

January 22, 2021

VIA EFILING
Rosemary Chiavetta, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street
Harrisburg, PA 17101

**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 York and Franklin Counties, Pennsylvania
Docket Nos. A-2017-2640195 & A-2017-2640200**

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

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

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

Dear Secretary Chiavetta:

Please find enclosed for filing Intervenor the County of Franklin's Reply to the Joint Exceptions of Transource Pennsylvania, LLC and PPL Electric Utilities Corporation. If you have any questions or concerns, please feel free to contact me at the address listed above.

Very Truly Yours,

SALZMANN HUGHES, P.C.

/s/ Scott T. Wyland
Scott T. Wyland

STW/maa

Enclosure

cc: The Honorable Elizabeth Barnes (via email only)
Office of Special Assistants (via email only)
Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Transource Pennsylvania, LLC	:	
for approval of the Siting and Construction of the	:	A-2017-2640195
230 kV Transmission Line Associated with the	:	A-2017-2640200
Independence Energy Connection - East and West Projects	:	
in portions of York and Franklin Counties, Pennsylvania.	:	
	:	
Petition of Transource Pennsylvania, LLC	:	
for a finding that a building to shelter control equipment	:	
at the Rice Substation in Franklin County, Pennsylvania	:	P-2018-3001878
is reasonably necessary for the convenience or welfare of	:	
the public.	:	
	:	
Petition of Transource Pennsylvania, LLC	:	
for a finding that a building to shelter control equipment	:	
at the Furnace Run Substation in York County,	:	P-2018-3001883
Pennsylvania is reasonably necessary for the convenience	:	
or welfare of the public.	:	
	:	
Application of Transource Pennsylvania, LLC	:	
for approval to acquire a certain portion of the lands of	:	
various landowners in York and Franklin Counties,	:	
Pennsylvania for the siting and construction of the 230 Kv	:	A-2018-3001881,
Transmission Line associated with the Independence Energy	:	<i>et al.</i>
Connection – East and West Projects as necessary or proper	:	
for the service, accommodation, convenience or safety of	:	
the public.	:	

**INTERVENOR THE COUNTY OF FRANKLIN’S REPLY TO THE JOINT
EXCEPTIONS OF TRANSOURCE PENNSYLVANIA, LLC AND
PPL ELECTRIC UTILITIES CORPORATION**

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I. INTRODUCTION

On December 23, 2020, the Public Utility Commission (“Commission”) issued the Recommended Decision (“R.D.”) of Administrative Law Judge Elizabeth Barnes in this proceeding. The R.D. appropriately recommended denial of Transource Pennsylvania, LLC’s (“Transource”) Applications in their entirety. On January 12, 2021, Transource and PPL Electric Utilities Corporation (“PPL”)¹ filed Joint Exceptions (“Exceptions”) to the R.D. Intervenor, the County of Franklin (“Franklin County”) now files this Reply to the Exceptions. For the reasons discussed below and as more fully explained in the R.D., Franklin County’s Main Brief, and Franklin County’s Reply Brief, the Project is not needed, will provide no benefit to Pennsylvanians, and will result in significant economic and environmental impacts to Franklin County and Pennsylvania. The Franklin County Commissioners urge the Commission to adopt the recommendations of the R.D. and deny Transource’s Applications in their entirety.

II. FRANKLIN COUNTY’S REPLY TO THE JOINT EXCEPTIONS OF TRANSOURCE AND PPL ELECTRIC

A. REPLY TO EXCEPTION NO. 1 – THE RECOMMENDED DECISION CORRECTLY CONCLUDED THAT THE IEC PROJECT IS NOT NEEDED

1. The IEC Project is not needed to alleviate purported congestion or to resolve alleged reliability violations

In ruling on Transource’s Exceptions, the Commission should determine that the Project is not needed to resolve purported congestion on the AP South Reactive Interface (“ASPRI”).² The Project was specifically designed and selected by PJM to resolve congestion on the APSRI. R.D. at p. 21, finding of fact ¶ 50.³ The evidence revealed that congestion costs due to the APSRI have

¹ As the original Applicant and for the sake of brevity, Franklin County refers only to Transource (and not PPL) throughout this Reply to Exceptions.

² See Franklin County’s Main Brief at Section VI.B.

³ See TPA St. 1-R, p. 21, lines 17-19; TPA St. 2-West, p. 7, lines 15-16; TPA St. 3-West, p. 24, lines 21-22, p. 26, lines 4-6 and 10-13; TPA St. 8-R, p. 7, lines 17-18.

substantially diminished, however, and remain very low since the Project was selected. R.D. at p. 21, findings of fact ¶¶ 28-60, p. 97.⁴ Transource should be limited to its congestion-relief claim, which fails on the merits, and should not be permitted to add post-hoc theories beyond its original claim.

Perhaps sensing the hollowness of its congestion claim under current facts, Transource enlarged its claim to now include the contention that its stated need for the Project includes relieving congestion on “related constraints” and resolving alleged potential reliability violations. Exceptions at p. 7-8. But through its own witnesses, Transource has made it clear that Transource’s exclusive assertion of “need” for the Project is as a market efficiency project to alleviate congestion on the APRSI only, and not on “related constraints.” R.D. at p. 82, 86-88. Transource also conceded that this Project is not needed to resolve reliability violations. R.D. at p. 27, finding of fact ¶ 86.⁵ The Commission should determine that the Project is not needed for its intended and stated purpose of alleviating congestion on the APSRI. Transource cannot invoke “related constraints” or reliability benefits at the eleventh hour to salvage the Project.⁶

Transource argues that the Commission must accept that the Project is economically beneficial and necessary to address congestion because PJM made such determination under its FERC-approved market efficiency process. Exceptions at p. 8-9. It contends that the R.D. erred by conducting an independent evaluation of the record to determine whether the Project satisfied the “need” requirement under the Commission’s regulations and Pennsylvania law. In essence, Transource contends that these very proceedings are unneeded because the Commission is required

⁴ See Section II.A.8 of this Reply to Exceptions, demonstrating that the data and substantial record evidence establishes that congestion costs due to the APSRI fail to justify a need for the Project.

⁵ See Franklin County’s Main Brief at Section VI.B.2.

⁶ Regardless, the addition of PJM’s projected congestion costs from these related facilities and resolution of potential future reliability violations still fail to justify a need for the Project. See Sections II.A.8 and II.A.10.

to approve the Project based upon PJM's determination automatically and without question. But that is not the law. PJM's determination of a purported need for the IEC Project under a process approved by FERC neither confirms its accuracy, nor satisfies the Commission's obligation (or deprives the Commission of an opportunity) to conduct its own independent analysis. And it also does not excuse Transource from its burden to satisfy Pennsylvania's statutory and regulatory requirements relative to need. The Commission is required to consider the power needs of the public. 66 Pa. C.S. § 1501. The Commission's regulations specifically require it find and determine that there is a need for a proposed transmission line before a project like this can proceed. 52 Pa. Code § 57.76(a)(1). The Commission is also required to consider the economic and environmental impacts of the proposed transmission lines. 66 Pa. C.S. § 1501; 15 Pa. C.S. § 1511; 52 Pa. Code § 57.76(a)(3), 52 Pa. Code § 57.76(a)(4); 52 Pa. Code § 57.75(e)(3); Pa. Const. art. I, § 27.

The R.D. correctly determined that the Commission is not required to and must not rely on PJM's methodology. Rather, the Commission must consider all the record evidence and make its own independent determination of whether the Project is necessary under Pennsylvania law. R.D. at p. 80, 86, 99. Contrary to Transource's assertion, PJM's benefit-to-cost ratio, based on which PJM selected the Project, fails to capture the actual costs of the Project and cannot be relied upon as a justification for approval.⁷ PJM's forecasted congestion costs on the APSRI and related facilities are also inaccurate and cannot be relied upon.⁸ PJM also failed to perform its full set of reliability tests on the Project to confirm that the identified potential reliability violations will actually occur in 2023.⁹ The R.D. properly found that PJM's determinations of the Project were

⁷ See Section II.A.6.

⁸ See Section II.A.8.

⁹ See Section II.A.10.

inaccurate and insufficient to justify a finding of “need” for or approval of the Project. For the reasons stated herein and below, Transource’s Exception No. 1 should be denied.

2. The R.D. considered congestion benefits on the regional transmission system

Transource incorrectly asserts that the RD considered the need of the Project to alleviate congestion for Pennsylvania only, and failed to consider the need for the Project to alleviate congestion for the PJM region. Transource argues that the RD’s review of need for the Project is, therefore, too “narrow” and in violation of FERC Order 1000. Exceptions at p. 9-10. The R.D., however, did consider the congestion needs and benefits of the Project for the entire PJM region in assessing need.¹⁰ The R.D. dedicated a specific findings of fact section to the Project’s impacts on the PJM region as a whole.¹¹ R.D. at p. 31-34, findings of fact ¶¶ 105 through 119.

Moreover, Pennsylvania is part of the PJM region. To the extent some focus on Pennsylvania was prevalent in the R.D., it would not be improper given that a majority of the impact of this project would be felt in the Commonwealth.¹² The record evidence established that if the Project proceeds, Pennsylvania would experience a \$400 million increase in wholesale power prices over a 15-year period, the highest increase of any state in the PJM region. R.D. at p. 1, 75, 81 f.n. 10, 95, 100. Further, the Project would have a substantial negative economic and environmental impact on Franklin County and Pennsylvania.¹³ In total, the Project will result in a net decrease of only \$32.5 million in wholesale power prices in the PJM region with a revenue requirement of at least \$509 million over a 15-year period. R.D. at p. 1, 23, finding of fact ¶ 65, p. 32, 97, 102 f.n. 25. This does not even account for the fact that the Project is intended to resolve

¹⁰ See R.D. a p. 31-34, findings of fact ¶¶ 105-119, p. 97.

¹¹ The R.D. then has a separate findings of fact section dedicated to impacts to Pennsylvania in paragraphs 120-133. RD, p. 34-36.

¹² See Franklin County’s Main Brief at Section VI.F.1.

¹³ See R.D. at p. 1 and Sections II.B. and II.C. of this Reply to Exceptions.

congestion that no longer exists.

Transource asks the Commission to ignore or substantially downplay the detrimental impacts the Project will have on Pennsylvania in assessing need. But doing so is contrary to the Commission's regulatory, constitutional, and statutory obligations. *See* 66 Pa. C.S. § 1501; 15 Pa. C.S. § 1511(c); 52 Pa. Code § 57.76(a)(3), 52 Pa. Code § 57.76(a)(4); Pa. Const. art. I, § 27.¹⁴ In summary, consistent with the Commission's obligations, the R.D. considered the Project's benefits and need for both the entire PJM region and Pennsylvania, and properly concluded that "the IEC Project as a market efficiency project does not provide sufficient benefits to Pennsylvania *or the PJM region as a whole.*" R.D. at p. 97 (emphasis added).¹⁵

3. A determination of "need" from a PJM regional planning perspective fails to satisfy the need standard under Pennsylvania law

Transource argues that because Pennsylvania receives benefits simply from being part of PJM's regional transmission system, such benefits are sufficient to establish that this Project is needed under Pennsylvania law. Exceptions at p. 10. To that end, Transource asserts the Commission can determine the Project is needed based on the purported congestion benefits to the regional transmission system alone. The record evidence, however, revealed the magnitude of environmental and economic detriments, not benefits, Pennsylvania would suffer due the Project. And, again, Transource is arguing a position that requires the Commission to disregard its regulatory obligations under Pennsylvania law.

Transource asserts Section 2805 of the Public Utility Code requires the Commission to work with the Federal Government and other states to operate the transmission system and

¹⁴ *See* R.D. at p. 100, 116 and Section II.A.3. of this Reply to Exceptions.

¹⁵ Transource also argues that the R.D. fails to recognize the benefits Pennsylvania receives by being part of the PJM regional transmission system. Exceptions at p. 10. Transource asserts this same argument in greater detail in Exception No. 1.A.3. and, therefore, Franklin County addresses this argument in Section II.A.3 of this Reply to Exceptions.

interstate power pools. Section 2805, however, specifically requires the Commission to “work with the Federal Government, other states in the region, the North American Electric Reliability Council and its regional coordinating councils or their successors, interstate power pools, and with the independent system operator or its functional equivalent *to ensure the continued provision of adequate, safe and reliable electric service to the citizens and businesses of this Commonwealth.*” 66 Pa. C.S. § 2805(a) (emphasis added). Transource deemphasizes the requirements of the final clause of Section 2805(a). In light of the record evidence in this matter, the R.D. concluded the Project is not necessary “to ensure the continued provision of adequate, safe and reliable electric service to the citizens and businesses of this Commonwealth.” *Id.*

Transource also argues that the Pennsylvania appellate courts have held that the need to address congestion on the interstate transmission system is alone sufficient for the Commission to find need for a HV transmission line under the Commission’s regulations, citing *Application of Trans-Allegheny Interstate Line Company* (“TrAILCo”) Docket No. A-110172, 2008 Pa. PUC LEXIS 35 (December 12, 2008) and the subsequent appeal in *Energy Conservation Council of Pennsylvania v. Pub. Util. Comm'n*, 995 A.2d 465 (Pa. Cmwlth. 2010)¹⁶ Exceptions at p. 10-11. In *Energy Conservation Council of Pennsylvania*, however, the Commonwealth Court did not hold that the need to reduce congestion by itself was sufficient to establish need. In that case, the Commission had relied on *both* reliability and congestion issues in finding a public need for the proposed facilities, including a new HV transmission line and substation. On appeal, the Commonwealth Court affirmed the Commission’s finding of public need *based on reliability*

¹⁶ Transource also cites to *Stone v. Pa. PUC*, 162 A.2d 18, 21 (Pa. Super. 1960), stating that “One of the principal considerations of public convenience and necessity is the need for integration of the bulk power transmission systems of Philadelphia and Baltimore.” In *Stone*, the court found that the record clearly demonstrated that the proposed HV line would not only be beneficial to the Baltimore transmission system, but also would be beneficial to the Pennsylvania transmission system and customers. *Id.* at 21 and f.n. 1. *Stone* does not hold that benefits to the regional transmission system alone is sufficient to establish need; rather, need requires benefits to Pennsylvania.

grounds that were supported by substantial evidence in the record. Id. at 486-87.¹⁷ The court expressly declined to address the issue of congestion. Accordingly, Transource’s reliance on these cases to contend that resolving congestion on the regional transmission system alone can support need for this Project is misplaced. That caselaw is inapposite to the present dispute.

Transource argues that the R.D. wrongly concluded that the Commission must review need based on benefits to Pennsylvania. But the Commission’s purpose, relevant here, is to protect Pennsylvanians and ensure enforcement of Pennsylvania’s laws as to regulated utilities.¹⁸ As acknowledged in the R.D., the Commission has a constitutional duty to prohibit the degradation, diminution, and depletion of Pennsylvania’s public natural resources under the Environmental Rights Amendment, Article I, Section 27 of the Pennsylvania Constitution, as set forth by the Pennsylvania Supreme Court in *Pennsylvania Env’tl. Def. Found. v. Commonwealth*, 161 A.3d 911, 930 (Pa. 2017). It is clear that solely focusing on regional needs and ignoring the negative impacts of the Project on Pennsylvania is contrary to Pennsylvania’s regulatory, statutory, and constitutional standards. To comply with such standards, as part of its need inquiry, the Commission must weigh both the environmental and economic impacts to Pennsylvania.¹⁹

Additionally, contrary to Transource’s assertions, the R.D. specifically acknowledged that “Pennsylvania has benefitted from its participation in PJM and through regional transmission planning.” R.D. at p. 97. But based on the statutory, regulatory, and constitutional obligations stated above, the R.D. properly found that the Commission is not required to determine if the Project is necessary based on regional congestion needs only. R.D. at p. 82. Consistent with such obligations, the R.D. concluded the Commission’s finding of need for the Project is broad and

¹⁷ Transource’s claimed need for the Project to resolve purported reliability violations is not supported by the record evidence. See Section II.A.10 of this Reply to Exceptions.

¹⁸ See Franklin County’s Main Brief at Section VI.F.1.

¹⁹ See 66 Pa. C.S. § 1501; 15 Pa. C.S. § 1511(c); 52 Pa. Code § 57.76(a)(3)-(4); Pa. Const. art. I, § 27.

must include the Project's significant adverse environmental and economic impacts on Pennsylvania. R.D. at p. 82-83. Further, as stated in Section II.A.2. above, the R.D. considered the needs and benefits of the Project for the entire PJM region. And, even from a regional transmission planning perspective, the Project is not necessary or beneficial.²⁰

4. The R.D. gave the proper weight to PJM's Regional Transmission Planning Authority

In its Main Brief, Transource admits that while FERC has jurisdiction over regional transmission planning, this Commission has jurisdiction over the siting of Transource's proposed HV transmission lines pursuant to 52 Pa. Code § 57.71. Transource M.B. at p. 40. Although FERC Order 1000 permits PJM to solicit proposals to alleviate congestion on the regional transmission system, Transource also recognizes that FERC Order 1000 is not intended to preempt or conflict with the Commission's authority over siting, permitting, and construction of transmission facilities, including the instant Project, citing FERC Order 1000, ¶ 107, FERC Order 1000-A, ¶ 186. Transource M.B. at p. 40; Exceptions at p. 14. But for these same reasons, Transource now seeks to limit the Commission's authority to determine whether this Project is needed and should be approved pursuant to Pennsylvania law. Exceptions at p. 11-14.

Specifically, Transource contends that the R.D. improperly made its own independent determination of whether the Project is necessary and beneficial, rather than relying on PJM's determination. By doing so, Transource asserts the RD is attempting to negate PJM's authority and requirements imposed by FERC to identify and resolve congestion on the interstate transmission system. But PJM's determination does not have the force and effect of law in the Commission's determination for approval of a HV transmission line situated in Pennsylvania.^{21 22}

²⁰ See Section II.A.2 of this Reply to Exceptions.

²¹ See Sections II.A.1. and II.A.6 of this Reply to Exceptions.

²² Moreover, the record establishes that PJM's benefit-to-cost ratio is flawed and its market efficiency process does

Additionally, the substantial evidence of record establishes that the projected substantial and persistent congestion costs Transource intends to resolve with the Project no longer exist.²³ And, therefore, PJM no longer has the need or responsibility to resolve the non-existent congestion. In summary, FERC's authority does not prevent the Commission from determining whether the proposed transmission facilities are needed and the siting of these facilities under Pennsylvania law.

5. The R.D. is based on credible expert testimony and substantial record evidence

Transource argues that the RD gave “no weight” to PJM’s analysis or witnesses of the Project’s purported congestion benefits and considered the opinions of witnesses “with no experience in designing a transmission project to resolve congestions.” Exceptions at p. 15. In support, Transource refers only to Franklin County’s expert witness Mr. McGavran, mistakenly identified by Transource as STFC’s witness, suggesting it was problematic for the R.D. to credit Mr. McGavran’s testimony.

Mr. McGavran’s testimony establishes that he has extensive experience in electric transmission system design, planning, management, operation, and analysis, including economic and reliability analyses. He has analyzed generation interconnections on various electric utilities throughout the United States, including in the PJM region. He is a registered professional engineer in North and South Carolina, Arizona, Texas, and possesses a National Council of Examiners for Engineers and Surveyors registration that allows him to obtain a license in every state and some international jurisdictions. He regularly selects routes and sites for substation and transmission

not consider the factors that the Commission is required to under Pennsylvania’s statutory, regulatory, and constitutional requirements. *See* Section II.A.6 of this Reply to Exceptions.

²³ *See* Section II.A.8 of this Reply to Exceptions, demonstrating that the data and substantial record evidence establishes that congestion costs due to the APSRI fail to justify a need for the Project.

line projects and works with right of way acquisition to attain the best routes and sites possible for these projects. Mr. McGavran has previously provided expert witness testimony before this Commission and other utility commissions regarding major electric transmission projects, like this Project. FC-Statement 1. Mr. McGavran is eminently qualified and the R.D. afforded his testimony appropriate weight.

In addition to Mr. McGavran, the other parties in this proceeding have produced the credible testimony of multiple expert witnesses who also dispute PJM's analysis of the Project and Transource's claims.²⁴ All of the credible expert witness testimony submitted by the parties opposing approval of Transource's Applications is based on data and facts, and is substantiated by the record evidence. Bolstered by the testimony of the many expert witnesses, the substantial record evidence demonstrates substantial deficiencies in PJM's methodology for selecting this Project, shows the inaccuracy of PJM's forecasted congestion costs, and establishes that contrary to PJM's analysis there is no congestion "need" for this Project.²⁵

Transource has the burden of proving its case by a preponderance of the evidence, or evidence which is more convincing than the evidence presented by the other parties. 66 Pa. C.S. § 332. Transource has failed to satisfy its burden. The Commission is not required to accept PJM's analysis and witness testimony as true and accurate when other parties have presented credible and weighty evidence establishing otherwise.

6. The R.D.'s criticism of PJM's market efficiency process and benefit-to-cost ratio methodology should be accepted

Transource asserts the R.D. is trying to change PJM's FERC-approved Market Efficiency Process. Exceptions at p. 16. The R.D. asserts no such thing. Rather, the R.D. properly

²⁴ See the written testimony produced by OCA's expert witnesses, Rubin, Lanzalotta, and Crandall in OCA St. 1 and 1SR, OCA St. 2 and 2SR, OCA St. 3 and 3SR, respectively.

²⁵ See Sections II.A.6. and II.A.8. of this Reply to Exceptions.

determined that PJM's market efficiency process and benefit-to-cost methodology fails to meet Pennsylvania's statutory, regulatory, and constitutional standards for Commission approval. R.D. at p. 98-100. Transource concedes that the purpose of this proceeding is to review the Project pursuant to Pennsylvania law and the Commission's regulations. Exceptions at p. 16. But, as it has argued throughout its Main Brief, Reply Brief, and Exceptions, Transource makes the incongruous argument that the Commission cannot conduct such review and must automatically approve the Project based solely on PJM's determination. Approval by PJM does not establish need under Pennsylvania law.²⁶

Indeed, PJM's market efficiency process is narrowly focused on whether a proposed project meets the requirements set forth in PJM's Operating Agreement and manuals. Transource witness Mr. McGlynn, who works for PJM, conceded that PJM does not consider the factors this Commission is required to consider under Pennsylvania's Constitution, regulations, and statutes.²⁷ For example, PJM does not consider the environmental or economic impacts of the Project Pennsylvania, or whether it is in the best interests of Pennsylvanians. R.D. at p. 98. As such, PJM's benefit-to-cost methodology of the Project fails to satisfy the standards required for approval under Pennsylvania law and the R.D. properly conducted an independent review of the record evidence to determine if the Project meets such standards.²⁸

Specifically, Transource takes issue with the RD's conclusion that PJM's benefit-to-cost methodology fails to account for increased wholesale power prices that would result from the Project. Exceptions at p. 16-19. In so arguing, Transource attempts to have the Commission disregard the more than \$400 million increase in wholesale power prices that would be inflicted

²⁶ See Section II.A.1. of this Reply to Exceptions.

²⁷ See 66 Pa. C.S. § 1501; 15 Pa. C.S. § 1511(c); 52 Pa. Code § 57.76(a)(3)-(4); Pa. Const. art. I, § 27.

²⁸ See R.D. at p. 80, 86, 99.

upon Pennsylvanians as a result of the Project. R.D. at p. 100. As the R.D. recognizes, all actual costs must be accounted for in a cost-benefits analysis.²⁹ The more than \$400 million increase in wholesale power prices forced on Pennsylvania customers from this Project undermines the entire purpose of this Project to reduce electric costs to customers and must be considered.³⁰

Transource attempts to justify the accuracy of PJM’s methodology as being “thoroughly reviewed by stakeholders and accepted by FERC.” Exceptions at p. 16-17. But PJM’s benefit-to-cost analysis has frequently changed even during the instant proceeding. R.D. at p. 23-28, findings of fact ¶¶61-92. Transource also argues the R.D. incorrectly found that PJM’s market efficiency process did not consider non-transmission alternatives to the Project to relieve purported congestion. Exceptions at p. 17-18. But Transource admits that all solutions to resolve congestion on the APSRI were transmission-based solutions. R.D. at p. 47, finding of fact ¶ 217.³¹

In summary, the R.D.’s criticisms and conclusions regarding PJM’s market efficiency process and benefit-to-cost methodology are consistent with Pennsylvania law, supported by the substantial record evidence, and should be accepted by this Commission.³²

7. The R.D. correctly concluded that economic congestion is not per se rate discrimination under Pennsylvania law

Transource rails against the R.D. and criticizes as “seriously flawed” the R.D.’s analysis of economic congestion creating discriminatory rates. The R.D. concluded that rates in a constrained area are not “necessarily per se discriminatory.” R.D. at p. 91-92. Section 1304 of the Public Utility Code indicates that differences in rates are acceptable if not unreasonable or

²⁹ See RD at p. 23, finding of fact ¶ 63.

³⁰ R.D. at p. 100.

³¹ PJM’s Independent Market Monitor also concluded that PJM’s market efficiency process heavily favors transmission solutions preventing the possibility of new generation from responding to these market signals. R.D. at p. 94 f.n. 21.

³² See Franklin County’s Main Brief at Section VI.F.2.

undue. 66 Pa. C.S. § 1304; R.D. at p. 91-92. Transource takes issue with this reasoning and accuses the Commission of interfering in FERC's and PJM's domain by concluding that there is no need for the Project because there is no rate discrimination within the meaning of Section 1304. Transource argues that Section 1304 is only about retail rates, not wholesale rate discrimination. Exceptions at p. 19. And, in effect, Transource charges that the Commission misunderstands its role and must rubber-stamp the Project because FERC and PJM's processes dictate what should be done to address discriminatory wholesale power rates.

Transource is again asking the Commission to ignore the regulatory parameters it is to consider in assessing need. Here, the R.D. correctly reviewed the record evidence and found that the economic congestion Transource claims this Project is needed to resolve results in a reasonable difference in rates and not discriminatory rates. R.D. at p. 91-92. It is, as the R.D. concluded, not for the Commission to remedy alleged wholesale market congestion. The Commission is to apply applicable principles that govern its assessment of need. It did that here.

Moreover, Transource fails to recognize that the congestion it alleges is causing discriminatory wholesale rates has substantially disappeared since 2014. R.D. at p. 95. And, even if such discriminatory rates do exist, the need and benefits to eliminating such rate discrimination through the Project must be considered in the context of the Project's substantial negative environmental and economic impacts to Pennsylvania. R.D. at p. 95.^{33 34}

8. The R.D. properly considered accurate historical congestion data to determine if there is need for the Project

The record establishes that the stated and intended purpose of the Project was to resolve

³³ See Sections II.A.3 and II.A.4 of this Reply to Exceptions.

³⁴ With respect to Transource's argument that the Commission must automatically find need for the Project based on PJM's determination and FERC's authority, Franklin County has addressed why such argument must be rejected in Sections II.A.1, 2, and 4 above.

congestion on the APSRI only.³⁵ The Project was specifically designed and selected by PJM to resolve congestion on the APSRI. R.D. at p. 21, finding of fact ¶ 50. Throughout these proceedings, Transource’s exclusive justification of need for the Project was to address congestion on the APSRI only.³⁶ R.D. at p. 82, 86-88. Since the Project was selected in 2014, congestion costs due to the APSRI have substantially diminished and remain low, negating a finding of need for the stated purpose of the Project pursuant to 66 Pa. C.S. § 1501. R.D. at p. 21, findings of fact ¶¶ 28-60, 97-98. As such, Transource added the congestion costs of “related facilities” to APSRI’s congestion levels in a transparent attempt to inflate the congestion costs that could purportedly be relieved by this Project. The Commission should reject any purported congestion benefits from the Project as a result of “related constraints” as a basis for approval of the Project. Even including congestion from these related constraints, however, Transource has provided insufficient evidence and failed to meet its burden to demonstrate the Project is necessary to address congestion on these related constraints.³⁷

Moreover, Transource’s arguments rely upon excluding historical congestion data and misrepresenting the accuracy of PJM’s forward-looking models. Transource claims PJM’s models project substantial and persistent congestion costs due to the ASPRI and the related facilities that will continue into the future. Exceptions at p. 23-24. The historical congestion data is contained in PJM’s State of the Market Reports, which definitively establish that congestion on the APSRI has substantially decreased and remains low since 2014. R.D. at p. 21-22, findings of fact ¶¶ 48-60. The historical data further establishes that Transource misstates the accuracy of PJM’s

³⁵ See Franklin County’s Main Brief at Section VI.B.1.

³⁶ See TPA St. 1-R, p. 21, lines 17-19; TPA St. 2-West, p. 7, lines 15-16; TPA St. 3-West, p. 24, lines 21-22, p. 26, lines 4-6 and 10-13; TPA St. 8-R, p. 7, lines 17-18.

³⁷ The R.D. recognizes that “Transource has provided very little evidence on the nature of the related constraints, how the IEC Project has been optimized to address the related constraints, and whether this is the best alternative to address related constraints’ congestion.” R.D. at p. 88.

forward-looking models by combining the congestion of the APSRI interface with the purported “related constraints” and ignores the true inaccuracy of PJM’s forecasted congestion. R.D. at p. 83; Transource M.B. at p. 68.³⁸ Any effort by Transource to exclude the accurate historical data that undermines its entire justification of need for the Project should be rejected.

Transource also argues the R.D. should not have considered the 2014 congestion levels on the APSRI because such congestion was not used in PJM’s benefit-to-cost analysis. Exceptions at p. 22-23. But Transource used 2012 through 2016 congestion data from PJM’s State of the Market Reports to justify PJM’s solicitation of the Project in an attempt to prove the existence of substantial historical and persistent congestion on the APSRI.^{39 40}

9. The R.D. properly found that the Hunterstown-Lincoln Project and Project 5E may alleviate the AP South Congestion

Transource argues that the R.D.’s conclusion that the transmission projects H-L and 5E may eliminate the need for the Project is speculative. Exceptions, p. 23. Such conclusion, however, is additional evidence that Transource failed to meet its burden demonstrating that the Project is needed to address congestion on the “related constraints.” R.D. at p. 89. The R.D. recognizes that PJM has not performed any analysis to determine if these transmission projects would alleviate the need for the Project to resolve such congestion. R.D. at p. 89. This evidence is not speculative but further supports the R.D.’s proper conclusion that Transource failed to meet

³⁸ The findings of PJM’s forward-looking studies are represented by the “simulated congestion” values provided in Transource witness Mr. Horger’s testimony. TPA St. 3AA-RJ, p. 10, lines 184-186. During the evidentiary hearing, Mr. Horger testified that PJM’s forward-looking models forecasted congestion costs due to the APSRI to be \$85 million in 2015 and \$110 million in 2019. Tr. at p. 2936-2937. The actual congestion costs due to the APSRI, however, were significantly less at \$56.2 million in 2015 and \$14.5 million in 2019. OCA St. 2 at p. 17, Table 3; Monitoring Analytics, LLC, *2019 State of the Market Report for PJM* at p. 543.

³⁹ See TPA St. 3-West at p. 24, lines 18-22 and p. 24, lines 1-3; R.D. at p. 88.

⁴⁰ As for Transource’s argument that the Project passing PJM’s benefit-to-cost ratio establishes that the Project provides congestion benefits, Franklin County has addressed that PJM’s benefit-to-cost analysis is flawed and fails to satisfy the standards for Commission approval under Pennsylvania law in Section II.A.6. above.

its burden to demonstrate that the Project is necessary.⁴¹

10. The R.D. correctly determined that Transource failed to meet its burden demonstrating the Project is necessary to resolve potential future reliability violations

Because congestion costs fail to establish a need for this Project, Transource attempts to save this Project by arguing that the Project is “needed” to resolve potential reliability violations identified by PJM that may occur in 2023.⁴² Transource and PJM do not dispute that their basis for seeking approval of the IEC Project remains as a market efficiency project to address congestion. And it is undisputed that none of the reliability violations projected to occur in 2023 have yet occurred.⁴³ It is also undisputed that PJM’s reliability testing on the Project was limited and PJM did not conduct its complete set of reliability tests on the Project. Exceptions at p. 24; R.D. at p. 27, findings of fact ¶¶ 87-88. Transource and PJM justify the limited reliability testing on the basis that this Project is a market efficiency project, and not a reliability project.⁴⁴

Transource now argues the incomplete reliability testing is nevertheless sufficient for the Commission to find need for the Project, claiming such testing *could* have identified *more* violations. Exceptions at p. 24-25. Such assertion by Transource only further proves that PJM’s limited testing fails to confirm or clarify the existence, nature, or scope of the potential projected reliability violations and if the Project is a necessary or proper solution for the same. R.D. at p. 27, findings of fact ¶¶ 87-88. Indeed, Transource has conceded throughout these proceedings and again admits in its Exceptions that the Project was not designed to address reliability violations,

⁴¹ See R.D. at p. 88.

⁴² It was not until after November of 2018, after Transource and the OCA submitted their direct testimony in this proceeding, that PJM identified potential reliability violations that may occur in 2023 if the Commission does not approve the Project. See R.D. at p. 1, 27 findings of fact ¶¶ 83, 85, 89; Franklin County’s Main Brief at Section VI.B.2.

⁴³ See TPA St. 7-RJ-SUPP at p. 5, line 23 and p. 6, lines 1-2, 13-14; Tr. at p. 2962; Exceptions at p. 25 (Transource concedes that the potential identified reliability violations have not yet occurred).

⁴⁴ TPA St. 7-RJ-SUPP at p. 3, lines 10-14; Transource’s response to OCA Set XXV-05 (a) and (d).

reliability is not a “driver” of the Project, and that the Project is not intended to be the best or most economical solution to resolve the potential reliability violations.⁴⁵ Additionally, at the time PJM’s limited reliability testing was performed, PJM approved two additional transmission projects, Project 5E and Hunterstown-Lincoln. PJM has not performed additional reliability testing to determine if these projects will resolve any of the projected reliability violations Transource claims this Project is needed to resolve. R.D. at p. 27-28 findings of fact ¶¶ 90-91. The R.D. properly determined that PJM’s incomplete reliability testing for this market efficiency Project fails to meet Transource’s burden of proof to demonstrate the Project is necessary.

Further, because the projected identified reliability violations have not yet occurred and PJM has not performed its full set of reliability testing to confirm whether the projected violations will occur, it is entirely appropriate for the R.D. to refer to the identified violations as “potential” violations. Transource contends that, if in fact these potential future violations do occur, no other project except the instant Project could be constructed in time to resolve them. Transource further argues that other solutions to address these potential reliability violations *could* result in greater costs and impacts to Pennsylvania than this Project. Exceptions at p. 27-28. The record is devoid of any evidence, however, that PJM has attempted to identify any alleged “other solutions” and, therefore, Transource has no way of knowing the in-service time, cost, or impacts, of alternative solutions compared to this Project.

In summary, incomplete testing and speculation are inadequate to establish need under the standards set forth in the Public Utility Code and under Pennsylvania law. Transource has failed to meet its burden establishing that the Project is needed to resolve possible reliability violations.

⁴⁵ See TPA St. 7-RJ-SUPP at p. 5, lines 22-23 and p. 6, lines 1-2, 13-14; Transource M.B. at p. 51; Exceptions at p. 27.

11. The R.D. correctly determined that Transource is creating new reasons to justify need for the Project

The Project was specifically designed and selected by PJM to resolve congestion on the APSRI. R.D. at p. 21 finding of fact ¶ 50.⁴⁶ But, because the purported need for the Project to address congestion on the APSRI no longer exists, Transource manufactured new, additional bases for the Project including that it was needed to resolve alleged congestion on “related facilities” and potential future reliability violations. The R.D. properly found that Transource was simply “creating new reasons for the project” by attempting to include congestion on “related facilities” and reliability violations as a basis for finding need for the Project.⁴⁷

Additionally, Transource includes in its Exceptions an argument that Maryland PSC’s approval of the Maryland portion of the Project establishes there is a need for the Project. Such argument should be rejected. Maryland PSC’s approval clearly fails to establish that the Project is needed or meets the standards for approval under Pennsylvania’s constitutional, regulatory, and statutory standards.⁴⁸

12. The R.D. properly determined that Transource is a foreign transmission provider

Transource is a new Pennsylvania entity that has no customers in Pennsylvania. Transource was formed specifically to construct, own, operate, and maintain the electric transmission facilities and equipment associated with the IEC Project. RD at p. 49. Similarly, Transource’s affiliate, Transource Maryland, is obligated and responsible for the construction, ownership, maintenance, and operation of the Maryland portion of the Project. The Project was intended to address purported congestion outside of Pennsylvania in the Baltimore, Maryland –

⁴⁶ See Sections II.A.1 and II.A.8 and II.A.10 above.

⁴⁷ See R.D. at p. 86.

⁴⁸ See Section II.A.3 of this Reply to Exceptions.

Washington D.C. areas. *Id.* If approved, the Project will result in the deliberate transportation of less costly generation to these neighboring states out of Pennsylvania and, therefore, higher electricity costs to Pennsylvania electric ratepayers.⁴⁹ Transource howls about the R.D.’s reference to Transource as a “foreign company” when rejecting its Applications. But, based upon the evidence noted above, the R.D. correctly determined that Transource is a foreign transmission provider seeking to gain access to the Baltimore, Maryland – Washington D.C. areas while subsidizing its electricity costs through Pennsylvania. R.D. at p. 2.

B. REPLY TO EXCEPTION NO. 2 – THE RECOMMENDED DECISION CORRECTLY CONCLUDED THAT TRANSOURCE DID NOT MINIMIZE ENVIRONMENTAL IMPACTS

1. The RD applied the correct legal standard

Transource misconstrues page 119 of the R.D. and wrongly contends the R.D. applied a “no impact” rather than the “minimum impact standard” standard. The R.D. specifically acknowledged that Transource, as the Applicant, is not required to choose a route that has no adverse impacts. R.D. at 117. Additionally, the R.D. recognized that Transource has committed to taking measures to mitigate environmental impacts of the proposed transmission line in York County. *Id.* But on page 119, the RD finds that Transource failed to demonstrate the proposed transmission line in Franklin County would have a minimum adverse environmental impact considering the available alternative of utilizing the existing parallel transmission system owned by West Penn Power and/or MAIT. Nothing about the RD imposes a “no impact” standard. As such, this Exception should be denied.

2. The RD properly found that Transource did not minimize environmental impacts for the West Portion of the Project

Transource misconstrues the R.D. arguing it finds Transource failed to satisfy the

⁴⁹ See Franklin County’s Main Brief at Section VI.F.1.

“minimum adverse impact” standard for the proposed transmission line in Franklin County because it considered project 18H as an available alternative route. Exceptions at p. 32-33. But the R.D. recognizes that project 18H was rejected by PJM. R.D. at p. 119. The proposed transmission line route in Franklin County parallels an existing transmission line route owned by West Penn Power. R.D. p. 93. Utilizing the existing parallel transmission system would minimize the environmental impacts on Franklin County. R.D. at p. 39, finding of fact ¶ 159, 119. The record contains no evidence that Transource attempted to use the existing transmission system, even in part, and, therefore, the R.D. properly found that Transource failed to demonstrate the proposed transmission line in Franklin County would have a minimum adverse environmental impact considering the available alternatives. Transource sets forth no evidence that utilizing the existing transmission infrastructure is not an available alternative in its Exceptions.

Additionally, the R.D. considered Transource’s siting study for the proposed West Portion of the transmission line. R.D. at p. 110-12, 114-15. The RD, however, also properly considered the totality of the record evidence that demonstrates Transource failed to minimize the environmental impacts on Franklin County’s schools, business, springs, and streams. R.D. at p. 38-39, findings of fact ¶¶ 149-159, p. 117, 119. Further, Transource failed to establish that the proposed line has a minimum adverse environmental impact on Franklin County considering there is no need for the Project. 52 Pa. Code § 57.76(a)(4).⁵⁰ As such, this Exception should be denied.⁵¹

⁵⁰ See Franklin County’s Main Brief at Section VI.D.

⁵¹ Transource has also failed to establish that the transmission lines are in compliance with statutory and regulatory requirements for the protection of Pennsylvania’s natural resources. The proposed transmission line in Franklin County would cross lands within an agricultural security area and lands subject to conservation easements. In violation of the Agricultural Security Area Law and the Eminent Domain Code, Transource’s Eminent Domain Applications seek to condemn the same without obtaining prior approval from the Orphans’ Court, the Agricultural Lands Condemnation Approval Board, and local agencies. Transource has failed to comply with these statutory requirements for the protection of these natural resources and, therefore, its Applications must be denied. See Sections VI.D.1. and VI.D.2. of Franklin Count’s Main Brief and Section II.C. of Franklin County’s Reply Brief.

C. REPLY TO EXCEPTION NO. 3 – THE RECOMMENDED DECISION CORRECTLY CONCLUDED THAT TRANSOURCE DID NOT MINIMIZE ECONOMIC IMPACTS

1. The R.D. properly found that Transource did not minimize economic impacts of the Project on Franklin County

Transource again wrongly contends the R.D. applies a “no impact” standard when it comes to economic impact. The R.D. applied the correct legal standard and found that Transource failed to minimize the economic impacts of the proposed transmission line route in Franklin County. R.D. at p. 116-117, 124. The RD does not impose an obligation that Transource’s proposal have no economic impact whatsoever.

Transource’s argument that the R.D. erred in finding that Transource failed to minimize the adverse economic impacts to Franklin County’s agricultural businesses, schools, tourism, and real estate values in Franklin County is unsupported by the substantial record evidence, which includes testimony from numerous Franklin County business owners and property owners.⁵²

2. The R.D. properly found that claimed temporary economic benefits from this Project still fail to demonstrate this Project is economically beneficial to Franklin County

Transource argues the Project will provide economic benefits to Franklin County through employment, economic stimulus, and tax revenue. Exceptions at p. 37. Even if accurate, evidence established that all these purported benefits are temporary and will end once the transmission facilities are built but the economic and environmental harm to Franklin County will remain. R.D. at p. 96. Such permanent harm is unreasonable and unnecessary considering there is no need for the Project in the first instance.

⁵² See R.D. at p. 34-36, findings of fact ¶¶ 120-133, p. 38-46, findings of fact ¶¶ 149-214.

D. REPLY TO EXCEPTION NO. 4 – THE RECOMMENDED DECISION’S FINDINGS REGARDING GPS INTERFERENCE SHOULD NOT BE OVERTURNED

Transource argues that the RD erred in accepting “generalized concerns” of Mr. and Mrs. Rice over that of its expert, Mr. Silva, regarding a transmission line’s effect on the GPS system of their farming equipment. To the contrary, it was Mr. Silva that provided only generalized statements. Mr. and Mrs. Rice have firsthand knowledge and experience of transmission lines interfering with the GPS on their farming equipment. R.D. at p. 37, finding of fact ¶ 143, p. 107. The R.D.’s findings regarding GPS interference are based on credible, firsthand testimony.

E. REPLY TO EXCEPTION NO. 5 – TRANOURCE’S CERTIFICATE OF PUBLIC CONVENIENCE SHOULD BE RESCINDED

Transource does not serve any customers in Pennsylvania. Transource was granted a Certificate of Public Convenience (“CPC”) specifically for the proposed IEC Project only. The Commission did not determine the need for this Project, the siting of the transmission lines, or the economic or environmental impacts of the Project. The current proceeding has developed a substantial record for the Commission to make these determinations. RD, p. 2, 60.⁵³ The substantial record evidence demonstrates that there is no need for this Project.⁵⁴ In turn, Transource’s CPC that was granted for this Project should be rescinded.

F. REPLY TO EXCEPTION NO. 6 – THE RECOMMENDED DECISION PROPERLY DENIED TRANSOURCE’S EMINENT DOMAIN APPLICATIONS

The substantial record evidence demonstrates that there is no need for the Project. Accordingly, Transource’s Eminent Domain Applications should be denied.^{55 56}

⁵³ See PUC Opinion and Order, Docket A-2017-2587821, Jan. 23, 2018.

⁵⁴ See Sections II.A.1-10 of this Reply to Exceptions.

⁵⁵ See Sections II.A.1-10 of this Reply to Exceptions.

⁵⁶ Franklin County also submits that Transource’s Eminent Domain Applications should be denied because Transource has failed to comply with the Agricultural Security Area Law and the Eminent Domain Code by not obtaining approval

G. REPLY TO EXCEPTION NO. 7 – THE RECOMMENDED DECISION PROPERLY DENIED TRANSOURCE’S ZONING PETITIONS

The substantial record evidence demonstrates that there is no need for the Project. Accordingly, Transource’s Zoning Petitions should be denied.⁵⁷

H. REPLY TO EXCEPTION NO. 8 – ALL OF THE RECOMMENDED DECISION’S FINDINGS OF FACT SHOULD BE ADOPTED

Transource’s main objection appears to be that the R.D.’s findings of fact are based on lay testimony rather than Transource’s expert witness testimony. As the R.D. acknowledges, Transource has the burden of proving its case by a preponderance of the evidence, or evidence which is more convincing than the evidence presented by the other parties. 66 Pa. C.S. § 332; R.D. at p. 52. Transource failed to satisfy its burden. Franklin County and the other parties in this proceeding have produced the credible testimony of multiple expert witnesses to dispute Transource’s expert witnesses. Additionally, even if not experts, business representatives and landowners residing in Franklin County have firsthand knowledge about the Project’s impacts and were properly considered by the R.D. The Commission is not required to simply accept Transource’s expert witness testimony as true and accurate. The R.D.’s opinion and findings of fact are based on the substantial record evidence and, therefore, Exception No. 8 should be denied.

III. CONCLUSION

Transource asks that the Commission approve the IEC Project for which there is no need and no benefit conferred on Pennsylvanians, and which would result in substantial environmental and economic harm to Franklin County and Pennsylvania. The R.D. and the searching analysis of the R.D. embodies properly incorporated independent analyses of the Project. It rightly found that

from the appropriate judicial and local bodies for the condemnation of properties subject to conservation easements and within agricultural security areas. See Sections VI.D.1., VI.D.2., and VI.G. of Franklin County’s Main Brief and Section II.C. of Franklin County’s Reply Brief.

⁵⁷ See Sections II.A.1-10 of this Reply to Exceptions.

the Project is not necessary and fails to meet the Commission standards required for approval. The Commission need not and should not rely and automatically approve the Project based upon its background with PJM. PJM does not consider if the Project is in the best interests of the public or Pennsylvania. By affirming the R.D., the Commission can stop Pennsylvanians from incurring a \$400 million increase in wholesale power prices and suffering additional detrimental economic and environmental impacts in Franklin County. To affirm the R.D. is consistent with the Commission's obligations under Pennsylvania law and is correct in light of the substantial evidence of record here. The Franklin County Commissioners respectfully request that the Commission affirm the R.D. and deny Transource's Exceptions in their entirety.

Respectfully submitted,

SALZMANN HUGHES, P.C.

Dated: January 22, 2021

/s/ Scott T. Wyland
Scott T. Wyland

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing Intervenor the County of Franklin's Reply to the Joint Exceptions of Transource Pennsylvania, LLC and PPL Electric Utilities Corporation upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

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