as the Pennsylvania Supreme Court recognized in *Robinson Township v. Com. of Pa.*, 623 Pa. 564, 658, 83 A.3d 901, 958 (2013).

Therefore, the Commission fulfills its duties as trustee under the ERA when the Commission applies its existing siting regulations to the Joint Amended Application.

In its Main Brief, OCA argues that under *PEDF* a more rigorous proof of need is required. OCA M.B. at 28. The Commonwealth Court has previously denied parties’ attempts to consider environmental factors when determining need. In *Energy Conservation Council of Pa. v. PUC*, 995 A. 2d. 465, (Pa. Cmwlth. 2010), the Commonwealth Court held that the Commission’s regulations require the Commission to separately determine need under Section 57.76(a)(1). After need is determined, the Commission should then consider environmental factors when determining whether to approve the Project. *Id.* at 483.

OCA also argues that for purposes of analyzing environmental impacts, the Commission’s regulations require “more than a mere balancing of harms and benefits” derived from the IEC Project, and the Commission must give “strong consideration” to any environmental harms. OCA M.B., p. 28 (emphasis added). OCA’s position conflicts with the

Pennsylvania Supreme Court’s interpretation of the ERA in *Robinson Twp. v. Commonwealth*, 623 Pa. 564, 650 (Pa. 2012) (“*Robinson Twp.*”) In *Robinson Twp.*, the Pennsylvania Supreme Court held that the ERA does not call for a stagnant landscape, the derailment of economic and social development nor a sacrifice of other fundamental values. When the government acts, it must, “on balance,” reasonably account for the environmental features of the affected locale. *Id* (emphasis added).

While OCA, STFC and Franklin County all offer their own variations of what the standard for applying the ERA should be, they all attempt to create a more stringent standard that is not supported by the appellate case law or the Commission’s regulations. Based on these erroneous standards, the other parties conclude that the IEC Project violates Franklin County residents’ environmental rights. STFC M.B., p. 2; Franklin County M.B., p. 22; OCA M.B., p. 69. The Commission should reject these incorrect standards and apply the proper standard under the Environmental Rights Amendment as set forth in Transource PA’s and PPL Electric’s Main Brief. TPA and PPL M.B., pp. 25-31. As fully explained in Transource PA’s and PPL Electric’s Main Brief, the IEC Project complies with the Commission’s established regulations for siting HV transmission lines, which the Commission previously determined are adequate to carry out its duties as trustee under the ERA. *Bedford North-Central City West*.

B. TRANSOURCE PA DOES NOT REQUIRE PRIOR APPROVAL FROM THE ORPHANS COURT OR FROM THE ALCAB IN ORDER TO CONDEMN PROPERTY

1. Act 45 Exempts Public Utility Facilities From Orphans’ Court Approval

The other parties argue that Transource PA needs to obtain approval from the Orphans Court in Franklin County prior to condemning property that is subject to a conservation easement under Act 45. OCA M.B. at 24; F.C. M.B. at 26; STFC M.B. at 73. This argument ignores the

plain language of Act 45, and the Commission's exclusive jurisdiction over the siting of transmission facilities.

The plain language of Act 45 exempts public utility facilities that have been approved by the Commission from Orphans Court approval. Act 45 provides:

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....

66 Pa. C.S. §208(a).

If the Commission approves this siting application, the public utility facilities that will be sited will be exempt from Act 45. 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. Ct. 2006).

Neither Act 45 nor any provision of the Public Utility Code require a utility to seek prior approval from the Orphans Court prior to filing a siting application with the Commission. In addition, the other parties cite no law in support of their argument that Transource PA is required to obtain prior approval from the Orphans Court before filing a siting application with the Commission.

Moreover, the other parties' arguments are contrary to the Commission's exclusive jurisdiction over the siting of utility facilities. In *PPL Electric v. City of Lancaster*, 214 A.3d 639 (Pa. 2019), the Supreme Court of Pennsylvania noted its prior decision in *County of Chester*

v. Philadelphia Electric Co., 420 Pa. 422, 218 A.2d 331 (Pa. 1966) which rejected a county ordinance that prohibited construction of pipelines without approval from the County's planning commission. The Supreme Court of Pennsylvania stated as follows:

The State, speaking through the Public Utility Law...has given the [PUC] all-embrasive regulatory jurisdiction over companies such as the defendant company in this case. In *Borough of Lansdale v. Philadelphia Electric Co.*, 403 Pa. 647, 170 A.2d 565 (Pa. 1961), this Court held:

No principle has become more firmly established in Pennsylvania law than that the courts will not originally adjudicate matters within the jurisdiction of the PUC. Initial jurisdiction in matters concerning the relationship between public utilities and the public is in the PUC—not in the courts. It has been so held involving rates, service, rules of service, extension and expansion, hazard to public safety [**25] due to use of utility facilities, installation of [*650] utility facilities, location of utility facilities, obtaining, alerting, dissolving, abandoning, selling or transferring any right, power, privilege, service franchise or property and rights to serve particular territory.

This reasoning is irrefutable. The necessity for conformity in the regulation and control of public utilities is as apparent as the electric lines which one views traversing the Commonwealth. If each county were to pronounce its own regulation and control over electric wires, pipe lines and oil lines, the conveyors of power and fuel could become so twisted and knotted as to affect adversely the welfare of the entire state. It is for that reason that the Legislature has vested in the [PUC] exclusive authority over the complex and technical service and engineering questions arising in the location, construction and maintenance of all public utilities facilities. *Einhorn v. Phila. Elec. Co.*, 410 Pa. 630, 190 A.2d 569 (Pa. 1963); *Upper St. Clair*, 377 Pa. 323, 105 A.2d 287; *Lower Chichester Twp. v. PUC*, 180 Pa. Super. 503, 119 A.2d 674 (Pa. Super. 1956).

PPL Electric, 214 A.3d 639 at 649-650.

The Commission has exclusive jurisdiction over the siting of transmission line facilities and that exclusive jurisdiction was not changed under Act 45, which exempts public utility facilities from Orphans Court approval.

Requiring Orphans Court approval for siting public utility facilities would contradict the rationale for providing the Commission exclusive jurisdiction over the siting of electric facilities. If public utilities were required to obtain prior approval from each county to condemn land that was subject to a conservation easement, it would severely disrupt the siting of electric facilities because each county could veto the Commission's siting approval by denying condemnation approval. Transource PA witness Barry Baker explained in this proceeding that due to the rural nature of the study areas, it was not possible to site the Project and completely avoid preserved farmland. Transource PA St. No. 4-R, p. 28. In addition, the proposed routes crossed the least number of conserved farmlands relative to the alternative routes.

2. Transource PA Does Not Require Approval From The ALCAB in Order to Condemn Property.

Franklin County and STFC also argue that Transource PA needs to obtain prior approval from the Agricultural Lands Condemnation Approval Board ("ALCAB") and local agencies prior to condemning land within an Agricultural Security Area. Franklin County M.B., p. 4; STFC M.B., p. 73. Neither Franklin County nor STFC cite to any case making this holding and this argument is also contrary to law.

Like Act 45, the Agricultural Area Security Law specifically exempts public utility facilities from ALCAB approval. Section 913(b) provides as follows:

The condemnation approvals specified by this subsection shall not be required for an underground public utility facility that does not permanently impact the tilling of soil or for any facility of an electric cooperative corporation or for any public utility facility the necessity for and the propriety and environmental effects of which has been reviewed and ratified or approved by the Pennsylvania Public Utility Commission or the Federal Energy Regulatory Commission.

3 P.S. § 913(b).

STFC cites to Section 913(b) in its Main Brief and quotes the first part of this section but fails to quote the exemption for public utility facilities. STFC M.B., p. 74, fn 13.

In addition, the arguments regarding the Commission's exclusive jurisdiction explained above in response to Act 45 also apply to ALCAB approval.

Moreover, the Commission has previously approved eminent domain applications over agricultural security areas and did not require ALCAB approval. *See, e.g., Application of PPL Electric Utilities Corporation Filed Pursuant to 52 Pa. Code Chapter 57, Subchapter G, For Approval Of The Siting And Construction Of The Effort Mountain #1 & #2 128 kV Taps in Chestnuthill And Polk Townships Monroe County, Pennsylvania*, Docket Nos. A-2010-3152104, et al., 2010 Pa. PUC LEXIS 1605 (Recommended Decision dated Sept. 16, 2010), affirmed (Order entered Mar. 18, 2011) (“*Effort Mountain*”); *In Re: Application of West Penn Power Company*, Docket Nos. A-2009-2086954, A-2009-2086963, 2009 Pa. PUC LEXIS 44 (Initial Decision dated Dec. 24, 2009) (Remanded on other grounds); *Application of PPL Electric Utilities Corporation filed pursuant to 52 Pa.Code Chapter 57, Subchapter G, for approval of the siting and construction of transmission lines associated with the Northeast-Pocono Reliability Project in portions of Luzerne, Lackawanna, Monroe, and Wayne Counties, Pennsylvania; Petition of PPL Electric Utilities Corporation for a finding that a building to shelter control equipment at the North Pocono 230/69 kV Substation in Covington Township, Lackawanna County, Pennsylvania is reasonably necessary for the convenience or welfare of the public*, Docket Nos. A-2012-2340872, et al., 2014 Pa. PUC LEXIS 5 (Order entered Jan. 9, 2014).

3. Transource PA is Not Evading Orphans Court or ALCAB Approval.

Franklin County argues that Transource PA is evading Orphans Court and ALCAB approval by filing its eminent domain applications with the Commission and not seeking prior

approval from the Orphans Court or ALCAB. Franklin County M.B., p. 31. Transource PA is not evading Orphans Court or ALCAB approval because such approval is not necessary for public utility facilities that have been approved by the Commission. In addition, there is no legal requirement to seek Orphans Court or ALCAB approval prior to filing a siting application with the Commission, and none of the other parties have cited any legal precedent for this argument.

4. The ALJ's Denial of the Requested Stay was Correct.

Franklin County argues that the ALJ committed legal error by not staying the Commission proceedings pending pre-approval to condemn from the Orphans Court and the ALCAB. F.C. M.B. at 26-28. The ALJ's Order denying the request for a stay was correct and should not be reversed. As explained above, Transource PA is not required to obtain approval or pre-approval from either the Orphans Court or the ALCAB to condemn land. Therefore, there is no basis for a stay.

5. There is No Heightened Standard of Review for Land Subject to a Conservation Easement or Land in an Agricultural Security Area.

STFC argues that the Commission must apply the Act 45 and ALCAB standards when reviewing condemnation applications that involve lands that are subject to a conservation easement or are within an agricultural security area. STFC M.B. at 77. STFC also argues that the utility must demonstrate that there is no reasonable alternative route that does not use agricultural security area land. STFC M.B. at 77. STFC cites to no case making this holding, and it is incorrect. The Commission has approved condemnation applications over agricultural security areas in previous cases and has not applied STFC's proposed standard. *See, e.g., Effort Mountain*, 2010 Pa. PUC LEXIS 1605; *In Re: Application of West Penn Power Company*, 2009 Pa. PUC LEXIS 44 (Initial Decision dated Dec. 24, 2009) (Remanded on other grounds). Rather,

the Commission has applied the standards set forth in Section 1511 of the Business Corporation Law. 15 Pa. C.S. § 1511(c).

In the *Fourth Prehearing Order* in this proceeding, the ALJ stated as follows with respect to the Commission's scope of review:

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).

Fourth Prehearing Order at 11.

The ALJ's interpretation of the scope of review for eminent domain applications is also supported by the Commonwealth Court's decision in *Pennsylvania Power & Light Co. v. Pa. PUC*, 696 A.2d 248 (Pa. Cmwlth. 1997). Therein, the Commonwealth Court noted that the Commission's scope of review for the requested exercise of eminent domain by a public utility was set forth in Section 1511(c) of the Business Corporation Law. *Id.* at 250.

In addition, Transource PA demonstrated in this proceeding that it attempted to minimize the impacts on conserved farmland, but that preserved farmland could not be avoided due to the extent of preserved farmland in the study area. Transource PA St. No. 4-R, p. 28. In addition, Transource PA specifically addressed the eight (8) open space factors set forth in Act 45. Transource PA St. No. 4-R, pp. 35-38. Further, the proposed route in Franklin County parallels

over 40% of existing infrastructure. Transource PA made every reasonable effort to minimize the impact of the Project on preserved farmland, and the project is not incompatible with agricultural uses. Joint Applicants' M.B., pp. 113-116.

VI. ARGUMENT

A. NEED FOR THE PROJECT

1. Parties' Arguments That This Commission Must Solely Focus on Pennsylvania When Determining Need Are Contrary to Law.

Although the record in this proceeding is clear that benefits to Pennsylvania are significant, the other parties in this proceeding focus on the congestion relief that Settlement 9A will provide to transmission zones in other states and argue that it is not needed for Pennsylvania. The parties argue that the Commission should solely focus on the benefits to Pennsylvania customers from the Project when determining need. Franklin County M.B., pp. 33-34; OCA M.B., pp. 67-70. The parties' arguments that the Commission should solely focus on Pennsylvania customers when determining the need for this Project are contrary to law and cannot be accepted. Moreover, as explained in the Joint Applicants' Main Brief, Pennsylvania will benefit significantly but will not be responsible for the majority of the costs associated with the Project. Joint Applicants' Main Brief, pp. 55-57. PJM's regional planning process has provided substantial benefits to Pennsylvania for many years. Regional planning greatly enhances the efficiency of the wholesale power market and provides substantial cost savings for customers in Pennsylvania.

In their Main Brief, the Joint Applicants provided a summary of FERC's role in regulating interstate transmission and wholesale energy markets. Joint Applicants M.B., pp. 36-40. The Joint Applicants further summarized FERC's decision in Order No. 1000 to require

RTOs such as PJM to implement reforms to reduce congestion. In Order No. 1000, FERC stated:

...the Commission has balanced competing interests of various segments of the industry and designed a package of reforms that, in our view, will support the development of those transmission facilities identified by each transmission planning region as necessary to satisfy reliability standards, **reduce congestion**, and allow for consideration of needs driven by public policy requirements...

Order No. 1000, ¶ 2 (emphasis supplied).

The Joint Applicants further explained that FERC was ordering regional transmission organizations (“RTOs”), such as PJM, to reduce congestion in order to eliminate discriminatory rates. Joint Applicants M.B., pp. 37-39. FERC stated as follows with respect to its directives in FERC Order No. 1000:

These reforms are intended to correct deficiencies in transmission planning and cost allocation processes so that the transmission grid can better support wholesale power markets and thereby ensure that commission-jurisdictional services are provided at rates, terms and conditions that are just and reasonable and not unduly discriminatory or preferential.

Order No. 1000, ¶ 99.

One of the main reasons that FERC issued Order No. 1000 was to require RTOs to focus on **regional** transmission planning. In Order No. 1000, FERC expressly stated that its prior Order No. 890 was inadequate because it did not require regional planning. FERC stated as follows:

Through this Final Rule, we conclude that the existing requirements of Order No. 890 are inadequate. Public Utility transmission providers are currently under no affirmative obligations to develop a **regional** transmission plan that reflects the evaluation of whether alternative **regional** solutions may be more efficient or cost-effective than solutions identified as local transmission planning processes.

Order No. 1000 ¶ 3 (emphasis supplied).

FERC also stated:

On balance, the Commission concludes that the reforms adopted herein are necessary for more efficient and cost-effective **regional** transmission planning.

FERC Order No. 1000, ¶ 7 (emphasis supplied).

While focused on discrete aspects of the transmission planning and cost allocation processes, the specific reforms adopted in this Final Rule are intended to achieve two primary objectives: (1) ensure that transmission planning processes at the **regional** level consider and evaluate, on a non-discriminatory basis, possible transmission alternatives and produce a transmission plan that can meet transmission needs more efficiently and cost-effectively; and (2) ensure that the costs of transmission solutions chosen to meet **regional** transmission needs are allocated fairly to those who receive benefits from them.

FERC Order No. 1000, ¶ 4 (emphasis supplied).

Turning to the specific discrete reforms we adopt today, we first require public utility transmission providers to participate in a **regional** transmission planning process that evaluates transmission alternatives at the **regional** level that may resolve the transmission planning **region's needs more efficiently and cost-effectively** than alternatives identified by individual public utility transmission providers in their local transmission planning processes. This requirement builds on the transmission planning principles adopted by the Commission in Order No. 890, and the **regional** transmission planning processes developed in response to this Final Rule must satisfy those principles. These processes must result in the development of a **regional** transmission plan.

FERC Order No. 1000, ¶ 6 (emphasis supplied).

These are but a few examples in Order No. 1000 of FERC's directives for regional, not local, transmission planning. It is important to note that FERC was not just suggesting regional planning, but requiring regional planning.

Pennsylvania has elected to be a part of PJM since its inception in order and to participate in the interstate transmission system within the PJM Region. The Commission is also required by statute to “encourage interstate power pools to enhance competition and to complement industry restructuring on a *regional* basis.” 66 Pa. C.S. § 2805(a) emphasis supplied. The Commonwealth Court has also recognized the need for regional planning in *Energy Conservation Council of Pa. v. PUC*, 25 A.3d 440 (Pa. Cmwlth. 2011). Therein, the Commonwealth Court stated:

ECC argues that the PUC erred and violated the Pennsylvania Constitution by approving the 502 Facilities based on the PUC's mistaken belief that, under Section 2805(a), it had "an obligation to [enhance regional reliability,] mitigate transmission constraints and reduce congestion for ratepayers in Pennsylvania and adjacent jurisdictions." (ECC's Br. at 32.) ECC contends that this is not the correct standard for finding a public need under the Code and PUC regulations and, therefore, constitutes an error of law. ECC equates the PUC's alleged error here with that found by this Court in PP&L, in which we held that the PUC applied an incorrect legal standard in denying an HV transmission line application because the utility failed to prove that there was an "engineering need" for the line. PP&L, 696 A.2d at 250

The PUC did not err or commit an abuse of discretion in finding a public need for the 502 facilities based on regional reliability factors. The Code does not define need, however, Pennsylvania courts have recognized that there is a need for regional electric service reliability and a reliable regional transmission system.

Id. at 484 – 485.

Other parties' arguments that the Commission should only consider Pennsylvania's needs in approving a transmission line siting application are contrary to the Commonwealth's participation in the interstate transmission system and contrary to FERC's clear directives that require regional transmission planning.

Former Commissioner Cawley explained in his rebuttal testimony that the Commission has long recognized the importance of regional planning. Former Commissioner Cawley explained as follows:

The Commission has long supported the concept of regional transmission planning. For example, the Commission filed comments with the FERC in 2009 stating that FERC "established an open regional transmission planning process as a core RTO function because without a regional process, regional transmission upgrades revert to an ineffective, inefficient and chaotic and balkanized process in which each individual transmission owner plans only for its own commercial interests."¹ The Commission added:

[N]o individual transmission project's effect on the regional grid can be evaluated in a vacuum – transmission planning must optimize the interconnected grid and evaluate all proposed projects together, selecting that combination of projects that best serves the region as a whole.²

As further evidence of this support, the Commission is an active participant in the PJM stakeholder process and proceedings before the FERC regarding wholesale energy markets and regional transmission planning. It also is active in regional organizations that were formed by state commissions in the Mid-Atlantic (Organization of PJM States, Inc.) and in the Midwest (Organization of MISO States) regions.

Transource PA St. No. 9-R, p. 11.

Former Commissioner Cawley also explained that it is not possible to participate in a regional transmission grid and at the same time focus on the benefits of only one state. He testified:

¹ *Comment by the Pennsylvania Public Utility Commission on the April 24, 2009 Indiana Utility Regulatory Commission Request for Rehearing in Pioneer Transmission, LLC, Docket ER09-75-000, et al. (filed April 27, 2009), at 2.*

² *Id.*

More importantly, it is oxymoronic to claim that a regionally planned transmission project must produce positive benefits (or no harm) in every state through which the proposed line traverses. If that were true, regional planning would not be regional but parochial and self-interested.

Transource PA St. No. 9-R, p. 13, lines 19-22.

Former Commissioner Cawley further explained:

"Pennsylvania-first" thinking is not only provincial and antithetical to the very idea of regional planning, it is also economically myopic, because an insistence by the Commission that today's project to primarily benefit Maryland, Virginia, and the District of Columbia also must benefit (or not harm) Pennsylvania provides the precedent for an insistence by the utility regulators in Maryland, Virginia, and the District of Columbia that tomorrow's project to primarily benefit Pennsylvania must also benefit (or not harm) their jurisdictions.

Transource PA St. No. 9-R, p. 14, lines 1-7.

Parties' arguments that the Commission, as a member of an interstate, regional transmission system must review the need for a transmission line project based solely on Pennsylvania requirements are contrary to law and cannot be accepted.

2. Market Efficiency Projects Approved By PJM Meet the PUC's Need Requirements

OCA argues that this market efficiency project designed to address market congestion cannot meet the constitutional, statutory, and regulatory standards under Pennsylvania law. OCA M.B., p. 2. OCA also states that PJM's benefit-to-cost analysis cannot support a finding of need under Pennsylvania statutes, regulations and constitutional standards. OCA M.B., p. 40. OCA's conclusions in this regard are legally flawed and cannot be accepted.

OCA fails to recognize that Pennsylvania participates in an interstate wholesale market for both transmission and generation. With respect to interstate transmission lines, the Commission and FERC have separate jurisdiction but must work together for the system to

function properly. The Commission has jurisdiction over siting of transmission lines, and FERC has exclusive jurisdiction over interstate transmission planning and rates. 16 U.S. § 824; *Hughes v. Talen Energy Mktg., LLC*, 136 S.Ct. 288 (April 19, 2016); *New York v. FERC*, 535 U.S. 1 (March 4, 2002); Joint Applicants' M.B., pp. 36-37.

At the hearing, Former Commissioner Cawley explained the relationship as follows:

- Q. I think also in your prior discussion with Attorney Freed you made the point that I believe you said FERC sets wholesale rates, and this Commission sets retail rates. I believe you made that point.
- A. It's my way of saying that FERC and the Commission are both governed by different laws. It's different jurisdictions. They both act in cooperation with each other, and Pennsylvania interests cannot be elevated. The Pennsylvania law can't be elevated over the necessary cooperation of the wholesale market. The retail market doesn't work if the wholesale market doesn't work.

Tr. at 2451 – 52.

FERC has designated PJM with the responsibility for planning and operating the transmission grid in the PJM footprint. PJM selected Settlement 9A within the framework of its market efficiency process, a process that is required by FERC Order No. 1000, and ensuing state regulatory processes.³ Transource PA St. No. 7-R, pp. 8-10. PJM has determined that Settlement 9A is needed for the interstate transmission system of which Pennsylvania is a part. PJM's determination of need under its FERC-approved and tariffed processes meets the Pennsylvania regulatory need requirements.

Pennsylvania has voluntarily agreed to participate in the interstate transmission and wholesale energy markets, and the Pennsylvania Commission is required by statute to participate in regional planning. 66 Pa.C.S. § 2805(a). Given these factors, PJM's determination, under its FERC-approved and tariffed market efficiency process, that Settlement 9A is needed to relieve

³ The PJM Board reviewed and approved Settlement 9A for inclusion in the Regional Transmission Expansion Plan, subject to the required state regulatory approvals. Transource PA Statement No. AA-2, p. 3.

congestion in the PJM region clearly supports a finding of need under Pennsylvania statutes, regulations and constitutional standards. Moreover, as explained in the Joint Applicants' Main Brief, FERC has directed RTOs such as PJM to implement market efficiency projects in order to reduce congestion on the interstate transmission system and mitigate wholesale rate discrimination. Joint Applicants' M.B., pp. 37-40. In fact, no party in this proceeding has alleged that PJM did not follow its FERC-approved and tariffed processes. The other parties in this proceeding would have the Commission completely disregard PJM's FERC-approved and tariffed process that is designed to eliminate rate discrimination in the wholesale market. As Mr. Cawley explained, nondiscriminatory access to the wholesale market leads to lower retail prices. Transource PA Statement No. 9-R, P. 11

OCA also argues that the Commonwealth Court in *Energy Conservation Council of Pa. v. Pa. PUC*, 995 A.2d 465 (Pa. Cmwlth. 2010) ("*Energy Conservation Council*") declined to address whether the reduction of congestion on its own was sufficient to demonstrate need in Pennsylvania. OCA M.B. at 32. OCA fails to recognize that this case was decided before Order No. 1000 was issued by FERC requiring PJM and other RTOs to implement reforms to reduce congestion on a regional basis. The project approved by the Commonwealth Court in *Energy Conservation Council* was not a market efficiency project approved by PJM under its FERC-approved Order 1000 market efficiency process. Moreover, both the Commission and the Commonwealth Court approved the project.

OCA also cites to *Re West Penn Power Company*, Docket No. A-100200, 1980 Pa. PUC LEXIS 49 as support for its argument that Settlement 9A is not needed. OCA argues that the Commission denied West Penn's application because West Penn did not update its load forecasts, the load flows failed to reflect additional generation that may occur, the peak load data

included loads of interruptible customers and the assumptions in load flows only assumed that the most economic generation would be used. OCA M.B. at 34. OCA's reliance on *West Penn* provides no support for its argument that Settlement 9A is not needed. As an initial matter, none of the issues identified by OCA apply to Settlement 9A. PJM has continually updated its forecast and evaluation of Project 9A in this proceeding and Project 9A has passed the benefit to cost ratio every time. Transource PA St. No. 8-R, p. 14; Transource PA St. No. 8-RJ, p. 3; Transource PA Ex. No. TJH-AA2, p. 7. In addition, PJM has a very comprehensive forecasting process, vetted by stakeholders, that is significantly more accurate than forecasting processes used 40 years ago when *West Penn* was decided. Transource PA St. No. 7-R, pp. 8-15. *West Penn* was also decided well before restructuring and FERC's open access rules. Finally, the Commonwealth Court heavily criticized the Commission's basis for denying *West Penn's* application in a subsequent case. In *Pennsylvania Power & Light Co. v. Pa. PUC*, 696 A.2d 248 (Pa. Cmwlth. 1997), the Commonwealth Court reversed a Commission decision denying PPL Electric's application to construct transmission facilities. In that case, the Commission initially denied PPL Electric's application claiming that PPL Electric failed to demonstrate need from an engineering perspective. *Id.* at 250. The Commonwealth Court held that this was the wrong legal standard and that the correct legal standard was whether the Project was necessary or proper for the service, accommodation, convenience or safety of the public under Section 1501 of the Public Utility Code, 66 Pa. C.S. § 1501 or Section 1511(c) of the Business Corporation Law as to the exercise of the power of eminent domain. 15 Pa. C.S. § 1511(c). *Id.* The Commonwealth Court also stated as follows with respect to the Commission's prior decision in *West Penn*:

While we are aware of the fact that the ALJ, and the PUC, in turn, cite the PUC's decision in the case of *Re West Penn Power Company*, 54 Pa. PUC

319 (1980), as support for its decision regarding "engineering need," in *West Penn*, the PUC merely stated what it states here, i.e., that "the applicant must show the proposed line is necessary from an engineering prospective." *West Penn*, 54 Pa. PUC at 327. The PUC goes on, in *West Penn*, to state that "if this is not done, we are under no duty to issue a certificate." *Id.* The PUC, however, in *West Penn*, and here, fails to cite any statutory or regulatory authority for its conclusion in this regard.

Id.

OCA's reliance on the Commission's *West Penn* decision does not support OCA's argument that Settlement 9A is not needed.

The Commission should not accept OCA's argument that PJM's market efficiency process, which was vetted by stakeholders and approved by FERC, cannot support a finding of need under Pennsylvania law.

3. Settlement 9A is Still Needed to Resolve Congestion

The other parties argue that Settlement 9A is no longer needed because congestion on the AP South interface has declined since 2014. OCA M.B., pp. 35-40; Franklin County M.B., pp. 10-15. OCA also argues that the AP South interface was not listed as one of the top 25 congested interfaces for the first quarter of 2020. OCA M.B., p. 38. The other parties' arguments that Settlement 9A is no longer needed to resolve congestion should be denied for several reasons including: (1) their failure to recognize congestion on related constraints that will be resolved by Settlement 9A, (2) that significant congestion is forecasted over the 15-year planning window, and (3) that PJM's prior forecast of congestion for the AP South and related interfaces has been accurate.

Parties attempt to characterize Settlement 9A as designed to only resolve congestion on the AP South interface. *See* OCA M.B., pp. 35-39; Franklin County M.B., pp. 10-14. This attempt to view congestion as isolated on the AP South interface is flawed, and it was never the intent of Project 9A to only resolve congestion on the AP South interface. As an initial matter,

congestion is never isolated to a single interface but shifts across the transmission grid. Transource PA St. No. 3AA-RJ, p. 8. Therefore, congestion cannot be viewed in a vacuum or on a single interface. When PJM evaluates a market efficiency property, it is evaluated on a system-wide basis — not just how it affects congestion on a single interface. For example, in the Transmission Expansion Advisory Committee Market Efficiency Update dated April 17, 2016, PJM not only identified congestion relief provided by Project 9A for the AP South interface but also identified congestion relief from Project 9A for the AEP-DOM interface, congestion relief for all interfaces, and total congestion relief for PJM. Transource PA Exh. No. TH-11R, p. 5. In addition, the TEAC Market Efficiency update dated March 10, 2016, also identified congestion relief for AP South, AEP total interfaces and Total PJM congestion and further expressly noted that Project 9A would provide major congestion reductions on AP South and *other PJM facilities*. Transource PA Exh. No. 10R, p. 17, emphasis supplied. In the PJM Staff White Paper dated October 2015, the PJM staff identified the AREA of Proposal as “AP South and/or AEP-DOM Area.” Transource PA Exh. No. TH-1R, p. 4. PJM staff in 2015 identified the proposals as addressing congestion relief in the “area” of the AP South and AEP-DOM interfaces. Project 9A was clearly not limited to resolving congestion on the AP South interface.

PJM witness Mr. Horger further explained as follows:

As an initial matter congestion costs have historically been and are expected to remain significant for AP South and related constraints absent this Project. Mr. McGavran has taken too narrow a focus on the problem of regional congestion, and of congestion generally. While historical congestion in the AP South Interface has decreased somewhat since the approval of Project 9A inclusive of the IEC project, the other related congestion resolved by the Project has not. The congestion on the AP South Interface is one of the, but not the only, area of congestion alleviated by the Project 9A inclusive of the IEC project because congestion often shifts and there are multiple constraints in the same area that are impacted by the upgrade provided by the Project. PJM’s 2014/2015 Long-Term Proposal Window sought proposals for many

congested facilities as identified in PJM's simulations. Although the AP South Interface was the major congestion point that Project 9A inclusive of the IEC Project resolved, the Project also relieves congestion in other areas. For example, in PJM's operations, PJM typically does not experience congestion on the AP South, AEP-Dominion, Conastone – Peach Bottom, and Graceton-Safe Harbor interfaces at the same time; when one of these areas is constrained the others typically would not be, but all areas are persistently constrained. One of the distinct advantages of Project 9A inclusive of the IEC Project that also speaks to the Project's benefits is that the Project does not just mitigate congestion in one interface—it mitigates the problem in all of these areas. Indeed, in PJM's evaluations and summary of Project 9A inclusive of the IEC Project, PJM identified the Project's impact in multiple areas as one of the Project's advantages.

Transource PA St. No. 3AA-RJ, p. 8, lines 143-162. As explained by Mr. Horger, a solution cannot simply shift congestion from one area to another. *Id.*

The parties' arguments that Settlement 9A is no longer needed to resolve congestion are completely contrary to PJM's expert testimony and PJM's model which forecasts congestion over a 15-year planning period to determine if a market efficiency project is needed. Mr. Horger testified that PJM's 15-year forward looking studies show that congestion continues on the AP South and related constraints without Project 9A. Transource PA St. No. 3AA-RJ, p. 10. Parties' arguments that Settlement 9A is no longer needed to resolve congestion are directly contrary to PJM's analysis and cannot be accepted.

In addition, the benefit to cost calculation is not computed based upon historic congestion. It is based on forecasted congestion over the 15-year planning period. Therefore, the other parties' arguments that historic declines in congestion on the AP South interface alone eliminate the need for the Project are misguided.

It is also noted that PJM demonstrated that its forecasts for congestion in the AP South area have been accurate. In 2015, PJM forecasted total congestion costs for the AP South, Graceton-Safe Harbor, Peach Bottom-Conastone and AEP-DOM constraints to be \$141 Million

in 2019. Actual total congestion on these facilities in 2019 was \$148 Million. Transource PA St. No. 3AA-RJ, p. 10. The PJM models are robust and accurate.

The other parties' focus on 2014 congestion levels is neither pertinent nor meaningful. Congestion in 2014 had no relevance on the selection of Settlement 9A as the forecast did not include 2014 congestion. See Transource PA Exhibit No. TH-6R; Transource PA Statement No. 8-R, pp. 20-21. Parties are attempting to utilize an abstract data point to distract from the demonstrated reality, that comparisons of actual congestion to the forecasts provided when project was selected demonstrate the accuracy of these projections.

STFC also argues that electricity demand is down due to the COVID 19 pandemic. STFC M.B. at 12. PJM addressed this issue and noted that demand is expected to return to current levels by 2025. PJM often experiences short-term fluctuations in demand, and COVID 19 does not eliminate the need for the Project. Tr. 2937-38; 2956.

OCA also claims that the evidence in this proceeding is "at odds" with the Commission's decision in *Application of PPL Electric Utilities Corporation filed pursuant to 52 Pa. Code Chapter 57, Subchapter G, for approval of the siting and construction of transmission lines associated with the Northeast-Pocono Reliability Project in portions of Luzerne, Lackawanna, Monroe, and Wayne Counties, Pennsylvania*, Docket No. A-2012-2340872, 2013 Pa. PUC LEXIS 620 (R.D. October 8, 2013; Order entered January 9, 2014) ("*Northeast Pocono*") because in that case evidence indicated a 12 percent increase in peak load between 2003 and 2012. OCA M.B. at 40. Again, OCA's reliance on the Commission's decision in *Northeast Pocono* provides no support for its argument that Settlement 9A is not needed. The Northeast Pocono project was not a market efficiency project approved by PJM under its FERC-approved and tariffed market efficiency process. PJM's tariffed process relies on forecasted congestion to

support the need for the project, not historical congestion. PJM's forecasts, which have been demonstrated to be accurate in this proceeding, continue to demonstrate the need for Settlement 9A as a market efficiency project.

Other parties' arguments that Settlement 9A is no longer needed to resolve congestion are contrary to PJM's expert testimony and analysis and should not be accepted.

4. Settlement 9A Resolves Significant Reliability Violations In Pennsylvania

a. Introduction

The Joint Applicants explained in their Main Brief that Settlement 9A resolves five significant reliability violations. Joint Applicants' M.B., pp. 50-54. All of these reliability violations will occur on facilities that are located in Pennsylvania. See Transource PA St. No. 7-R, pp. 21-22. The other parties argue that the Commission should ignore these reliability violations in determining the need for Settlement 9A. Parties argue that Settlement 9A was not designed to address reliability violations, that the reliability violations have not yet occurred and are only possible reliability violations, that PJM's analysis of the reliability violations is incomplete and that the reliability violations can easily be resolved without Settlement 9A. OCA M.B., pp. 100-109; F.C. M.B., pp. 15-19. Contrary to the other parties' assertions, the Commission should not simply ignore PJM's determination that Settlement 9A will resolve five significant reliability violations in Pennsylvania when determining the need for the Project.

b. Parties' Arguments That Reliability Violations Should Not Be Considered as Part of the Need Determination Are Not Prudent and Should Be Denied

OCA argues that the Project was not designed to resolve reliability violations, and therefore, the Commission should ignore the reliability violations in determining the need for the Project. OCA M.B., pp. 102-103. Franklin County incorrectly argues that Transource PA

“cobbled together” reliability violations as a secondary justification for the Project and that the Commission should therefore not consider the reliability violations that will be resolved by the Project. Franklin County M.B., p. 10. It would be imprudent and unreasonable to ignore the reliability benefits of Settlement 9A in determining the need for the Project. PJM is responsible for ensuring that the regional grid operates reliability, and other parties have provided no basis to refute PJM’s findings of reliability violations. Transource PA Statement No. 7-R, p. 7.

i. Congestion and Reliability Issues are Related.

OCA’s argument that Project 9A was not designed to resolve reliability violations is misplaced and without basis. The Joint Applicants explained in their Main Brief that congestion and reliability issues are related. Transource PA St. No. 7-R, p. 21. The Commission also recognized that congestion and reliability violations are intertwined, and therefore there is no basis to treat congestion relief and reliability benefits as mutually exclusive. Simply they are not. In *TrAILCo*, the Commission stated:

We also agree with the ALJs that economics was a consideration of TrAILCo in proposing the Pennsylvania 502 Junction Facilities. The record is well-established that Project Mountaineer, as well as an earlier version of TrAILCo, were discussed and proposed within the context of a response to west-to-east transfer enhancements and in response to the National Interest Electric Transmission Corridor (NIETC). These projects were very similar to the April 13, 2007 filing that initiated this proceeding. *However, one cannot easily distinguish between transmission efficiency projects and reliability projects within a congested region. Removing congestion resolves reliability violations, and vice versa.* There is nothing inherently wrong with removing reliability violations on a heavily congested line through construction of a new transmission line.

In Re: Application of Trans-Allegheny Interstate Line Company (TrAILCo)..., Docket No. A-110172, et al., Order entered December 12, 2008 (emphasis supplied).

Settlement 9A resolves 5 significant reliability violations, and they should not be ignored when determining the need for the Project. As the Commission stated in *TrAILCo*, there is nothing wrong with removing reliability violations on a heavily congested line through construction of a new line. It would be imprudent and unreasonable to ignore the resolution of reliability violations in determining the need for Settlement 9A.

ii. PJM Did Not Artificially Create the Reliability Violations to Support Project 9A.

Franklin County without basis argues that Transource PA “cobbled together” reliability improvements as a secondary justification for the Project. Franklin County M.B., p. 10. This claim is not supported by any evidence, is incorrect and should be summarily dismissed.

As an initial matter, PJM identified the reliability violations, not Transource PA. Mr. Herling explained in his testimony that PJM decided to conduct reliability testing on Project 9A as part of the September 2018 re-evaluation due to increases in the benefit-to-cost ratio and the “knowledge that the AP South interface and other related area transmission facilities were already significantly constrained...” Transource PA St. No. 7-RJ-SUPP, p. 4. These circumstances suggested to PJM that NERC reliability violations could exist. PJM employed reliability testing and confirmed the existence of reliability criteria violations if Project 9A was not constructed. Transource PA St. No. 7-RJ-SUPP, p. 4. The reliability violations were not a “cobbled together” secondary justification for the Project. As Mr. Herling explained, trends that drive congestion, if continued, often result in reliability criteria violations, which is the case in this instance. Transource PA Statement No. 7-R, p. 17.

PJM has noted the reliability violations in multiple public documents since they were identified. They were noted in the TEAC Presentation dated September 13, 2018. Transource PA Exh. No. SRH-7RJ, pp. 4-5. They were noted in the PJM White Paper titled Transource

Independence Energy Connection Market Efficiency Projected dated November 15, 2018. Transource PA Exh. No. SRH-8RJ, pp. 4-6. The reliability violations were noted in the December 2019 Baseline Market Efficiency Recommendations Report dated December 3, 2019. Transource PA Exh. SRH-AA2, pp. 8, 10. They were further noted in the PJM TEAC Market Efficiency Update dated December 12, 2019. Transource PA Exh. TJH-AA2, p. 5. In addition, the PJM witnesses have continuously noted the reliability violations throughout the course of this proceeding since they were first identified in September 2018. It is clear that the reliability violations are not a “cobbled together” justification for the Project but are real violations that must be addressed by PJM. Finally, it should be noted that the original in-service date outlined in the Application included 2020. Based upon the current schedule to receive regulatory approvals, including those requested in this proceeding, the current in-service date is expected to be 2022. Transource PA Statement No. AA-1, p. 9. It demonstrated PJM’s prudence as a steward of the reliability of the regional grid to determine what impacts to reliability, if any, would occur through a delay of the project. PJM’s analysis that reliability violations would exist in 2023 without the completion of this project provides additional information and support for the need for expeditious and timely approval of Settlement 9A.

iii. Identified Reliability Violations Must be Resolved.

OCA argues that the reliability violations are only “potential” violations that might not occur and cites Mr. Herling’s testimony as support. OCA M.B., p. 7. It is unclear whether OCA is citing Mr. Herling for the proposition that the reliability violations are only potential violations that do not have to be addressed. If this is the case, this is an incorrect characterization of his testimony. Mr. Herling has explained many times in this proceeding that the reliability violations have been identified to occur if Project 9A is not constructed and that reliability

violations that are identified must be addressed. In his rebuttal testimony, Mr. Herling stated as follows:

“...PJM has identified reliability criteria violations that would result and would have to be resolved if the Project is not constructed.”

Transource PA St. No. 7-R, p. 21, lines 2-4.

In his rejoinder testimony, Mr. Herling stated:

PJM’s analysis has identified reliability violations that will exist if Project 9A is not constructed and placed in service.

Transource PA St. No. 7-R, p. 14, lines 16-17.

In his supplemental rejoinder testimony, Mr. Herling stated:

The project also prevents NERC reliability violations from occurring, violations that PJM would have to resolve absent the IEC Project.

Transource PA St. No. 7-R, p. 3, lines 11-13.

Mr. Herling also testified that when reliability violations are identified, they must be resolved. He stated:

NERC Planning Criteria TPL-001-4 and PJM planning criteria require that PJM develop a solution to all identified reliability criteria violations to avoid “reliability consequences.”

Penalties for non-compliance with reliability standards are quite severe and may be so high as \$1 million per violation per day. Transource PA St. No. 7-R, p. 23. If unresolved, the reliability violations could result in emergency load shedding. Tr. at 2970, lines 2-8.

Contrary to OCA’s suggestion, the reliability violations have been identified by PJM and must be addressed. Moreover, and significantly, it is clear from Mr. Herling’s testimony and the record as a whole that no other solution has been identified that could realistically address these

violations in a timely and effective manner if Settlement 9A is not constructed. Transource PA St. No. 7-R, p. 25.

iv. Additional Reliability Testing Is Not Required.

Parties argue that the reliability violations should not be considered because PJM did not conduct its full suite of reliability tests. OCA M.B., p. 100; Franklin County M.B., p. 18. Parties do not understand PJM's reliability testing procedures when making these statements. Additional reliability testing would not make these violations go away. To the contrary, additional reliability testing could identify more violations. Mr. Herling explained this as follows:

PJM reiterates that the September 2018 reliability testing body of analysis was a subset of PJM's entire RTEP Process body of analysis that would include, for example, "N-1-1" analysis. The power flow study results in Table 1 on page 7 of Mr. Lanzalotta's Supplemental Surrebuttal Testimony were sufficient to establish the reliability benefits that the IEC project would provide.

Transource PA St. No. 7-RJ-SUPP, p. 4, line 23-p. 5, line 3.

Mr. Herling also stated:

In addition, as Mr. Lanzalotta has pointed out, PJM's reliability testing was only limited to "N-0" and "N-1" thermal analysis under generator deliverability test conditions. Other NERC reliability criteria violations may be identified if PJM were to complete its full body of RTEP process analyses, including "N-1-1" testing.

Transource PA St. No. 7-RJ-SUPP, p. 8, lines 13-16.

OCA and Franklin County argue that the reliability violations should not be considered because PJM did not conduct a full reliability analysis. This argument is flawed because, as explained by Mr. Herling, the reliability analysis that was performed identified N-0 and N-1 reliability violations. Transource PA St. No. 7-RJ-SUPP, p. 2. If PJM had conducted its full reliability analysis, including an N-1-1 analysis, it could have identified additional reliability

violations – not less violations. OCA and Franklin County’s argument that the Commission should disregard the reliability violations because PJM did not conduct its full reliability analysis is without merit and should be denied.

Parties also argue that PJM should conduct additional testing because the reliability testing occurred in 2018 and recently approved RTEP projects such as the Hunterstown-Lincoln 115kV and Project 5E could eliminate the reliability violations. OCA M.B. at 13, 109. Again, parties offer no evidence to support a conclusion that this would impact the reliability analysis but simply criticize PJM’s process and expertise. Project H-L and Project 5E were both approved by PJM after Project 9A. Transource PA Exhibit No. SRH-7RJ. PJM does not normally go back and re-evaluate previously approved projects based upon later approved projects. Tr. 2954. Mr. Herling explained that there are so many projects approved in the RTEP that the number of permutations would be about infinite. Tr. At 2954. Mr. Herling also testified that Project H-L works effectively with Project 9A and Project 5-E to resolve broader congestion issues in the AP South interface and related constraints. Transource PA St. No. 2AA-RJ, p. 3, lines 16-18. Likewise, at the hearing, Mr. Herling explained that Projects 9A, 5-E and H-L, when taken together, “make a very effective combined package solution to the number of constraints feeding into this area.” Tr. At 2965. Moreover, PJM identified 5 significant reliability violations on major facilities, including an N – 0 violation on the Peach Bottom – Conastone 500 kV line. Transource PA St. Nos. 7-R, p. 16, 7-RJ-Supp, p. 2. It is unreasonable to conclude, and there has been no evidence to demonstrate, that relatively small upgrades and projects will resolve the significant issues in this area of the PJM transmission system without Settlement 9A. Transource PA St. No. 7-R, p. 25.

v. Settlement 9A is Needed to Resolve the Reliability Violations.

Franklin County also argues that there is no substantial record evidence to support a conclusion that the Project is needed to solve reliability violations. F.C. M.B., pp. 16-17. As explained above, Transource PA and PJM provided substantial record evidence of 5 specific reliability violations that will occur if Settlement 9A is not constructed.

Parties also argue that the identified reliability violations may no longer exist or may be fixed by minor upgrades to facilities. OCA M.B., p. 104; Franklin County M.B., pp. 17-19. Parties provide no evidentiary support for this argument, and it is based upon pure speculation. PJM has identified 5 significant reliability violations for 2023 on Pennsylvania facilities that will not exist if Settlement 9A is constructed. There is no evidentiary basis for the conclusion that these violations no longer exist or that they would be resolved by replacing the facilities. In addition, one of the reliability violations is for a 500 kV line. Mr. Herling testified several times that resolving reliability violations on 500 kV facilities are difficult and expensive. Transource PA St. No. 7-R, p. 25.

The evidence in this proceeding clearly demonstrates that Settlement 9A is needed to resolve identified reliability violations.

vi. The Reliability Violations Are Not Token Violations That Will Simply Go Away.

Franklin County argues that the reliability violations are “token” violations that should not be considered by the Commission. FC M.B. at 17. The reliability violations are not “token” violations. They are significant N – 0 and N – 1 violations on major facilities in Pennsylvania, including a 500/230 kV transformer and a 500 kV line. It is unreasonable to claim that these are minor reliability violations, given the fact that they could result in different types

of emergency load reductions, even including the possibility of having to institute load shedding in parts of the system that are affected by the constraint. Tr. at 2970, lines 2-8.

OCA speculates that the reliability violations may no longer exist or may go away with other upgrades to the system. OCA M.B., p. 104. As support for this argument, OCA cites to the testimony of Mr. Lanzalotta who explained that the Potomac Appalachia Transmission Highline Project (“PATH”) and the Mid Atlantic Power Pathway Project (“MAPP”) were removed from the RTEP by PJM due to changes in electric system conditions. OCA M.B., p. 101. Mr. Herling explained that PATH and MAPP were removed from the RTEP as a result of unique circumstances and that PJM’s forecasting methodology has advanced significantly after those projects were cancelled in 2012. Mr. Herling explained as follows:

Today, PJM’s RTEP process employs improved forecasting techniques. For example, PJM can now take into account sales projections related to heating efficiency, cooling efficiency, lighting efficiency as well as projections for residential rooftop solar. This provides a much greater ability to anticipate power usage behavior changes by customers.

Transource PA St. No. 7-RJ-SUPP, p. 10, lines 13-17.

There is no evidence to support OCA’s speculation that the reliability violations may no longer exist or may go away with small changes to the transmission system.

c. Prudent Transmission Planning Requires Action Before Violations Occur

The other parties suggest that the Commission should not consider the need for Settlement 9A to address the reliability violations because they have not happened yet and are only “potential” violations. OCA M.B., p. 103; Franklin County M.B., pp. 16-17. Franklin County claims that the reliability violations are speculative. Franklin County M.B., p. 17.

As explained above, the reliability violations are not speculative or merely potential violations. PJM has identified 5 significant, major violations on facilities in Pennsylvania that will occur if Settlement 9A is not constructed. Transource PA St. No. 7-R, p. 21.

Moreover, it is not prudent to wait for actual violations to occur before addressing them. If actual violations occur, NERC fines can be imposed. In addition, PJM would be required to implement operational procedures to try to avoid the violations. Mr. Herling explained as follows:

Operational procedures include a variety of things. Obviously that would include all manner of re-dispatch. It would include a series of emergency procedures where we could invoke different types of emergency load reductions, even including the possibility of having to institute load shedding in parts of the system that are affected by the constraint.

Tr. at 2970, lines 2-8.

It is not prudent to shed load, or in effect have outages, to avoid reliability violations.

OCA argues in its Brief that there are no current reliability violations and that:

None of our neighbors to the south in Maryland, the District of Columbia or Virginia will see any interruption in their electric service due to this congestion, and certainly no Pennsylvania customers will experience any degradation of electric service they currently receive.

OCA M.B. at 103.

This statement is not correct. OCA states that customers will not see any interruption in service due to congestion. However, as explained by Mr. Herling, customers could experience interruption in service if the reliability violations are not resolved. Moreover, the Commission has previously approved siting applications based upon modeling of future NERC violations. *Application of Trans-Allegheny Interstate Line Company (TrAILCo)*, Docket No. A-110172,

2008 Pa. PUC LEXIS 35 (December 12, 2008); affirmed *Energy Conservation Council of Pa. v. Pa. PUC*, 995 A.2d 465 (Pa. Cmwlth. 2010).

It is not prudent transmission planning to wait to resolve these reliability violations until they occur. By then it is too late, and it could take several years to get other transmission projects approved that would resolve the five significant violations.⁴

d. No Other Solution Can Resolve the Reliability Violations Before 2023.

Mr. Herling testified that the five reliability violations on facilities in Pennsylvania are identified to occur in 2023 if Settlement 9A is not constructed. Transource PA St. No. 7-R, p. 21. Settlement 9A is needed to address these five reliability violations in Pennsylvania.

It is now late in 2020 and a Commission decision has yet to be issued in this proceeding, although the Joint Applicants request that the Commission issue a decision as soon as possible. If Settlement 9A is not approved, it will have to be removed from the RTEP. Tr. At 2969. PJM would likely also have to consider removing Projects 5-E and H-L from the RTEP which were planned with Project 9A in the base model. Tr. at 2969. PJM would then be required to restart the planning process for the 2021 RTEP and run analyses. The PJM Board would be required to approve any new projects and then the new projects would need to be submitted to the appropriate states for siting approval. The earliest that new projects could be constructed to address these severe reliability criteria violations would be 2025 or 2026 at the earliest. Tr. at 2969, 2972-2973. This is several years past when the reliability violations are identified to occur.

⁴ The Maryland Public Service Corporation (“MD PSC”) recently approved the IEC Project, as modified by the Settlement Agreement in Maryland, as needed to resolve the identified reliability violations. *Application of Transource Maryland LLC for a Certificate of Public Convenience and Necessity to Construct Two New 230 kV Transmission Lines Associated with the Independence Energy Connection Project in Portions of Harford and Washington Counties, Maryland*, Case No. 9471 (Order No. 89571).

In addition, it is not known what new transmission projects would be needed to address the reliability violations. New greenfield transmission lines in Pennsylvania could be required. Transource PA Statement No. AA-2, p. 8; Transource PA Ex. SRH-AA2. Settlement 9A timely solves both the five reliability violations that have been identified by PJM for 2023 and addresses the congestion issues in the region. As STFC explained in its Main Brief, no alternative to the West Portion of the IEC Project has been identified. STFC M.B., p. 64.

e. Conclusions Regarding Reliability Violations.

The other parties' arguments that the Commission should simply ignore the reliability violations that will be resolved by this Project are imprudent and unreasonable. The reliability violations have been identified by PJM to occur in 2023 and must be resolved. The record evidence demonstrates that Settlement 9A is needed to timely resolve the identified reliability violations. Given the need to address the reliability violations by 2023, the Joint Applicants respectfully request that the ALJ expeditiously issue a Recommended Decision approving the Project and that the Commission expeditiously issue an Order approving the Project to allow the Project to be constructed in time to resolve the identified reliability violations.

5. Parties' Criticisms of The Wholesale Market Structure Should Be Denied.

STFC argues that PJM's transmission planning process favors transmission over generation. STFC M.B., p. 11. STFC also states that the "IMM recommended that PJM's market efficiency process should be eliminated because it does not adequately allow competitive forces to operate." STFC M.B., p. 11. STFC argues that the PJM market does not have a mechanism to compare and evaluate among transmission and generation alternatives. STFC M.B., p. 12. Franklin County argues that the Project will be a highway for Pennsylvania power to leave the Commonwealth. F.C. M.B., p. 9. OCA argues that a market efficiency project

designed to address congestion cannot meet the Pennsylvania need standards. OCA M.B. at 7. The core tenet of all of these arguments center around the overall structure of the interstate transmission and wholesale generation market. These are FERC jurisdictional issues, and the parties' criticisms of the wholesale market structure should be denied as FERC has already decided these issues.

As explained above and in the Joint Applicants' Main Brief, FERC has exclusive jurisdiction over the interstate transmission system and wholesale power market. TPA and PPL M.B., pp. 36-37. In that regard, PJM cannot direct that generation be constructed. Mr. Herling stated that PJM does not regulate the wholesale power market nor direct the construction of generation. Transource PA St. No. 7-RJ, pp. 12-13. In addition, FERC has directed RTOs such as PJM to implement a transmission planning process that resolves congestion so that wholesale generation can be provided on a non-discriminatory basis. FERC Order 1000, ¶¶ 19, 42.

Parties' criticisms that PJM favors transmission over generation or that the market efficiency process should be eliminated are criticisms of the FERC-approved wholesale market structure. These criticisms should not be considered by the Commission because they can only be addressed by FERC. Moreover, developers had the opportunity to develop resources based on the existing market signals but have not done so to any significant degree that would obviate the need for this Project. Tr. at 2266.

Of note, no party in this proceeding has argued that PJM did not follow its FERC-approved process in approving the Project.

6. STFC's Criticisms of PJM and Its Planning Process Should Not Be Considered.

STFC criticizes PJM and PJM's planning process in its Brief. STFC argues that PJM's selection of the Project should not be given undue weight because PJM is not a governmental

agency or an entity charged with evaluating transmission line applications in Pennsylvania. STFC M.B. at 7. STFC argues that PJM's model does not result in proposals from non-transmission alternatives. STFC M.B., p. 9. STFC's criticisms of PJM and its planning process should be denied.

In his testimony, former Commissioner Cawley noted his personal experience with PJM and his understanding of PJM's expertise in transmission planning. Former Commissioner Cawley noted, in part, that:

- PJM has nine decades of specialized experience in transmission system planning.
- Only PJM has necessary cross-region information available to it.
- PJM's transmission system planning recommendations are the product of extensive study and an open and transparent collective decision-making process.
- PJM's planning process is informed not only by PJM's in-house experts but also by experts of the member-owners of transmission and interested parties.

Transource St. No. 9, pp. 3-4.

PJM has substantial expertise in transmission planning and has followed its FERC-approved process and tariff, which included the evaluation of 41 different competitive solutions, in selecting this Project to resolve congestion in the wholesale markets. Transource PA Statement No. 8-R, p. 7. Parties' criticisms of PJM and PJM's planning process are without merit.

7. PJM Follows a FERC-Approved Transmission Planning Framework

In their Briefs, the other parties criticize PJM's sponsorship model which relies on competitive solicitations to resolve transmission problems. OCA argues that PJM's model is narrow and restrictive because PJM does not identify potential solutions itself. OCA M.B., p. 77. OCA also argues that the Sponsorship Model was selected by PJM. OCA further states that

California's independent system operation, CAISO, implemented a Procurement Model under which the CAISO identifies what they believe to be the most effective solution and then put it out for bid. OCA M.B., p. 79. OCA's criticisms of the PJM Sponsorship Model are without merit and should not be considered by the Commission.

As an initial matter, PJM's Sponsorship Model has been approved by FERC and is set forth in PJM's FERC-approved tariff. The Sponsorship Model can only be changed by FERC.

In addition, the sponsorship model is extremely effective because it solicits competitive proposals from many different entities and presents options that may not be identified under a procurement model. At the hearing, Mr. Herling explained as follows:

Q. By following a sponsorship model, isn't it one the realities of using a sponsorship model for projects that some potential solutions may be missed because they haven't been proposed in the open window?

A. Actually, to the contrary. We had 41 proposals for this particular problem. I'm not aware, in California ISO or in the Midwest, that they have ever had that many proposals to address one of the problems that they have addressed. Now, California has done a handful of these and they have very good engineers at the ISO, but I don't know that they have looked at nearly this many different proposals.

One of the big benefits of a sponsorship model is the creativity that it brings to the table. We have a lot of competing parties who we expect to bring their best engineering to the table and propose solutions that they believe will solve the problem and will be deemed the most effective at resolving the problem that we have identified.

Tr. at 2275, line 15 – 2276, line 7.

Under its model, PJM received 41 different proposals to address congestion on the AP South and related constraints. These proposals were developed by many different entities with vast expertise all competing to develop the best solution. OCA's criticism that this process is narrow and restrictive is contrary to the facts.

OCA cites the CAISO as a different type of model in its Main Brief. OCA M.B., p. 79. However, OCA does not even state in its Brief that the CAISO model is better, and this is not surprising. In his rebuttal testimony, former Commissioner Cawley explained that he saw significant concerns within California when California's implemented electric choice. Transource PA St. No. 9-R, p. 3.

8. PJM's Benefit-to-Cost Ratio is Not Flawed

The other parties' primary argument against Commission approval of Settlement 9A is that PJM's benefit-to-cost methodology does not account for all costs because it does not include zones where prices increase. OCA M.B., pp.43-45; Franklin County M.B., pp. 34-35; STFC M.B., pp. 11-12. This argument is legally and factually flawed and cannot be accepted. The Joint Applicants addressed this argument in their Main Brief and will attempt to avoid unnecessary repetition to the extent possible herein. See Joint Applicants' M.B., pp. 58-60.

As an initial matter, the other parties' arguments opposing PJM's benefit-to-cost methodology are legally flawed because this Commission cannot change PJM's benefit-to-cost methodology or order PJM to change it. PJM's benefit-to-cost methodology has been approved by FERC and is set forth in PJM's FERC-approved tariff. Transource PA St. No. 7-R, pp. 8-15. It has the force and effect of law and can only be changed by FERC. For this reason above, the other parties' arguments challenging PJM's benefit-to-cost methodology should not be considered. Moreover, as stated herein, no party in this proceeding has presented any evidence or even argued that PJM did not follow its FERC-approved and tariffed methodology. The inquiry into PJM's benefit-to-cost ratio methodology should end there. Nevertheless, other parties' criticisms of PJM benefit-to-cost ratio are factually flawed and these flaws are discussed below.

Parties' primary criticism of PJM's benefit-to-cost ratio is that it does not include zones where wholesale power prices increase. OCA M.B., pp. 43-45; Franklin County M.B., pp. 34-35; STFC M.B., pp.11-12. This argument is flawed because it would include increases in discriminatorily low wholesale power prices in the calculation. The effect of this would be to prevent eliminating the discriminatory prices. Former Commissioner Cawley explained that elimination of a market inefficiency or an unreasonably low rate, is not a "cost" to consumers in the unconstrained area because they are not entitled to discriminatory rates caused by congestion. Transource PA St. No. 9-R, p. 4; *see also* Joint Applicants' M.B., pp. 60-61. OCA's benefit-to-cost methodology would support the continuation of discriminatory rates because the increases in prices in unconstrained areas would offset the reductions in constrained areas.

OCA argues that PJM's benefit to cost methodology does not capture the overall impacts to the public. OCA M.B., p. 52. As explained above, the purpose of the market efficiency process is to eliminate or mitigate discriminatory wholesale prices on the interstate transmission system. FERC has determined that RTOs such as PJM should have market efficiency processes to eliminate discriminatory prices to benefit the entire system, not just the wholesale buyers in the constrained area. Moreover, OCA's analysis of the impacts to zones in Pennsylvania is based upon **wholesale** impacts, not impacts to retail customers. There is no evidence in this proceeding to suggest that retail customers in Pennsylvania will experience the increases suggested by OCA.

OCA argues that if the benefit-to-cost ratio was calculated under PJM's methodology for regional market efficiency projects, it would not pass the benefit-to-cost ratio. OCA M.B., p. 54. This argument is irrelevant because Project 9A is not a regional facility under the PJM Tariff and Operating Agreement, and PJM calculated the benefit-to-cost ratio pursuant to its FERC-

approved and tariffed formula. The benefit-to-cost ratios for both types of projects were developed through a stakeholder process and approved by FERC. Transource PA St. No. 7-RJ, p. 12.

OCA also argues that the benefit-to-cost ratio was changed in February 2019 to remove potential future generation with an executed Facilities Studies Agreement (“FSA”) from the benefit-to-cost ratio. OCA argues that this change removes potential low-cost generation in Maryland and Virginia which could, according to OCA, “have a measurable impact on congestion in future years.” OCA M.B., p. 56.

OCA’s criticisms of excluding FSA generation should not be considered for several reasons. First, the change in FSA generation was approved by FERC, and it can only be changed by FERC. Transource PA Exhibit No. 19. Moreover, as noted by OCA, only 36% of all generation with an executed FSA ever reaches commercial operation. OCA M.B., p. 58. There is no way to reasonably determine which generation will reach commercial operation and which will not. Further, the mix in FSA generation that actually reaches commercial operation could increase the congestion, not decrease it. OCA provides a table of FSA generation from Maryland and Virginia excluded from PJM’s Model. OCA M.B., p. 57. This table does not list FSA generation from Pennsylvania, and other states including Delaware and New Jersey, that is excluded from PJM’s Model. Moreover, when FSA generation was included in the Model, Project 9A still passed the benefit to cost ratio. Transource PA Statement No. 8-R, p. 14.

OCA argues that “some” of this FSA generation should be modeled. However, OCA does not provide any detail on how PJM should pick and choose between FSA generation to determine which FSA generation should be included and which FSA generation should be excluded from the Model. Given the uncertainty with FSA generation, FERC approved

excluding it from the Model. The proper forum for litigating this issue is before FERC, not before the Commission in this application proceeding.

Before FERC approved the exclusion of FSA generation, Mr. Barren Shaw, criticized PJM's model for including FSA generation. Shaw St. No. 2, pp. 8-11. Mr. Shaw also noted that the Midwest ISO ("MISO") excludes FSA generation from its model. Shaw St. No. 2, p. 10. Now that the model excludes FSA generation, OCA argues that it should be included, even though only 36% of FSA generation ever reaches commercial operation and despite the fact that the generation mix that reaches operation could increase congestion. OCA's criticism of excluding FSA generation should be denied.

OCA also argues that PJM's benefit-to-cost analysis is unreliable because it has changed several times. OCA M.B., p. 52. OCA's argument should not be accepted. First, OCA fails to acknowledge that the changes in the benefit-to-cost methodology have all gone through PJM's stakeholder process and have been approved by FERC. Second, PJM has evaluated Project 9A multiple times and the Project has passed the benefit-to-cost ratio every time, including with sensitivities for decreased load and increased costs.

The other parties also argue that the IMM disagrees with PJM's benefit-to-cost methodology. OCA M.B., p. 83; STFC M.B., p. 11. Again, this argument is irrelevant. The IMM only makes recommendations regarding FERC's planning process. The IMM has no authority to change the benefit-to-cost methodology that can only be changed by FERC. PJM witness Mr. Horger explained that the IMM has made this recommendation several times before and that neither FERC nor the PJM stakeholders adopted the IMM's position. Transource PA St. No. 3AA-RJ, p. 3.

9. The Other Parties' Benefit Calculations Are Severely Flawed.

The other parties argue that the benefits of the Project are much less than the benefits calculated by PJM. OCA states that the Project will provide net benefits of \$32.5 million over 15 years with a present revenue requirement of \$527 million. OCA M.B., p. 48. STFC cites to the IMM as stating that the net benefit was \$336.40 million. STFC M.B., p. 10.

The other parties' calculation of the benefit of Settlement 9A are severely flawed because they include the net effects of discriminatory low wholesale power prices. Transource PA Statement No. 9-RJ, pp. 2-5. The other parties incorrectly assume that regions that are receiving artificially low and discriminatory wholesale prices are entitled to those discriminatorily low prices. This fallacy precludes consideration of the other parties' benefits calculations. Former Commissioner Cawley addressed this fallacy in his Rejoinder Testimony at pages 3-4, and it is also addressed in the Joint Applicants' Main Brief at pages 126-127. Mr. Horger also addressed this in his Rejoinder Testimony at pages 2-3. Transource PA St. No. 8-RJ, pp. 2-3.

In addition, the other parties' calculations are based upon differences in **wholesale** power costs in the constrained areas. There is no basis to conclude that the differences in wholesale power costs in Pennsylvania will flow through to retail customers, especially on a dollar for dollar basis. Many retail customers in Pennsylvania receive their electric service through full requirements contracts obtained through competitive auctions.⁵ The supply to serve these customers is competitively bid and can come from any location. There is no evidence in this proceeding to support a claim that retail customers in Pennsylvania will experience the increases in power prices suggested by the other parties.

⁵ See, e.g., *Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period June 1, 2021 through May 31, 2025*, Docket No. P-2020-3019356.

10. Regional Transmission Planning Benefits Pennsylvania

The other parties argue that the Commission must focus on Pennsylvania benefits when considering the need for this Project and further argue that this Project does not benefit Pennsylvania. OCA M.B., p. 34; Franklin County M.B., p. 1; STFC M.B., p. 9.⁶

As an initial matter, the Project resolves five significant reliability violations in Pennsylvania that will exist if the Project is not constructed. *See* Section A(4) above. In addition, the Project provides economic benefits to Pennsylvania which are explained below and in the Joint Applicants' Main Brief at pp. 54-55.

Moreover, Pennsylvania receives substantial benefits from participating in a regional power grid which are discussed in this section and on pages 55-57 of the Joint Applicants' Main Brief. Parties' arguments that this Commission must solely focus on Pennsylvania benefits of this Project, if accepted, would preclude participation in an interstate transmission system and cannot be accepted. As explained by former Commissioner Cawley, Pennsylvania has elected to participate in the regional power grid and must consider the needs of the region in its evaluation of siting applications. Mr. Cawley stated:

In addition, if Pennsylvania were to think only of itself and not as a part of a regional grid, it would promote and condone discriminatory practices completely incongruous with its PJM membership. Simply put, as a part of a Regional Transmission Organization, Pennsylvania cannot pick and choose how it participates in the RTO.

Transource PA St. No. 9-RJ, p. 10, lines 1-4.

Mr. Cawley also explained:

Q. Is it proper to focus on only Pennsylvania benefits for a regional transmission project?

⁶ The Joint Applicants address the legal fallacies in this argument in Section A(1) above.

- A. No. It is noteworthy that the third sentence of Section 2805 requires only that implementation of electric restructuring "ensure the continued provision of adequate, safe and reliable electric service to the citizens and businesses of this Commonwealth." It prohibits a diminution of service, but says nothing about rates which are competitively driven under restructuring. This omission is a further reason for rejecting Mr. Rubin's proposed deduction of rate increases on the near side of congestion points from the savings in energy payments beyond the congestion point. More importantly, it is oxymoronic to claim that a regionally planned transmission project must produce positive benefits (or no harm) in every state through which the proposed line traverses. If that were true, regional planning would not be regional but parochial and self-interested. As the Commission commented to FERC, "without a regional process, regional transmission upgrades revert to an ineffective, inefficient and chaotic and balkanized process in which each individual transmission owner plans only for its own commercial interests." Again, Section 2805's "reciprocity" suggests complementary cross border actions that balance benefits and burdens as equally as possible.

"Pennsylvania-first" thinking is not only provincial and antithetical to the very idea of regional planning, it is also economically myopic, because an insistence by the Commission that today's project to primarily benefit Maryland, Virginia, and the District of Columbia also must benefit (or not harm) Pennsylvania provides the precedent for an insistence by the utility regulators in Maryland, Virginia, and the District of Columbia that tomorrow's project to primarily benefit Pennsylvania must also benefit (or not harm) their jurisdictions.

Transource PA St. No. 9-R, p. 13, line 10 through p. 14, line 7.

Pennsylvania's participation in the regional transmission system has provided substantial benefits to Pennsylvania. *See* Joint Applicants' M.B. at 56-57. The regional transmission grid ensures reliability at the lowest cost, provides greater access to lower-priced power, enables economic growth, allows for operational flexibility, provides grid resilience in emergency conditions and ensures reliability during a historic and unprecedented shift in generation resources. Transource Exh. No. 2, TJH-AA-RJ-1, pp. 3-6.

While the benefits to Pennsylvania of participating in the regional transmission system exceed \$3 billion, that figure is conservative as the whole extent of the benefits to Pennsylvania cannot be fully measured. Participation in the regional transmission system requires consideration of transmission line projects on a regional basis. *Energy Conservation Council* at 484 – 485.

11. Settlement 9A Provides Economic Benefits To Pennsylvania

The other parties' argument that Settlement 9A does not benefit Pennsylvania ignores the economic benefits to Pennsylvania that will result from the Project. These economic benefits are discussed on pages 54-56 of the Joint Applicants' Main Brief. Parties' arguments that the Project does not provide benefits to Pennsylvania are incorrect. In fact, regional transmission planning across the PJM zones reduces the need for additional generation by up to \$3.78 billion annually. Transource PA Ex. TJH-AA-RJ1, p. 1.

B. HEALTH AND SAFETY

1. STFC's Concerns regarding the Presence of Karst in the Project Area are Meritless

STFC is concerned that the presence of karst in the project area presents a safety risk. STFC M.B., p. 15. Specifically, STFC contends that the presence of karst makes the area susceptible to sinkholes and ground collapse. STFC M.B., pp. 16-17. STFC also contends that there is not enough information to determine if Transource PA's mitigation measures are sufficient. STFC M.B., p. 16. Finally, STFC argues that the karst topography means that groundwater and wells may be negatively impacted. STFC M.B., p. 40.

Transource PA's extensive karst analysis fully rebuts STFC's claim that there is insufficient information to evaluate whether the IEC Project can be safely constructed in an area with karst terrain. As Transource PA witness Keith Yamatani explained, Transource PA has

undertaken a comprehensive analysis of the site, including a high-level desktop evaluation of the geology and geotechnical conditions along the proposed alignment and a specific karst inventory. Transource PA engaged Dr. Walter Kutschke, a geotechnical engineer, to visit the entire proposed West Portion of the IEC Project and conduct a field inventory of karst features in the area. Transource PA Statement No. 12-R, pp. 4-5; Tr. at 2572-73. These analyses were supplemented with traditional subsurface investigation techniques, including geotechnical borings, probes and geophysical physical testing. Tr. at 2572.

Transource PA has demonstrated that the presence of karst in the project area does not present a safety issue. Transource PA Statement No. 12-R, pp. 8-9. Transource PA will ensure that the project is safely constructed by avoiding structure placement where active karst features are present and implementing site-specific mitigation measures where needed. Transource PA Statement No. 12-R, pp. 7-10. Examples of mitigation measures include regrading, using stormwater conveyance facilities (e.g. pipes, culverts, water bars, and ditches), establishing buffers, placing gravel or rock filters around or within sinkhole throats and installing casing to help reduce migration of foundation concrete into subsurface air-filled voids. Transource PA St. No. 12-R, p. 11.

Moreover, Transource PA's parent company, American Electric Power Company, Inc. ("AEP"), has significant experience constructing transmission lines in regions with karst topography. The karst formations present in Franklin County are similar to the karst formations in southwestern Virginia where AEP has constructed transmission lines. In Virginia alone, AEP has successfully constructed over seventy transmission lines that transverse karst terrain. The average age of these lines is fifty years old and some are up to ninety-three years old. In addition to these lines, AEP has in service thousands of miles of distribution lines that traverse karst

terrain. Transource PA St. No. 12-R, pp. 7-8; TPA Ex. No. KSY-1R; Tr. at 2574-75. Transource PA will leverage AEP's vast experience in karst terrain to execute a safe process for the design, construction and operation of the IEC Project. Transource PA St. No. 12-R, p. 8. In addition, there are currently several non-AEP transmission lines that traverse karst areas in Franklin County. Transource PA Ex. No. KSY-3R.

Similarly, impacts to groundwater and wells is not cause for concern. Transource PA has researched the proposed route extensively and does not believe that there are any water wells within the proposed right-of-way. To the extent that a well or water source is identified within the proposed right-of-way, Transource PA will work with the landowner to mitigate any impacts, including re-drilling water wells at Transource PA's cost. Transource PA St. No. 11-R, p. 9. Transource PA will implement erosion and sediment control devices in accordance with the Pennsylvania Stormwater Best Management Practices Manual to mitigate the potential transport of sediment to karst features that are beyond the limit of the IEC Project construction area. Transource PA Statement No. 12-R, p. 10. As Mr. Yamatani explained, the mitigation strategies that Transource PA is implementing will prevent contamination of water before it enters the ground. In addition, Transource PA will use techniques such as ditches and culverts to help ensure that water continues to flow to its pre-construction destination in the same quantity and quality that it had flowed previously. Tr. at 2582. These mitigation measures can also be applied to safely construct the line in other challenging terrains, including in fault zones. Transource PA Statement No. 12-R, p. 11.

2. STFC's Concerns Regarding EMF Are Unfounded

STFC contends that the proposed transmission line will expose Franklin County residents to Electric and/or Magnetic Fields ("EMF"), which presents health concerns. STFC M.B., p. 16. As support for its position, STFC cites to public input hearing testimony, as well as the testimony

of Citizens to Stop Transource York County witness Courtney Dettinger. STFC M.B., pp. 17-19. Ms. Dettinger is a registered nurse and is not an expert in epidemiology. York County Citizens' St. No. 3, pp. 1-3. No party has presented credible scientific evidence that EMF from the proposed transmission line will lead to any adverse health effects. Nevertheless, STFC's unsupported claims regarding EMF have been fully rebutted by Transource PA's expert witnesses. These claims are without scientific merit and do not provide a reasonable basis for denying approval of the IEC Project.

Transource PA presented the expert testimony of J. Michael Silva, P.E. Mr. Silva is a licensed professional engineer and a research engineer specializing in issues related to EMF. Mr. Silva has worked as a design, consulting and research engineer on electric projects for approximately 45 years. Transource PA Statement No. 15-R, pp. 1-2.

Mr. Silva calculated the EMF levels for the proposed IEC Project in the middle of the right-of-way and at the edges of the 130-foot right-of-way. Mr. Silva performed his analysis of magnetic fields based on both an average annual loading case and a short-term heavy loading case. Transource PA St. No. 15-R, pp. 12-13. For the West Portion of the IEC Project, the maximum magnetic field level in the middle of the right-of-way under normal loading conditions is 138.6 milligauss ("mG") and 62 mG at the edge of the right-of-way. For short-term heavy loading conditions, the maximum magnetic field level in the middle of the right-of-way is 176.1 mG and 78.8 mG at the edge of the right-of-way. Transource PA St. No. 15-R, p. 13. STFC contends that EMF levels from the lines could increase if load increases. STFC M.B., p. 19. However, as explained by Mr. Silva, transmission line voltages are held in a relatively narrow range and the electric field levels do not vary based on load. Transource PA St. No. 15-R, p. 13. Based on a 5% overvoltage case (i.e. 242 kV), the calculated electric fields for the proposed IEC

Project are 4.48 kV/m (maximum in right-of-way) and 0.26 kV/m (edge of right-of-way).
Transource PA St. No. 15-R, p. 13.

There are no federal or state magnetic field exposure limits in Pennsylvania. However, the International Commission on Non-Ionizing Radiations recommends that for the general public, 60 Hz⁷ magnetic field exposures not exceed 2,000 mG. Another expert group, the International Committee on Electromagnetic Safety of the Institute of Electrical and Electronics Engineers (“IEEE”) recommends that public exposures to 60 hz magnetic fields not exceed 9,040 mG. Based on this information, Mr. Silva concluded that the EMF levels for the proposed IEC Project are below the recommended ranges for public exposures and the magnetic fields are within the range that people can experience in their normal living and working environments.
Transource PA St. No. 15-R, p. 14.

Transource PA also presented the expert testimony of Dr. Nancy Lee. Dr. Lee is a medical doctor, medical epidemiologist and public health specialist. Transource PA St. No. 16-R, p. 1. Dr. Lee has published over 100 articles involving causes of cancer, as well as other epidemiology and public health issues in peer-reviewed scientific journals. Transource PA St. No. 16-R, p. 4. Dr. Lee has reviewed several scientific studies involving exposure to EMF and cancer in both adults and children. Transource PA St. No. 16-R, pp. 9-13. Dr. Lee also reviewed the EMF calculations performed by Mr. Silva.

Dr. Lee testified that the epidemiology studies examining power frequency EMF and human health, along with the laboratory studies on animals and cellular systems, do not provide a reliable scientific basis to conclude that exposure to EMF would cause or contribute to

⁷ The EMF associated with alternating current electric power in the United States has a frequency of 60 Hz. Common sources of 60 Hz EMF include wiring in homes, business and schools, power lines, lighting, home appliances, power tools, and electrical equipment in offices and medial or industrial facilities. Transource PA St. No. 15-R, p. 8.

childhood leukemia, other childhood and adult cancers, or other chronic health problems. Based on her education, training and experience as a medical doctor and a specialist in epidemiology and public health, Dr. Lee also testified that in her opinion there is no reliable scientific basis to conclude that exposure to power frequency from EMF from the proposed IEC Project will cause or contribute to adverse health effects in people living or working along the proposed line route. Transource PA St. No. 16-R, pp. 15-16.

In addition, the United States National Cancer Institute has concluded that no consistent evidence for an association between any source of non-ionizing EMF and cancer has been found. Transource PA St. No. 16-R, p. 13. The World Health Organization (“WHO”) has found that there is inadequate evidence to conclude that EMF causes or contributes to almost all health conditions examined. The WHO currently reports that based on a recent, in-depth review of the scientific literature, the current evidence does not confirm the existence of any health consequences from exposure to low level electromagnetic fields. Transource PA St. No. 16-R, p. 14.

Transource PA’s Electric and Magnetic Fields Policy and Practices is provided as Attachment 10 to its Application. *See* Transource PA Ex. No. 1 (West), Attachment 10. Transource PA complies with applicable industry standards for EMF as set forth by the IEEE and the National Electrical Safety Code (“NEC”). Transource PA Ex. No. 1 (West), Attachment 10, p. 2. Transource PA employs a variety of standards and practices for mitigating EMF impacts and to address public concerns about EMF produced by power lines, including using particular conductor configurations and/or phase arrangements to achieve the most EMF cancellation where necessary. Transource PA Ex. No. 1 (West), Attachment 10, p. 3.

STFC's claims regarding EMF should be rejected because Transource PA has demonstrated that there is no reliable scientific basis to conclude that EMF from the proposed IEC Project will cause adverse health effects to the public. Transource PA St. No. 16-R, pp. 15-16. STFC is seeking a decision in this proceeding based on misconceptions and mischaracterizations of the actual state of the science. Unfounded and speculative concerns cannot serve as the basis for rejecting an application for approval of the siting and construction of a transmission line. If all that is required to have an application rejected is public testimony about alleged concerns of EMFs, it would be nearly impossible to obtain approval of any transmission line project in the future, and reliable electric service will not be available. Moreover, the Commission has previously expressed its view that EMF should not be regarded as a health hazard. *See Application of Pennsylvania Power & Light Company Filed Pursuant to 52 Pa. Code Chapter 57*, 1994 Pa. PUC LEXIS 65, *67-*69 (Oct. 21, 1994).

3. OCA's and STFC's Concerns Regarding Dangers To Farmers and Farm Animals Are Unfounded

OCA and STFC raise various safety concerns regarding the presence of the proposed transmission line in areas where farming activities occur. Transource PA has demonstrated that the proposed IEC Project will not present an unreasonable risk of danger to anyone farming near the transmission line. Throughout the United States, there are a wide variety of activities that safely occur under and near transmission lines, including farming as well as residential and commercial land uses, schools, sports fields, playgrounds, horse trails and other recreational activities. Transource PA St. No. 15-R, p. 15.

STFC contends that the presence of the proposed line increases the risk of electric shock to farm workers, and farmers may have to change their farming practices due to risk of electric shock. STFC M.B., pp. 20-21. Mr. Silva fully rebutted this claim. The electric field strength

beneath high voltage power lines is constrained by the NESC to prevent harmful electric shocks to people when they touch large conductive objects, such as trucks parked beneath the transmission line. Transource PA St. No. 15-R, p. 18. Transource PA has designed the IEC Project to comply with or exceed the NESC standards. Transource PA St. No. 15-R, p. 18.

The proposed clearances above ground for the IEC Project exceed the standard that is required by the NESC. As an added level of safety, the IEC Project is being designed with an additional two feet of clearance to ground to account for agricultural machinery that is above the fourteen-foot assumed height built into the NESC clearances. These two additional feet are in addition to the Transource standard two-foot buffer added to the NESC minimum clearance. Transource PA is also using monopole structures as opposed to lattice towers so that machinery can be more easily maneuvered around the poles. Farmers will be able to continue farming safely around the transmission line. Transource PA Statement No. 5-RJ, p. 2.

OCA cites to public input testimony expressing concern regarding the impacts of stray voltage on dairy animals. OCA M.B., pp. 74-75. As explained by witness Silva, the proposed transmission line does not present stray voltage concerns. The term “stray voltage” generally describes a voltage between two objects where no voltage difference should exist. Typically, high voltage overhead transmission lines do not create stray voltage problems. Commonly accepted sources of stray voltage on a farm include a variety of internal electrical wiring problems, as well as non-farm related problems (such as high resistance wires and connections between a farm and the local low-voltage electric distribution system). Because “stray voltage” is not a feature of the operation of a transmission line, no problems related to stray voltage would be expected for the proposed 230 kV lines. Transource PA St. No. 15-R, pp. 17-18. Moreover, Transource PA witness H. Dwight Mercer, Ph.D, DVM, a veterinarian and comparative

toxicologist, testified that there is no reliable scientific basis to conclude that power frequency EMF from the proposed IEC Project will cause or contribute to adverse health effects in animals living along the proposed line routes. Transource PA St. No. 16-R, pp. 1, 13-14.

STFC also contends that there is a general risk of tower collapse during weather events. STFC M.B., p. 17. However, as Transource PA witness Kent Herzog explained, the structures are designed to withstand severe weather events. Tr. at 2203. In the extremely rare case of a catastrophic failure, Transource PA would access the tower to safely repair the damage. Tr. at 2218.

The Commission previously approved an application for the siting and construction of a HV transmission line through an orchard where the applicant demonstrated that the transmission line would not create a hazard to those working near the transmission line. *See Dunk v. Pennsylvania Public Utility Com.*, 232 A.2d 231 (Pa. Super. 1967) (utility met its burden of proof for approval to site a transmission line across an orchard by presenting expert testimony that the line would present no hazard to orchard workers irrigating the trees). Similarly, here, Transource PA has presented abundant testimony that the proposed transmission structures are safe and reliable and will not create an unreasonable danger to farmers engaging in agricultural activities.

4. STFC's Claims Regarding Transource PA's Expertise are Without Basis

Transource PA and its affiliates have significant experience in successfully siting, constructing, owning, and operating transmission facilities. Transource PA is the direct subsidiary of Transource Energy, which is owned, in part, by AEP. AEP, through its subsidiaries, serves more than five million customers in eleven states, and owns and operates more than 40,000 circuit miles of electric transmission lines and approximately 224,000 miles of

electric distribution lines. Transource PA St. No. 1, p. 9. AEP has a long history of successfully and safely designing, constructing, and operating transmission lines in multiple states, including Texas, Oklahoma, Arkansas, Tennessee, Kentucky, Indiana, Ohio, West Virginia and Virginia. Transource PA Statement No. 12-R, p. 7.

STFC claims that Transource PA is not an “established” utility, and that Transource PA has little experience with constructing transmission lines and no experience in Pennsylvania. STFC M.B., pp. 21-22. For these reasons, STFC questions Transource PA’s ability to successfully construct the IEC Project. STFC’s claims regarding Transource PA’s expertise are without basis, particularly in light of the fact that Transource PA, through its parent entities, provides to Pennsylvania and the region the benefit, expertise, and experience of one of the largest transmission developers in the United States. No party has presented, or could credibly present, any evidence to suggest that Transource PA is incapable of designing, constructing and maintaining the IEC Project.

Transource PA is a public utility formed to construct, own, operate, and maintain electric transmission facilities and equipment within Pennsylvania. Transource PA holds a certificate of public convenience from the Commission authorizing it to begin to furnish and supply electric transmission service as a Pennsylvania public utility within two corridors to be located in Franklin and York Counties, Pennsylvania. *See Application of Transource Pennsylvania, LLC for All of the Necessary Authority, Approvals, and Certificates of Public Convenience (1) to Begin to Furnish and Supply Electric Transmission Service in Franklin and York Counties, Pennsylvania; (2) for Certain Affiliated Interest Agreements; and (3) for any Other Approvals Necessary to Complete the Contemplated Transactions*, Docket No. A-2017-2587821 (September 14, 2017). Transource PA Ex. No. 1, pp. 3-4.

AEP operates its transmission assets with the highest standards of reliability, safety, and North American Electric Reliability Corporation (“NERC”) compliance. AEP operates multiple, fully functional control centers and employs more than 1,000 personnel in field operations to maintain, operate and restore transmission systems. Transource PA St. No. 1, pp. 9-10

AEP currently employs approximately 300 people in transmission project management and construction management functions. AEP annually manages more than \$2 billion in projects and have extensive experience in projects of a magnitude comparable to the Independence Energy Connection Project. Further, AEP has developed best-in-industry skills through over a 100+ year history of siting, designing, constructing, and operating transmission grids consisting of approximately 40,000 miles of transmission lines. Transource PA St. No. 1, pp. 9-10.

As part of its current business practice, AEP has established partnerships with third-party engineering consultants who are trained in the appropriate application of AEP specifications and standards. Moreover, AEP has extensive experience in providing oversight to external consultants and third-party contractors, with industry-leading capabilities to effectively oversee all types of transmission siting, permitting, design and construction completed by outside firms. Transource PA St. No. 1, pp. 9-10.

Transource PA draws on the significant resources and experience of AEP, including their rigorous and proven project management practices for the successful siting, construction, ownership, operation, and maintenance of the IEC Project. Transource PA St. No. 1, pp. 9-10.

C. ENVIRONMENTAL IMPACTS

1. The IEC Project Will Have Minimum Adverse Impact on the Environment

In their Main Briefs, OCA, STFC and Franklin County argue that the IEC Project will not have minimum adverse environmental impact as required by the Commission’s regulations.

OCA M.B., p. 14; STFC M.B., p. 1; Franklin County M.B., p. 22. The other parties' objections to the proposed route consist solely of observations that some adverse impacts will result if the IEC Project is constructed. The other parties equate the requirement of "minimum" impact with "no" impact. Such an analysis fails to recognize that all transmission lines have will some adverse impacts no matter where they are sited. If all that is required to defeat the routing of the transmission line is to demonstrate some adverse effects, no transmission line would ever be built. Transource PA Statement No. 4-R, pp. 12-14.

The proper analysis is whether the IEC Project "will have minimum adverse environmental impact, considering the power needs of the public, the state of available technology and the available alternatives." 52 Pa. Code § 57.76(a)(4) (emphasis added). The IEC Project must have minimum impact, not "no impact." As explained in Transource PA's and PPL Electric's Main Brief, Transource PA selected the route with the least overall impact through its comprehensive siting process. Transource PA and PPL Electric M.B., p. 80. In addition, Transource PA is undertaking substantial efforts to further mitigate any impacts of the IEC Project. These mitigation measures are fully explained in Transource PA's and PPL Electric's Main Brief. *See* Transource PA and PPL Electric M.B., pp. 115-118.

Franklin County claims that even with these mitigation measures, there will be some negative impacts to Franklin County. Franklin County M.B., pp. 21-22. For that reason, Franklin County argues that the IEC Project should not be approved. Again, Franklin County inappropriately advocates for an approach where no project would ever be built because it is impossible to build a HV transmission line without some impact. Such a position is contrary to law and should be rejected. *Cf. Robinson Twp.*, 623 Pa. 564 (protection of environmental rights

does not require a stagnant landscape, the derailment of economic and social development nor a sacrifice of other fundamental values).

In support of their argument that the IEC Project will not have minimum adverse environmental impact, the OCA and STFC recite testimony that various members of the public in Franklin County provided at the public input hearings and site visits. Specifically, STFC and OCA express concerns regarding the IEC Project's impacts on natural resources along the proposed route. As explained in Transource PA's and PPL Electric's Main Brief, the IEC Project is expected to have little to no adverse impact on the environment and any potential impacts to the natural environment will be minimized. Transource PA and PPL Electric M.B., pp. 78-80. Transource PA carefully considered each of the factors provided for in 52 Pa. Code § 57.75(e)(3) as part of its siting process and has undertaken extensive mitigation efforts to address all of the concerns raised at the public input hearings, including making numerous modifications to the proposed route at landowners' requests. Transource PA St. No. 4-R, pp. 27-28; Transource PA St. No. 6-R, Table 1.

Much of the testimony cited by OCA and STFC contains bald assertions and unsupported "concerns" regarding the perceived impacts of a HV transmission line. The other parties overstate the anticipated impacts of the IEC Project by choosing to ignore the substantial record evidence demonstrating that impacts will be minimal. For example, when expressing its concerns regarding the Falling Spring Branch, STFC cites to testimony from a York County Planning Commission witness, which identifies two factors that enable streams to be high quality and support wild trout – (1) forested and riparian buffers along the stream and (2) tree canopy along the stream edges. STFC M.B., p. 32. What STFC fails to acknowledge is it that Transource PA and PPL Electric witness Barry Baker addressed these two very same factors

when he explained that there would be minimal impact to the Falling Spring Branch. Specifically, Mr. Baker explained that the transmission line will cross Falling Spring in an area of low growing vegetation where there is limited tree canopy to shade the stream; whereas, trout are typically found in shaded stream areas with cooler temperatures. In addition, Mr. Baker described how the structures will span the stream and will be placed in upland areas away from the riparian habitat associated with the stream. For these reasons, crossing the Falling Spring Branch will have little impact on the stream's trout habitation. Transource PA St. No. 4-R, p. 22. When considering the record evidence in its entirety, it is clear that any environmental impacts as a result of the IEC Project will be minimal.

OCA and STFC also reference testimony from members of the public in York County expressing concerns regarding potential impacts to agricultural land and natural resources. OCA M.B., pp. 75-76; STFC M.B., pp. 20-21. However, this testimony was presented at public input hearings and site visits that occurred prior to the submission of the Amended Application proposing the Settlement IEC East Portion. These concerns are no longer applicable given that Transource PA and PPL Electric are proposing the Settlement IEC East Portion. As compared to the originally proposed IEC East Portion, the Settlement IEC East Portion uses existing infrastructure and/or rights-of-way for the majority of the length of the line, affects fewer new landowners and parcels, and impacts fewer natural resources. PPL Electric St. No. AA-5, p. 5. In fact, at the July 9, 2020 evidentiary hearing, Mr. Baker explained that no impacts to threatened and endangered species or to the natural areas where threatened and endangered species reside are anticipated based on agency coordination to date. Tr. at p. 2834, ln. 5-9; p. 2841, ln. 14-19. OCA acknowledges that the concerns expressed during the public input hearings are mitigated by the Settlement IEC East Project, which will be constructed in existing rights-of-way. OCA

M.B., p. 72, n. 44. Further, the active parties in York County support the Settlement IEC East Portion. *See York County Planning Commission Statement in Support of Joint Partial Settlement with Transource Pennsylvania LLC* (August 11, 2020); *Statement of York County Citizens in Support of Joint Partial Settlement* (August 11, 2020).

As fully explained in its Main Brief, the IEC Project is expected to have minimum adverse impact on the environment. Transource PA and PPL Electric M.B., pp. 78-119. Transource PA and PPL Electric gave particular consideration to minimizing any impacts on the factors listed in the Commission’s siting regulations at 52 Pa. Code § 57.75(e)(3). Transource PA and PPL Electric have demonstrated reasonable efforts to minimize adverse environmental impacts of the proposed route when compared to the available alternative routes and are not required to consider all possibilities or choose a route that has no adverse impacts. *Energy Conservation Council of Pa. v. PUC*, 25 A.3d 440, 448-49 (Pa Cmwlt. 2011). Other parties’ criticisms of the IEC Project are based on a skewed view of the evidentiary record and an erroneous and impossible “no impact” standard. These claims should be rejected.

2. The IEC Project Will Have Minimum Impact on Farming and Agricultural Land

The other parties identify a number of concerns with siting the IEC Project through agricultural areas. Transource PA and PPL Electric have fully responded to each of these concerns.

First, STFC vastly overstates the overall impact of the IEC Project on farmland. STFC argues Project will impact 1,900 acres of farmland in Franklin County. STFC M.B., p. 53. Yet, monopoles in Franklin County take up less than one half of an acre. Transource PA St. No. 4-R, p. 29.

STFC contends that the tower structures are not compatible with existing agricultural landscapes and will limit future farming operations. STFC M.B., pp. 2, 52. Transource PA has explained that farming will be able to continue around the proposed transmission line structures. Steel monopoles will be used instead of lattice towers, and the distance between monopoles will allow large farm equipment to move between structures. Transource PA St. No. 5-R, pp. 1-3. The majority of orchard operations can safely coexist with the transmission line right-of-way because woody vegetation that grows to be fifteen feet tall or less is allowed within the right-of-way. To the extent orchards will be taller than fifteen feet, Transource PA will incorporate additional clearance into the design of the transmission line where needed. Transource PA Statement No. 5-R, p. 2.

STFC alleges that construction of the IEC Project will degrade prime agricultural soil and could cause crop damage. STFC M.B., pp. 34, 62-63, 62-63. To minimize the potential for soil compaction during construction, Transource PA will use existing roads and place structures closer to public and private roadways whenever possible so that there is less construction traffic in landowner fields. Transource PA will work directly with landowners to minimize impacts. For any impacts that cannot be avoided, Transource PA will fairly compensate the landowner for the labor and equipment costs associated with decompacting the soil, as well as any anticipated lost agricultural yields caused by the temporary soil compaction. Transource PA St. No. 11-R, p. 7. Aside from structure placement and the few instances of permanent access roads, all other soil impacts will be temporary and returned to the preconstruction state. Transource PA Ex. No. 1, Attachment 3 (West), p. 33.

STFC is concerned that fragmentation of farmland will interfere with agricultural operations. STFC, pp. 55-56. During the siting process, efforts were made to decrease

fragmentation of crop fields by aligning segments with property boundaries, access roads and field edges where feasible. In situations where alignments would cross through more central areas of the crop fields, efforts were made to position potential structure locations at the edges of fields. Transource PA Statement No. 4-R, p. 27.

During open house meetings with Transource PA representatives, landowners were asked to provide information on their property, such as the location of pasture fields versus crop fields, rocky areas that are not farmed, and spring and well sites to help define an alignment across their land that would be more compatible with their farming operations. Efforts were made to keep the alignments away from farmhouses and outbuilding complexes with the intent to avoid limiting a landowner to expand these facilities in the future. Information provided by landowners about planned expansion was used to define alternative alignments in some cases. Specific requirements associated with tree farms and orchards were also addressed through Transource PA's discussions with landowners, including options to follow field lines and the potential to design the structures to be taller to allow the continued use of the land as orchards. Over 150 alignment shifts were made in total based on landowner input. Transource PA St. No. 4-R, pp. 27-28.

Finally, STFC believes that the IEC Project may deter agritourism. STFC M.B., p. 55. However, there is no evidence that tourism in Franklin County will decline as a result of the IEC Project. There are several examples of nurseries, farm markets, and pick-your-own orchards in Pennsylvania that are bordered and even crossed by transmission lines and/or gas pipelines that have successfully been in business for decades. Transource PA St. No. 4-R, p. 31. In fact, as STFC explains, tourism is currently a successful industry in Franklin County where transmission lines currently exist. STFC M.B., p. 55.

Much of the other parties' opposition to the IEC Project is based on their view that HV transmission line towers simply do not belong in an agricultural landscape. STFC M.B., pp. 2, 30-31, 43-48; OCA M.B., pp. 70-76; Franklin County M.B., pp. 21-22. This belief is impractical and has been specifically rejected as a matter of public policy. *See, e.g., Ogden Fire Co. v. Upper Chichester Township*, 504 F.3d 370, 390, fn. 12 (3d Cir. 2007) ("One could forcefully argue that the erection of any telecommunications equipment would have an adverse impact on the aesthetics of any residential community. However, under the circumstances here, such an unforgiving and absolutist approach local to land use regulation would eviscerate the national policy of promoting the telecommunications industry that is endemic in the TCA."). Similar considerations apply to electric transmission line proceedings. Moreover, the area of the proposed route is already crossed by several existing transmission lines. Transource PA St. No. 4-R, pp. 26. Nevertheless, Transource PA has undertaken significant effort to preserve and minimize impacts to the agricultural landscape, including conducting visual simulations and aligning the route further away from areas of high visibility. Transource PA Statement No. 4-R, p. 25.

3. STFC's Criticisms of Transource PA's Siting Process and Route Selection are Without Merit

STFC challenges Transource PA's siting process. Specifically, STFC alleges that Transource PA's siting decisions were made on a "whim." STFC M.B., p. 27. STFC is incorrect. Transource PA undertook a comprehensive siting process as explained in the testimonies of witness Baker, the Siting Study for the West Portion of the IEC Project and the Supplemental Siting Study for the Settlement East Portion, and as summarized in Transource PA's and PPL Electric's Main Brief. Transource PA and PPL Electric M.B., pp. 80-88. Transource PA has also engaged in extensive efforts to successfully minimize any adverse

environmental impacts of the IEC Project. Transource PA and PPL Electric M.B., pp. 90-118. Transource PA's siting process considered approximately 150 different study segments, paralleled existing infrastructure to the extent reasonably possible and presented a proposed route that minimizes impacts to landowners. Transource PA St. No. 4-R, pp. 2-6. Transource PA's siting process also evaluated the specific factors as set forth in the Commission's regulations. *See* 52 Pa. Code § 57.75(e)(3).

The Company has presented an exhaustive siting analysis which carefully considered three alternative routes for each portion of the IEC Project and concluded that the Proposed Route was the best available siting alternative for the West Portion of the IEC Project. No other party has undertaken an independent siting analysis, nor has any other party proposed a superior alternative route for consideration. The other parties rely exclusively on the opinions and observations of individuals who testified at the public input hearings. For example, the OCA references a concern raised at one of the public input hearings that during the siting process Transource PA did not select route that would pass through mountain ground and impact fewer residents. OCA M.B., p. 73. In his rebuttal testimony, Mr. Baker specifically addressed why this route was not selected. Transource PA considered siting the alignment thorough a less developed portion of Franklin County that would traverse the Michaux State Forest. While that option would have allowed for siting further away from human/built constraints, it would result in a direct impact to a state designated public natural resource that includes forested lands, streams, wetlands, and sensitive vernal pools. Transource PA St. No. 4-R, p. 13. Transource PA's siting process attempts to balance and protect both the human/built environment and the natural environment and does not favor one consideration over the other. Transource PA St. No. 4-R, p. 12. No route would avoid all impacts.

D. THERE ARE NO REASONABLE ALTERNATIVES

1. Non-Transmission Solutions Will Not Resolve The Congestion.

The other parties argue in their briefs that PJM does not consider non-transmission alternatives to resolve congestion. OCA M.B., pp. 81-83; STFC M.B., p. 9. This issue was addressed in the Joint Applicants' Main Brief at pages 62-69.

As explained by Mr. Herling, PJM does consider whether non-transmission alternatives will resolve congestion. Non-transmission alternatives such as renewable energy, energy efficiency, demand response and distributed generation are forecasted in PJM's model. The non-transmission alternatives do not resolve the congestion on the AP South and related constraints as is evidenced by the Project repeatedly passing the benefit-to-cost threshold.

OCA also stated that PJM did not consider whether additional low-cost generation resources sited in the constrained area would resolve the congestion. OCA M.B., p. 80. This argument is flawed for many reasons. First, the congestion on the AP South and related constraints has been persistent for many years and new generation has not solved it. Second, PJM cannot direct new generation to be constructed. Transource PA Statement No. 7-R, pp. 30, 33-34. Third, OCA cites to no evidence that any entity is willing to build sufficient low-cost generation to resolve the congestion. If low-cost generation would be available to solve the congestion, it would have been constructed already. OCA's argument that low-cost generation could be constructed on the constrained areas is pure speculation that is not based upon any actual evidence.

OCA also argues that Mr. Crandall's testimony regarding non-transmission alternatives support OCA's argument. OCA M.B., p. 81-97. This argument is addressed on pages 62-66 of the Joint Applicants' Main Brief.

In further response, however, Mr. Crandall's testimony provides no support for OCA's position. Mr. Crandall was not willing to even provide estimates of energy efficiency savings, demand response reductions, new renewable resources or distributed generation to support OCA's position. Transource PA witness Brian Weber, testified as follows:

I am not aware of any requirement that the non-transmission alternatives forecasted by Witness Crandall will actually be constructed, or in the case of energy efficiency measures, be implemented. Even Witness Crandall recognized this in his discovery responses. Transource PA asked Witness Crandall to:

Please describe in detail all the regulatory or other approvals that have been obtained in connection with the 206 MW and 545 GWh/year energy efficiency resources and the 3,723 MW of renewable energy predicted by Mr. Crandall.

Witness Crandall responded:

To clarify the premise of the question, this is not Mr. Crandall's prediction of what will occur.

(See OCA response to TPA-OCA Set III, Question 7, which is provided as TPA Exhibit No. BDW-4R)

Likewise, when asked how the District of Columbia City Council will meet its goal of supplying 50% of its energy usage by solar photovoltaics by 2032. Witness Crandall stated:

Whether they [the District of Columbia] actually achieve 50%, or more, or less, is not the point.

(See OCA response to TPA-OCA Set III, Question 8, which is provided as TPA Exhibit No. BDW-5R)

These statements made by Witness Crandall clearly demonstrate that his forecasts are speculative, not supported by evidence and cannot be relied upon. In addition, Witness Crandall provides no evidence that even if the speculative alternatives he lists were to occur it would reduce congestion on the AP South interface.

Transource PA St. No. 1-R, pp. 27-28.

Transource PA witness Kamran Ali, who is the Director of Transmission Planning for American Electric Power Service Corporation, explained that Mr. Crandall's testimony regarding potential non-transmission alternative provided no support for OCA's position that the Project is not needed. Mr. Ali explained as follows:

Q. OCA Witness Crandall further argues that renewable generation, energy efficiency and Combined Heat and Power ("CHP") will eliminate the need for the IEC Project (OCA St. No. 3, pp. 15-28). Do you agree with his conclusions?

A. No. As I explained before, Mr. Crandall's view cannot be reconciled with the fact that PJM's market efficiency analysis appropriately takes into consideration those resources. The congestion in the AP South Reactive interface projected to occur during the PJM planning horizon requires a solution that goes well beyond the resources discussed by Mr. Crandall. Further, Mr. Crandall does not offer any evidence to show this "alternative" would provide similar reliability or congestion benefits as the Project. PJM's transmission planning process already appropriately takes into consideration the resources, including renewable generation, energy efficiency, and CHP, that can be reasonably expected to be present during the planning horizon.

Mr. Crandall's position is particularly flawed in that he advances his conclusion without having done any analysis to determine plausible solutions to the congestion problem addressed by Project 9A. Electric transmission planning as a field of study is a highly-specialized area of engineering, requiring sophisticated analytical tools and software, advanced analytical resources, and disciplined analytical approaches to address complex problems involving a very large number of inter-dependent elements and variables. The process by which PJM conducts its analysis to determine what projects are the most beneficial to address the enormous number of needs involved in the Regional Transmission Expansion Plan is an exceedingly thorough one, subject to close and intensive scrutiny by numerous stakeholders, including state regulators, consumer counsel for several states, and competing electric transmission developers, among many other participants.

Transource PA St. No. 2-R, pp. 14-15.

Mr. Ali also explained that the non-transmission resources cited by Mr. Crandall were already considered in PJM's forecast. Mr. Ali explained:

Q. Do you agree with Mr. Crandall's statement that PJM did not consider energy efficiency, increased solar and wind resources or distributed generation in its analysis? (OCA St. No. 3, pp. 17-18)

A. No. As explained by PJM's experts, those resources are thoroughly and appropriately taken into consideration in PJM's market efficiency and transmission planning processes. It bears mentioning that the same process followed by PJM to determine the need for and the benefits from the Project is the same process used to determine the need and benefits for thousands of critical transmission projects across its service footprint.

Q. On page 29 of his testimony, Mr. Crandall provided a summary of non-transmission alternative resources that could potentially be developed. Does this potential for non-transmission resources eliminate the need for the IEC Project?

A. No, absolutely not. As explained before, to the extent that the type of resources Mr. Crandall described are reasonable expected to in fact become part of the electric grid, those resources are already taken into consideration in PJM's planning analysis. The need for the Project has been determined looking at a forecast of what the electric grid will be over a 15-year planning horizon. As I explained before, the non-transmission resources described by Mr. Crandall are not really an alternative; they simply are not a solution to the congestion problem, but rather (to the extent they can be reasonably forecasted) are already part of the congested transmission grid that the Project improves.

Transource PA St. No. 2-R, pp. 15-16.

Likewise, PJM witness Mr. Herling also explained that PJM's Model includes forecasts for non-transmission alternatives. Mr. Herling explained:

Q. Mr. Crandall argued that PJM did not appropriately consider non-transmission alternatives to the Project. (OCA St. No. 3, p. 7.) Is he correct?

A. I disagree with Mr. Crandall's conclusions. As an initial matter, energy efficiency, demand response, renewable resources and distributed energy resources are incorporated into PJM RTEP. (*See* TPA Exhibit No. SRH-4R (OCA IV-24)). PJM's modeling of these resources is not arbitrary, but is based on defined forecasting methodologies and established practice. PJM does not include speculative projections in its forecast. More specifically, existing non-transmission resources are factored into the base cases as part of the load forecast and include wholesale-connected resources (such as generation) modeled discretely and retail/commercial resources (such as customer behavior driven energy efficiency or behind the meter generation (solar)).

Transource PA St. No. 7-R, p. 30.

Mr. Herling further explained that non-transmission alternatives could increase congestion on the AP South interface, stating as follows:

Q. Do you agree with Mr. Crandall's conclusion that non-transmission alternatives such as solar and wind to the South and East of AP South eliminate the need for the Project?

A. I do not agree. PJM has modeled non-transmission alternatives in its load forecast across PJM, not just to the South and East of AP South. PJM's analysis supports the need for Project 9A. I note that Mr. Crandall did not provide any studies or supporting evidence to actually demonstrate any impact on the Project in comparison to the robust analysis of the impact of potential non-transmission alternatives which PJM has already performed in its planning process including for the Project. Mr. Crandall also seems to focus on purported non-transmission alternatives in Maryland and Virginia but ignores the potential for additional non-transmission alternatives to the north and west of the AP South interface, which will continue to develop through the normal course of market activity in the generation interconnection queue and would further increase congestion. Mr. Crandall's conclusion that the need for Project 9A can be eliminated completely by non-transmission alternatives is unsupported and inaccurate.

Transource PA St. No. 7-R, pp. 32-33.

There is no evidence in this proceeding to support OCA's argument that non-transmission alternatives eliminate the need for Settlement 9A.

2. Transmission Projects Such as Settlement 9A Support Additional Renewable Generation.

STFC argues that this Project is inconsistent with Pennsylvania's climate goals which include increasing reliance on renewable generation. STFC M.B., p. 15. This argument is not correct. Transmission projects such as Settlement 9A support the addition of renewable generation to the transmission grid. Part of FERC's rationale for adopting Order 1000 was to support the addition of renewable generation. In Order 1000, FERC stated as follows:

The need for additional transmission facilities is being driven, in large part, by changes in the generation mix. As NERC notes in its 2009 Assessment, existing and potential environmental regulation and state

renewable portfolio standards are driving significant changes in the mix of generation resources, resulting in early retirements of coal-fired generation, an increasing reliance on natural gas, and large-scale integration of renewable generation. NERC has identified approximately 131,000 megawatts of new generation planned for construction over the next ten years, with the largest fuel-type growth in gas-fired and wind generation resources. These shifts in the generation fleet increase the need for new transmission. Additionally, the existing transmission system was not built to accommodate this shifting generation fleet. Of the total miles of bulk power transmission under construction, planned, and in a conceptual stage, NERC estimates that 50 percent will be needed strictly for reliability and an additional 27 percent will be needed to integrate variable and renewable generation across North America.

FERC Order 1000, ¶ 45 (footnotes omitted).

New transmission lines support the addition of renewable generation to the grid.

3. STFC’s Argument that the Proposed Solution That Has The Least Environmental Impact Must Be Selected is Legally Flawed.

In its Brief, STFC argues that the electrical solution that has the least environmental impact must be chosen, not the alternative route with the least environmental impact. STFC M.B., p. 64. STFC cites no legal support for this argument and it must be denied. The Commission has never ruled that the solution that has the least environmental impact must be chosen. In fact, STFC’s argument is contrary to Commission and court precedent.

In *Susquehanna-Roseland*, the Commission held that it is not required to consider “all” available alternatives when examining impact. *PPL S-R Order*, at *121; *PPL S-R Order*, at *245. Also, in *Energy Conservation Counsel of Pa. v. Pa. Pub. Util. Comm’n*, 995 A.2d 465 (Pa. Cmwlth. 2010), the Commonwealth Court explained that:

‘It is settled law that the designation of the route for [a HV] line [is] a matter for determination by [a utility’s] management in the first instance, and [the utility’s] conclusion will be upheld unless shown to be wanton or capricious.’ *Stone v. Pennsylvania Public Utility Commission*, 192 Pa. Super. 573, 162 A.2d 18, 21 (Pa. Super. 1960). Thus, where the record establishes that the utility’s route selection was reasonable, considering all the factors, its route will be upheld. *Paxtowne v. Pennsylvania Public Utility*

Commission, 40 Pa. Commw. 646, 398 A.2d 254, 256 (Pa. Cmwlth. 1979). The mere existence of an alternative route does not invalidate the utility's judgment. *O'Connor v. Pennsylvania Public Utility Commission*, 136 Pa. Commw. 119, 582 A.2d 427, 433 (Pa. Cmwlth 1990). This reasoning is equally sound when considering whether a utility has complied with 52 Pa. Code § 57.52(c)(10), as the information required by this section goes towards establishing the reasonableness of the utility's route selection.

Energy Conservation Council, 995 A.2d at 479-480 (emphasis added).

The selection of the proposal in the first instance is a matter to be determined by the utility, and in this case PJM, subject to its FERC-approved market efficiency process, selected the Project. Moreover, it was Transource PA's discretion to then choose the route, which must be upheld unless wanton or capricious. It was neither wanton nor capricious.

Under Pennsylvania law, neither PJM, nor a utility, nor the Commission are required to select the proposed solution that has the least environmental impact.

E. ECONOMIC IMPACTS

The other parties argue that the Project will have negative economic impacts. In particular, the parties criticize the economic analysis submitted by Transource PA witness Judy Chang. OCA M.B., p. 98-99; STFC M.B., Appendix B, p. 9.

Parties criticisms of Ms. Chang's analysis should be denied. Notably, none of the other parties presented any economic analysis of their own. The Project will clearly bring economic benefits to Franklin and York Counties and to Pennsylvania, and they are discussed in more detail on pages 54-56 of the Joint Applicants' Main Brief.

STFC also argues that the Project will cause a recurring loss of farm production and could cause organic farms to lose their certifications. STFC M.B., p. 68. These comments overstate the impact of the Project. Transource PA agreed to use monopoles instead of lattice structures which greatly diminishes the footprint of the structures and reduces the amount of

farmland that will be impacted. In Franklin County, all of the monopoles combined take up less than ½ acre of land. Transource PA St. No. 4-R, p. 29.

In addition, Transource PA will work with landowners to avoid any loss of organic certification. Transource PA St. No. 4-R, p. 28. Transource PA will coordinate to activities with landowners to minimize the effect of the Project on the ability of the landowners to use the land. Transource PA St. No. 4-R, p. 37.

F. EMINENT DOMAIN

Transource PA's response to the other parties' arguments regarding eminent domain issues are addressed in Section B above.

G. OTHER ISSUES

1. STFC's Argument That Construction Should Not Begin Until All Approvals From Pennsylvania Agencies are Obtained Should Be Denied.

In its conclusion, STFC argues that the Joint Applicants should not be permitted to begin construction until all approval[s] from Pennsylvania agencies are secured. STFC M.B., p. 79. STFC did not present this issue in its testimony in this proceeding, and the Joint Applicants had no opportunity to factually respond to this argument. STFC's argument is contrary to precedent, could prevent the Joint Applicants from constructing the project in time to resolve the reliability violations and should be denied.

This issue was addressed in the *Susquehanna-Roseland* proceeding. In that proceeding, the presiding ALJ recommended that PPL Electric obtain all necessary permits prior to commencing construction. The Commission stated as follows with respect to this issue:

We agree with PPL's reasoning in its opposition to this apparent condition. PPL notes that no Party proposed this condition and there is no record support for such a condition. Also, PPL claims that such a condition is completely unprecedented and improperly

injects the Commission into managing utility planning and construction of transmission projects.

Application of PPL Electric Utilities Corporation Filed Pursuant to 52 Pa. Code Chapter 57, Subchapter G, for Approval of the Siting and Construction of the Pennsylvania Portion of the Proposed Susquehanna-Roseland 500 kV Transmission Line in Portions of Lackawanna, Luzerne, Monroe, Pike and Wayne Counties, Pennsylvania, et al., Docket Nos. A-2009-2082652, et al., 2010 Pa. PUC LEXIS 434, at *201 (Order entered Feb. 12, 2010).⁸

There is no evidentiary support for STFC's proposed condition and the Joint Applicants had no opportunity to address it on the record in this proceeding. Moreover, this condition could cause significant construction delays and could prevent the Joint Applicants from completing construction in time to resolve the reliability violations that were identified by PJM for 2023.

For these reasons, STFC's proposed condition to prevent construction pending the Joint Applicants obtaining all permits should be denied.

VII. CONCLUSION

WHEREFORE, Transource Pennsylvania, LLC and PPL Electric Utilities Corporation respectfully request that the Commission timely approve:

(1) the consolidated Siting Applications as amended;

(2) the Zoning Petitions associated with the Furnace Run Substation in York County, Docket No. P-2018-3001883, and the Rice Substation in Franklin County, Docket No. P-2018-3001878;

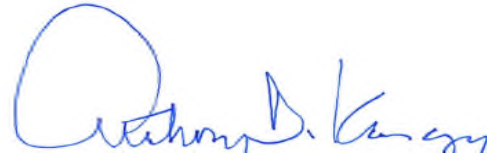
⁸ The Joint Applicants note that the Commission did require PPL Electric to obtain an NPS permit regarding construction through the Delaware Water Gap prior to commencement of construction on a particular segment of the line but did not otherwise rule that construction must wait for all permits. This was a special condition that does not exist in this proceeding.

(3) the consolidated Condemnation Applications that are necessary for the approved routes as set forth in Appendices E and F (the Condemnation Applications set forth in Appendix E are only necessary in the event that the Commissions selects Project 9A over Settlement 9A); and,

(4) such other approvals as are necessary or appropriate under all of the circumstances.

Finally, Transource Pennsylvania, LLC and PPL Electric Utilities Corporation respectfully request that the Commission issue its approval of the project taking into consideration the requirement to start construction of the project promptly in order to place the project in service in time to prevent the reliability violations that have been identified in 2023, given the time necessary to construct and place the project in service.

Respectfully submitted,



Hector Garcia (VA ID # 48304)
American Electric Power Service Corporation
1 Riverside Plaza, 29th Floor
Columbus, OH 43215
Phone: 614-716-3410
Fax: 614-716-1613
E-mail: hgarcia1@aep.com

David B. MacGregor (PA ID # 28804)
Anthony D. Kanagy (PA ID # 85522)
Lindsay A. Berkstresser (PA ID #318370)
Post & Schell, P.C.
17 North Second Street, 12th Floor
Harrisburg, PA 17101-1601
Phone: 717-731-1970
Fax: 717-731-1985
E-mail: dmacgregor@postschell.com
E-mail: akanagy@postschell.com
E-mail: lberkstresser@postschell.com

Counsel for Transource Pennsylvania, LLC



Michael J. Shafer (PA ID # 205681)
PPL Services Corporation
Office of General Counsel
Two North Ninth Street
Allentown, PA 18106
Phone: 610-774-2599
Fax: 610-774-6726
E-mail: mjshafer@pplweb.com

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Counsel for PPL Electric Utilities Corporation