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September 18, 2026

Via E-Filing

Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Re: Application of Transource Pennsylvania, LLC for All of the Necessary Authority, Approvals and Certificate of Public Convenience to Begin to Offer, Render, Furnish and/or Supply Transmission Service in portions of Franklin County, Pennsylvania Necessary to Operate Transmission Facilities for Project 9A West; and for any Other Approvals Necessary
Docket No. A-2026-3062675

Application of Transource Pennsylvania, LLC filed Pursuant to 52 Pa. Code Chapter 57, Subchapter G, for Approval of the Siting and Construction of the 230 kV Transmission Line known as Project 9A West in a Portion of Franklin County, Pennsylvania
Docket No. A-2026-3062686

Petition of Transource Pennsylvania, LLC for Confirmation of an Exemption from Local Zoning Regulation and for the Construction of Buildings in connection with the Construction of a Proposed Electric Substation in Greene Township, Franklin County, Pennsylvania
Docket No. P-2026-306287

Dear Secretary Homsher:

Enclosed for filing please find Transource Pennsylvania, LLC's ("Transource PA") Motion in Limine Requesting Confirmation That Certain Issues Are Not Relevant In These Proceedings ("Motion") in the above referenced matters.

Copies of the Motion (with a Notice to Plead) are being served in accordance with the attached Certificates of Service.

September 18, 2026

Page 2

Thank you for your attention to this matter.

Sincerely,

BUCHANAN INGERSOLL & ROONEY PC

By: 

Alan M. Seltzer, Esquire

AMS/psm

Enclosures

cc: Administrative Law Judge Emily A. Farren (via email only)

Administrative Law Judge Steven K. Haas (via email only)

Certificates of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Transource Pennsylvania, LLC filed
Pursuant to 52 Pa. Code Chapter 57, Subchapter G, :
for Approval of the Siting and Construction of the : Docket No. A-2026-3062686
230 kV Transmission Line known as Project 9A :
West in a Portion of Franklin County, Pennsylvania :

Application of Transource Pennsylvania, LLC for :
All of the Necessary Authority, Approvals and :
Certificate of Public Convenience to Begin to : Docket No. A-2026-3062675
Offer, Render, Furnish and/or Supply Transmission :
Service in portions of Franklin County, :
Pennsylvania Necessary to Operate Transmission :
Facilities for Project 9A West; and for any Other :
Approvals Necessary :

Petition of Transource Pennsylvania, LLC for :
Confirmation of an Exemption from Local Zoning : Docket No. P- 2026-3062687
Regulation and for the Construction of Buildings in :
Connection with the Construction of a Proposed :
Electric Substation in Greene Township, Franklin :
County, Pennsylvania :

NOTICE TO PLEAD

YOU ARE HEREBY ADVISED THAT, PURSUANT TO 52 PA. CODE § 5.103, YOU MAY FILE AN ANSWER TO THE ENCLOSED MOTION WITHIN TWENTY (20) DAYS OF THE DATE OF SERVICE HEREOF. YOUR ANSWER TO THE MOTION MUST BE FILED WITH THE SECRETARY OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION, P.O. BOX 3265, HARRISBURG, PA 17105-3265. A COPY SHOULD ALSO BE SERVED ON THE UNDERSIGNED COUNSEL FOR TRANSOURCE PENNSYLVANIA, LLC.

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Attorneys for Transource Pennsylvania, LLC

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Transource Pennsylvania, LLC filed
Pursuant to 52 Pa. Code Chapter 57, Subchapter G, :
for Approval of the Siting and Construction of the : Docket No. A-2026-3062686
230 kV Transmission Line known as Project 9A :
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Application of Transource Pennsylvania, LLC for :
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Facilities for Project 9A West; and for any Other :
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Petition of Transource Pennsylvania, LLC for :
Confirmation of an Exemption from Local Zoning : Docket No. P- 2026-3062687
Regulation and for the Construction of Buildings in :
Connection with the Construction of a Proposed :
Electric Substation in Greene Township, Franklin :
County, Pennsylvania :

**MOTION IN LIMINE OF TRANSOURCE PENNSYLVANIA, LLC
REQUESTING CONFIRMATION THAT CERTAIN ISSUES ARE NOT RELEVANT IN
THESE PROCEEDINGS**

TO ADMINISTRATIVE LAW JUDGES EMILY A. FARREN AND STEVEN K. HAAS:

Transource Pennsylvania, LLC (“Transource PA” or the “Company”), by and through its attorneys, hereby files this Motion in Limine (“Motion”), pursuant to Section 331(d)(3) and (4) of the Public Utility Code (“Code”), 66 Pa.C.S. § 331(d)(3) and (4), and the regulations of the

Pennsylvania Public Utility Commission (“Commission” or “PaPUC”) at 52 Pa. Code §§ 5.103, 5.403,¹ and 5.483 and, in connection therewith, represents as follows:

I. INTRODUCTION

1. Through this Motion, Transource PA is requesting that the presiding Administrative Law Judges (“ALJs”) confirm at the outset of these proceedings that certain issues are not relevant and may not be litigated. Such a ruling will greatly facilitate the conduct of these proceedings, avoid subsequent discovery and evidentiary disputes, and will result in a significantly more efficient litigation process for all parties.² In addition, such a ruling would facilitate and be fully consistent with the consolidation of all three of these proceedings as requested by Transource PA in the pending Consolidation Motion (defined below).

2. As described further below, this Motion is predicated upon three underlying principles. First, Pennsylvania case law recognizes that the legal standards applicable to certificates of public convenience (“CPC”) are specifically tailored to the nature of the CPC being sought, such as CPCs for mergers and acquisitions, internal utility reorganizations, commencement

¹ See *PA. P.U.C. v. Penn Estates Utilities, Inc.*, Docket. No. R-00005031 et al., Opinion and Order (Order entered Feb. 9, 2001) (“This authority includes disposition of the admissibility of evidence as well as imposition of limitations on the scope of evidence to be presented on issues raised in a proceeding. As factfinder, the ALJ determines the direction and focus of a proceeding, consistent with due process”).

² See *PA. P.U.C. v. Penn Estates Utilities, Inc.*, Docket. No. R-00005031 et al., Opinion and Order (Order entered Feb. 9, 2001) (“This authority includes disposition of the admissibility of evidence as well as imposition of limitations on the scope of evidence to be presented on issues raised in a proceeding. As factfinder, the ALJ determines the direction and focus of a proceeding, consistent with due process”). ALJs have utilized the authority granted by Section 5.403 to exclude evidence or testimony that is inadmissible, improper, or outside the scope of the issues in the proceeding. See, e.g., *Pa. PUC v. PPL Electric Utilities Corporation*, Docket. Nos. R-2015-2469275, et al. (ALJ Colwell Sixth Prehearing Order issued July 14, 2015) (granting a motion in limine to exclude testimony on issues that were not properly within the scope of the proceedings); *Pa. P.U.C. v. Phila. Gas Works*, Docket. No. M-00021612, 2002 WL 32063825 (Opinion an Order Dec. 19, 2002) (affirming ALJ’s grant of motion in limine to strike witness statement and certain exhibits in entirety); *Re Structural Separation of Bell Atlantic-Pennsylvania, Inc. Retail and Wholesale Operations*, Docket. No. M-00001353, 2000 Pa. PUC LEXIS 59 at *7-9 (Final Order entered September 28, 2000) (affirming the decision of the Administrative Law Judge in that case to exclude certain evidence as “beyond the scope of the proceeding”).

of service, acquisition or sale of utility assets, etc. Therefore, the legal standards applicable to Transource PA's CPC Application (defined below) seeking to initiate transmission-only public utility service are distinct from what would be applied to other forms of CPCs.

3. Second, in connection with the Siting Application (defined below), federal law clearly prohibits the Commission from addressing the "need" for the proposed transmission line to be sited. Any issues that run afoul of these two principles should not be litigated or considered.

4. Third, the 9A West Project (defined further below), is an *interstate* transmission line project that has been directed by PJM Interconnection LLC³ ("PJM") to be constructed and in operation by January 19, 2029, and the Maryland portion of which has been approved since June 30, 2020 by the State of Maryland.⁴ The commencement of construction of the Maryland portion of the 9A West Project continues to await completion of Pennsylvania regulatory proceedings on relevant issues and pursuant to lawful legal standards. Failing to timely and efficiently litigate all three of the inter-related proceedings pending before the PaPUC regarding the 9A West Project will delay the substantial benefits the project has been found by PJM to provide to the region. All of these existing circumstances require a litigation schedule that (i) reflects the need for efficient and timely litigation and (ii) avoids irrelevant and non-PaPUC jurisdictional issues in the litigation process. Such guideposts protect *all parties'* procedural due process rights.

³ PJM is a regional transmission organization that coordinates the movement of wholesale electricity in all or parts of 13 states and the District of Columbia. <https://www.pjm.com/about-pjm>

⁴ In Order No. 89571 issued June 30, 2020 (and approved for extension several times), the Public Service Commission of Maryland in Case No. 9471 granted Transource Maryland, LLC (i.e., Transource PA's affiliate) a Certificate of Public Convenience and Necessity and related Waivers in connection with the Maryland portion of the 9A West Project. *In the Matter of the Application of Transource Maryland LLC for a Certificate of Public Convenience and Necessity to Construct Two New 230 kV transmission line Associated with the Independence Energy Connection Project in portions of Harford and Washington Counties, Maryland.* Case No. 9471 (June 30, 2020).

II. BACKGROUND

5. On May 21, 2026, Transource PA filed, pursuant to the Pennsylvania Public Utility Code (“Code”), at 66 Pa.C.S. § 1101 *et seq.*, an application requesting all necessary authority, approvals, and CPCs from the Commission necessary to authorize Transource PA to begin to furnish and supply electric transmission service as a Pennsylvania public utility within portions of Franklin County, Pennsylvania (“CPC Application”).

6. The CPC Application was filed in connection with the 9A West Project, which involves the siting and construction of the new Rice-Ringgold 230 kV Transmission Line that will extend approximately 28.8 miles to connect the existing Ringgold Substation located near Smithsburg, Washington County, Maryland and the new Rice Substation to be located in Franklin County, Pennsylvania. Approximately 24.4 miles of the 9A West Project will be located in Pennsylvania and approximately 4.4 miles will be located in Maryland.

7. The 9A West Project was borne out of the PJM regional planning process known as the Regional Transmission Expansion Plan and Market Efficiency Analysis, which previously selected and identified the original transmission project known as “Project 9A.”

8. On July 30, 2025, the PJM Board of Managers found that the 9A West Project is still needed to establish market efficiency and reduce regional congestion costs and supports the prompt construction of needed infrastructure in the region.

9. Contemporaneously with the CPC Application, Transource PA filed, in accordance with 52 Pa. Code § 57.72, an application requesting Commission approval of the siting and construction of a proposed new electric substation and double-circuit Rice-Ringgold 230 kilovolt (“kV”) electric transmission line and related facilities in a portion of Franklin County,

Pennsylvania which, as noted above is referred to as the 9A West Project (the “Siting Application”).

10. As noted above and in the Siting Application, the 9A West Project is needed to, among other things, enhance market efficiency and relieve regional congestion and related costs within the PJM area.

11. Contemporaneously with the CPC Application and the Siting Application, Transource PA filed, in accordance with 52 Pa. Code § Section 5.41 and Article VI of the Pennsylvania Municipalities Planning Code (as reenacted and amended December 21, 1988, P.L. 1329, 53 P.S. §§ 10601-10619.1) (“MPC”), a Petition for Confirmation of an Exemption from Local Zoning Regulation and for the Construction of Buildings in connection with the construction of a proposed electric substation in Greene Township, Franklin County, Pennsylvania (“Zoning Petition”).

12. And contemporaneously with the CPC Application, Siting Application and Zoning Petition, Transource PA filed with the PUC a Motion to Consolidate Proceedings and For Timely Disposition (“Consolidation Motion”).

13. The PUC issued a Telephonic Prehearing Conference Notice on June 3, 2026 that advised that a Telephonic Prehearing Conference would be held on Wednesday, August 19, 2026 at 10:00 AM in connection with the CPC Application, Siting Application and the Zoning Petition.

14. Notice of the CPC Application, Siting Application and the Zoning Petition proceeding was published in the June 13, 2026 issue of the *Pennsylvania Bulletin*. That Notice also indicated that a Telephonic Prehearing Conference would be held on Wednesday, August 19,

2026 at 10:00 AM and that formal protests and petitions to intervene in accordance with 52 Pa. Code (relating to public utilities) must be filed on or before August 12, 2026.

15. On June 25, 2026, Office of Consumer Advocate (“OCA”) filed (i) an Answer Opposing the Consolidation Motion, (ii) a Protest to the CPC Application, (iii) a Protest to the Siting Application, and (iv) an Answer to the Zoning Exemption Petition.

16. On June 26, 2026, the OCA filed an Amended Protest to the CPC Application and a letter requesting that the OCA’s original Protest be removed from the on-line PUC docket.

17. On June 29, 2026, a Notice of Appearance on behalf of the Coalition to Protect Franklin County was filed in the CPC Application docket by Benjamin C. Dunlap, Jr., Esquire at Cohen Seglias Pallas Greenhall & Furman PC.

18. On July 2, 2026, Transource PA filed a letter in the CPC Application docket and a letter in the Siting Application docket indicating that while it was not filing an Answer to the OCA’s Protest in each docket, such failure to file an Answer should not be construed as concurrence in the grounds alleged in the OCA Protests.

19. On July 2, 2026, Transource PA also filed a letter with the PUC in connection with the CPC Application, Siting Application and Zoning Petition Dockets indicating its intention to file and serve a timely Reply to the OCA’s Answer to the Consolidation Motion. That letter also requested that the PUC publish notice of the Consolidation Motion in newspapers of general circulation.

20. On July 2, 2026, Transource PA filed a letter with the PUC enclosing Affidavits of Publication of the Notice required by the PUC to be published in general circulation newspapers.

21. On August 3, 2026, the ALJs issued an Interim Order #1 in connection with each of the CPC Application and Siting Application which, among other things, (i) directed Transource PA to republish notification of the filing of the CPC Application and the Siting Application and the newly established Prehearing Conference of October 29, 2026; (ii) extended the deadline for filing Protests and Petitions to intervene in this proceeding to October 15, 2026; (iii) directed Transource PA to update its service list for the proceeding; (iv) struck from the record the letter filed by Transource PA on July 2, 2026 in the proceedings for the CPC Application, Siting Application and Zoning Petition; (v) struck from the record Transource PA's Reply to the New Matter of the Office of Consumer Advocate filed on July 15, 2026 in proceedings for the CPC Application, Siting Application and Zoning Petition; and (vi) noted that the Motion for Consolidation will be ruled upon by separate order following the October 29, 2026 Prehearing Conference.

22. Attachment 1 contains the protests and petitions to intervene that have been filed to date in these proceedings.

III. LEGAL STANDARDS

23. The Commission's Rules of Administrative Practice and Procedure permit parties to file preliminary motions. 52 Pa. Code §§ 5.101-103.

24. Motion practice before the Commission is governed by Section 103 of its regulations, 52 Pa. Code §§ 5.103:

§ 5.103. Motions.

(a) *Scope and content.* A request may be made by motion for relief desired, except as may be otherwise expressly provided in this chapter and Chapters 1 and 3 (relating to rules of administrative practice and procedure; and special provisions). A motion must set

forth the ruling or relief sought, and state the grounds therefore and the statutory or other authority upon which it relies.

(b) *Presentation of motions.* A motion may be made in writing at any time, and a motion made during a hearing may be stated orally upon the record, or the presiding officer may require that an oral motion be reduced to writing and filed separately. Written motions must contain a notice which states that a responsive pleading shall be filed within 20 days of the date of service of the motion.

(c) *Response to motions.* A party has 20 days from the date of service within which to answer or object to a motion, unless the period of time is otherwise fixed by the Commission or the presiding officer.

(d) *Rulings on motions.*

(1) The presiding officer is authorized to rule and will rule upon motions:

(i) Not formerly acted upon by the Commission prior to the commencement of the hearing where an immediate ruling is essential in order to proceed with the hearing.

(ii) Filed or made after the commencement of the hearing and prior to the submission of a decision in the proceeding.

(2) A motion made during the course of hearing, which if granted would otherwise dispose of parties' rights, should be acted upon by the presiding officer prior to taking further testimony if, in the opinion of the presiding officer, the action is warranted.

(3) If a motion involves a question of jurisdiction, the establishment of a prima facie case or standing, the presiding officer may render a final determination with regard to a motion prior to the termination of hearings by issuing an initial or recommended decision.

(e) *Supersession.* Subsection (a) is identical to 1 Pa. Code § 35.177 (relating to scope and contents of motions). Subsection (b) is identical to 1 Pa. Code § 35.178 (relating to presentation of motions). Subsection (c) supersedes 1 Pa. Code § 35.179 (relating to objections to motions). Subsection (d) supersedes 1 Pa. Code § 35.180 (relating to action on motions).

25. Under 52 Pa. Code §§ 5.103, motions (including motions in limine), among other things, (i) can be made at any time, (ii) may be offered in written form or orally, and (iii) must set forth the ruling or relief sought and state the grounds therefore and the statutory or other authority upon which it relies. The Commonwealth Court has recognized that a motion in limine is a procedure for obtaining a ruling on the admissibility of evidence, prior to or during trial, but before the evidence has been offered.⁵ The PaPUC has upheld the granting of Motions in Limine, limiting the scope of issues in a proceeding, including proceedings where individuals unrepresented by counsel were participating as intervenors.⁶ This Motion fully complies with these standards, requirements and circumstances.

IV. ARGUMENT

A. There is An Immediate Need to Confirm That Certain Issues in this Proceeding Are Not Relevant and the ALJs have the Authority to Do So.

26. The timely conduct and administration of all litigation before the Commission in connection with the CPC Application, Siting Application and the Zoning Petition are critical to all parties and stakeholders involved in these proceedings.

27. Indeed, Transource PA filed the Consolidation Motion with the Commission and the ALJs specifically to place before the ALJs the need to establish a litigation schedule and protocol that recognizes the interrelationship among the CPC Application, Siting Application and

⁵ *Sheils as Trustee for Smith & Morris Holdings, LLC v. Bartles*, 295 A. 3d 302, 308 (Pa. Cmwlth. 2023).

⁶ *Petition of UGI Penn Natural Gas Inc. for a Finding that Structures to Shelter Pipeline Facilities in the Borough of West Wyoming, Luzerne County, To the Extent Considered To be Buildings under Local Zoning Rules, Are Reasonably Necessary for The Convenience or Welfare of the Public*, Docket No. P-2013-2347105, 2013 WL 6835113 (2013).

the Zoning Petition, while balancing the due process rights of all parties, including Transource PA, which is contractually obligated to complete the 9A West Project in early 2029.

28. It is clear that there is a need to clarify at the outset of these proceedings those issues that can and should be properly litigated associated with the CPC Application, Siting Application and Zoning Petition, and those issues that may be raised but are neither relevant to these pleadings nor within the Commission's lawful authority and jurisdiction to address.

29. Disputes about the scope of the relevant issues have already arisen and will certainly continue to do so. For example, a number of the filed form Protests have repeatedly raised similar issues, not all of which are relevant to these proceedings, including overall project costs, cost allocation, and regional planning, among others.

30. If the scope of the relevant issues is not limited early in these proceedings, irrelevant and inappropriate issues will be raised and repeated in any further protests and petitions to intervene, throughout discovery, in the submission of multiple rounds of testimony and ultimately at hearings.

31. If not addressed and resolved now at the outset of these proceedings – and regardless of whether the Consolidation Motion is granted⁷ – the ALJs and all parties will be forced to address the scope of relevant issues in a piecemeal fashion through the consideration of many preliminary objections and other objections to discovery, testimony and pleadings.

⁷ However, as noted further below, limiting the relevant issues in all three inter-related proceedings will allow for their consolidation and permit litigation in a timely and efficient manner that is fully consistent with all parties' procedural due process rights.

32. Limiting the issues to those which are relevant in these proceedings as soon as possible is fully consistent with the Commission’s requirement that “[t]he taking of evidence and subsequent proceedings shall proceed with reasonable diligence and with the least practicable delay.” 52 Pa. Code § 5.243(a).

33. The Commission’s regulations not only afford the ALJs wide latitude in the conduct of proceedings before them, but also encourage efforts to expedite proceedings:

- “Where there are two or more intervenors having substantially like interests and positions, the Commission or presiding officer may, *in order to expedite the hearing*, arrange appropriate limitations on the number of attorneys who will be permitted to cross-examine and make and argue motions and objections on behalf of the intervenors. 52 Pa. Code § 5.76(a). (emphasis added).
- “The Commission or presiding officer, with or without motion, may order proceedings involving a common question of law or fact to be consolidated. The Commission or presiding officer may make orders concerning the conduct of the proceeding *as may avoid unnecessary costs or delay*.” 52 Pa. Code § 5.81(a). (emphasis added).
- “The presiding officer will have the authority specified in the act, subject to this title. *This authority includes, but is not limited to, the power to exclude irrelevant, immaterial or unduly repetitive evidence, to prevent excessive examination of witnesses, to schedule and impose reasonable limitations on discovery and to otherwise regulate the course of the proceeding*. 52 Pa. Code § 5.483(a). (emphasis).

34. This Motion is necessary now in the early stage of these proceedings to avoid later legal challenges to the issues that are not properly within the Commission’s jurisdiction, like project need.⁸ A correct resolution of the scope and relevance of issues in this proceeding now will

⁸ The U.S. Third Circuit Court of Appeals has held that, “when an RTO has selected [a multi-state transmission line project] for inclusion in a regional transmission plan as part of its federal mandate, a state regulator cannot, consistent with the Supremacy Clause, reject the project based on a lack of ‘need’.” *Transource Pa., LLC v. DeFrank*, 156 F. 4th 351, 379 (3rd Cir. 2025), *affirming Transource Pa., LLC v. DeFrank*, 705 F. Supp. 3d 266 (M.D. Pa. 2023).

avoid wasted resources, allow for consolidation of these interrelated proceedings and focus the parties' efforts on issues within the Commission's jurisdiction.

35. There is little doubt that the ALJs have the authority to grant the relief requested in this Motion.

B. Legal Standards Applicable to the CPC Application

1. Legal Standards Applicable to CPC Applications Have Been Tailored to the Type of CPC Involved.

36. Code Section 1103 contains a single requirement applicable to an entity seeking a CPC in Pennsylvania. That standard requires such CPC applicant to establish "that the proposed service is '*necessary or proper* for the service, accommodation, convenience or safety of the public'"⁹ (emphasis added). However, the Code requires obtaining a CPC from the PaPUC for a variety of proposed actions, requiring a determination of the precise standards necessary to satisfy this legal requirement in each type of proceeding where a CPC is required.

37. For example, CPCs are required for such different things as:

- The commencement of new utility service in the Commonwealth (Code Section 1101);
- The offering of public utility service in a new territory or of a different nature than which is specified in an existing CPC (Code Section 1102(a)(1));
- For an existing certificated utility to abandon service (Code Section 1102(a)(2));
- For an existing public utility to sell stock, merge or sell various types of property over a certain value (Code Section 1102(a)(3));
- For an existing public utility to acquire 5% or more of the voting capital of any corporation (Code Section 1102(a)(4)); and

⁹*Chester Water Authority v. Pa. PUC*, 581 Pa. 640, 868 A.2d 384 (2005) ("*Chester Water*"); 66 Pa.C. S. §1103(a).

- For any municipal corporation to acquire, construct, or begin to operate, any plant, equipment, or other facilities for the rendering or furnishing to the public of any public utility service beyond its corporate limits. (Code Section 1102(a)(5)).

38. The “necessary or proper” phrase also appears in Code Section 1501, which generally addresses the character of services and facilities a public utility must provide:

§ 1501. Character of service and facilities.

Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities *as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public.* (emphasis added)

66 Pa. C.S. §1501.

39. It is not surprising given the different types of CPCs and the breadth of the basic “necessary or proper” requirement in Code Sections 1103 and 1501, that Pennsylvania courts have noted that in enacting Code Section 1103(a), the Pennsylvania General Assembly “provided no definition of specifically what the criteria were to be in determining the propriety of granting a [CPC].”¹⁰ Consistent with this view, the Commonwealth Court has held that the “substantial” and affirmative benefit public benefit test developed in *City of York v. Pennsylvania Public Utility Commission*, 295 A.2d 825 (Pa. 1972) and *Popowsky v. Pennsylvania Public Utility Commission*, 937 A.2d 1040 (Pa. 2007), while applicable for a merger or acquisition involving two separate public utilities proposing to combine, was *not applicable* to a CPC needed for an internal utility reorganization:

This analysis, however, is ill suited and unworkable for internal reorganizations such as the one in this case, where a parent creates subsidiaries that are set up as holding companies and only one public utility is moved downward in the parental vertical chain. In this

¹⁰ *Elite Industries, Inc. v. Pennsylvania Public Utility Commission*, 832 A.2d 428, 432 (Pa. 2003) (“*Elite Industries*”).

situation, a less demanding evidentiary burden is warranted—one that does not mandate an appraisal of the effects on competition in the marketplace, yet is consistent with the plain language of the statute, and pays due consideration to the public. Therefore, the Court concludes that, contrary to the Commission’s understanding, the Commission was not bound to apply the test enunciated in *City of York* and *Popowsky*, ...¹¹

40. In *PPL Electric*, the Commonwealth Court concluded that “[q]uite simply, this mode of analysis [substantial affirmative benefit test] does not fit the facts of this case and has no place in the calculus for determining whether Utility has met the statutory requirements for a CPC.”¹² This Commonwealth Court holding is fully consistent with the Pennsylvania Supreme Court’s cautioning that its decisions must be read against their specific facts because “decisional law generally develops incrementally, within the confines of the circumstances of cases as they come before the Court.”¹³

41. There are further examples in which the Pennsylvania courts have adjusted the standards applicable to a CPC. In *Elite Industries*, the Pennsylvania Supreme Court reviewed Code Section 1103(a) and concluded that the Commonwealth Court erred in determining that an applicant for a CPC to operate a limousine service had to prove “public necessity” or “public need.”¹⁴ The Supreme Court found that the Commonwealth Court erroneously “focused only on the word ‘necessary’ rather than on the phrase ‘necessary or proper.’”¹⁵ The Supreme Court

¹¹ *PPL Electric Utilities Corporation v. Public Utility Commission*, 241 A.3d 121 (Pa. Cmwlth. 2020) (opinion not reported) (“*PPL Electric*”).

¹² *Id.*

¹³ *Scampone v. Highland Park Care Center, LLC*, 57 A.3d 582 ,604 (2012).

¹⁴ *Elite Industries*, 832 A.2d at 430-31.

¹⁵ *Id.* at 431.

directed that “the conjunction ‘or’ must be given its ordinarily disjunctive meaning unless such a construction would lead to an absurd result.”¹⁶

42. And, in *PPL Electric*, regarding an internal public utility reorganization, the Commonwealth Court held that all the utility needed to establish and the PUC needed to find was that the granting of the CPC would be “proper for the service . . . of the public.”¹⁷

43. The Commonwealth Court has also held that application of the “proper” standard “is dependent on the circumstances of each case.”¹⁸ It is clear that depending on the circumstances and facts, the standards for granting a CPC must be modified. In *Elite Industries*, the Pennsylvania Supreme Court held that the “necessary or proper” language must be given its disjunctive meaning and that using a less stringent CPC standard was appropriate in part because, among other things, the applicant “would be hard pressed to show a public need for convenience.”¹⁹ In *PPL Electric*, the Commonwealth Court reached a similar conclusion on a different set of facts and based on its view that the utility would find it very difficult, if not impossible, to establish an affirmative and substantial benefit to the public.

¹⁶ *Id.*

¹⁷ *PPL Electric* at 9. Pennsylvania law has long recognized that the “public” for CPC application purposes is quite broad: “Further, when the “public interest” is considered, it is contemplated that the benefits and detriments of the acquisition be measured as they impact on *all affected parties*, and not merely on one particular group or geographic subdivision as might have occurred in this case.” (emphasis added) *Popowsky v. Pa. Pub. Util. Com’n*, 917 A.2d 380 (Pa. Cmwlth. 2007).

¹⁸ *Transource Pennsylvania, LLC and PPL Electric Utilities Corporation v. Pennsylvania Public Utility Corporation*, 280 A.3d 339 (May 5, 2022) (Publication Ordered July 1, 2022) (“*Transource & PPL*”).

¹⁹ *Elite Industries*, 832 A.2d at 432.

44. These cases demonstrate that the PaPUC has the legal ability to tailor its CPC standards and analysis to fit the facts and circumstances before it:

From these cases, we discern that while the Commission is to determine whether a service or facility is ‘necessary **or** proper,’ 66 Pa. C.S. § 1501(emphasis added), that determination should consider the circumstances, such as the type of service or action being proposed, and this determination falls within the Commission’s sound discretion.²⁰

C. CPC Legal Standards Applicable to Transmission-Only Public Utilities.

45. Transmission-only utilities, like Transource PA, present a unique set of challenges and facts similar to *Elite Industries* and *PPL Electric* that have prompted the Pennsylvania courts to require the PaPUC to adjust the necessary findings in support of a CPC. While Transource PA has previously demonstrated (and the PaPUC has found) that it is legal, financially and technically fit to be a public utility (in connection with its Bramah Substation Project in Peach Bottom Township, York County and in connection with the Commission’s 2018 grant to Transource PA of a provisional CPC for Project 9A) and expects to do so again in this CPC Application proceeding, the very nature of the 9A West Project and PJM’s direction to Transource to construct the project to address regional market efficiency and relieve documented congestion, casts the “necessary”/“need” requirement of Code Section 1103 in a different light.

46. As a result of the Third Circuit’s decision in *Transource Pennsylvania, LLC v. DeFrank*, 156 F.4th 351 (3rd Cir. 2025) (“*Transource*”), which held that the PaPUC’s action disregarding PJM findings with respect to the need for the former Independence Energy Connection Project violated the Supremacy Clause of the U.S. Constitution, the PaPUC has no

²⁰ *Transource & PPL*.

authority in the CPC Application to address the “need” or “necessity” for the transmission services Transource PA will provide via the 9A West Project. This is because PJM’s finding that the 9A West Project is needed to support regional market efficiency and reduce congestion preempts any other finding that the PaPUC can make under either its transmission line siting regulations or under Code Chapter 11. Further, Transource PA is under a legal obligation under the executed Designated Entity Agreement with PJM to construct the 9A West Project by January 19, 2029.

47. Transource PA fully understands that *Transource* arose in the context of determining need under the PaPUC’s transmission line siting regulations and not Code Section 1103. However, the Pennsylvania Supreme Court has characterized the Code Section 1103 standard that the proposed service be “necessary or proper for the service, accommodation, convenience or safety of the public. ...” as requiring, among other things a “public need or demand for the proposed service.”²¹ It is clear that such public need for the 9A West Project has already been determined by PJM as part of its Regional Transmission Expansion Plan (“RTEP”) process. And public need is at the heart of both Code Section 1103 and the PaPUC’s transmission line siting regulations. The slight difference in wording is a distinction without a difference.²² Stated

²¹ *Chester Water Authority v. Pa.P.U.C.*, 581 Pa. 640, 643 (2005) (“*Chester Water*”).

²² See, for example, 52 Pa. Code § 57.75(e), which in part states: “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.”

(emphasis added). See also, 52 Pa. Code § 57.76(a)(1), which states: “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*.” (emphasis added).

differently, the PaPUC cannot find that a *service* is not “necessary or proper” or not “needed” when the need for the transmission project providing such service has already been determined.

48. The PaPUC attempted to create a distinction where none exists in its recent order in *Application of NextEra Energy Transmission MidAtlantic, Inc., filed pursuant to 52 Pa. Code Chapter 57 Subchapter G, for approval to site and construct a 500 kV transmission line associated with the MidAtlantic Resiliency Link Project located in portions of Greene County and Fayette County, Pennsylvania*, Docket No. A-2026-3060856, June 1, 2026 (“MARL”), in which it noted that:

‘[N]ecessary or proper’ or ‘need test’ under Section 1103 is not the same as the ‘present and future necessity of the proposed HV line in furnishing service to the public’ or ‘need test’ under 52 Pa. Code § 57.75(e)(1). The former determines need for additional transmission service within the proposed service territory of Greene and Fayette Counties, and the latter is the first factor to be considered in the permitting and siting of the construction of a specific high-voltage transmission line project within the certificated service of the utility with the borders of the Commonwealth.²³

49. Respectfully, the PaPUC’s analysis in *MARL* is in error and is not controlling in this proceeding involving Transource PA. Most fundamentally, the PaPUC either failed to acknowledge or misunderstood the nature of an interstate transmission line project. These projects, like Project 9A West here, are borne out of a *regional* transmission planning process – approved by the Federal Energy Regulatory Commission – that by definition looks at *regional* costs, benefits and impacts to the *regional* electric system, and not local impacts or needs. To suggest, for either CPC or siting application purposes, that the focus is on a particular county or township or even the entire Commonwealth misconstrues the fundamental nature of the project and unlawfully imposes

²³ *MARL* at 12-13.

a need requirement that is misaligned with the origin and history of an RTEP project. In this sense, and aside from the preemptive effect of a PJM decision directing the construction of an interstate transmission line per *Transource*, requiring a transmission-only utility like Transource PA to meet a CPC local benefit standard is similar to what the courts have found to be unlawful and unacceptable in *Elite Industries* and *PPL Electric*. The unique and specific circumstances surrounding Transource PA and the 9A West Project compel the use of a different CPC standard under Code Section 1103 than the weighing of costs, benefits and rate impacts that would be pertinent to a merger/acquisition type CPC proceeding.

50. Just as the Pennsylvania courts have directed the PaPUC to do in *Elite Industries* and *PPL Electric*, the ALJs here must find that the Code Section 1103 standard for granting a CPC to a transmission-only utility that has received PJM direction to construct a project under the federally established RTEP process does not require a new or further showing of (i) any public need or necessity for the 9A West Project or the transmission services Transource PA will provide, since that determination as already been made by PJM or (ii) any regional planning issues, local benefits of the interstate transmission project, or state retail rate impacts. Further, as noted above, the ALJs should clarify that the “need” for the 9A West Project is the same under Code Section 1103 for purposes of the CPC Application and the Commission’s transmission line siting regulations for purposes of the Siting Application

51. Confirming that certain issues cannot be addressed in the CPC proceeding does not strip the PaPUC of its authority to assess compliance with Code Section 1103 before issuing a CPC.

52. The Pennsylvania Supreme Court has stated and acknowledged the relevant standard governing a CPC for a new proposed service:

The application thus facially tracked Section 1103 of the Public Utility Code, which requires an applicant for a certificate of public convenience to establish that the proposed service is ‘necessary or proper for the service, accommodation, convenience or safety of the public.’ 66 Pa.C.S. § 1103, and the PUC’s interpretation of this statute, which, as a general rule, has required that an applicant demonstrate a public need or demand for the proposed service, the inadequacy of existing service or facilities in the proposed territory, and the applicant’s fitness to render such service, along with technical, financial and legal lines. [internal citations omitted].²⁴

53. While the “need” component of Code Section 1103 is not within the scope of Commission’s jurisdiction in connection the CPC Application, Transource PA must still demonstrate that it is *fit* to provide transmission service. Demonstrating the applicant’s “fitness” involves three factors: (i) the technical capacity to meet the need in a satisfactory fashion; (ii) the financial ability to provide reliable and responsible service to the public; and (iii) legal fitness -- the ability to operate safely and legally.²⁵

D. Irrelevant Issues in These Proceedings

54. As discussed above, “need” including whether Transource PA’s transmission service is “necessary,” already has been determined by PJM. Additionally, because Transource PA will be compensated for owning and operating the 9A West Project through FERC-regulated interstate rates for the electric transmission services it will provide,²⁶ the reasonableness of the

²⁴ *Chester Water* at 643.

²⁵ See *Warminster Twp. Mun. Auth. v. Pa. P.U.C.*, 138 A.2d 240 (Pa. Super. 1958).

²⁶FERC Orders No. 888 and 889 require all public utilities owning and/or controlling transmission facilities to offer non-discriminatory open access transmission service. See *Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs. P 31,036, 61 Fed. Reg. 21,540 (1996), clarified, 76 F.E.R.C. 61,009 and 76 F.E.R.C. 61,347 (1996), on reh’g, Order No. 888-A, FERC Stats. and Regs. P 31,048, 62 Fed.

level of Project 9A West costs and the impact of Project 9A West on retail rates subject to the jurisdiction of the PaPUC are not relevant issues to the granting of a CPC. Nor would a weighing of Project 9A West alleged harms and benefits be relevant to a CPC review where it has already been determined that the underlying project is needed or where the CPC is for the commencement of utility service (in contrast to a CPC addressing a utility merger or acquisition).

55. Additional issues that are not relevant in either the CPC proceeding or the Siting Application, and should be so found, include (i) whether the benefits of the 9A West Project are inside Pennsylvania or outside Pennsylvania, (ii) whether the costs of the 9A West Project are reasonable, (iii) retail costs and retail rate impacts; (iv) federally-regulated transmission costs and wholesale rate impacts (v) challenges to PJM's planning and decision-making process associated with the 9A West Project; and (vi) the weighing of alleged costs and benefits of the 9A West Project.

56. Of course, numerous issues remain within the PaPUC's jurisdiction and are relevant to these cases. With respect to the CPC application, the PaPUC must determine whether Transource PA is legally, financially and technically fit to develop the project. And with respect to the Siting Application, relevant issues include the proposed transmission line route's safety, design, historical, cultural, environmental and agricultural impacts.

Reg. 12,274, clarified, 79 F.E.R.C. 61,182 (1997), on reh'g, Order No. 888-B, 81 F.E.R.C. 61,248, 62 Fed. Reg. 64,688 (1997), on reh'g, Order No. 888-C, 82 F.E.R.C. 61,046 (1998); Open Access Same-Time Information System and Standards of Conduct, Order No. 889, FERC Stats. & Regs. P 31,035, 61 Fed. Reg. 21,737 (1996), on reh'g, Order No. 889-A, FERC Stats. & Regs. P 31,049, 62 Fed. Reg. 12,484 (1997), on reh'g, Order No. 889-B, 81 F.E.R.C. 61,253 (1997).

WHEREFORE, Transource Pennsylvania, LLC respectfully requests that the Administrative Law Judges (i) grant the relief requested in this Motion in its entirety and find that the issues identified in Paragraphs 54 and 55 above may not be addressed in these proceedings and (ii) grant Transource Pennsylvania, LLC such other relief as may be just and reasonable under the circumstances.

Respectfully submitted,



Dated: September 18, 2026

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Dawn Noyes	Leslie Sease	Lemma & O'Connor Investors LLC
Contance Funk	Janice Schwanebeck	Brianne Grove
Detta Wolfe	Christine Elmer	Elizabeth & Joel Knepper
Debra Taylor	Teresa Anthony	Maryanne and Dale Bohn
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Julie Eckels	Nathan Graybill	
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	Cheryl Evans	

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Teresa Anthony
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Will Pananes
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Joel Mower
Linda Mower

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Transource Pennsylvania, LLC for :
All of the Necessary Authority, Approvals and :
Certificate of Public Convenience to Begin to Offer, : Docket No. A-2026-3062675
Render, Furnish and/or Supply Transmission :
Service in portions of Franklin County, :
Pennsylvania Necessary to Operate Transmission :
Facilities for Project 9A West; and for any Other :
Approvals Necessary :

CERTIFICATE OF SERVICE

I hereby certify and affirm that I have this day served a copy of the attached document on the following persons in the manner specified in accordance with the requirements of 52 Pa. Code §1.54:

Via Email Only:

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Transource Pennsylvania, LLC :
filed Pursuant to 52 Pa. Code Chapter 57, :
Subchapter G, for Approval of the Siting and : Docket No. A-2026-3062686
Construction of the 230 kV Transmission Line :
known as Project 9A West in a Portion of Franklin :
County, Pennsylvania

CERTIFICATE OF SERVICE

I hereby certify and affirm that I have this day served a copy of the attached document on the following persons in the manner specified in accordance with the requirements of 52 Pa. Code §1.54:

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Transource Pennsylvania, LLC for :
Confirmation of an Exemption from Local Zoning :
Regulation and for the Construction of Buildings in : Docket No. P-2026-3062687
connection with the Construction of a Proposed :
Electric Substation in Greene Township, Franklin :
County, Pennsylvania :

CERTIFICATE OF SERVICE

I hereby certify and affirm that I have this day served a copy of the attached document on the following persons in the manner specified in accordance with the requirements of 52 Pa. Code §1.54:

Via Email Only:

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