

January 22, 2021

VIA EFILING

Rosemary Chiavetta, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street
Harrisburg, PA 17120

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

**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 reasonable and necessary for the convenience or welfare of the public
Docket No. P-2018-3001883**

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

**Application of Transource Pennsylvania, LLC for approval to acquire a certain portion of lands of various landowners in York and Franklin Counties, Pennsylvania for the siting and construction of the 230 Kv Transmission Line associated with the Independence Energy Connection – East and West Projects as necessary or proper for the service, accommodation, convenience or safety of the public
Docket No. A-2018-3001881, et al.**

Dear Secretary Chiavetta:

Enclosed for filing on behalf of Stop Transource Franklin County, please find the Replies to Exceptions of Transource Pennsylvania, LLC and PPL Electric Utilities, Corporation in the above-referenced matter. Copies will be served as indicated on the Certificate of Service.

Rosemary Chiavetta, Secretary
PA Public Utility Commission
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Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Joanna A. Waldron', with a long horizontal flourish extending to the right.

Joanna A. Waldron, Esq.
CURTIN & HEEFNER LLP
Counsel for Stop Transource Franklin County

JAW:alr
Enclosure
cc: The Honorable Elizabeth Barnes
All counsel of record (via email)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY
COMMISSION**

Application of Transource Pennsylvania, LLC
for approval of the Siting and Construction of the
230 kV Transmission Line Associated with the
Independence Energy Connection - East and West Projects
in portions of York and Franklin Counties, Pennsylvania. A-2017-2640195
A-2017-2640200

Petition of Transource Pennsylvania, LLC
for a finding that a building to shelter control equipment
at the Rice Substation in Franklin County, Pennsylvania 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, Pennsylvania P-2018-3001883
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 A-2018-3001881,
for the siting and construction of the 230 kV Transmission Line *et al.*
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 OF
STOP TRANSOURCE
FRANKLIN COUNTY TO EXCEPTIONS OF TRANSOURCE PA LLC AND PPL

Curtin & Heefner LLP



By: _____
JOANNA A. WALDRON
Attorney for Stop Transource
Franklin County

Date: January 22, 2021

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INTRODUCTION

On December 23, 2020, Administrative Law Judge Elizabeth Barnes issued the Recommended Decision (“RD”) in this proceeding, denying the applications of Transource Pennsylvania, LLC and PPL Electric Utilities Corporation (collectively, “Transource” or “Applicants”). On January 12, 2021, Applicants filed Joint Exceptions (“TE”) to the RD.

SUMMARY

Transource’s Exceptions are contradicted by caselaw, and ask the Commission to ignore the basic statutory, regulatory and Constitutional considerations or mischaracterize the RD. Many exceptions ask the Commission to ignore the evidence from Pennsylvania citizens relied on as credible and set forth in detail by the RD, as discussed more fully below. As such, the exceptions must be dismissed, and the well-reasoned RD should be adopted and upheld.

1. Exception No. 1 requires the Commission adopt an expert standard whereby only PJM witnesses can offer opinions.

Part 5 of Transource’s exception No. 1 claims that the RD improperly accepts other parties’ speculation and unsupported claims as credible evidence over the expert opinion of the PJM witnesses. First, any finding of fact necessary to support an adjudication of the Commission must be based upon substantial evidence. 2 Pa.C.S. § 704. Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Borough of E. McKeesport v. Special/Temporary Civil Serv. Comm’n*, 942 A.2d 274, 281 n.9 (Pa. Cmwlth Ct. 2008) (citation omitted). The “presence of conflicting evidence in the record does not mean that substantial evidence is lacking.” *Allied Mech. And Elec., Inc. v. Pa. Prevailing Wage Appeal Bd.*, 923 A.2d 1220, 1228 (Pa. Cmwlth Ct. 2007) (citation omitted).

The finder of fact is free to accept or reject the testimony of any witness, even if uncontradicted. *Boss Insulation & Roofing, Inc. v. Department of Labor and Industry*, 722 A.2d 778 (Pa.CmwltH.1999); *York Excavating Company, Inc. v. Pennsylvania Prevailing Wage Appeals Board*, 663 A.2d 840 (Pa.CmwltH.1995).

Transource suggests that the testimony of the OCA's experts and Franklin County's expert Mr. McGavaran are bald assertions, personal opinions or perceptions, and therefore do not constitute evidence. TE at p. 15.

Transource cites cases that are no longer good law. *Consolidated Edison Company of New York v. National Labor Relations Board*, 305 U.S. 197, 229 (1938), is no longer good law. The *Consolidation Edison* case rejects testimony as hearsay in dicta, and was overruled by the Supreme Court in the 1970s. *Richardson v. Perales*, 402 U.S. 389, 402, (1971); *Califano v. Boles*, 443 U.S. 282, 285 (1979) (holding that hearsay evidence could constitute substantial evidence where there has been an opportunity to cross examine the source of the information).

Transource's citation to *Norfolk & Western Railroad*, similarly fails to support its allegation. Transource cited the *Norfolk* decision even though the majority of the discussion in *Norfolk* involves the question of preemption and does not explain the prima facie standard that an applicant such as Transource needs to meet. *Norfolk* explains only that substantial evidence—the appellate standard on which the Commission's decision must rely—is “that quantum of evidence which a reasonable mind might accept as adequate to support a conclusion.” *Norfolk* at 1047 (citing *Dutchland Tours, Inc. v. Pa. P.U.C.*, 337 A.2d 922 (Pa. Commw. Ct. 1975)).

Transource's authority on what constitutes evidence in this instant transmission line proceeding is a conditional use approval case. *Pa. Bureau of Corrections v. City of Pittsburgh*,

532 A.2d 12, *14 (Pa. 1987). Transource suggests that *Pa. Bureau of Corrections* means that “criticisms of witnesses who have never designed a transmission project” cannot constitute evidence in this case. TE Brief at 15. However, the Pennsylvania Supreme Court in *Pa. Bureau of Corrections* was referring to the type of evidence in a conditional use hearing that is required to rebut a prima facie case, once the applicant has satisfied its burden to show that it meets the standards contained in the zoning ordinance. Clearly, this discussion does not apply to these administrative proceedings where the Commission is bound to consider “all relevant evidence of reasonably probative value.” 2 Pa. C.S. § 505. Moreover, it has no bearing where the Commission cannot approve an application unless the Commission finds and determines the four categories set forth in 52 Pa. Code § 57.75(a)¹. It’s ridiculous to suggest that the only evidence that matters is that from individuals who have worked at PJM, when the Commission regulations specifically set forth the evidence that the Commission “will accept” as follows:

At hearings held under this section, the Commission will accept evidence upon, and in its determination of the application it will consider, inter alia, the following matters:

- (1) The present and future necessity of the proposed HV line in furnishing service to the public.
- (2) The safety of the proposed HV line.

¹ The Commission will not grant the application, either as proposed or as modified, unless it finds and determines as to the proposed HV line:

- (1) That there is a need for it.
- (2) That it will not create an unreasonable risk of danger to the health and safety of the public.
- (3) That it is in compliance with applicable statutes and regulations providing for the protection of the natural resources of this Commonwealth.
- (4) That it will have minimum adverse environmental impact, considering the electric power needs of the public, the state of available technology and the available alternatives.

(3) The impact and the efforts which have been and will be made to minimize the impact, if any, of the proposed HV line upon the following:

- (i) Land use.
- (ii) Soil and sedimentation.
- (iii) Plant and wildlife habitats.
- (iv) Terrain.
- (v) Hydrology.
- (vi) Landscape.
- (vii) Archeologic areas.
- (viii) Geologic areas.
- (ix) Historic areas.
- (x) Scenic areas.
- (xi) Wilderness areas.
- (xii) Scenic rivers.

(4) The availability of reasonable alternative routes.

52 Pa. Code § 57.75(e). The Commission, therefore, specifically is looking for evidence on the impact of the proposed transmission line. The PJM transmission process focuses on congestion, which is not formally addressed in the Commission's evaluation process. More specifically, the "inquiry to determine whether a public need for a transmission project exists depends on the specific facts presented regarding each project and upon the future impacts or consequences within a broad context." TrAILCo 2000 Pa. PUC LEXIS 60 at *127 (Rec. Dec. Aug. 15, 2008) affirmed TrAILCo Order at *48; R.D. at 80. Nothing in the PJM selection process considers environmental impact. R.D. at 42-47.

Transource relies on inapposite caselaw. First, in *Pa. Bureau of Corrections v. City of Pittsburgh*, 532 A.2d 12 (Pa. 1987), the Pennsylvania Supreme Court considered whether objectors to an application for conditional use approval met the standards sufficient to shift the burden of evidence back to the applicants. When a particular use is permitted by right by conditional use approval, it means that the legislative body has predetermined that the use is

expected to occur in that zoning district, and that the applicant will be entitled to approval if it meets particular standards. *Pa. Bureau of Corrections*, 532 A.2d at 79. The Commission’s transmission line siting standards are completely different because an applicant bears the burden of proof of meeting the standards of the Commission’s regulations. The Commission is prohibited from approving a transmission line application unless the applicant demonstrates the findings in 52 Pa. Code § 57.76, including need. Accordingly, Transource’s reliance on Pa. Bureau of Corrections to claim that the RD improperly relies on witnesses other than Transource’s witnesses who explain PJM’s analysis is misplaced and unsupported by caselaw.

Lastly, the only Commission-related case law that Transource cites is a smart meter case,² which does not stand for the proposition suggested in the parenthetical. In that case, the Commission removed one finding based on the testimony of the electric utility witness, who testified regarding the safety of the meters. There is no suggestion that his testimony was “bald speculation” or unsupported, but rather that he specifically did not testify about a particular fire risk in this case.

The totality of the case cited by Transource fail to support its argument that the RD improperly accepted unsupported claims over PJM witnesses.

2. The RD Properly Analyzed PJM’s Market Efficiency Process As Required by Pennsylvania Law.

Transource argues that the RD is trying to change PJM’s Market Efficiency Process. TE at 16. The Applicants bear the burden of proof, and there is no requirement that citizens

² The Commonwealth Court recently reversed the Commission’s interpretation of its regulatory authority to offer consumers opt-outs, and pending smart meter complaints have been stayed. *Povacz et al. v Pa. PUC*, 241 A.3d 481 (Pa. Cmwlth Ct. Oct. 8, 2020). As such, even if the *Myers* decision contained the alleged countenance of “bald speculation” or unsubstantiated facts as evidence, the issue remains in question as the Commission filed petition for allowance of appeal with the Supreme Court in November 2020. See, Consolidated Dockets, *Povacz v. Pa. PUC*, 619 MAL 2020.

residents of Pennsylvania present evidence of how impacts could be minimized. In short, Pennsylvania law already recognizes that market failure occurs with transmission lines, and regulations exist to correct that failure. Transmission lines are known to cause negative impacts, or externalities, that are not captured in the market price. Transmission lines are a physical imposition on miles of property, and, when not run underground, impose a visual impact, depending on topography, for long distances.

Transource asks the Commission to focus on the 23,000 hours of computational time conducted by PJM and to ignore the reality of siting, constructing, operating and maintaining transmission lines. Pennsylvania law, and the Commission's regulations, however, do recognize that transmission lines effect a market failure, and must be regulated. As such, the Commission is charged with analyzing the proposed transmission project pursuant to the Public Utility Code and the Commission's regulations. The regulations require that the Applicants prove need for a proposed transmission line by a preponderance of the evidence. There is no shortcut contained in the statutes or regulations that permits PJM approval to substitute for the due process of the administrative proceeding before the Commission.

The Statutory requirements Pennsylvania has adopted form the basis for the Commission's authority. The Commission is also bound by the constitutional requirements, including those of Article 1, Section 27, the Environmental Rights Amendment ("ERA"). These fundamental values are the legislature's and the people's correction for market failure. The negative externalities imposed by transmission lines on a physical property are, in part, referenced in 52 Pa. Code § 57.76(a). Transource would have the Commission ignore the externalities in pursuit only of a well-functioning marketplace apart from any state siting and permitting authority. Transource's exceptions fundamentally mischaracterize the Commission's

role to one of selecting the route without regard to any environmental impacts. Further, Transource argues that the objectors did not present evidence “showing how Transource PA could further reasonably minimize impacts on the existing route, or (2) proposing a route that would have less environmental and economic impacts.” TE at 16.

Transource alleges that the non-transmission alternatives identified by OCA’s expert Geoffrey Crandall (see OCA St. 3) and individuals, “have not materialized in the more than four years since Project 9A was approved” and, therefore, the non-transmission alternatives must be “mere speculation” and “not supported by evidence.” TE at 18. Transource’s conclusion is wrong. It is just as likely that the generation has not materialized because there is no need for the IEC Project as set forth by the RD. Further, the potential of renewable resources as generation sources is hardly “unproven” or “speculative,” when legislatures in Maryland, Virginia, and the District of Columbia have enacted legislation endorsing and mandating such sources in the last four years. RD at FOF, ¶¶ 221-224.

The RD’s conclusions about reliability violations are permissible and credible. Transource has no support for its claims that a party suggesting that late-identified reliability violations - violations not identified at the time of project design or application filing—must bear that burden of proof to show that reliability violations could be resolved in another manner. TE at 25. Reliability violations identified as an afterthought are not the responsibility of objectors. Transource cites *Pa. PUC v. Metropolitan Edison Co. et al.*, Docket Nos. R-00061366, et al. 2007 Pa.PUC LEXIS 5 (Order entered Jan. 11, 2007). The case that Transource relies on is not a transmission line case. Moreover, in that rate case, the Commission determined that PennFuture was “the proponent of a Commission order with respect to its proposals” under 66 Pa. C.S. § 332(a) because “burden of proof must be on a party to a general rate increase case who proposes

a rate increase beyond that sought by the utility. (R.D. at 117).” Pennsylvania Pub. Util. Comm’n, No. R-00061366, 2007 WL 496359 (Jan. 11, 2007). As such, there is no comparison to the instant situation, where the weight of the evidence demonstrates that there is no need for the IEC Project. The RD relies only on the fact that the evidence demonstrates that reliability violations can be resolved in multiple ways, and that reliability violations can be addressed in way other than by a large-scale greenfield transmission project designed for another means altogether. The Applicants bear the burden of proving, among other things, that there is need for the project. There is no concomitant requirement that objectors prove that reliability violations can be corrected in multiple ways.

The RD concludes correctly that “transmission planning” is more than a determination of where to add transmission lines next. Transource improperly accuses the RD of “impermissibly seek[ing] to overturn FERC’s determination that economic congestion should be addressed through regional transmission planning.” The RD recognizes that Pennsylvania law requires the consideration of multiple inefficiencies that PJM does not address. RD at 86.

Contrary to Transource’s assertions, the RD’s suggestion that other projects will resolve the alleged reliability violations identified for the first time after the IEC Project was approved by PJM, is entirely reasonable. As Transource points out, PJM “cannot wait for reliability violations to occur before addressing them” and therefore, it’s entirely reasonable and supported by PJM testimony that PJM has redundancies built into its planning process, given that state regulatory approval is not guaranteed. Transource suggests that PJM would have to “restart” the planning process entirely if the IEC Project is not approved. PJM witnesses confirm that they do not need to “start over” because PJM’s process is ongoing planning process where . Tr. at 2951-2952. PJM looks at the “system as it exists at that time.” Tr. at 2952. Mr. Herling

testified that “ If a previously approved project were rejected by a state commission and removed from the RTEP, we would need to identify any remaining needs on the system with the facilities that had subsequently been approved and already built and placed in service” Tr. at 2952. The IEC Project was not designed to relieve reliability violations, and yet Transource argues that it will. It follows therefore, that other PJM projects that do meet the standard of need, and do not violate the Pennsylvania constitution, will do the same, in the course of resolving congestion or reliability.

3. The Applicants’ Failure to Minimize Adverse Environmental Impacts.

Transource misstates the RD’s recommendation on minimizing adverse environmental impacts. The RD states that it “cannot find minimum adverse environmental impact” under 52 Pa. Code § 57.76(a)(4). RD at 119. As the RD concludes, there is no evidence that Transource negotiated or explored using an existing parallel transmission system or existing right of way on the West portion of the IEC Project. One need only look to Transource’s original application on the East portion of the IEC Project for proof that it failed to consider using existing systems and rights of way. The RD does not conclude that “there will be adverse environmental impacts, and therefore Settlement 9A should be denied.” TE at p. 31. Applicants first line of attack on the RD is to misstate it. Applicants suggest that the RD recommends denial unless there is no environmental impact. TE at 31. Nowhere does the RD suggest “no environmental impact” is required or desirable, and therefore, Applicants’ mischaracterization and hyperbole must be rejected on its face.

Second, the Applicants reiterate a standard of reasonableness that is incorrect. TE at p.31. Applicants reliance on *Energy Conservation Council of Pa. v. PUC*, 25 A.3d 440. 449 (Pa. Cmwlth. Ct. 2011) is incorrect because it does not account for *PEDF*. STFC MB at 24. As

STFC and OCA suggest, the standard of proof required to meet the PEDF standards, in light of the rejection of *Payne v. Kassab*. Transource relegates the issue to a footnote. However, Transource fails to recite even the standard already contained in the Commission’s regulations correctly. Section 57.76(a)(4) does not require only that the applicant “demonstrate reasonable efforts to minimize adverse environmental impacts of the proposed routes compared to the available alternative routes.” There is not reasonableness stated in the existing regulations. Rather, the existing regulations require denial by the Commission, unless the applicant affirmatively demonstrates it meets the four enumerated areas of 52 Pa. Code 57.76(a), including need and minimum adverse environmental impact. The Commission will not grant the application for a proposed transmission line unless the applicant demonstrate the proposed transmission line location, construction, operation, or maintenance of the line, will have minimize adverse environmental impact, considering the electric power needs of the public, the state of the available technology and the available alternatives. 52 Pa. Code 57.76(a)³ So, without even reaching the question of whether the existing regulations meet the PEDF standard,

³ § 57.76 Determination and order.

(a) The Commission will issue its order, with its opinion, if any, either granting or denying the application, in whole or in part, as filed or upon the terms, conditions or modifications, of the location, construction, operation or maintenance of the line as the Commission may deem appropriate. The Commission **will not grant the application**, either as proposed or as modified, **unless it finds and determines as to the proposed HV line**

(1) That there is a need for it.

(2) That it will not create an unreasonable risk of danger to the health and safety of the public.

(3) That it is in compliance with applicable statutes and regulations providing for the protection of the natural resources of this Commonwealth.

(4) That it will have minimum adverse environmental impact, considering the electric power needs of the public, the state of available technology and the available alternatives.

the Commission must deny an application if there is no evidence that the proposed location of the line will have minimum adverse environmental impact.

Transource conflates a demonstration of the fact of “minimum adverse environmental impact” as required by the regulations, with an its efforts “minimize” adverse environmental impact. In short, Transource would rather put the cart before the horse, selecting the location on the basis of PJM’s economic constraints, and hoping that selection will also satisfy the state regulatory siting approval process. Transource claims it must demonstrate only that it acted reasonably to find a route on the western portion between the proposed Rice substation and the Maryland border. The regulations and Article 1, Section 27 require more.

The RD recommends that the selection by PJM in this instance does not meet the siting requirements, starting with the demonstration of need. In addition to the lack of need, the Applicants cannot demonstrate that the West Portion has a minimum adverse environmental impact. In the first instance, the Application identified the unused and unexplored West Penn right of way. RD at 119.

The ability to demonstrate minimum adverse impact may be severely constrained by Transource’s limited Certificate of Public Convenience, which defined the end points of its service, and limited it to a particular PJM Project. The Commission’s requirements to grant an application only where it meets the regulatory standard, and the constitutional requirements does not change merely because the Applicant is The IEC Project exists in response to a PJM request for projects in 2014/2015 window. The PJM RTEP process seeks to resolve economic constraints in the wholesale market, and does not consider environmental impacts.

Transource admits that PJM selected Project 9A as a preferable solution to relieve identified congestions constraints in the 2014/2015 window. T MB at 80. Applicants attempt to

disavow any need to explore the use of the West Penn right of way or Project 18H by claiming that the selection of routes is a matter for the utilities in the first instance” citing *Laird v. Pa. PUC*, 133 A.2d 579 (Pa. Super 1957). The *Laird* case is an individual landowner challenge to the exercise of eminent domain and does not discuss siting approval. Further, given the age of the case, there is no discussion of the current regulations and siting process. As such, Transource’s simplification of the issue –the Commission approves a proposed transmission line for siting in a location simply because a utility proposes it—must be rejected.

Transource claims that there is no evidence that 18H was a viable alternative route; however, PJM analyzed 18H as one of the final projects considered in the March 10, 2016 TEAC meeting. [cite].

Even assuming that the reliance on the 1957 Pennsylvania Superior Court case *Laird v. Pa. PUC*, 133 A.2d 579 (Pa. Super 1957) is correct, Transource Pennsylvania was not a utility certificated in Pennsylvania when it submitted the IEC Project to PJM in the 2014/2015 window, and determined the proposed location through Franklin County. For example, the Study Area used by Transource is limited by the functional end points and the Certificate of Public Convenience of Transource. The selection of routes maybe a matter “for the utility in the first instance,” but Transource Pennsylvania LLC was not a utility when it selected the route, and the RD has determined that it is should no longer be certificated. It would be patently against the public interest for the Commission to routinely approve settlements issuing a CPC to entities that have shown only financial fitness but no existence of need for electric utility services, and then to allow that CPC to dictate approval of the location of transmission lines in any location of the now-certificated utilities’ choosing.

Transource asks the Commission to approve the location of the IEC Western portion on the basis of PJM's analysis of how the proposed project will remove congestion, and simultaneously asks the Commission to accept its assertion that congestion within the PJM region "often shifts" RD 72-73 (quoting [Transource St. No. 3AA-RJ, p.8, lines 148-163]). Moreover, congestion relief in one area can relieve congestion in another interface, suggesting that, as the RD recognizes, the Commission cannot rely on the PJM selection process to identify appropriate siting locations, without the required transmission siting analysis contained in the regulations, and dictated by Pennsylvania's ERA.

4. Transource Exception No. 3 Should Be Denied Because Transource failed to Demonstrate a Minimum Economic Impact

Transource claims that the RD requires "no adverse economic impact"; However, the RD only claims that there is no evidence to demonstrate that Transource minimized the economic impact in Franklin County.

Transource's claim that there is no evidence that tourism will be negatively impacted by the IEC Project. Transource does not address the impacts of construction or maintenance of poles, discussed by the RD at 122-23 and STFC MB at 16-17,34,38, 70. The RD recognizes that the head of the Franklin County Visitor's Bureau testified that her organization has identified negative impacts to Franklin County. RD at FoF ¶ 155; STFC MB 55-56. In addition to the head of the Franklin Count Visitor's Bureau, the head of the Economic Development Authority in Franklin County testified regarding the adverse economic impacts, including to tourism. Id. Further, the only examples that Transource cites as "evidence" that there will be no impact to tourism is the assertion that some transmission lines already exist in the County, and that some orchards in other locations are known to exist with transmission lines. TE at 35 (citing

Transource St. 4-R). Concluding that co-existence with transmission lines in the present means that adding a transmission line will have no impact to tourism does not follow. The mere fact that transmission lines exist near orchards does not mean that the Commission should site new greenfield transmission lines near orchards.

Transource continues the illogical argument with respect to the location of the proposed lines and the Falling Spring Elementary School. Because Transource can point an example of a transmission line in close proximity to a school, Transource argues that siting a new transmission line near a school must be fine. TE at 36.

The RD sets forth multiple reasons that the Elementary School and the Cross Country Track will be impacted, including during construction when it will not be useable. RD at 122, 44 FOF ¶¶ 192-1999. The cross country track will be impacted during the constructions, and irrevocably changed by removal of trees in the right-of-way. TE at 36.

Likewise, Transource's claims with respect to lack of evidence for the RD's conclusions on the negative impact on real estate values are incorrect. The RD cited multiple testimonies at FoF ¶ 171. The site visits and the public input hearing had testimony from multiple real estate professionals in the area. As discussed in the MB of STFC on pages 58-59, real estate professionals testified regarding negative impact of the threat of the installation of the transmission lines on Franklin County. For example, at one site visit, licensed real estate agent, Darwin Benedict explained that the installation of the lines in Franklin is already preventing lots from selling Tr. at 1353: Mr. Darwin Benedict demonstrated at the Site Visit the development of 11 lots that he owns on the Hidden Valley Lane in Waynesboro, Pennsylvania where development "ground to a halt" with the "news of the power lines coming through." Tr. at 1354. One lot in the development that was being sold for \$110,000 lost a buyer when the buyer

“became very hesitant and they walked away.” Kristyn Martin, another licensed real estate agent, who lives on Hidden Valley Lane testified at the site visit, and estimated her home is currently worth over \$400,000 and would be negatively impacted by the proposed line. Tr. at 1371.

Further, the Commission has traditionally accepted lay testimony regarding an individual’s property value.⁴ *Barbara Gallagher*, No. C-2010-2201568, Pa. PUC, 2011 WL 5023478, at *1 (Sept. 22, 2011); *Appeal of New Castle Cent. Renewal Assocs.*, 389 A.2d 225, 227 (Pa. Cmwlth Ct. 1978). The standard of qualification is a liberal one: ‘If a witness ’has any reasonable pretension to specialized knowledge on the subject under investigation he may testify, and the weight to be given to his evidence is for the jury (factfinder): (citations omitted)’. *Id.*

Lay testimony about the negative impact of poles and transmission lines is acceptable for the purpose in which its offered. In *Gallagher*, the Commission denied the utility’s exception that claimed that only the testimony of a qualified expert is probative as to whether poles and utility wires burden a property and detract from its value. The Commission could rely on this evidence, recognizing that the value of the Complainant's property is not being established in the proceeding, and the Complainant did not testify that the value of her property has been reduced by a specific dollar amount due to the utility facilities. Rather, the Complainant testified in general terms that her property was burdened by the presence of a pole and 250 feet of service line. Specifically, she testified that the pole in her front yard detracts from her property's value and appearance; that the pole in her front lawn “greet” people coming up the driveway; that the pole in her front yard is very unsightly; and that her complaint about the pole is based in part on aesthetics.

⁴ For example, as set forth on STFC MB at pages 58, the Hospelhorn home located on Hidden Valley Lane and is worth more than \$400,000. Tr. at 1375.

This lay testimony is acceptable for the purpose for which it was given. As discussed in the Gallagher case, “[a] property without a utility pole and wires in the front yard is preferable to an identical property that is burdened with such facilities. We are not aware of homeowners erecting utility poles and service lines in their front yards for purely aesthetic reasons.” *Id.* at *4.

Accordingly, the RD properly weighed and considered the multiple forms testimony on the economic impact, including lay and expert testimony regarding real estate values, lay opinions on the value of individuals property and lay testimony about the aesthetic impact installing monopoles on or next to individuals’ property along the miles of greenfield transmission line would have on Franklin County in particular, and determined that the impact was not minimized.

5. Transource’s Exception No. 4. Must be Denied.

In Exception No. 4, Transource claims that the RD erred in accepting the testimony about the operation of GPS-directed farm equipment in proximity to the proposed transmission line, stating that the RD relied on “generalized concerns” over the testimony of Transource’s expert witness. TE at 38. Again, Transource mischaracterizes the RD. The RD properly rejected the generalized statements of Mr. Silva, in favor of specific testimony from individuals with direct experience operating GPS-directed farming equipment. The RD specifically rejected the concept of “generalized concerns” which Transource claims the RD relies on. RD at 107. The RD found the testimony of individuals farming “credible regarding the GPS systems” while at the same time recognizing that Mr. Silva provided only a “generalized statement” about GPS interference. RD at 107. Therefore, the finding of the RD are proper, the Exception No. 4 must be denied.

5. Transource's Exceptions Nos. 5, 6 and 7 and 8 Should Be Denied.

Transource's Exception No. 5 claims that Transource's CPC should not be rescinded. There is no need for the IEC Project; therefore, the limited CPC issued only as a result of a settlement and in anticipation of the original Applications filed in this case, is no longer warranted. STFC's RB and RD at 78-79. Transource's Exception No. 6 argues that the RD erred in denying the eminent domain applications. The Commission should deny these exceptions for the reasons discussed under this Reply to Exception No. 1, and because there is no need as set forth in the RD. Exception No. 7 likewise argues that the Zoning Petitions should be approved; again the lack of need for the IEC Project requires denial of these Petitions, as set forth in the RD.

Transource's Exception No. 8 asks the Commission to ignore valid, credible, fact-based evidence and is only supported by overruled and inapposite caselaw, as set forth, as set forth in No. 1. The footnote no. 26 on TE at page 39 contains a lengthy list of findings of fact that it claims are based on "bald assertions." While the lack of legal support is concerning, it's further unclear why findings of fact, including assertion that individuals had direct personal experience, should be rejected as mere "speculation." For example, Finding of fact No.143, recounts those individuals who testified regarding personal experience with GPS farming equipment⁵. In addition, certain findings of fact flagged by Transource for non-adoption are perhaps better denied as stated. For example, among those findings of fact that Transource argues must be rejected is Paragraph 81, in which the RD described the adopted of the CleanEnergy DC

⁵ 143. Farmers such as Allen and Lori Rice, Brian Brechbill, and Lois White of Franklin County with transmission lines already running through their fields, have experienced GPS equipment becoming unreliable when used under the power lines. Tr. 675, 705-707. PUC Exhibits 98-110.

Omnibus Amendment Act of 2018. Rather than strike the entire paragraph, Transource could suggest that word “solar power” be replaced by the more specific term “Tier 1 energy source.” However, Transource simply lists over 40 paragraphs without distinguishing why they should not be adopted, other than based on the alleged failure to constitute evidence, a standard which has no support.

CONCLUSION

WHEREFORE, STFC respectfully requests that the Commission deny the Applicants’ Exceptions Nos. 1 – 8, and that the Commission deny the consolidated Siting Applications (as amended), deny the related Zoning Petitions for the Substations, and Deny all associated Eminent Domain Applications.

Curtin & Heefner LLP



By: _____
JOANNA A. WALDRON

Date: January 22, 2021

CERTIFICATE OF SERVICE

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

I hereby certify that a true and correct copy of Stop Transource Franklin County's Replies to Exceptions of Transource and PPL has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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Note that due to our current staffing and resource limitations in response to COVID-19, we will be providing electronic service only today. Please do not hesitate to contact me with any questions regarding today's filing.

Curtin & Heefner LLP



By: _____
JOANNA A. WALDRON

Date: January 22, 2021