

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120**

Public Meeting held May 20, 2021

Commissioners Present:

Gladys Brown Dutrieuille, Chairman
David W. Sweet, Vice Chairman
John F. Coleman, Jr.
Ralph V. Yanora

Applications 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

Petitions of Transource Pennsylvania, LLC
for a finding that a building to shelter control
equipment at the Rice Substation in Franklin
County, Pennsylvania and the Furnace Run
Substation in York County, Pennsylvania are
reasonably necessary for the convenience or
welfare of the public

P-2018-3001878
P-2018-3001883

Application of Transource Pennsylvania,
LLC for approval to acquire a certain portion
of the lands of various landowners in York
and Franklin Counties, Pennsylvania for the
siting and construction of the 230 kV
Transmission 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

A-2018-3001881, *et al.*

OPINION AND ORDER

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BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is the Recommended Decision (R.D.) of Administrative Law Judge (ALJ) Elizabeth H. Barnes, issued on December 23, 2020, and the Exceptions and Reply Exceptions filed thereto, in the above-captioned proceeding.

Exceptions to the Recommended Decision were filed by Transource Pennsylvania LLC (Transource or the Company) on January 12, 2021.¹ Replies to the Exceptions were filed by the Office of Consumer Advocate (OCA) and the Commissioners of the County of Franklin (Franklin County) on January 22, 2021, and by Stop Transource Franklin County (STFC) on January 22, 2021.²

Specifically, before us are Transource's requests for approval for siting of the two proposed high-voltage (HV) transmission lines, *via* the Application, as amended, for construction in: (1) York County filed at Docket No. A-2017-2640195 (IEC East Project) and (2) Franklin County *via* Application filed at Docket No. A-2017-2640200 (IEC West Project). In addition, before us are Transource's requests for the related necessary findings: (1) that the Joint Petitions for Partial Settlement filed at this docket between: (a) Transource and the York County Planning Commission; (b) Transource and Citizens to Stop Transource York County, Maple Lawn Farms, Barron Shaw and Shaw Orchards, collectively "York County Citizens;" and (c) between Transource and PPL Electric be approved as reasonable and in the public interest;(2) that it is reasonably necessary for the convenience or welfare of the public to approve construction of

¹ In these consolidated proceedings Transource has filed all subject Applications and filings jointly with PPL Electric Utilities Corporation (PPL Electric), however, for ease of reference in this Opinion and Order we will refer to the Joint Parties as "Transource" or "Company" unless a specific reference to PPL Electric is indicated.

² We note that STFC's Reply Exceptions were labeled wrongly as "Reply Briefs" under "Type of Document" in the Commission's case management system.

buildings to shelter control equipment related to the proposed HV transmission lines at Docket Nos. P-2018-3001883 and P-2018-3001878, to be located in York County and Franklin County, respectively; (3) that if the service to be provided by Transource through the exercise of the power of eminent domain sought by Transource in York County and Franklin County at Docket Nos. A-2018-3001881, *et al.*, is necessary or proper; and (4) that Transource is entitled to retain an active Certificate of Public Convenience and Necessity (CPC), based on need, regardless of whether the Commission grants the siting approvals on which the CPC was provisionally granted.

For the reasons discussed, *infra*, we shall deny Transource’s siting Applications based upon our finding that the Company failed to establish, by a preponderance of evidence, the need for the proposed HV transmission lines. Consequently, we shall reject the accompanying Petitions for zoning exemptions and the Application for authorizations to exercise eminent domain; deny the Joint Petitions for Partial Settlement as neither reasonable or necessary nor in the public interest, and direct that Transource’s provisional CPC be rescinded. Additionally, we shall: (1) grant, in part, and deny, in part, the Exceptions of Transource and (2) adopt the ALJ’s Recommended Decision, as modified, consistent with this Opinion and Order.

I. Background

Transource is a public utility provisionally certificated by the Commission by Order entered January 23, 2018, at Docket Nos. A-2017-2587821 and G-2017-2587822, recognizing Transource as a “a new type of entity in this Commonwealth,” formed solely to carry out the Transource market efficiency project

known as “Project 9A.”³ Project 9A is a project approved by PJM Interconnection LLC (PJM) as a market efficiency project, designed as a proposed regional plan to alleviate congestion on the AP South Reactive Interface which is a set of four 500 kV transmission lines that originate in West Virginia and terminate in Maryland. The Pennsylvania portions of Project 9A are also known as the Independence Energy Connection (IEC) East Project and IEC West Project, collectively the IEC Project.

PJM is the Regional Transmission Organization (RTO) charged by the Federal Energy Regulatory Commission (FERC) under the Federal Power Act, 16 U.S.C. §§ 791a, *et seq.*, with maintaining the bulk electric transmission system in a 13-state region that includes most of Pennsylvania. Pursuant to its federal mandate, PJM prepares an annual Regional Transmission Expansion Plan (RTEP) detailing a series of analyses to ensure reliable flow of electricity to its customers. As part of its RTEP, PJM conducts a market efficiency analysis to find areas where congestion exists and seeks solutions to reduce congestion. R.D. at 13-15; IEC West Application, Att. 2 at 2-3.

Relevant to this proceeding, on October 30, 2014, PJM opened a long-term RTEP proposal window (2014/2015 Long-Term Window) to solicit market efficiency proposals in order to alleviate congestion on the AP South Reactive Interface. *Id.*; IEC West Application at ¶ 17. Congestion on the AP South Reactive Interface totaled approximately \$800 million from 2012 to 2016. Transource St. 3 at 25. Forty-one proposals were submitted as part of the 2014/2015 Long-Term Window to address congestion on the AP South Reactive Interface. Transource Energy, the parent of Transource, submitted Project 9A, specifically to resolve congestion on the AP South

³ Transource submitted Joint Petitions for Partial Settlement to amend the provision of Project 9A as they pertain to the proposed route through York County. For ease of reference, all references to Project 9A encompass both the original proposed plan, and the plan as proposed to be amended *via* settlement, referenced in the Parties’ filings and the ALJ’s Recommended Decision as “Settlement 9A.”

Reactive Interface. R.D. at 13-15: Transource St. 8-R, Exh. TH-5R at 2; Tr. 238788. The IEC Project East and West portions are a major component of Project 9A. R.D. at 3; IEC West Application at ¶ 17. After evaluation and review of the IEC Project, the PJM Board approved Project 9A on August 2, 2016, as Baseline Upgrade Numbers b2743 and b2752, which includes the IEC Project. R.D. at 3.

The Commission's provisional approval of Transource's CPC specifically references Project 9A as a proposed plan to resolve congestion on the AP South Reactive Interface, and as approved by PJM as Baseline Upgrade Numbers b2743 and b2752, which includes the IEC Project⁴. R.D. at 13-15. *See Application of Transource Pennsylvania, LLC* at Docket No. A-2017-2587821, Docket No. G-2587822 (Opinion and Order entered Jan. 23, 2018)

This Opinion and Order addresses those matters for which Transource is required to seek approval from this Commission for state-specific authority to proceed with the Pennsylvania portion of proposed Project 9A, which turn upon the Commission's determination whether, pursuant to the applicable provisions of the Pennsylvania Public Utility Code and Commission Regulations, Transource has established a need for the project by a preponderance of the evidence.

II. History of the Proceeding

On February 8, 2017, Transource filed an Application for All of the Necessary Authority, Approvals, and Certificates of Public Convenience: (1) to Begin to

⁴ The IEC Project was approved by the (PJM) Board in August 2016 following the Transmission Expansion Advisory Committee (TEAC) and stakeholder review of the project as a market efficiency project. Specifically, the IEC Project was approved by PJM to alleviate transmission congestion constraints in Pennsylvania, Maryland, West Virginia, and Virginia.

Furnish and Supply Electric Transmission Service in Franklin and York Counties, Pennsylvania; (2) for Certain Affiliated Interest Agreements; and (3) for any Other Approvals Necessary to Complete the Contemplated Transactions at Docket Nos. A-2017-2587821 and G-2017-2587822. After a Joint Petition for Full Settlement was filed in those cases, an Initial Decision was issued on September 14, 2017, granting Transource's Application and directing a certificate of public convenience be issued conferring upon its public utility status pursuant to the terms of the Joint Petition for Full Settlement. No exceptions were filed to the Initial Decision; however, on September 21, 2017, Transource and the OCA filed a letter clarifying that under the proposed Settlement, all parties reserved the right to challenge the need for the Independence Project when Transource files a siting application with the Commission or to challenge any other project proposed by Transource. On December 23, 2017, the Commission approved the proposed Settlement of Transource's Application for Certification under Docket Nos. A-2017-2587821 and G-2017-2587822, confirming that Transource was "a new type of entity in this Commonwealth" that was formed solely to carry out a particular market efficiency project.

At Public Meeting held on December 21, 2017, Commissioner David W. Sweet moved to grant Transource a certificate of public convenience, giving the Company the right to file a siting application. Thereafter, before an Order consistent with the passed Motion was entered, on December 27, 2017, Transource filed two Siting Applications. The first application sought authorization for the siting and construction of a new 230 kV transmission line in York County, Docket No. A-2017-2640195 (known as the East Project or East Portion), and the second application sought authorization for the siting and construction of a new 230 kV transmission line in Franklin County, PA at Docket No. A-2017-2640200 (known as the West Project or West Portion). These two segments were the Pennsylvania portions of new electric transmission lines related to a

project known as the IEC Project. The two Pennsylvania segments of the project are also referred to collectively as Project 9A.

A Notice of Prehearing Conference was issued on January 4, 2018, assigning as presiding officers to this proceeding ALJ Elizabeth Barnes and Andrew Calvelli.⁵ On January 8, 2018, a public input hearing was held in Southern York County regarding the proposed high voltage transmission line at Docket No. A-2017-2640195. On January 10, 2018, the OCA filed a Notice of Intervention and Public Statement. In accordance with Commission Regulations at 52 Pa. Code § 57.75(a), a Notice of Prehearing Conference scheduled for March 13, 2018, was published in the *Pennsylvania Bulletin* on January 20, 2018. 48 *Pa.B.* 585. Multiple protests were filed by interested persons and entities. The protest period ended February 20, 2018.

On January 23, 2018, the Commission issued an Opinion and Order at Docket Nos. A-2017-2587821 and G-2017-2587822 granting public utility status to Transource to: (1) begin to furnish and supply electric transmission service to or for the public within a transmission service area from the new Rice Substation in Franklin County, PA to the Pennsylvania/Maryland border for PJM Project 9A, baseline upgrade numbers b2743 and b2752 and (2) begin to furnish and supply electric transmission service to or for the public within a transmission service area from the new Furnace Run Substation in York County, PA to the Pennsylvania/Maryland border for PJM Project 9A, baseline upgrade numbers b2743 and b2752.⁶

⁵ As of March 1, 2020, ALJ Calvelli no longer presided in this matter.

⁶ *Application of Transource Pennsylvania, LLC for all of the Necessary Authority, Approvals, and Certificates of Public Convenience: (1) to Begin to Furnish and Supply Electric Transmission Service in Franklin and York Counties, Pennsylvania; (2) for Approval of Certain Affiliated Interest Agreements; and (3) for Any Other Approvals Necessary to Complete the Contemplated Transactions*, Docket No. A-2017-2587821, Docket No. G-2587822 (Opinion and Order entered Jan. 23, 2018).

On March 5, 2018, the Office of Small Business Advocate (OSBA) filed a Notice of Intervention and Public Statement. On the same date, Transource filed a Petition for a Protective Order. An Initial Prehearing Conference was held on March 13, 2018, at which time counsel for STOP Transource Franklin County (STFC) offered to provide declarations from members with respect to standing in support of its Petition to Intervene. On March 14, 2018, Transource's Petition for a Protective Order being unopposed, a Protective Order was issued. On March 20, 2018, STFC filed a Petition to add Appendix A, containing member standing affidavits to its February 20, 2018 Petition to Intervene and Protest.

On March 28, 2018, a Prehearing Order was issued consolidating Docket Nos. A-2017-2640195 and A-2017-2640200 for the purposes of discovery, litigation, and decision. The Prehearing Order adopted a litigation schedule, modified the discovery rules, and granted Intervenor status to the following: John and Louise Kennedy; Kira D. and J. Lamar Rohrer; Stephen Snell; Lynda Manning; Kay A. Baldwin; Carl Baldwin; Tim and John Krick; David Good; Addyson Creamers; Christine Crowe; Brian McCleary; Jordyn Creamers; Summer Ledford; Neil Autry; William Creamers; Katharine Creamers; Donald Culp; Kenny Grove; Cletus P. and Diane M. Gohn; Blaine Ham; Matt Moser; Virginia M. and Ginny Gible; Garland Sweitzer; Brandy Miller; Todd Dorn; William Grove; David Saxman; Tiffany Peiffer; Dale R. Saxman; Melvin Saylor; Zac Moser; Harry E. Peiffer Jr.; Jesse Thompson; Dan Moser; Jeremiah Good; Daniel E. Dickmyer; Kevin Elko; Jim Hershey; Steven Mink; Christine Rogers; Diane Keys; Jamie Diamond; Garry Keys; Joseph Clubb; Mandy Welch; Kimberly Slezak; Linda A. Dickinson; James Strack; Gary Mink; David Koons; David C. and Suzan E. Miller; Ann Lavin; Jennifer Clubb; Margaret Williams; Mac Moser; Bill Wilt; Dean Moser; Caroline Winkler; T.R. Corcoran; Richard Diamond; Valerie Dorn; Katherine Traynor; Madeline Traynor; Jon Smeltzer; Thomas Wheatley; Tony Ham; Scott Welch; Amber Geiger; Trevor Lewis; David Hawkins; Mike Martinez Jr.; Judith Hawkins; West Penn Power Company; PECO Energy Company; Mid-Atlantic Interstate Transmission LLC., (MAIT);

York County Planning Commission; STFC; Citizens to Stop Transource York County (Citizens); Maryland and Pennsylvania Railroad Preservation Society; and PPL Electric Utilities Corporation (PPL). The Prehearing Order also granted Intervenor status to the OCA and the OSBA as a matter of statutory right. On April 3, 2018, an Order amending the March 28, 2018 Prehearing Order was issued amending Ordering Paragraph No. 5 per a request from the OCA and Transource.

On April 27, 2018, certain landowners filed a Joint Petition for Interim Emergency Relief in the Nature of a Protective Order. On May 2, 2018, these landowners withdrew their Petition for Interim Emergency Relief without prejudice.

On May 15, 2018, at Docket No. P-2018-3001883, Transource filed a Petition 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. On the same day, Transource filed a similar petition at Docket No. P-2018-3001878 relating to the Rice Substation in Franklin County. On May 15, 2018, Transource also filed 40 eminent domain applications pertaining to lands in York County and 93 eminent domain applications pertaining to lands in Franklin County. Notice of the 133 eminent domain applications was published in the *Pennsylvania Bulletin* on June 16, 2018 at 48 *Pa.B.* 3679.

Two sets of Public Input Hearings on the respective Siting Applications were held in York and Franklin Counties on May 9 and 15, and May 22 and 23, 2018, respectively. Thereafter, on May 29 and 30, 2018, site visits were conducted in Franklin County on properties of all landowners requesting a site visit, and similarly, on June 1, 2018, site visits were conducted in York County on all properties of landowners requesting a site visit. These site visits provided an opportunity for the ALJs, parties' counsel, and all other interested parties to visit a specific location.

On June 1, 2018, the OCA filed a Notice of Intervention in the two petitions and a Motion to Amend the Procedural Schedule. On June 4, 2018, a Notice of a Further Prehearing Conference was issued scheduling a second prehearing conference for July 9, 2018. On June 5, 2018, a Second Prehearing Conference Order was issued. On June 6, 2018, Transource filed an Answer to the OCA's Motion to Amend the Procedural Schedule. The Second Prehearing Conference Order was published in the *Pennsylvania Bulletin* on June 16, 2018. 48 *Pa.B.* 3679. On June 26, 2018, a Third Prehearing Order was issued granting the OCA's Motion for an Extension of Time allowed for intervenor direct testimony from July 25 to September 25, 2018. Pursuant to 52 Pa. Code § 57.75, the Order consolidated the 133 eminent domain applications and zoning petitions with the applications at Docket No. A-2017-2640195. A Fourth Prehearing Order was issued on July 30, 2018, admitting photographs (marked as PUC exhibits) taken by Commission Staff at the Franklin and York County site visits in late May and June 1, 2018, respectively, into the record.

Because the 133 eminent domain applications were not filed with the initial Siting Applications, but rather after some public input hearings, in order to afford due process to those landowners that were the subject of the eminent domain applications, further public input hearings were held on September 18, 2018, in Chambersburg, Franklin County and on September 20, 2018, in Airville, York County.

On September 25, 2018, STFC requested an extension of time to submit intervenor testimonies and exhibits. On October 2, 2018, a Fifth Prehearing Order was issued extending the deadline for intervenor direct testimony from September 25, 2018, to October 11, 2018, and deeming the following eminent domain application dockets withdrawn:

A-2018-3002070	Laverne & Ellen Martin
A-2018-3002311	Gerald L. & Elaine Eberly
A-2018-3002019	Joseph N. Weagley

A-2018-3002348	Forrester Farms, II, Inc.
A-2018-3002030	Jason M. & Rosalie Hostetter
A-2018-3002120	Iven H. & Ruby E Benedict
A-2018-3002040	Harold H. Wenger Living Trust
A-2018-3002222	REK Properties LLC
A-2018-3002035	Salt Creek Partners LLC
A-2018-3002001	Jack E. & Emily L. Martin and Jason E. & Megan L. Martin
A-2018-3002141	David F. & Kimberly Jo Neibert
A-2018-3001887	Henry M. & Glenda J. Sommer
A-2018-3001914	Joseph L. & Barbara G. Lapp
A-2018-3002049	Kenneth M. & Marie A. Lehman
A-2018-3001969	Troy W. Kline
A-2018-3002240	J. Ray & Linda D. Geesaman
A-2018-3002170	John O. & Penny Lee Garber
A-2018-3002043	Justin & Sharla Dunlap
A-2018-3001988	Derek J. & Courtney Dettinger
A-2018-3002207	Michael D. Cordell
A-2018-3002173	Colt R. Martin & Kristyn Benedict
A-2018-3002124	Richard L. & Fern L. Peck
A-2018-3002068	Mahlon R. & Debra S. Eby
A-2018-3002255	Daniel W. & Clara Sue Benedict
A-2018-3002346	Mary I. & Paul J. Baker
A-2018-3002168	Daniel R. & Doreen F. Strite
A-2018-3002162	John V. & Eunice Rudolph
A-2018-3002119	Lamar D. & Esther M. Horst
A-2018-3002038	Charles W. Mellott
A-2018-3002064	Roy S. & Regina F. Martin
A-2018-3002013	Donald L. & Isabelle M. Hess
A-2018-3002167	Lamar V. & Edna F. Rudolph
A-2018-3002065	Charles, John & Margaret Diller and James & Mable Diller
A-2018-3002336	Roger L. & Joyce E. Diller, Trustees of the Diller Family Trust
A-2018-3002071	Samuel A. & Mandy L. Jones
A-2018-3002352	Marvin Charles & Lois Ellen Martin
A-2018-3002016	Denver N. & Katrina J. Martin
A-2018-3002334	Kevin L. & Faye I. Gayman
A-2018-3002021	Roger L. & Joyce E. Diller
A-2018-3002020	J. Daniel & Elaine J. Eshlman
A-2018-3002039	Ronald P. & Doris M. Stoner
A-2018-3001987	John E.N. Blair
A-2018-3002029	Jack E. & Emily L. Martin

A-2018-3001996	Mary Ann & DuWayne Fox
A-2018-3002000	Donald L. & Beverly A. Fahrney
A-2018-3002099	Bruce I. Neibert, Jr.
A-2018-3002172	Gerald L. & Jennifer Sibal Zeigler
A-2018-3002118	Tunde T. Tijani

On November 27, 2018, Transource served its rebuttal testimonies, adding several new witnesses testifying that the IEC Project would address several potential future reliability violations, a new argument not raised in its initial Siting Applications, which had sought approval based upon a perceived need to address market inefficiencies and congestion constraints within PJM.

On December 7, 2018, the OCA filed a Motion to Amend the Procedural Schedule seeking additional time to analyze the new generation deliverability analysis performed by PJM and to prepare surrebuttal testimony, and Citizens filed a motion seeking the same relief on December 10, 2018. On December 13, 2018, STFC filed a Motion to Amend the Procedural Schedule and to Strike Certain Testimony, *i.e.*, portions of testimony raising the new issue of reliability concerns. Transource submitted timely answers to all three motions.

On December 28, 2018, a Sixth Prehearing Order was issued, granting Transource's Petitions for Leave to Withdraw Eminent Domain Applications and removing the following docket numbers from the caption:

A-2018-3001971	Carol K. Long
A-2018-3002204	Edwin W. Shank and Dawn L. Shank
A-2018-3002137	IESI PA Blue Ridge Landfill Corporation
A-2018-3002129	West Penn Power Company
A-2018-3001970	Jeffrey C. Neutzel

Additionally, upon consideration of the above three motions regarding the request to strike certain testimony, the ALJs in the same order struck certain portions of rebuttal testimony, concluding that Transource should have offered on direct the testimony pertaining to reliability claims that “effectively altered the scope and complexity of issues that are to be addressed” by the Parties subject to the applications for eminent domain. Sixth Prehearing Order at 4. The Sixth Prehearing Order also granted a two-week extension on the submission of surrebuttal testimony until January 30, 2019.

On January 10, 2019, STFC filed a Motion to Designate Certain Testimony Stricken consistent with the ALJs’ Sixth Prehearing Order. The OCA and Citizens submitted Answers concurring with the Motion. On January 17, 2019, Transource answered the Motion. On January 24, 2019, the ALJs issued the Seventh Prehearing Order granting STFC’s motion and confirming the specific page and line numbers of the rebuttal testimony and exhibits to be stricken as inadmissible. The ALJs reiterated in the Order that these new reliability claims should have been raised in the Siting Applications and in Transource’s direct testimony. Seventh Prehearing Order at 2-4. The Seventh Prehearing Order also clarified that portions of the rebuttal testimonies of the five different Transource witnesses were to be stricken to the extent they mention the new potential future reliability benefits.

Opposing parties served surrebuttal testimony on January 28, 2019. On February 1, 2019, Transource PA filed a Petition for Interlocutory Review and Answer to Material Questions requesting that the Commission grant interlocutory review of the ALJs’ Seventh Prehearing Order in order to challenge the decision to strike Transource’s rebuttal testimony regarding Project 9A’s reliability benefits. On February, 11, 2019, all Parties submitted briefs in support of their respective positions on the Petition for Interlocutory Review, and Transource served its written rejoinder testimony. On February 14, 2019, the OCA and STFC filed Motions to Strike the Rejoinder to the

extent that it failed to comply with the Sixth Prehearing Order. Citizens filed a letter in support of the Motions to Strike portions of the rejoinder testimony. In response to these several motions, Transource thereafter served redacted versions of the rejoinder statements that were consistent with the ALJs' previous Orders.

Evidentiary hearings were held on February 21-22 and 25-27, 2019, for the purposes of entering all pre-served direct, rebuttal and surrebuttal testimonies and exhibits into the evidentiary record. During the hearings, Transource's witnesses were cross-examined, and their testimony admitted into the record, except for the stricken testimony regarding reliability benefits. The ALJs also allowed oral testimony by several *pro se* parties.

On March 20, 2019, the Commission issued an Order granting Transource's Petition for Interlocutory Review and answered the following questions in the affirmative:

1. Whether the ALJs erred by striking Transource's rebuttal testimony regarding the Project 9A's reliability benefits, thereby violating 66 Pa. C.S. § 332(c) and denying Transource due process of law?
2. Whether the ALJs' error unreasonably prevents the development of a full and complete record and denies the Commission access to the most recent available information in determining the need for this transmission line project?

The Commission remanded the matter to the Office of Administrative Law Judge (OALJ) for further proceedings consistent with its Order. A Tenth Prehearing Order was issued on April 2, 2019, directing Transource to serve its unredacted rebuttal and rejoinder statements within ten days. Furthermore, the ALJs modified the procedural schedule to allow for the submission of supplemental surrebuttal and rejoinder

testimonies with respect to the previously redacted matter relating to reliability and scheduled evidentiary hearings for June 28-29, 2019.

The Parties proceeded with additional discovery and responses on the unredacted statements. In this regard, on May 14, 2019, Transource submitted supplemental testimony for the purpose of providing an update on a conceptual alternative to the originally proposed IEC East Project. On May 29, 2019, the OCA served its supplemental rebuttal testimony responding to Transource's claims of potential future reliability violations. Similarly, on June 3, 2019, STFC served its supplemental surrebuttal testimony. On June 17, 2019, Transource served supplemental rejoinder testimony.

The next day, June 18, 2019, Transource filed a Motion to Suspend the Procedural Schedule in order to: (1) allow the parties additional time to engage in settlement discussions; (2) request that the evidentiary hearings scheduled for June 28-29, 2019, be postponed; and (3) ask that the Parties provide status updates to the Presiding Officers every 30 days. On June 21, 2019, the ALJs issued the Eleventh Prehearing Order granting Transource's Motion to Suspend the Procedural Schedule and delaying evidentiary hearings until August 7-8, 2019. On July 26, 2019, Transource's counsel informed the ALJs that the Parties were continuing their settlement discussions and requested that the evidentiary hearings be rescheduled. On August 1, 2019, the ALJs issued a Hearing Notice further postponing the evidentiary hearings until October 2-4, 2019, to provide additional time for settlement discussions.

The Parties continued to engage in settlement discussions; and on October 17, 2019, Joint Partial Settlements were filed with the Commission between: (1) Transource and the York County Planning Commission; (2) Transource and Citizens, Maple Lawn Farms, Barron Shaw and Shaw Orchards; and (3) Transource and PPL Electric. Under the Partial Settlements, Transource agreed to file an amended application

to propose an alternative configuration for the East Portion of the IEC Project in York County. The alternative configuration would primarily utilize existing rights-of-way (ROW) and transmission infrastructure in York County.

A Prehearing Conference was held on October 28, 2019, for the ALJs to obtain further details of the Partial Settlements and to check the status of the ongoing litigation for the West Project in the consolidated proceeding. During the Prehearing Conference, the Parties advised that, although a settlement had been reached for the IEC East Project, Transource intended to file various documents with the Commission, including, without limitation, Joint or Amended Application(s) and related filings. Further, the OCA requested to move into the record the supplemental surrebuttal testimony of Peter J. Lanzalotta, who was to retire before the anticipated further hearing. The ALJs held that as long as Mr. Lanzalotta signed a verification attached to his testimony, a Joint Stipulation for Admission of Evidence with Mr. Lanzalotta's testimony may be filed and admitted into the record.

On November 26, 2019, the OCA moved for admission into the evidentiary record the supplemental surrebuttal testimony of Peter J. Lanzalotta. Pursuant to the Joint Stipulation attached to the Motion, the OCA stipulated to the authenticity of OCA St. No. 2-SSR and accompanying exhibits. A verification was also attached to OCA St. No. 2-SSR. The ALJs granted this unopposed Motion and the Joint Stipulation on November 27, 2019.

On January 29, 2020, pursuant to the Joint Partial Settlements, Transource and PPL Electric filed a Joint Amended Application for the Siting and Construction of the 230 kV Transmission Lines proposing an alternative route for the eastern portion of the IEC Project transmission line in York County. Under the Amended Siting Application, instead of pursuing greenfield construction of a new 230 kV transmission line in York County, Transource and PPL Electric seek to reroute the majority of the

eastern portion of the IEC Project to two existing transmission lines in York County. Currently operating as single circuit lines, PPL Electric will convert the existing Manor-Graceton 230 kV line and the Otter Creek-Conastone 230 kV line to double circuit 230 kV lines. Additionally, PPL Electric will utilize an existing ROW, currently hosting an abandoned transmission line, to construct two new 230 kV transmission lines that will connect the double circuit Manor-Graceton and Otter Creek-Conastone transmission lines to the proposed Furnace Run Substation.

Under its amended plan, Transource will construct, own, and operate the Furnace Run Substation as originally proposed. Transource asserted that the alternative configuration of the eastern portion of the IEC Project will provide the same benefits as the original IEC Project. The Furnace Run to Conastone double circuit will be approximately eighteen miles in length of which two miles will be constructed in the expanded ROW with new transmission towers and sixteen miles will be in the existing ROW on PPL Electric's existing towers. The Furnace Run to Graceton double circuit will be approximately eleven miles in length of which two miles will be constructed in the expanded ROW and nine miles will be in the existing ROW on existing towers. The western portion of the IEC Project remains the same as originally proposed by Transource in its Siting Application.

On January 31, 2020, the Fourteenth Prehearing Order was issued advising the Parties of a Prehearing Conference scheduled for March 18, 2020. Additionally, Notice of Transource's Amended Siting Application was published in the *Pennsylvania Bulletin* on February 8, 2020, indicating that Protests and Petitions to Intervene should be filed on or before February 28, 2020. 50 Pa.B. 892.

Thereafter, on February 19, 2020, STFC filed an Answer to the Amended Siting Application. On February 28, 2020, Franklin County filed a Petition to Intervene and Protest to protect the interests of the County and its citizens, contending that there is

no need for this Project. On this same date, the OCA filed its Protest in opposition to the Amended Siting Application. On March 10, 2020, Transource and PPL Electric filed a joint reply to STFC's Answer, and on March 19, 2020, Transource filed an Answer to Franklin County's Petition to Intervene.⁷

In the Fifteenth Prehearing Order entered April 16, 2020, Franklin County was granted Intervenor status.

On June 22, 2020, Franklin County and STFC filed new testimony, and on July 8, 2020, Transource filed its rejoinder testimony. An additional evidentiary hearing was held on July 9, 2020, in order to admit the remaining testimony into the record and to conduct cross-examination regarding the Company's reliability claims and the amended configuration of the IEC Project. A Briefing Order was later issued on August 5, 2020, directing the parties to file Main Briefs on August 11, 2020, and Reply Briefs on September 25, 2020. Transource, OCA, Franklin County, and STFC filed Main Briefs on August 11, 2020, consistent with the Briefing Order, and those same entities filed Reply Briefs on or about September 25, 2020. York County Planning Commission and Citizens filed letters in support of the Joint Partial Settlement in lieu of briefs on August 11, 2020. The record closed on September 25, 2020, when the Reply Briefs were filed.

On December 22, 2020, ALJ Barnes issued her Recommended Decision. ALJ Barnes recommended that the Commission deny Transource's Siting Applications, as amended, proposing the high voltage transmission lines project in York and Franklin Counties, and all ancillary matters, because Transource has failed to show need for the

⁷ On March 16, 2020, the Prehearing Conference scheduled for March 18, 2020, was canceled per management directives pertaining to office closings due to the COVID-19 pandemic. On May 6, 2020, the Prehearing Conference was rescheduled for May 20, 2020, and was subsequently held as a Telephonic Conference on that date.

project within the meaning of Commission Regulations and the Pennsylvania Public Utility Code.

Transource filed Exceptions on January 12, 2021, and Reply Exceptions were filed by the OCA, STFC, and Franklin County on January 22, 2021.

III. Discussion

We note that any issue or Exception, which we do not specifically address herein, has been duly considered and will be denied without further discussion. It is well settled that we are not required to consider expressly or at length each contention or argument raised by the parties. *Wheeling & Lake Erie Railway Co. v. Pa. PUC*, 778 A.2d 785, 794 (Pa. Cmwlth. 2001), also *see, generally, University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

A. Legal Standards

1. Burden of Proof

The proponent of a rule or order in any Commission proceeding has the burden of proof, 66 Pa. C.S. § 332, and Transource, as the Applicant, 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. *Se-Ling Hosiery v. Margulies*, 364 Pa. 45, 70 A.3d 854 (1950); *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600 (Pa. Cmwlth. 1990).

Additionally, any finding of fact necessary to support an adjudication of the Commission must be based upon substantial evidence, which is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Mill v. Comm.*,

Pa. PUC, 447 A.2d 1100 (Pa. Cmwlth. Ct.1982); *Edan Transportation Corp. v. Pa. PUC*, 623 A.2d 6 (Pa. Cmwlth. 1993), 2 Pa. C.S. § 704. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & Western Ry. v. Pa. PUC*, 489 Pa. 109, 413 A.2d 1037 (1980); *Erie Resistor Corp. v. Unemployment Com. Bd. Of Review*, 166 A.2d 96 (Pa. Super. 1960); *Murphy v. Comm., Dept. of Public Welfare, White Haven Center*, 480 A.2d 382 (Pa. Cmwlth. 1984).

The “burden of proof” is composed of two distinct burdens: the burden of production and the burden of persuasion. *Hurley v. Hurley*, 2000 Pa. Super. 178, 754 A.2d 1283 (2000). The burden of production, also called the burden of producing evidence or the burden of coming forward with evidence, determines which party must come forward with evidence to support a particular proposition. This burden may shift between the parties during the course of a trial. If the party (initially, this will usually be the complainant, applicant, or petitioner, as the case may be) with the burden of production fails to introduce sufficient evidence the opposing party is entitled to receive a favorable ruling. That is, the opposing party would be entitled to a compulsory nonsuit, a directed verdict, or a judgment notwithstanding the verdict. Once the party with the initial burden of production introduces sufficient evidence to make a *prima facie* case, that burden shifts to the opposing party. If the opposing party introduces evidence sufficient to balance the evidence introduced by the party having the initial burden of production, the burden then shifts back to the party who had the initial burden to introduce more evidence favorable to his position. The burden of production goes to the legal sufficiency of a party’s case.

Having passed the test of legal sufficiency, the party with the burden of proof must then bear the burden of persuasion to be entitled to a verdict in his favor. “[T]he burden of persuasion never leaves the party on whom it is originally cast, but the burden of production may shift during the course of the proceedings.” *Riedel v. County of Allegheny*, 159 Pa. Cmwlth. 583, 591, 633 A.2d 1325, 1328 n. 11 (1993). The burden

of persuasion, usually placed on the complainant, applicant, or petitioner,⁸ determines which party must produce sufficient evidence to meet the applicable standard of proof. *Hurley v. Hurley*, 2000 Pa. Super. 178, 754 A.2d 1283 (2000). It is entirely possible for a party to successfully bear the burden of production but not be entitled to a verdict in his favor because the party did not bear the burden of persuasion. Unlike the burden of production, the burden of persuasion includes determinations of credibility and acceptance or rejection of inferences. Even un rebutted evidence may be disbelieved. *Suber v. Pa. Comm'n on Crime and Delinquency*, 885 A.2d 678 (Pa. Cmwlth. 2005), *appeal denied*, 586 Pa. 776, 895 A.2d 1264 (2006). In order to bear the burden of proof and be entitled to a decision in his favor, a party must bear both the burden of production and the burden of persuasion.

2. Applicable Statutes and Regulations

The Parties differ regarding what the Company must prove by a preponderance of the evidence in this proceeding pertaining to matters including: the grant to Transource of a CPC; the grant of approval necessary for the siting and construction of transmission lines; and the grant of other authority required in connection with Project 9A.

This case presents the unique circumstance in which the Commission has granted a provisional CPC to Transource. *See Application of Transource Pennsylvania LLC*, Docket No. A-2017-2587821 (Opinion and Order entered January 23, 2018). As such, Sections 1101, 1102 and 1103 of the Public Utility Code (Code), 66 Pa. C.S. §§ 1101, 1102(a)(1) and 1103, governing the organization of a public utility and its initiating certificate of public convenience, are among the statutory sections which need to be addressed. These provisions of the Code are relevant to the present proceedings, as

⁸ *See* 66 Pa. C.S.A. §§ 332(a), 315.

is their application to *In re: Application of Trans-Allegheny Interstate Line Co.*, Docket No. A-110172 (Order entered December 12, 2008) (*TrAILCo Case*), a case extensively cited in the Parties' briefs herein.

Here, as in *TrAILCo Case*, the entity seeking authority for siting and construction of transmission lines was not previously designated as a public utility. In *TrAILCo Case*, TrAILCo sought a certificate of public convenience and designation as a public utility as part of the application to construct transmission lines. Here, however, Transource was designated as a public utility and granted a certificate of public convenience in advance of and specifically related to the outcome of the instant application for approval of the siting and construction of transmission lines. *See Application of Transource Pennsylvania LLC*, Docket No. A-2017-2587821 (Opinion and Order entered January 23, 2018)

The CPC granted to Transource was expressly limited to the purposes of Project 9A. Further, the Commission expressly refrained from rendering a "predetermination of need" for the project. Therefore, once the Commission renders a determination of the "need" for the proposed Project 9A, comprised of the IEC East and West Projects, it is then necessary to determine in this proceeding whether, under Sections 1101, 1102 and 1103 of the Code, the Commission's provisional grant of a CPC to Transource remains in effect, and if so, whether it should continue to do so, or whether a Rule to Show Cause should be issued on why the CPC should not be revoked.

With respect to the Transource's Application seeking approval for siting and construction of the transmission lines, in determining whether a proposed transmission project satisfies the requirements of the Code, our analysis begins with the applicable portion of the Code, under Section 1501.

§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.* Such service also shall be reasonably continuous and without unreasonable interruptions or delay. Such service and facilities shall be in conformity with the regulations and orders of the commission

66 Pa. C.S. § 1501 (in pertinent part, emphasis added).

As a certificated utility approved to operate in the Commonwealth for a specified purpose, Section 1501 requires Transource to furnish adequate facilities, deemed to be necessary in the circumstances. As noted by the ALJ, Transource may not construct the proposed regulated facilities unless it can show that the project is necessary or proper, and in conformity with the regulations issued by the Commission which govern transmission line siting. Whether or not Transource’s Application is necessary and proper per Section 1501 is the matter to be decided. RD at 53-54.

In the Recommended Decision, the ALJ’s analysis turned on application of the threshold “necessary or proper” standard in Section 1501 and reviewing the application in accordance with the Commission’s regulations regarding a siting application for transmission lines:

§ 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.

(b) A Commission order granting a siting application will be deemed to include a grant of authority, subject to the provisions of law, to locate and construct the proposed HV transmission line within a corridor consisting of the area of 500 feet on each side of the centerline of the proposed HV transmission line unless the applicant requests and the Commission approves a corridor of a different size. A proposed HV transmission line may not be constructed outside the corridor, except upon petition to and approval by the Commission.

52 Pa. Code § 57.76 (emphasis added); R.D. at 54-57; *see also TrAILCo Case.*

The four prongs in Section 57.76 provide the structure for the Commission's analysis. In determining whether the Company has satisfied the four prongs, the Commission retains discretion to consider, *inter alia*, evidence enumerated in Section 57.75 of Commission Regulations:

§ 57.75. Hearing and notice.

* * *

(e) 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.
- (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 Regulation at Section 57.75 enumerates some, but not all, information relevant in evaluating the standard set forth in Section 57.76(a). In addition, case law has evaluated this standard and holds that, when a project will affect the environment:

The Commission is constitutionally obligated to evaluate whether a proposal to locate and construct high voltage transmission lines ensures the protection of the environment whenever the issue of damage to the environment is raised. *Pa. Const. of 1968, Art. I § 27*. This requirement is satisfied when the Commission is able to determine that all applicable statutes and regulations relevant to the protection of the environment have been complied with, that a reasonable effort has been made to reduce the impact on the environment to a minimum, and that the environmental harm is clearly outweighed by the benefits to be derived from the facilities to be constructed.

Payne v. Kassab, 312 A.2d 86 (Pa. Cmwlth. 1973), *aff'd*, 323 A.2d 407 (Pa. Cmwlth. 1974), *and aff'd*, 468 Pa. 226, 361 A.2d 263 (1976).

The present Opinion and Order reviews the evidence as it relates to the required four-pronged test in 52 Pa. Code § 57.76(a), above. As the regulation states, the first element to be established is “need,” 52 Pa. Code § 57.76(a)(1), specifically the “present and future necessity of the proposed HV line in furnishing service to the public.” 52 Pa. Code § 57.75(e)(1). Only after establishment of need for the proposed transmission lines, will the remaining requirements be reviewed under the standards for sound land-use planning, including for the exercise of the power of eminent domain and for siting a public utility “building” under section 619 of the Municipalities Planning Code. RD at 57-65.

3. Standards for Approval to Exercise the Power of Eminent Domain

A public utility may condemn property to provide electricity under Section 1511 of the Business Corporation Law of 1988 (BCL). Transource has filed its Application related to seventy-seven (77) outstanding condemnations, under this section:

(a) General Rule. -- A public utility corporation shall ... have the right to take, occupy and condemn property for one or more of the following principal purposes and ancillary purposes reasonably necessary or appropriate for the accomplishment of the principal purposes:

* * * *

(3) The ... transmission ... distribution or furnishing of ... electricity ... to or for the public.

15 Pa. C.S. § 1511(a)(3).

Section 1511(b) of the BCL restricts the authority of a public utility to take and condemn property for the purpose of providing electricity to the public, stating, in pertinent part, as follows:

(b) Restrictions.--The powers conferred by subsection (a) shall not be exercised: The powers conferred by subsection (a) shall not be exercised:

(1) To condemn for the purpose of constructing ... aerial electric transmission ... lines:

(i) Any dwelling house or, except in the case of any condemnation for petroleum or petroleum products transportation lines, any part of the reasonable curtilage of a dwelling house within 100 meters therefrom and not within the limits of any street, highway, water or other public way or place.

(ii) Any place of public worship or burying ground.

15 Pa. C.S. § 1511(b).

For a public utility to exercise its Section 1511(a) statutory authority to condemn property for the purposes of constructing aerial transmission or distribution facilities, the utility must first obtain a finding from the Commission that the taking is “necessary” under Section 1511(c):

(c) The powers conferred by subsection (a) [for the running of aerial electric facilities] may be exercised to condemn property ... only after the Pennsylvania Public Utility Commission, upon application of the public utility corporation, has found and determined ... that the service to be furnished by the corporation through the exercise of those powers is necessary for the service, accommodation, convenience or safety of the public.

15 Pa. C.S. § 1511(c).

4. Standards for Approval of the Siting of Substation Control Equipment Buildings

There is no dispute regarding the standard for siting of a public utility “building” under Section 619 of the Municipalities Planning Code (MPC), 53 P.S. § 10619:

This article shall not apply to any existing or proposed building, or extension thereof, used or to be used by a public utility corporation, if, upon petition of the corporation, the Pennsylvania Public Utility Commission shall, after a public hearing, decide that the present or proposed situation of the building in question is *reasonably necessary for the convenience or welfare of the public*. It shall be the responsibility of the Pennsylvania Public Utility Commission to ensure that both the corporation and the municipality in which the building or proposed building is located have notice of the hearing and are granted an opportunity to appear, present witnesses, cross-examine witnesses presented by other parties and otherwise exercise the rights of a party to the proceedings.

53 P.S. § 10619 (emphasis added). Thus, a public utility building that is found by the Commission to be reasonably necessary for the convenience or welfare of the public is exempt from local zoning ordinance provisions under the MPC. *Del-AWARE Unlimited, Inc. v. Pa. PUC*, 513 A.2d 593, 596 (Pa. Cmwlth. 1986). Further, in upholding the Commission’s discretion to determine what is reasonable and necessary under Section 619 of the MPC, the Commonwealth Court has held that Section 619 does not require a utility to prove that the site it has selected is absolutely necessary or that it is the best possible site. *O’Connor v. Pa. PUC*, 582 A.2d 427 (Pa. Cmwlth. 1990).⁹

Finally, the Commission’s policy statement regarding local land-use plans and ordinances provides, in pertinent part, as follows:

To further the State’s goal of making State agency actions consistent with sound land-use planning ... the Commission will consider the impact of its decisions upon local comprehensive plans and zoning ordinances. This will include reviewing applications for:

- (1) Certificates of public convenience.
- (2) Siting electric transmission lines.
- (3) Siting a public utility “building” under section 619 of the Municipalities Planning Code (53 P.S. § 10619).
- (4) Other Commission decision.

52 Pa. Code § 69.1101.

⁹ Transmission lines are exempt from local zoning pursuant to well-established case law. *See, e.g., Duquesne Light Co. v. Upper St. Clair Township*, 377 Pa. 323, 105 A.2d 287 (1954); *Duquesne Light Co. v. Monroeville Borough*, 449 Pa. 573, 580, 298 A.2d 252, 256 (1972); *County of Chester v. Philadelphia Electric Co.*, 420 Pa. 422, 425-26, 218 A.2d 331, 333 (1966); *Commonwealth v. Delaware & Hudson Railway Co.*, 339 A.2d 155, 157 (Pa. Cmwlth. 1975).

5. Types of Evidence

Questions arise in this case regarding the reliance upon lay witness' testimony and opinions versus expert witness' testimony and opinions. The Pennsylvania Rules of Evidence provide the parameters within which lay witnesses' testimony may be relied upon for factual findings.

Rule 701. Opinion testimony by lay witnesses

If the witness is not testifying as an expert, the witness' testimony in the form of opinions or inferences is limited to those opinions or inferences which are rationally based on the perception of the witness, helpful to a clear understanding of the witness' testimony or the determination of a fact in issue, and not based on scientific, technical, or other specialized knowledge within the scope of Rule 702.

The testimony taken at the public input hearings by lay witnesses falls into this category. On various issues, however, expertise is required. For example, while the lay public input witnesses can legitimately express their personal or anecdotal concerns and experience with transmission lines, technical issues such as the health effects of the line, the probability of structural failure, and the effect on real estate values require expert evidence to be persuasive enough to support the proposing party's burden of proof or persuasion.

Rule 702. Testimony by experts

If scientific, technical or other specialized knowledge beyond that possessed by a layperson will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training or education may testify thereto in the form of an opinion or otherwise.

The definition of “expert” is “whether the witness has any reasonable pretension to specialized knowledge on the subject under investigation. If he does, he may testify and the weight to be given such testimony is for the trier of fact to determine.” *Miller v. Brass Rail Tavern, Inc.*, 541 Pa. 474, 480-481, 664 A.2d 525, 528 (1995).

We note that the four public input hearings and three days of scheduled site views for landowners requesting site views gave the public ample opportunity to express their concerns and opinions. R.D. at 5. Lay testimony is encouraged at the public input hearings, and in this case served the important function of both informing the Commission of the real and pressing concerns of the citizens of the Commonwealth; and informing the litigants of the issues which should be addressed in the evidentiary portion of the case. Concerns regarding *inter alia*, need, safety, health effects, environmental impacts, real estate values, eminent domain, project costs and rate recovery can be and were raised by witnesses, including public input witnesses. R.D. at 36-49.

B. Exceptions

1. Transource Exception No. 1: The ALJ Erred in Concluding the “Need” Element, per 52 Pa. Code §57.76(a) Has Not Been Shown by a Preponderance of the Evidence

a. Position of the Parties

i. Transource’s Position

In the proceeding before the ALJ, Transource asserted that, as a threshold matter, Project 9A meets the need requirement for siting approval, based upon Transource’s contention that the Federal Power Act provides FERC with exclusive

jurisdiction over the interstate transmission of electricity, as well as the wholesale power market. Transource argued that pursuant to Order No. 1000,¹⁰ FERC has ordered PJM to identify and resolve congestion on the transmission system to improve the economic efficiency of the system on a region-wide basis. Transource asserted that the Pennsylvania case law, as well as the Public Utility Code and Commission Regulations acknowledge the need for regional transmission planning. Transource argued that, as a regional transmission plan to alleviate congestion, Project 9A satisfies the “need” requirement under 52 Pa. Code §57.76(a). Transource M.B. at 35-73.

Specifically, with respect to regional transmission planning needs, Transource cited the federal authority under which PJM performs its duties and the Pennsylvania authority which has approved prior determination of need by PJM. Transource M. B. at 20-23.

Transource further asserted that the PJM’s market efficiency process itself reflects that the need for Project 9A is well established. Transource noted that PJM identified significant and persistent congestion on the AP South and related constraints and solicited competitive proposals to address the congestion. As part of its review, PJM reviewed 41 competitive proposals and selected Transource’s Project 9A as the more efficient, cost effective solution. The PJM Board subsequently approved the modification of the eastern portion of the IEC Project of Project 9A, contingent upon approvals in both Pennsylvania and Maryland. Transource M.B. at 40-45.

Transource asserted that pursuant to the decision in *Application of Trans-Allegheny Interstate Line Company (TrAILCo Case)* this Commission is required to work with the Federal government and other states with respect to the interstate transmission

¹⁰ *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, 76 Fed. Reg. ¶ 49,842, 49,861 (Aug. 11, 2011) (FERC Order No. 1000).

system and interstate power pools to enhance competition and complement electric restructuring. Transource M.B. at 21. Accordingly, Transource maintained that Pennsylvania is served by PJM and is therefore required under the Code to work with PJM to operate the transmission system and interstate power pools.

Transource concluded that, once approved by PJM pursuant to a FERC-approved planning process, a market efficiency transmission project such as Project 9A, has indisputably satisfied the preponderance of evidence to establish the “need” requirement under the Commission’s Regulations. Transource M.B. at 14 and 72.

Transource argued that the Parties’ arguments challenging PJM’s selection of Project 9A should be rejected. Transource maintained that any argument that PJM’s FERC-approved benefit-to-cost ratio is flawed, that congestion on the AP South Reactive Interface has decreased and that non-transmission alternatives could eliminate the need for Settlement 9A, must be rejected, so long as PJM’s selection of Project 9A followed its FERC-accepted and tariffed processes for selection of such projects. Transource M.B. at 58-70.

In addition, Transource argued that the Parties’ arguments that PJM’s benefit-to-cost methodology is flawed due to outdated data should be denied. Transource’s witness, Mr. Weber, refuted the testimony of Franklin County’s witness McGavern, who testified the cost/benefit analysis was flawed due to the reliance on outdated data. Mr. Weber testified that costs estimates are reviewed quarterly and that the latest comprehensive cost update was provided to PJM in April 2020. Transource St. No. 1AA-RJ, p. 3. R.D. at 66; Transource St. No. 1AA-RJ, p. 4.

Further, Transource argued that the Project 9A was re-evaluated by PJM multiple times and has passed the benefit-to-cost ratio every time. The chart below

identifies all the times that Project 9A was evaluated and the resulting benefit- to-cost ratio.

IEC Evaluation	Benefit/Cost Ratio
Original August 11, 2016-Board Presentation	2.48
Re-Evaluation No. 1 September 14, 2017-TEAC Presentation	1.3
Re-Evaluation No. 2 February 8, 2018 – TEAC Presentation	1.32
Re-Evaluation No. 3 September 13, 2018 – TEAC Presentation	1.42
Ratio Update October 16, 2018	1.4
Re-Evaluation No. 4 February 2019	2.17
Re-Evaluation No. 5 October 17, 2019	2.1

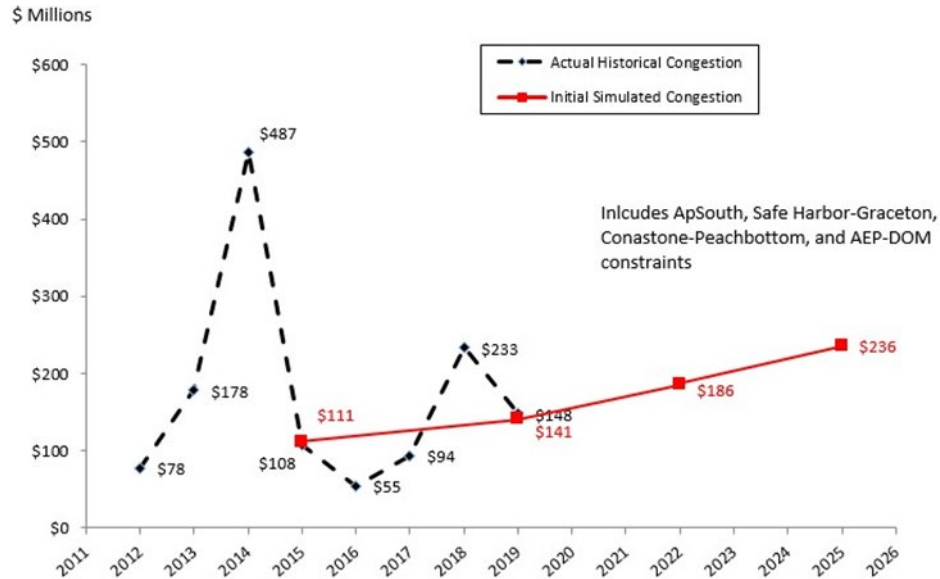
R.D. at 66-67; *See* Transource St. No. 8-R, p. 14; Transource St. No. 8-RJ, p. 3; Transource Ex. No. TJH-AA2, p. 7.

Transource argued that the efficacy of the FERC-approved methodology which aligns the benefit metric calculation with cost allocation principles is not subject to challenge. Transource asserted that the FERC-approved methodology achieves a fair result on a regional basis in that the zones that benefit from a market efficiency project pay for the project. Transource further asserted that PJM’s use of the benefit to cost calculation methodology discourages the perpetuation of unjust, unreasonable, and discriminatory rates. R.D. at 66-68; Transource M.B. at 58-60

Transource further argued that the Parties' arguments that the ALJ should consider resulting increases in power prices in Pennsylvania resulting from approval of Project 9A constituted "attempts to revise PJM's methodology." Transource maintained that the ALJ's consideration of increases in power prices for consumers in Pennsylvania was precluded and would promote unjust, unreasonable, and unduly discriminatory wholesale power prices. R.D. at 71-73; Transource M.B. at 47-60.

Transource also urged that the ALJ should reject the Parties' argument that Project 9A is not needed because congestion on the AP South interface has been decreasing. Although Transource did not dispute that congestion in the AP South has fluctuated and decreased; Transource argued that congestion shifts among interfaces, and there are multiple constraints in the area that are mitigated by Project 9A. R.D. at 72-73; Transource M.B. at 69-70.

Transource asserted that the Parties failed to recognize that congestion cannot be viewed in isolation on one interface and that congestion on the AP South Reactive Interfacer and related constraints for 2019 is consistent with what PJM forecasted in 2015. In support of its assertion Transource provided the testimony of Mr. Horger, who testified to this effect. Transource offered the below chart as evidence to support this opinion.



R.D. at 73; Transource St. No. 3AA-RJ, p. 11.

Likewise, Transource argued that the Parties’ argument that non-transmission alternatives such as energy efficiency measures, renewable resources, distributed generation, and demand response could eliminate the need for Project 9A should be rejected. Transource asserted that no evidence has been presented in this proceeding that nontransmission alternatives will reduce congestion on the AP South Reactive Interface and related constraints. Transource M.B at 62-70.

Finally, Transource argued that because it has conclusively demonstrated the need for Project 9A to address congestion and ancillary reliability violations, the opposing Parties’ arguments that Project 9A is not needed should be denied. Transource M.B. at 72.

ii. OCA’s, Franklin County’s and STFC’s Positions

Before the ALJ, the OCA maintained that the Company has failed to prove that Project 9A is necessary to maintain adequate, efficient, safe, and reasonable service

and failed to meet the constitutional, statutory, and regulatory requirements for approval of a transmission line project in Pennsylvania. The OCA asserted that Project 9A was developed specifically to reduce congestion on the AP South Reactive Interface. However, the OCA's position was that the evidence presented demonstrated that congestion on the AP South Reactive Interface has experienced a marked decline and indicators do not project a precipitous increase to that congestion. OCA M.B. at 35-40, citing, Transource St. 3 at 24, Transource St. 8-R, Exh. TH-5R at 2.

Thus, the OCA's opposition to the issue of need for the project focused on the underpinning congestion which prompted PJM's request for proposals, and specifically, the congestion for which Project 9A was proposed to alleviate. The OCA asserted that at the time PJM solicited proposals to solve congestion on the AP South Reactive Interface, congestion totaled approximately \$800 million from 2012 to 2016. OCA M.B. at 35-40, citing, Transource St. 3 at 25.

The OCA noted that in 2014 alone, the cost of congestion on the AP South Reactive Interface was approximately \$487 million. Conversely, the OCA noted, that since PJM's selection of Project 9A in 2016, congestion on the AP South Reactive Interface has diminished, such that, in 2019, the annual congestion cost on the AP South Reactive Interface was approximately \$14.5 million. *Id.*, citing, Tr. at 2921. The OCA further emphasize that through the first quarter of 2020, the congestion cost on the AP South Reactive Interface was less than \$900,000. As such, the OCA noted that, per PJM's own accounting, the AP South Reactive Interface failed to make the list of the top 25 most congested facilities in the PJM region for the most recent period.

The OCA concluded, and asserted before the ALJ, that based upon the evidence of the congestion of the AP South Reactive Interface, the purpose for which the Project 9A was proposed no longer exists. Accordingly, the OCA argued the evidence

failed to establish need for the project. OCA M.B. at 38-40, citing, OCA Hearing Exh. 6 at 559.

Further, the OCA asserted that the ALJ should not give weight to the evidence offered by Transource related to PJM's analysis that Project 9A exceeds PJM's 1.25:1 benefit-cost threshold for market efficiency projects. The OCA maintained that PJM's analysis is flawed in several respects and is insufficient to demonstrate need under Pennsylvania law. OCA M.B. at 40-62. Therefore, the evidence of PJM's own estimation of the project's "benefit to cost threshold" is not persuasive on the issue whether need has been established under the applicable Pennsylvania standards.

The OCA argued that the fundamental flaw in PJM's analysis is that PJM does *not* include transmission zones that experience *an increase in the price of energy* when calculating the benefits of the IEC Project. OCA M.B. at 43-52, citing, OCA St. 1 at 24. To illustrate this point, the OCA opined that, if a new market efficiency project were to reduce wholesale power prices by \$10 million in certain transmission zones but increase wholesale power prices by \$8 million in other transmission zones, PJM would recognize a benefit of \$10 million to the entire PJM region.

The OCA asserted that it is inappropriate to exclude direct economic impacts resulting from an action when performing a benefit-cost analysis and particularly when determining need for the purposes of transmission siting and eminent domain under Pennsylvania law. OCA M.B at 63; OCA St. 1 at 23-24.

The OCA asserted that when calculating the benefit-cost ratio for purposes of the ALJ's determination whether there is a need for a given project in Pennsylvania, it is entirely appropriate to examine the negative factor, i.e., *any projected increase in the price of energy* to Pennsylvania customers. The OCA argued that, using PJM's formula, where the benefit-cost ratio factors in the negative impact to Pennsylvania consumers, the

IEC Project under PJM's forward-looking model provides net benefits of \$32.5 million over a period of 15 years. With a present value revenue requirement (PVRR) of \$527 million, that amounts to a benefit-cost ratio of 0.06. Thus, the OCA asserted the PJM formula is inherently flawed as fair measure of economic impact within Pennsylvania, by exclusion of the negative economic impacts to Pennsylvania consumers, associated with the proposed Project 9A.

The OCA characterized other aspects of PJM's methodology as "flaws," which the OCA asserted result in an overstatement of the benefits of Project 9A by ignoring certain future generation in the affected zones. Specifically, the OCA asserted that the PJM methodology fails to factor in generation and demand reduction resulting from state legislative and policy initiatives in the affected region which would serve to mitigate congestion in the region.

The OCA argued that Transource's forecasts, which are inherently skewed toward the relevant federal objectives for which PJM approved the project, demonstrate that while the IEC Project is designed to improve "economic efficiency," the Project's practical impact would be detrimental to other PJM Transmission Zones, including Pennsylvania. Using Transource's data, the OCA noted that, while the Company's projections indicate that wholesale power prices for load-serving entities in Virginia, Maryland, Washington D.C., and a portion of Western Pennsylvania will decrease by approximately \$845 million over fifteen years and Transource acknowledges wholesale power prices will increase by approximately \$812.5 million in portions of Pennsylvania, New Jersey, Ohio, Delaware, Maryland, Kentucky, and Illinois over that same period. *See* OCA Hearing Exh. 3, Transource Response to OCA-XLIII-4.

The OCA asserted that practical impact *via* the costs of construction also weigh against a finding of need for the project. For example, the load-serving entities in transmission zones that would benefit would have to pay for the costs to construct,

operate, and maintain the IEC Project over its service life. In the first fifteen years alone, load-serving entities in Virginia, Maryland, Washington D.C., and Western Pennsylvania would be expected to pay at least \$527 million. OCA St. 1 at 36, citing Transource St. AA-3, Exh. TJH-AA3 at 4. OCA argued, therefore that the projected costs may offset more than half of the alleged wholesale power price benefit provided to those transmission zones because of constructing the Project 9A.

The OCA also asserted that, based upon Transource's projections, Pennsylvania ratepayers in fact receive *no* overall benefit from this Project. The OCA noted that PJM's latest re-evaluation forecasts that, while a small portion of Western Pennsylvania may experience reduced wholesale power prices of approximately \$27 million over the first fifteen years, wholesale power prices will increase by approximately \$429 million in the rest of Pennsylvania. OCA M.B. at 69-70; OCA Hearing Exh. 3, Transource Response to OCA-XLII-15.

The OCA's calculations were based upon the AP South Reactive Interface, as a transmission zone composed of a portion of Western Pennsylvania, West Virginia, Maryland, and Virginia. The OCA asserted that, based on PJM's latest re-evaluation, AP South Reactive Interface will see reduced wholesale power prices of approximately \$60 million over the first 15 years of the proposed Project's service life. OCA Cross Exh. 10; OCA Hearing Exh. 3, Transource Response to OCA-XLIII-15.

To calculate Pennsylvania's share of the benefits, the OCA measured Pennsylvania's percentage of peak demand contributed to the AP South Reactive Interface system in the summer of 2018, which was approximately 44.75 percent. Accordingly, the OCA calculated Pennsylvania would likely experience approximately \$27 million in reduced wholesale power prices for the first fifteen years of the Project's service life, or 44.75 percent of the total AP South Reactive Interface zone's benefit. OCA St. 1, Sch. SJR-6 at 2.

Based upon its calculations of the estimated costs of the project, including the estimated increase to Pennsylvania rates, the OCA argued this Project provides little to no benefit to Pennsylvania ratepayers. With no benefit for Pennsylvania rate payers, consideration of other factors, including the project's downside impacts in the separate categories of "environmental impact," and consideration whether "reasonable alternatives exist" weigh heavily against a conclusion that the project is "needed" in Pennsylvania.

Specifically, with respect to environmental impact, the OCA asserted that the negative impact to Pennsylvania's environment from construction of 13.6 miles of greenfield construction, in addition to the two new substations and brownfield construction of several more miles of transmission line, is not justified where the project reaps no demonstrable or direct benefit to Pennsylvania consumers. Regarding, the availability of reasonable alternatives, the OCA asserted that Transource failed to demonstrate that the IEC Project is the most reasonable alternative to address the alleged congestion on the AP South Reactive Interface. Again, the OCA asserted the PJM methodology is inherently flawed for purposes of measuring "need" in Pennsylvania. OCA M.B. at 71-77.

The OCA pointed out that the ALJ should consider that the PJM's process to identify and select market efficiency projects is, itself, not intended to identify "the most reasonable solution" to the identified inefficiency. The OCA noted that PJM's process is to seek solutions for inefficiencies from third parties, but PJM's consideration of solutions is limited to only those proposals received by PJM from the third parties. In this process, PJM is not charged to identify the most reasonable solution to a congestion issue. OCA M.B. at 77-81; Transource St. 7-R at 27-28; Tr. at 2272-73.

The OCA argued that the record shows that reasonable alternatives exist, which are not fairly considered or factored into the PJM evaluation of the project. Accordingly, the OCA asserted that Transource fails to acknowledge the legislative and

policy initiatives which are underway in the affected regions that, on balance, will serve to obviate the need for Project 9A. Therefore, the OCA concluded that Transource has failed to demonstrate that Project 9A is the most reasonably available alternative to address congestion on the AP South Reactive Interface, or that any alternative is needed at all. OCA M.B. at 77.

The OCA asserted that Transource's evidence demonstrating alleged reliability concerns should not be material to the ALJ's determination of whether need exists for the proposed Project 9A. The OCA also criticized Transource's late-assertion of reliability issues and argued that the allegation of reliability issues at the late-stage of the proceeding to decide the question of need, casts doubt upon both the allegation and the need. The OCA asserted that the ALJ should disregard Transource's claim that failure to construct the IEC Project will result in *potential* future reliability violations occurring in 2023. The OCA also asserted that alleged reliability issues carry little to no weight, where Project 9A was specifically designed to address congestion on the AP South Reactive Interface, not to address reliability concerns. OCA M.B. at 13.

The OCA also noted that Transource's assertions regarding "reliability" as a basis for need refer to a *single generation deliverability test* performed by PJM in 2018. Further, the OCA noted PJM neither, performed its full suite of reliability tests to confirm that these reliability violations will result in 2023, nor, performed another generation deliverability test since 2018 which may confirm or refute the results of the 2018 test. OCA St. 2-SSR at 16-17; OCA Hearing Exh. 3, Transource Response to OCA-XLIII-10.

The OCA asserted that the lack of subsequent reliability testing since 2018 is of particular concern, where numerous improvements to the electric grid are presently approved and in the process of being made to some of the specific facilities that were identified by Transource as potentially overloading in 2023, in the absence of construction of the proposed Project 9A. OCA M.B. at 13.

The OCA submitted that the Commission should deny Transource's Applications to construct Project 9A, based upon the Company's failure to carry the burden of persuasion that the proposed project is needed in Pennsylvania, where there is a demonstrable *lack* of need to address congestion as it originally existed on the AP South Reactive Interface. The OCA also argued that on the extensive environmental impacts to Pennsylvania and the existence of other potential non-wires solutions, the Company has failed to demonstrate that Project 9A will have minimum adverse environmental impact, considering the electric power needs of the public, the state of available technology and the available alternatives. OCA M. B. at 3 and 13-14.

Therefore, the OCA concluded that because Transource failed to carry the burden of persuasion that Project 9A meets the standard for need or necessity set forth under the Pennsylvania Constitution, Pennsylvania Statutes, or the Commission's Regulations, the ALJ should deny Transource's siting Applications, and all associated requests for authority. OCA M. B. at 110.

Similarly, Franklin County and STFC argued that the ALJ should conclude that Transource failed to carry its burden of persuasion to establish the "need" for Project 9A by a preponderance of the evidence under the Pennsylvania Constitution, the Code and Commission Regulations.

Before the ALJ, Franklin County summarized its paramount concern for the utility customers and landowners in Franklin County, as follows:

Franklin County cannot fathom why the Commission would consider approving a project deliberately designed to export Pennsylvania's cheaper power to customers outside the Commonwealth and allow the forcible condemnation of Pennsylvanian's cherished land to build it.

Franklin County M.B. at 9. Franklin County concurred with the OCA’s position that the original congestion which Project 9A was designed to address no longer exists “...[o]r at the very least, since Transource filed its Applications, any such purported congestion has substantially decreased to the extent that the Project is no longer justified. Franklin County M.B. at 10.

Franklin County argued, as did the OCA and STFC, that the testimony of Transource’s own witnesses cast doubt upon the genuine need for Project 9A. Franklin County noted, Transource’s witness, Mr. Horger, conceded that congestion costs on the APSRI have decreased since 2014. The County argued that Mr. Horger attempted to justify the need for the Project due to the congestion on these related facilities stating, “while historical congestion on the AP South Interface has decreased somewhat since the approval of Project 9A ..., the other related congestion resolved by the Project has not.” Franklin County M.B. at 14, citing TPA Statement No 3AA-RJ, p. 8, lines 145-148. The County argued that the Commission should not approve Transource’s attempt to “manufacture a basis to justify an application for which there is no longer support.” *Id.*

Franklin County also asserted that the inconsistency in the data relied upon by PJM regarding the alleged projected congestion versus the actual measure of the congestion, is a flawed basis upon which the ALJ should reject as establishing “need” due to congestion. Franklin County M.B. at 10-15.

Franklin County agreed with the OCA’s position that Transource’s late asserted and alleged reliability violation which Transource asserts are projected to occur in 2023, should be rejected as basis to establish need for Project 9A. Franklin County asserted that Project 9A was always designed to alleviate economic congestion, not to cure the reliability violations which Transource only asserted after the opposing parties cast doubt upon the existence of need due to congestion. Franklin County M.B. at 15-19.

Franklin County joined in the OCA's and STFC's arguments that the proposed Project 9A poses unacceptable risks to the health and safety of the public. The County argues separately, that the proposed Project 9A poses unacceptable environmental impacts.

Franklin County asserted that Project 9A conflicts with the Environmental Rights Amendment, Article I, Section 27 of the Pennsylvania Constitution (the ERA or Section 27), which provides:

The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment. Pennsylvania's public natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.

Pa. Const. art. I, § 27.

The County further asserted that the test for whether action violates the ERA is governed by *Pennsylvania Env'tl. Def. Found. v. Commonwealth*, 161 A.3d 911, 930 (Pa. 2017) (*PEDF*), wherein the Pennsylvania Supreme Court rejected the three-part balancing test created in *Payne v. Kassab*, 312 A.2d 86 (1973) as the standard for determining whether government actions violate the ERA. The County maintained that the Pennsylvania Supreme Court established that the ERA grants the people of Pennsylvania two separate constitutional rights. "The first right is . . . the right of citizens to clean air and pure water, and to the preservation of natural, scenic, historic and esthetic values of the environment." Per Franklin County, the Court's decision established that the first right "places a limitation on the state's power to act contrary to this right, and while the subject of this right may be amenable to regulation, any laws that unreasonably impair the right are unconstitutional." Franklin County M.B. 19-21, citing *PEDF* at 931

(internal citations omitted). The second right “is the common ownership by the people, including future generations, of Pennsylvania's public natural resources.” *Id.*

In addition, Franklin County asserted that, “[t]he third clause of Section 27 establishes a public trust, pursuant to which the natural resources are the corpus of the trust, the Commonwealth is the trustee, and the people are the named beneficiaries.” *Id.* at 931–32 (2017). The court concluded that as trustee, Pennsylvania has two duties. *Id.* at 933 (internal citations omitted). First, “the Commonwealth has a duty to prohibit the degradation, diminution, and depletion of our public natural resources, whether these harms might result from direct state action or from the actions of private parties.” *Id.* “Second, the Commonwealth must act affirmatively via legislative action to protect the environment.” *Id.* Importantly, the court explained that these trustee obligations are imposed upon “all agencies and entities of the Commonwealth government, both statewide and local.” *Id.* at 931 n. 23. Commonwealth agencies, including the Commission, “have a fiduciary duty to act toward the corpus with prudence, loyalty, and impartiality.” *Id.*

Based upon its reading of the ERA, Franklin County asserted that Transource’s Siting Study demonstrates that the proposed IEC Project will negatively impact natural resources in Franklin County. Specifically, the County asserted that streams, wetlands, and floodplains within the Project Study Area will be negatively impacted. Franklin County M.B. at 21-22, citing TPA Ex. No. 1-West Application, Attachment 3 at p. 36, 39, and Figure 8a at p. 40. The County argued that Transource cannot guarantee that the proposed Project will not result in negative environmental impact, and that Transource’s promise that the negative impact will be minimized to the best extent practicable is unacceptable. *Id.*

Additionally, Franklin County opposed the transmission line siting crossing prime farmlands in Franklin County, including land subject to conservation easements

and contained within agricultural security areas, and Transource’s request for an “intrusive and drastic exercise of eminent domain that will condemn and/or impact agricultural lands, including conservation easements and agricultural security areas in Franklin County.” Franklin County opposed the approval of the siting of the transmission lines, as proposed by Transource, for a number of related adverse environmental and other related negative impacts which the County asserted would be unwarranted under any circumstance, but particularly so where there was no discernable need for the project. Franklin County M.B. at 23-40.

STFC also concurred in the OCA’s position and argued that the ALJ should not find the PJM methodology and cost metrics relied upon by Transource to be persuasive, arguing for the reasons set forth by the OCA and Franklin County, that the metrics are incomplete, and therefore, inaccurate in the circumstances for the Commission’s analysis of need. STFC M.B. at 6-15.

STFC argued before the ALJ that Transource was improperly relieved of the burden of proving the need for a certificate of public convenience in the first step of the process. STFC asserted that Transource filed its applications in December 2017, after it had reached a settlement agreement on the certification docket, Docket No. A-2017-2587821. STFC noted that the Commission’s decision specifically noted that the Application “brings a new type of entity to the Commonwealth” and that the Commission is being asked to “certIFICATE a company as a public utility as a necessary step prior to consideration of the siting and construction of the project this company was formed to carry out.” R.D. at 78-79.

STFC argued that relieving Transource’s burden to demonstrate need for approval of the CPC impermissibly shifted the burden from the applicant seeking approval of a new transmission line. STFC argued that under the provision to the Code

governing issuance of the CPC, the applicant utility bears the burden of proof in proving a need for the certificate of public convenience. *Id.*; *See* 66 Pa. C.S.A. § 1101-1103.

STFC noted that, while the Commission approved a settlement agreement for issuance of the certificate of public convenience to Transource, the Commission specifically refrained from finding that there was need for Project 9A, expressly removing language to avoid any “predetermination of need.” *Id.*; *see* PUC Opinion and Order, Docket A-2017-2587821 (Order entered January 23, 2018).

STFC concurred with Franklin County’s asserted position regarding environmental impact and further argued that the Commission must revisit its regulations on transmission line siting to ensure that they meet the standard of the Environmental Rights Amendment of Article I, Section 27 of the Pennsylvania Constitution as enunciated in *PEDF*, 161 A.3d 911, 916 (Pa. 2017). STFC argued that a review of the environmental impacts to Franklin County establishes that the loss to the County is too great. Construction of the proposed Project 9A will degrade the air and water quality, as for example, the proposed route crossing 19 streams, and crossing athletic fields for elementary schools. As such, STFC argued that Project 9A threatens the rights to the existing rural, agricultural aesthetic of Franklin County, and should be rejected. STFC M. B. at 15-71.

b. ALJ’s Recommended Decision

The ALJ’s Recommended Decision set forth the evidence presented and the positions of the Parties in great detail. *See* R.D. at 65-80. The ALJ made extensive factual findings and conclusions of law. R.D. at 12-49 (F.O.F. 1-233); R.D. at 125-129 (C.O.L. 1-16).

Upon review of the evidence presented and the arguments of the parties' the ALJ agreed with the OCA, Franklin County and STFC that the element of "need" pursuant to 52 Pa. Code § 57.76(a)(1) required to approve Transource's siting Applications has not been shown by a preponderance of the evidence. The ALJ's analysis accepted as true Transource's assertion that PJM saw a need in 2015-2016 to remove a congestion constraint in the AP South Reactive Interface. However, the ALJ concluded that PJM's determination of need for Project 9A did not satisfy the "need" requirement for additional transmission service in York and Franklin Counties within the meaning of the Commission's siting regulations.

With respect to Transource's claim that the question of need was to be decided and/or controlled by the outcome of the federal analysis of need for Project 9A pursuant to the authority of FERC's directives to PJM regarding regional transmission planning, the ALJ reviewed the substance of FERC's Order 1000, and concluded:

FERC's authority does not pre-empt the Commission's determination in this proceeding. As further indication of FERC's limited role in approving transmission facilities, the U.S. Congress granted FERC limited authority to "issue one or more permits for the construction or modification of electric transmission facilities in a national interest electric transmission corridor [NIETC] designated by the Secretary" under certain limited conditions. 16 U.S.C. § 824p(b). As the Applicant's proposed Pennsylvania siting locations are not within an NIETC, FERC has no jurisdiction in the siting of the IEC Project and the jurisdiction remains the Commission's alone.

Pursuant to the constitutional, statutory, and regulatory standards of Pennsylvania, the Commission has the exclusive jurisdiction over both whether the proposed transmission infrastructure is needed and where it should be built. It is fully within the discretion of the Commission under Pennsylvania law to determine whether a transmission facility has sufficiently demonstrated that the proposed facility is

“necessary or proper for the accommodation, convenience and safety of...the public.” 66 Pa. C.S. § 1501.

R.D at 85-86, citing *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, 76 Fed. Reg. ¶ 49,842, 49,861 (Aug. 11, 2011) (FERC Order No. 1000).

The ALJ considered the opposing Parties’ arguments and expert witness testimony regarding the substance of the evidence offered by Transource in support of the “need” for Project 9A. R.D. at 74-80. The opposing Parties argued that data underlying PJM’s original determination of need to alleviate economic congestion AP South Reactive Interface, subsequent measure of the same congestion taken by PJM reflected that the congestion had precipitously decreased and therefore, weighed against accepting that data as a basis for need under the Pennsylvania standard. The ALJ noted that Transource did not dispute that the measures of congestion on the AP South Reactive Interface fluctuated drastically, yet maintained that, based on the PJM projections, the levels of congestion are currently in line with the projected model. R.D. at 87-91.

The ALJ acknowledged that Transource relied upon the PJM evaluation of the benefit-cost ratio to establish the Project’s continued efficacy. The ALJ noted that the opposing Parties likewise argued that PJM’s methodology for evaluating the benefit-cost ratio of a given project, including Project 9A, was flawed for the purposes of Pennsylvania needs, since those criteria and calculation expressly discounted any negative impact to the rates of the Pennsylvania consumers and did not factor in any negative environmental impact. R.D. at 98-103.

Finally, the ALJ also considered the opposing Parties’ arguments that the ALJ should disregard Transource’s late-asserted potential reliability violations as a basis to determine “need” under 52. Pa. Code §57.76(a)(1) because: (1) the reliability

violations were not a driver for Project 9A (*i.e.*, they were not a stated basis for the need for the project when Transource originally filed the siting Applications); (2) the reliability violations were not based on a full range of reliability testing available to PJM; and (3) the reliability testing was conducted a single time in 2018 and never conducted as a follow up to confirm the results, although the ability to do so existed. R.D. at 83-84.

Viewing the evidence, the ALJ was not persuaded that Transource had carried the burden by a preponderance of the evidence to establish need. The ALJ found the opposing Parties' arguments more persuasive than the data relied upon by PJM to determine the need to alleviate congestion on the AP South Reactive Interface was not reliable enough to form the basis of "need" for Project 9A, where PJM's own data reflected substantial fluctuations in congestion, and a marked decline in congestion on the AP South Reactive Interface when viewed over a period of years. The ALJ found Transource's argument to be unpersuasive that the additional benefits to Pennsylvania based on the late-asserted alleviation of reliability violations weighed in favor of finding need. The ALJ also concluded that Transource's additional asserted basis for the need for Project 9A, to include "alleviation of other related constraints," did not weigh in favor of finding need, where the basis for Project 9A has always been and remains, for the purpose of alleviating of economic congestion on the AP South Reactive Interface. R.D. at 80-103.

c. Exceptions and Replies

In its Exception No. 1, Transource asserts that the ALJ erred by concluding that Transource failed to carry the burden of persuasion to establish need for the proposed siting Applications, pursuant to Commission authority under Section 1501 of the Code and Commission Regulation at 52 Pa. Code Section 57.76(a)(1), by a preponderance of the evidence. Transource sets forth twelve (12) separate allegations of reversible error in the Exception. All of Transource's arguments are predicated on three general grounds,

including that: (1) the PUC lacks authority to render an independent determination of “need” under Section 1501 of the Code and Commission Regulation at 52 Pa. Code § 57.76(a)(1) from PJM’s determination of “need” for project 9A, pursuant to the PJM’s federal regional transmission planning authority conferred on PJM pursuant to FERC Rule 1000; (2) the ALJ improperly weighed the evidence presented; and, (3) the ALJ’s analysis fundamentally misapprehends the state versus federal roles in the need for and nature of regional transmission planning. Transource Exc. at 7-31.

Specifically, Transource’s assertions based on the premise that federal jurisdiction controls questions of need for state approval of the PJM-approved regional transmission project include: (1) that Transource has demonstrated “need” to alleviate projected economic congestion and to prevent ancillary projected reliability violations; (2) that the Recommended Decision fails to consider FERC’s requirement for regional transmission planning in FERC Order 1000; (3) that the need from a PJM regional planning perspective is consistent with the standard for need under Pennsylvania law; (4) that the Recommended Decision fails to give proper weight to PJM’s regional planning authority as directed by FERC Order 1000; (5) that the Recommended Decision improperly accepts the other Parties’ speculation and unsupported claims as credible evidence over the expert opinion of PJM witnesses; and (6) that the Recommended Decision’s criticisms of PJM’s market efficiency process should not be accepted. Transource Exc. at 7-18 (Exc. No. 1, A.1-6). On these bases, Transource asserts that federal jurisdiction over regional planning for transmission projects controls the PUC’s determination of need for the proposed Project 9A.

Transource’s assertions based on the premise that the ALJ improperly weighed the evidence presented include: (1) that the ALJ’s conclusion that economic congestion does not equal rate discrimination is contrary to law; and, (2) that the ALJ’s finding that Hunterstown-Lincoln Project and Project 5E may alleviate the AP South

Reactive Interface congestion is speculation unsupported by substantial evidence. Transource Exc. at 18-20 and 23 (Exc. No. 1, A. (7) and A. (9)).

Transource's assertions based on the premise that the ALJ's analysis fundamentally misapprehends the state versus federal roles need for and nature of regional transmission planning include: (1) that the ALJ's sole focus on historic AP South Reactive Interface Congestion levels was in error; (2) that the ALJ erred by failing to consider reliability violations that would be resolved by Project 9A; (3) that the ALJ erred in concluding that Transource is creating new reasons for Project 9A; and, (4) that the ALJ's focus on Transource as a foreign transmission provider is misguided. Transource Exc. at 20-31 (Exc. No. 1, A. (8) and (10)-(12)).

In their Replies, the OCA, Franklin County and STFC reiterate their positions below and argue that Transource's Exception to the ALJ's determination that Transource failed to establish need for Project 9A should be rejected where: (1) the ALJ properly decided the question of whether Transource has successfully carried the burden of persuasion, by preponderance of the evidence, pursuant to the PUC's statutory and regulatory discretion to determine need and necessity under Section 1501 of the Code and 52 Pa. Code § 57.76(a)(1); (2) the ALJ properly weighed the evidence presented; and (3) the ALJ appropriately considered the state versus federal roles in the need for and nature of regional transmission planning. OCA R. Exc. at 2-22; Franklin County R. Exc. at 1-19; STFC R. Exc. at 1-9.

d. Disposition

Based upon our review of the record in this proceeding, the relative weight of the evidence presented, and the arguments of the Parties, and as discussed more fully, *infra.*, we conclude that, in the present circumstances, Transource fails to carry the burden of persuasion by a preponderance of the evidence to establish need for the

proposed siting Applications, pursuant to our authority under Section 1501 of the Code and Commission Regulation at 52 Pa. Code § 57.76(a)(1). Because we have concluded that the evidence is insufficient to establish the required element of “need,” under 52 Pa. Code § 57.76(a)(1), the arguments related to other required elements under 52 Pa. Code § 57.76(a)(2)-(4), are rendered moot, and shall not be addressed.

At the outset, we note that the ALJ made two hundred and thirty-three (233) Findings of Fact, and sixteen (16) Conclusions of Law. R.D. at 12-49; FOF 1-233; R.D. at 125-129; C.L. 1-16. Our analysis and disposition turn on those findings as they pertain to the required element of “need” under 52 Pa. Code § 57.76(a)(1). To the extent the ALJ rendered separate findings and conclusions regarding the other required elements under 52 Pa. Code § 57.76(a)(2) (regarding health and safety of the public); subsection 57.76(a)(3) (regarding compliance with applicable statutes and regulations providing for the protection of the natural resources of this Commonwealth); and subsection 57.76(a)(4) (minimal adverse environmental impact considering the electric power needs of the public, the state of available technology and available alternative), those Findings of Fact and Conclusions of Law are rendered moot, to the limited extent that they reach a separate conclusion of a failure to meet an enumerated requirement under Section 57.76(a)(2)-(4), as basis to deny the siting Applications.

To the extent the ALJ’s findings and conclusions pertain to evidence gathered in accordance with 52 Pa. Code § 57.75(e) (pertaining to hearing and notice) the findings and conclusions are relevant to our consideration of the weight of all the evidence, and our decision rendered pursuant to our authority under Section 1501 of the Code and 52 Pa. Code § 57.75(a)(1). The ALJ’s Findings of Fact and Conclusions of Law are, therefore, adopted and incorporated herein without future reference unless expressly rejected or modified by this Opinion and Order.

To the extent Transource’s Exception No. 1 asserts or implies that federal jurisdiction controls questions of need for state approval of the PJM-approved regional transmission project, we reject Transource’s position. We agree with the ALJ, the OCA, Franklin County and STFC, that the issue of whether the element of “need” for Project 9A is satisfied, is matter falling under this Commission’s jurisdiction and discretion to approve siting applications under the Code, Commission Regulation at 52 Pa. Code § 57.76(a)(1) and relevant caselaw.

When viewed in the context of this Commission’s jurisdiction to render an independent determination of the issue of “need” for the proposed siting and construction of transmission lines under Project 9A, Transource’s arguments are not persuasive. The premise underlying Transource’s arguments that the element of need has been satisfied under the Pennsylvania standards is Transource’s assertion that the factors relied upon by PJM and the methodology and process for PJM-approval of a project should be the only criteria relevant to this Commission’s review and such criteria is not subject to critical analysis. However, Transource’s argument is flawed in a material respect: need, established under the applicable federal standards imposed by FERC and implemented by PJM, do not necessarily satisfy the requirement for “need” as that element is examined and weighed under Section 1501 of the Code, Commission Regulations, and relevant caselaw.

For example, while it is true that Transource’s Project 9A was selected by PJM for successfully addressing the regional planning needs identified at the time PJM sought the proposals, *i.e.*, economic congestion on the AP South Reactive Interface, that is not conclusive as to the question of need for the project in this Commonwealth. Similarly, while the question of “need” for the Project 9A, *i.e.*, alleviating economic congestion, is certainly the impetus of the FERC-directed PJM process, “need” from a PJM planning perspective may or may not be, as Transource asserts, “consistent with the standard for need under Pennsylvania law.” It is for this Commission, not PJM, to decide

whether the PJM planning perspective is, or is not, in line with the Pennsylvania standard for “need” under the Code, Commission Regulations and relevant caselaw.

In addition, it is not accurate, as Transource asserts, that the ALJ either “failed to consider FERC’s requirement for regional transmission planning in Order 1000” or “failed to give proper weight to PJM’s regional planning authority as directed by FERC Order 1000.” To the contrary, the ALJ expressly *did* consider PJM’s regional planning responsibilities, and weighed those considerations as part of, but not dispositive of, the weight of the evidence regarding “need” under 52 Pa. Code § 57.76(a)(1).

We find that the ALJ properly construed and applied the standards of proof to the issues presented. We agree that the Commission owes the public a duty to analyze the substance of a proposed regional transmission project pursuant to the Code, applicable Commission Regulations, and relevant caselaw. We also agree that, while PJM’s methodology and process for selection of Project 9A is relevant to the Commission’s consideration of the Transource’s siting Applications, they in no way replace the Commission’s independent authority to decide applications for siting and construction of HV transmission lines, authority to exercise powers of eminent domain, or approval of a certificate of public convenience and necessity based upon consideration of the weight of all the evidence presented.

Further, we concur with the ALJ’s determination that the scope of inquiry for determining ‘need’ is broad and includes consideration of many factors, including consideration of the specific facts presented and consideration of the potential future impact of the proposed project, within that same broad context, as discussed in the *TrAILCo Case*. See R.D. at 80

To the extent the ALJ concluded that the present case is distinguishable from *TrAILCo Case*, on the grounds that *TrAILCo Case* reviewed a proposed project with a primary purpose of relieving reliability issues impacting the Commonwealth, where the present case addresses a proposed project with a primary purpose of relieving economic congestion occurring at the regional level, we agree. The factual distinctions between *TrAILCo Case* and the present case, are notable.

However, the legal standard to be applied remains the same. In both *TrAILCo Case*, and here, our determination turns on our consideration of the weight of all the evidence, whether need has been established by a preponderance of the evidence, consistent with our discretion under Section 1501 of the Code, to determine whether the service to be provided is “reasonable and necessary and in the public interest,” and our discretion under Commission Regulation, to determine whether Transource has established need, by a preponderance of the evidence required for approval of the siting of the proposed transmission lines, per 52 Pa. Code § 57.76(a)(1).

We expressly reject any argument that the authority granted by the Pennsylvania Legislature to this Commission under the Code, including the power to apply Commission Regulations in the present circumstances, is preempted by the federal power pursuant to which PJM conducts its selection process for regional transmission planning purposes, including Project 9A. To the extent Transource argues that this Commission is prohibited from rendering an independent determination of “need” for Project 9A, which may find that the weight of the evidence does not support a determination of “need” for the proposed project, pursuant to 52 Pa. Code § 57.76(a)(1), despite PJM’s selection of the project for regional planning purposes, we disagree.

Contrary to Transource’s asserted position, the federal authority under which PJM operates does not extend beyond PJM’s approval process, where approval is sought from a state commission. PJM approval for a project, including Project 9A, does

not guarantee approval for siting and construction of transmission lines within the borders of the sovereign Commonwealth of Pennsylvania. As the ALJ noted:

while the Federal Power Act (FPA) does grant FERC exclusive jurisdiction over the interstate transmission of electric energy and electric wholesale rates, the FPA limits FERC authority, including its designee, PJM, to “those matters which are not subject to regulation by the States.” 16 U.S.C. § 824(a). FERC likewise recognizes this limitation stating the following as part of Order No. 1000:

We acknowledge that there is longstanding state authority over certain matters that are relevant to transmission planning and expansion, such as matters relevant to siting, permitting, and construction. However, nothing in this Final Rule involves an exercise of siting, permitting, and construction authority. The transmission planning and cost allocation requirements of this Final Rule, like those of Order No. 890, are associated with the processes used to identify and evaluate transmission system needs and potential solutions to those needs. In establishing these reforms, the Commission is simply requiring that certain processes be instituted. This in no way involves an exercise of authority over those specific substantive matters traditionally reserved to the states, including integrated resource planning, or authority over such transmission facilities. For this reason, we see no reason why this Final Rule should create conflicts between state and federal requirements.

The D.C. Court of appeals summarized Order No. 1000, as follows:

In Order No. 1000, the Commission expressly “decline[d] to impose obligations to build or mandatory processes to obtain commitments to construct transmission facilities in the regional transmission plan.” More generally, the Commission

disavowed that it was purporting to “determine what needs to be built, where it needs to be built, and who needs to build it.” As the Commission explained on rehearing, “Order No. 1000’s transmission planning reforms are concerned with process” and “are not intended to dictate substantive outcomes.” The substance of a regional transmission plan and any subsequent formation of agreements to construct or operate regional transmission facilities remain within the discretion of the decision-makers in each planning region.

S.C. Pub. Serv. Auth. v. FERC, 762 F.3d 41, 57-58 (D.C. Cir. 2014)
(emphasis added, internal citations omitted).

In view of FERC’s stated scope of Order 1000, *i.e.*, that it not interfere with the exercise of the state’s authority, this Commission’s determination is to be rendered independently of FERC Order 1000. The present case addresses Transource’s siting Applications seeking the necessary state approval and authority for siting and construction of HV transmission lines, and, *inter alia*, the necessary-related authority to exercise the powers of eminent domain and zoning exemptions within the Commonwealth. As such, this proceeding is for the express purpose of deciding “*what needs to be built, where it needs to be built, and who needs to build it.*” Therefore, per the expressed intent of FERC Order 1000, this Commission is the “decision maker” and the substantive outcome is to be reached by applying the relevant Pennsylvania standards. Our decision is not influenced by FERC authority to direct PJM to implement Order 1000’s transmission planning reforms, which are concerned with federal process.

We further agree with the ALJ’s application of the holding in *TrAILCo*, Case to conclude that it is within the Commission’s discretion to consider and give weight to the potential economic and environmental impact to Pennsylvania by a PJM-approved transmission project, including impact which may or may not be part of the PJM approval criteria and methodology.

With respect to consideration of the potential negative impact, including rate increases, to the customers in the Commonwealth, Transource asserts that this Commission is required to disregard such negative impact and weigh only the assertion of “need” for the proposed project as calculated under the PJM-approved criteria and methodology. We disagree. The potential negative and practical impact on the citizens and consumers of Pennsylvania is our concern, and it is properly within the scope of our consideration of the weight of all the evidence on the issue of “need.”

Transource does not dispute that the consequences of Project 9A would be to alleviate the economic congestion on a regional level, which in turn would result in higher rates in Pennsylvania. Transource argues only that, whatever the negative impact to Pennsylvania consumers is superseded by the regional planning needs to be achieved under Project 9A. Transource maintains that, as Pennsylvania benefits from regional planning for projects approved here and elsewhere, Pennsylvania should also accept the negative consequences and not review the question of need on a “Pennsylvania only” basis.

However, contrary to Transource’s view, the ALJ did not view the question of need on a Pennsylvania-only basis, but rather viewed the regional planning proposal on a “Pennsylvania-also” basis, in that the review included consideration of the importance of prospective federal regional planning objectives and the importance of prospective impact upon the Commonwealth. We conclude that the ALJ properly considered the negative impacts to Pennsylvania in evaluating the “need” under Section 1501 of the Code and 52 Pa. Code § 57.76(a)(1). Therefore, our broad review of the issue under the statute, Commission Regulations, and relevant caselaw, including the decision in *TrAILCo Case*, encompasses consideration of the potential negative impact to the citizens and consumers of the Commonwealth by the proposed Project 9A.

We note that our reading of the holding in *TrAILCo Case* is not to imply that our consideration of the weight of the evidence excludes the relevant and important regional planning issues which Project 9A was designed to address, *i.e.*, economic congestion on the regional level. Regional planning matters are recognized to be of significance, and where the weight of the evidence indicates that the “need” for the project is established by a preponderance of the evidence, the element of need will be found, as it was in *TrAILCo Case*. In addition, we acknowledge here, as we did in *TrAILCo Case*, that where the utility’s siting application can be subjected to years of litigation, the need for forward looking regional planning required of PJM does not always give way to arguments that the data relied upon must be the “most current.” It is neither necessary nor advisable that in every instance, PJM should be subjected to state commissions’ concerns that each project’s data be proven to be calibrated under current existing conditions.

However, where, as here, the proposed regional planning involves alleviating economic congestion, the result of which is predicted to lead to a substantial increase in utility rates within the Commonwealth, the Commission’s review of the PJM-approved project warrants examination of the underlying data and congestion trends which PJM relied upon in assessing the need to alleviate economic congestion. In such cases, where a state is expected to suffer serious consequences, the argument that the data should reflect current and existing priority needs on the regional level has a more persuasive impact.

In the present case, the ALJ found the opposing Parties’ arguments persuasive that data relied upon by PJM to determine the need to alleviate congestion on the AP South Reactive Interface was not reliable enough to form the basis of “need” for Project 9A: *i.e.*, PJM’s own data reflected substantial fluctuations in congestion; a marked decline in congestion on the AP South Reactive Interface is apparent when viewed over a period of years; and Transource’s shifting asserted basis for the need for

Project 9A, which was originally and unambiguously for the purpose of alleviation of congestion on the AP South Reactive Interface. R.D. at 80-103. Based upon our view of the record, we agree with the ALJ's analysis of the weight of the evidence.

The ALJ analyzed Transource's asserted basis for the need for Project 9A, which included: (1) the originally asserted driver of the project when proposed in 2015-16, *i.e.*, alleviation of economic congestion on the AP South Reactive Interface; (2) the later asserted ancillary benefits of alleviating projected reliability violation based on reliability testing in 2018; and (3) the recent assertion of alleviation of congestion on four "related constraints," *i.e.*, the AP South Reactive Interface, the Safe Harbor-Graceton, the Conestone-Peachbottom, and the AEP-DOM constraints.

The ALJ's conclusion that Transource failed to establish need by a preponderance of the evidence was based upon the ALJ's view of the relative weight of all the evidence, including the fact that Transource's asserted reasons to support the finding of "need" shifted over the course of the litigation, to needs other than the need to alleviate economic congestion at the AP South Reactive Interface. The ALJ viewed Transource's progressive and shifting asserted basis for the need for Project 9A as undermining the weight of the evidence offered by Transource. The ALJ commented that Transource appears to be "creating new reasons for the project." However, Transource attributes the shifting focus of the asserted basis for the need for Project 9A to the scope of Project 9A itself and the shifting nature of economic constraints, rather than Transource creating "new reasons" for the project.

We agree that Transource's assertions for the need for Project 9A over time is reflective of the nature of the project itself, and therefore do not agree with the ALJ that Transource appears to be creating "new reasons" for the project. However, we do agree with the ALJ that Transource's divergence of bases other than the original and

stated purpose for Project 9A, *i.e.*, economic congestion on the AP South Reactive Interface, is problematic.

We may accept that the original need for the project may be viewed to encompass the ancillary related benefits of alleviating projected future reliability violations which may occur, and which may not have been part of the original asserted basis for the project. We may also accept that Project 9A may fairly encompass the more recently asserted related constraints. We, nevertheless, also agree with the ALJ, that the relative weight of the evidence of the later-asserted basis for need for the project diminishes as it becomes more tangential to the unambiguous original driver of Project 9A, *i.e.*, alleviation of economic congestion on the AP South Reactive Interface.

We find unpersuasive Transource's arguments that the ALJ improperly accepted "other Parties' speculation and unsupported claims" as credible evidence over the expert opinion of PJM witnesses and that the criticisms of PJM's market efficiency process should not be accepted. Transource's position is that expert testimony on the PJM criteria and methodology for selection of the proposed Project 9A to alleviate economic congestion on a regional basis may only be accepted if proffered by Transource. Transource appears to assert that no critical analysis of the PJM process or methodology is permissible because the opposing Parties' expert's theory and projections regarding the outcome of the PJM-approved process are without any substantial basis. However, by that reasoning, the PJM-approved plan would also lack any credibility, on the grounds that the PJM selection process is entirely based upon theory and unproven future projections of potential outcomes under the proposed plan.

We also find Transource's assertions on the grounds that the ALJ improperly weighed the evidence presented to be unpersuasive. For example, the ALJ's conclusion that economic congestion does not equal rate discrimination which requires redress pursuant to Section 2804 of the Code (pertaining to discrimination in rates) was

immaterial to the determination regarding the relative weight of the evidence on the issue of need, and therefore, it is not necessary for us to revisit the ALJ's discussion in *dicta*. However, we note that the ALJ's statement is not to be read as a conclusion that economic congestion on a regional level cannot cause "rate discrimination" on a *regional level*, as that is solely for PJM's consideration. PUC jurisdiction governing discrimination in rates under Section 2804 extends to the boundaries of the Commonwealth. 66 Pa. C.S. § 2804.

With respect to the ALJ's finding that the Hunterstown-Lincoln Project and Project 5E may alleviate the AP South Reactive Interface congestion, we conclude the finding reflects a reasonable inference drawn from the evidence system upgrades are either planned or being implemented for facilities within the same regional planning area. Again, this finding was not material to the ALJ's overall evaluation of the weight of the evidence, and therefore it is not necessary for us to revisit or overturn the finding. R.D. at 86-92.

Therefore, based upon the broad powers conferred upon this Commission, we find that the ALJ properly construed the state versus federal roles regarding regional transmission planning in the analysis and application of the relevant statutory authority, applicable regulations, and case law to the present case. Accordingly, we shall reject Transource's arguments to the contrary.

Based upon our review of the record in this proceeding, the relative weight of the evidence presented, and the arguments of the Parties, we conclude that in the present circumstances Transource fails to carry the burden of persuasion by a preponderance of the evidence to establish need for the proposed siting Applications, pursuant to our authority under Section 1501 of the Code and Commission Regulation at 52 Pa. Code Section 57.76(a)(1). Because we have concluded that the evidence is insufficient to establish the required element of "need" under 52 Pa. Code § 57.76(a)(1),

the arguments related to other required elements under 52 Pa. Code § 57.76(a)(2)-(4) are rendered moot and shall not be addressed.

Accordingly, we will adopt the Recommended Decision of Administrative Law Judge Elizabeth H. Barnes, as modified consistent with this Opinion and Order and deny the Applications of Transource, and other related matters consistent with this Opinion and Order.

2. Transource Exception No. 2: The ALJ Erred as a Matter of Law In Concluding That Transource Did Not Minimize Environmental Impact

Per our discussion and disposition of Transource’s Exception No. 1, *supra.*, we have determined that Transource failed to carry the burden of persuasion to establish need for the proposed siting Applications, pursuant to Commission authority under Section 1501 of the Code and Commission Regulation at 52 Pa. Code § 57.76(a)(1), by a preponderance of the evidence. Therefore, Transource’s Exception No. 2, pertaining to environmental impact, is rendered moot. Accordingly, we shall deny the Exception.

3. Transource Exception No. 3: The ALJ Erred as a Matter of Law by Concluding That Transource Did Not Minimize Economic Impact

Per our discussion and disposition of Transource’s Exception No. 1, *supra.*, we have determined that Transource failed to carry the burden of persuasion to establish need for the proposed siting Applications, pursuant to Commission authority under Section 1501 of the Code and Commission Regulation at 52 Pa. Code Section 57.76(a)(1), by a preponderance of the evidence. Therefore, Transource’s Exception No. 3, pertaining to economic impact, is rendered moot. Accordingly, we shall deny the Exception.

4. Transource Exception No 4: The ALJ's Erred as a Matter of Fact Regarding GPS [Global Positioning System] Interference

Per our discussion and disposition of Transource's Exception No. 1, *supra.*, we have determined that Transource failed to carry the burden of persuasion to establish need for the proposed siting Applications, pursuant to Commission authority under Section 1501 of the Code and Commission Regulation at 52 Pa. Code Section 57.76(a)(1), by a preponderance of the evidence. Therefore, Transource's Exception No. 4, pertaining to an alleged error of fact which is immaterial to our determination, is rendered moot.

However, under the circumstances we shall consider the Exception. Although we conclude the disputed factual finding to be immaterial to our disposition of the question of "need" under Transource's Exception No. 1, *supra.*, we shall review Transource's Exception No. 4, for the limited purpose of clarification of the ALJ's factual finding, No 212., which states:

Mr. and Mrs. Rice's tractors are steered by GPS, and they will likely become unreliable if Transource builds transmission lines over their property.

R.D. at 46, FOF No. 212.

We agree with Transource that, to the extent Finding of Fact No. 212 may be read to establish that a lay person's testimony of personal experience regarding the use of technical equipment, such as a tractor's GPS, may be relied upon to establish the general technical efficacy of the equipment, it is in error. Pursuant to Rule 701 of the Pennsylvania Rules of Evidence (pertaining to lay witness testimony), a lay witness' testimony is sufficient to establish a credible account of the witness' personal experience

with or belief regarding the witness' experience using the technical equipment, but it may not be relied upon for specialized technical knowledge. Rule 701 provides:

If the witness is not testifying as an expert, the witness' testimony in the form of opinions or inferences is limited to those opinions or inferences which are rationally based on the perception of the witness, helpful to a clear understanding of the witness' testimony or the determination of a fact in issue, and *not based on scientific, technical, or other specialized knowledge within the scope of Rule 702.*

Rule 701 (emphasis added). The definition of "expert" is "whether the witness has any reasonable pretension to specialized knowledge on the subject under investigation. If he does, he may testify and the weight to be given such testimony is for the trier of fact to determine." *Miller v. Brass Rail Tavern, Inc.*, 541 Pa. 474, 480-481, 664 A.2d 525, 528 (1995).

In the present circumstances, the lay witness testified to their personal experience using the GPS systems associated with their farming equipment. This evidence is relevant and may be accepted as credible as a factual matter to that party's personal experience and belief regarding possible interference with GPS by the proposed HV transmission lines, but in no way constitutes expert testimony on the technical and specialized knowledge associated with the operation of equipment utilizing GPS technology. To the extent the ALJ's Finding accepted the lay witness testimony as expert opinion on the technical capability of GPS systems, it is rejected and stricken.

Therefore, we shall grant Transource's Exception No. 4, and strike Finding of Fact No. 212.

5. Transource Exception No. 5: Transource’s Certificate of Public Convenience Should Not Be Rescinded

Transource’s Exception No. 5 takes issue with the ALJ’s recommendation that a Rule to Show Cause should be issued on why Transource’s CPC should not be rescinded. Transource Exc. at 38. Thus, the Exception presents the question whether Transource is entitled to retain an active CPC, based on need, where the Commission denies the siting Applications for which the CPC was provisionally granted.

a. Position of the Parties

i. Transource’s Position

At no time in the proceeding before the ALJ did Transource raise the issue whether the denial of the siting Applications would result in the rescission of the provisional approval of Transource’s CPC, which specifically references service under Project 9A as a proposed plan to resolve congestion on the AP South Reactive Interface, and as approved by PJM as Baseline Upgrade Numbers b2743 and b2752, described to include the IEC Project. R.D. at 60 (describing the CPC as narrowly drawn for service related to Project 9A); and, at 65-74 (setting forth Transource’s position asserting need in terms of Project 9A). *See Application of Transource Pennsylvania, LLC* at Docket No. A-2017-2587821, Docket No. G-2587822 (Opinion and Order entered Jan. 23, 2018).

ii. The OCA’s, Franklin County’s, and STFC’s Positions

As previously noted, in the proceeding before the ALJ, the parties agreed that, per the January 23, 2018 Opinion and Order, the determination of whether Transource satisfied the standard for “need” under 52 Pa. Code § 57.76(a)(1) for Project 9A would be addressed in these consolidated proceedings regarding Transource’s siting

Applications. However, STFC asserted before the ALJ that the January 23, 2018 Opinion and Order, under which Transource's CPC was issued, improperly relieved Transource of the burden to establish "need" as a statutorily required element for issuance of a CPC. *See* 66 Pa. C.S.A §§ 1101-1103. STFC also argued that Transource's act of amending its Application pertaining to York County rendered the existing CPC inconsistent with the Applications for which it was authorized. Therefore, STFC argued that the CPC is invalid. R.D. at 78-79.

STFC further asserted that, because the determination of "need" for the Project 9A was expressly reserved for decision in the present proceeding on Project 9A and removed from the Opinion and Order granting the CPC, the determination of "need" under the present Applications for which the CPC was authorized, is controlling on the question of "need" for the CPC. R.D. at 79.

STFC pointed out that in January of 2019, a new Application was filed for a Reconfigured 9A project. The CPC that Transource currently possesses is issued specifically for "PJM Project 9A, baseline upgrade numbers b2743 and b2752, and for baseline upgrade number b2743 and b2752." However, STFC noted, Transource's Amended Application demonstrates that PJM has now applied different numbers to the Project., b2743.2-8 and b2752.1-9. Therefore, STFC asserted that Transource is asking the Commission to approve the first market efficiency project under FERC Order 1000, while Transource holds a limited CPC that does not correspond to the current approved amended version of Project 9A, a project for which the Commission has yet to determine need. R.D. at 79 citing, TJH-AA2.

b. ALJ's Recommended Decision

Upon rendering the recommendation that the Company had failed to carry the burden of persuasion to establish need for Project 9A by a preponderance of the

evidence, pursuant to Commission authority under Section 1501 of the Code and Commission Regulation at 52 Pa. Code § 57.76(1), the ALJ, recommended that “the Commission issue a Rule to Show Cause directing Transource to show cause why the certificate of public convenience issued to Transource should not be rescinded as there is no need for the service delineated in the CPC.”

c. Exceptions and Replies

In its Exception No 5, Transource asserts the ALJ, *sua sponte*, issued a recommendation for a Rule to Show Cause directing Transource to show cause why its CPC should not be rescinded. Transource asserts that the recommendation was in error because the ALJ erred in concluding Transource has not satisfied the burden to show by a preponderance of evidence that need existed for the proposed Project 9A. Transource Exc. at 38.

In their Replies, the OCA, Franklin County, and STFC argue that the record establishes that Transource failed to establish the need for Project 9A by a preponderance of the evidence. The Parties assert that the CPC was issued specifically for service related to Project 9A, but only if that service was determined to be necessary service in the present proceeding. The Parties argue that, since Project 9A has been determined to be unnecessary service, the CPC should be rescinded. OCA R. Exc. 24-25; Franklin County R. Exc. at 22; STFC R. Exc. at 17.

d. Disposition

As a threshold matter, we disagree with Transource’s characterization that the ALJ *sua sponte* issued the recommendation regarding the Rule to Show Cause why Transource’s CPC should not be issued. The record reflects that the issue whether

determination of the “need” for Project 9A may render Transource’s CPC invalid had been expressly raised on the record by STFC. *See* R.D. at 78-79.

Further, the issue of whether the Commission’s determination on the issue of “need” for Project 9A inherently relates to the validity of the CPC which was issued on a provisional basis expressly related to service determined to be necessary under Project 9A. Since “need” for a CPC is also a statutory element, and an element which was expressly deferred by the January 23, 2018 Opinion and Order, under which Transource’s CPC was issued, the continued authority to operate under the provisional CPC is necessarily brought into question, where there is a determination that the approval for specific project, Project 9A, has been determined to be denied. *See* 66 Pa. C.S.A. §§ 1101-1103.

As previously noted, on January 23, 2018, the Commission issued an Opinion and Order at Docket Nos. A-2017-2587821 and G-2017-2587822 granting public utility status to Transource expressly stated to: (1) begin to furnish and supply electric transmission service to or for the public within a transmission service area from the new Rice Substation in Franklin County, PA to the Pennsylvania/Maryland border for PJM Project 9A, baseline upgrade numbers b2743 and b2752 and (2) begin to furnish and supply electric transmission service to or for the public within a transmission service area from the new Furnace Run Substation in York County, PA to the Pennsylvania/Maryland border for PJM Project 9A, baseline upgrade numbers b2743 and b2752.

As noted by the ALJ:

The certificate of public convenience Transource holds is narrowly tailored for one specific project and the Commission expressly declined to predetermine that public need existed for additional electric transmission services in Franklin and York Counties. Further, the Commission made no determination of need for ...[Project 9A]. Although the

Commission approved a settlement and granted a certificate of public convenience, which generally requires a finding of public need for additional service within a service territory, the Commission specifically removed language from the Initial Decision to avoid any “predetermination of need.” See *Application of Transource Pennsylvania LLC*, Docket No. A-2017-2587821 (Opinion and Order entered January 23, 2018).

R.D. at 60.

Given that we shall adopt the ALJ’s recommendation to deny Transource’s siting Applications and the related necessary findings for authority to construct Project 9A, the provisional need for which Transource’s CPC was issued will cease to exist. As such, the ALJ correctly concluded that the statutory authority for Transource to continue operating under the CPC is brought into question. However, we disagree with the ALJ’s recommendation that the proper procedural step is issuance of a Rule to Show Cause.

Here, we are presented with the unique circumstance in which a provisional CPC was issued and the determination of the statutory element of “necessity” for the service to be provided by Project 9A was expressly deferred to the outcome of these consolidated siting Applications. Therefore, in the present circumstances, as a matter of statutory authority and Commission discretion, the failure to establish necessity of the service for which the provisional CPC was issued, *i.e.*, Project 9A, constitutes “cause” to rescind the provisional CPC. See 66 Pa C.S.A, § 1101 and *T.M Zimmerman Co. v. Pa. PUC*, 169 A.2d 322 (Pa. Super. 1961) (Type of service contemplated at time of original application is significant consideration in determining extent of authority under CPC).

Per our discussion and disposition of Transource’s Exception No. 1, *supra.*, we have determined that Transource failed to carry the burden of persuasion to establish

need for the proposed siting Applications by a preponderance of the evidence, pursuant to Commission authority under Section 1501 of the Code and Commission Regulation at 52 Pa. Code § 57.76(1). Therefore, we decline to adopt the ALJ's recommendation to issue a Rule to Show Cause and shall direct that the CPC issued to Transource under the January 23, 2018 Opinion and Order be rescinded.

Accordingly, we shall deny the Exception, and direct that the Certificate of Public Convenience issued to Transource Pennsylvania, LLC, by the January 23, 2018 Opinion and Order be rescinded.

6. Transource Exception No. 6: The ALJ Erred in Denying Transource's Eminent Domain Applications

Per our discussion and disposition of Transource's Exception No. 1, *supra.*, we have determined that Transource failed to carry the burden of persuasion to establish need for the proposed siting Applications, pursuant to Section 1501 of the Code and Commission Regulation at 51 Pa. Code § 57.76(a)(1), by a preponderance of the evidence. Therefore, Transource's Exception No. 6, pertaining to the ALJ's denial of Transource's associated eminent domain applications, is rendered moot. Accordingly, we shall deny the Exception.

7. Transource Exception No. 7: The ALJ Erred in Denying Transource's Zoning Petitions

Per our discussion and disposition of Transource's Exception No. 1, *supra.*, we have determined that Transource failed to carry the burden of persuasion to establish need for the proposed siting Applications, pursuant to Section 1501 of the Code and Commission Regulation at 51 Pa. Code Section 57.76(a)(1), by a preponderance of the evidence. Therefore, Transource's Exception No. 7, pertaining to the ALJ's denial of

Transource's associated zoning petitions, is rendered moot. Accordingly, we shall deny the Exception.

8. Transource Exception No. 8: The ALJ's Findings of Fact Are In Error

In its Exception No. 8, Transource asserts that the ALJ's recommendation to deny Project 9A is based on "faulty findings" without specifying any alleged factual or legal error. In footnote to its Exception, Transource takes issue with certain specified findings by the ALJ and asserts, as a general matter, that *all the ALJ's findings of fact and conclusions of law should be disregarded* to the extent the findings "are inconsistent with [Transource's] Exceptions, Briefs and Testimony in this proceeding." Transource Exc. at 39, fn. 27 (emphasis added).

We note that Transource's Exception, as stated, fails to conform with Commission Regulations for stating exceptions, and lacks sufficient specificity to enable our review. See 52 Pa. Code § 5.533 (pertaining to exceptions, requiring that the exceptions be stated with supporting reasons for each exception). A general assertion that *all the ALJ's factual findings and legal conclusions should be disregarded* to the extent they are "inconsistent" with a party's filings does not state a supporting reason to disregard any of the findings and conclusions.

Further, while Transource may take issue with the ultimate factual findings and legal conclusions reached, the record reflects that the ALJ's Factual Findings and Conclusions of Law were based upon a careful review of the extensive and complex evidence presented in this proceeding. The record before us reflects that Transource has undoubtedly been afforded the full and fair opportunity to present its case. Transource's Exception simply states a general disagreement with the ALJ's findings and conclusions.

For example, in its Exception No. 4, Transource provided a supporting rational for why the ALJ erred as a matter of fact regarding GPS interference. Here, however, Transource's Exception asserts a sweeping rejection of the ALJ's factual and legal conclusions gleaned from years of litigation and after extensive public input, however, Transource fails to articulate any rational to conclude the ALJ committed a legal or factual error.

Accordingly, because we conclude the Exception is stated with insufficient specificity to establish any factual or legal error, the Exception is denied.

IV. CONCLUSION

For the reasons discussed *supra*, we will grant, in part, and deny, in part, the Exceptions of Transource. We will adopt the Recommended Decision of Administrative Law Judge Elizabeth H. Barnes, as modified by and consistent with the foregoing Opinion and Order and deny the Applications of Transource, and other related matters consistent with this Opinion and Order; **THEREFORE,**

IT IS ORDERED:

1. That the Recommended Decision of Administrative Law Judge Elizabeth H. Barnes is adopted, as modified by this Opinion and Order.
2. That the Exceptions filed jointly by Transource Pennsylvania, LLC, and PPL Electric Utilities Corporation, are denied, in part, and granted, in part, consistent with this Opinion and Order.
3. That the Application of Transource Pennsylvania, LLC, filed pursuant to 52 Pa. Code Chapter 57, Subchapter G, For Approval of the Siting and

Construction of the Proposed Pennsylvania Portion of the West Portion of the Independence Energy Connection Project in Portions of Franklin County, Pennsylvania, at Docket No. A-2017-2640200, is denied.

4. That the Joint Amended Application of Transource Pennsylvania, LLC and PPL Electric Utilities Corporation filed pursuant to 52 Pa. Code Chapter 57, Subchapter G, for Approval of the Siting and Construction of the Proposed Pennsylvania Portion of the Alternative Configuration of the East Portion of the Independence Energy Connection Project in Portions of York County, Pennsylvania, at Docket No. A-2017-2640195, is denied.

5. That the 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, at Docket No. P-2018-3001878, is denied.

6. That the 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, at Docket No. P-20183001883, is denied.

7. That the Applications 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 Lines associated with the Independence Energy Connection – East and West Projects as Necessary or Proper for the Service, Accommodation, Convenience or Safety of the Public, at the following docket numbers are denied.

1	A-2018-3001881	Douglas E. & Martha J. Rohrer
2	A-2018-3001886	Dale A. & Barbara D. J. Torbert
3	A-2018-3001898	Yost Family Farms, LP
4	A-2018-3001902	Kent E. & Nancy H. Blevins
5	A-2018-3001904	Gregory J. & Melanie A. Goss
6	A-2018-3001906	Michael Hecner, Eva Hecner, Stephen M. Hecner and Theresa M. Norris
7	A-2018-3001907	Robert B. Burchett, Judy K. Burchett, Thomas L. Burchett, and Stacy L. Burchett, t/d/b/a Maple Springs Farms Partnership
8	A-2018-3001922	Mervin S. & Gladys O. Miller
9	A-2018-3001923	Amos L. & Elizabeth K. Esh
10	A-2018-3001925	J. Ross & Norma R. McGinnis
11	A-2018-3001929	McGinnis Limited Partnership
12	A-2018-3001932	Chilcoat and Peters, Inc.
13	A-2018-3001933	Gregory M. & Kristina L. Wilt
14	A-2018-3001936	Burton Family Limited Partnership
15	A-2018-3001943	James R. McGinnis
16	A-2018-3001944	George W. Treadway, Jr. and Madelyn K. Treadway
17	A-2018-3001954	Richard D. Good, Cathy M. Good, Rodger D. Good & Peggy L. Good
18	A-2018-3001956	Glenn J. Bradley
19	A-2018-3001957	Jonathan R. Hash, and Gregory J. & Melanie A. Goss
20	A-2018-3001958	Thomas R. Krell, Jr. & April R. Krell
21	A-2018-3001960	D. Arthur Grove and David Richard Grove
22	A-2018-3001961	RGRG Partners
23	A-2018-3001962	R. Andrew & Deborah E. Macklin
24	A-2018-3001963	Francis & Mary Eileen Boone

25	A-2018-3001964	Barley Farms LP
26	A-2018-3001965	Stephen J. & Dolores E. Krick
27	A-2018-3001966	Shane K. & Kristi L. Taylor
28	A-2018-3001967	Jefferson L. Bracey, Sr. & Laura R. Bracey
29	A-2018-3001968	Leonard M. & Sandra J. Traynor
30	A-2018-3001982	Barbara D. & David W. Anderson, C. Kathleen and William M. Tompkins, and M. Kathryn and Stephen M. Judy
31	A-2018-3001984	E. Daniel & Diane M. Neff
32	A-2018-3001985	Maple Lawn Farms, Inc
33	A-2018-3001986	Randall C. Stewart, Jr. and Peggy A. Stewart
34	A-2018-3001989	John J. & Carol A. Hamilton
35	A-2018-3001999	Lois M. White
36	A-2018-3002012	Jane M. Zaiger
37	A-2018-3002022	GBR Lincoln Highway Limited Liability Company, Chambersburg Holdings, LP and WLR Chambersburg, LLC
38	A-2018-3002028	Summit Partners, LLC
39	A-2018-3002031	Daryl Harry Bender and Donna Irene Bender Widney
40	A-2018-3002032	Roy B. Biesecker and Susan L. Biesecker
41	A-2018-3002037	Allan A. Stine
42	A-2018-3002041	John A. Steiger and Allison E. Steiger
43	A-2018-3002046	Leonard H. Kauffman and Mary P. Kauffman
44	A-2018-3002047	Ivan D. Horst and Ellen M. Horst
45	A-2018-3002048	Guilford Water Authority
46	A-2018-3002051	DC Farms, LLC
47	A-2018-3002052	Donald L. Martin and Denise M. Martin
48	A-2018-3002053	William K. Nitterhouse and Diane R. Nitterhouse

49	A-2018-3002054	Wayne E. Lehman & Donald R. Lehman as Trustees of Credit Shelter Trust established under Item II of the Last Will of Harvey M. Lehman (the “Harvey M. Lehman Credit Shelter Trust”) & Wayne E. Lehman, Donald R. Lehman, Jane L. Martin, Kenneth L. Lehman & Lester E. Lehman
50	A-2018-3002055	Chambersburg Area School District
51	A-2018-3002057	Lemma & O’Connor Investors LLC
52	A-2018-3002061	Daniel S. Long
53	A-2018-3002066	Mary K. Henry, Deceased, D. Yvonne Frank, Marion Carmack, Charles W. Henry (Letters Testamentary)
54	A-2018-3002067	Chambersburg Mall Realty LLC, Chambersburg CH LLC, and Chambersburg Nassim LLC
55	A-2018-3002069	Richard L. Leshner and Agnes Marie Leshner
56	A-2018-3002072	Charles Stamy Fox
57	A-2018-3002074	Marlin Lester Martin and Carrie Rosemarie Martin
58	A-2018-3002075	Owls Club, Inc.
59	A-2018-3002103	Lowe’s Home Centers, Inc.
60	A-2018-3002104	Ivan D. Horst and Ellen M. Horst
61	A-2018-3002107	Roy M. Cordell and Emma L. Cordell
62	A-2018-3002108	Patriot Federal Credit Union
63	A-2018-3002111	Edna S. Fox and Charles A. Fox
64	A-2018-3002125	Myron J. & Fern L. Miller
65	A-2018-3002128	Allen W. Rice and Lori C. Rice
66	A-2018-3002140	Colby S. Nitterhouse and Leah A. Nitterhouse
67	A-2018-3002147	Willis M. Leshner Partnership
68	A-2018-3002163	Kyle F. & Kelly A. Schindel

69	A-2018-3002169	Rodney A. Meyer and Karen I. Benedict
70	A-2018-3002232	Lynn D. Etter and Mary W. Etter
71	A-2018-3002238	Margaret L. Mower
72	A-2018-3002251	Elam H. Reiff and Mary Z. Reiff
73	A-2018-3002310	J. Norman & Bonna Jane Diller
74	A-2018-3002312	Douglas L. Straley and Nellie M. Straley
75	A-2018-3002329	Michael D. Frederick and Tammy Jo Salter
76	A-2018-3002331	Joshua L. Diller and Nicole M. Diller
77	A-2018-3002332	Michael D. Frederick and Tamra D. Frederick and Tammy Jo Salter and Roderick C.B. Salter

8. That the docket at Docket Nos. A-2017-2640195, A-2017-2640200, P- 2018-3001883, P-2018-3001878, A-2018-3001881, A-2018-3001886, A-2018-3001898, A-2018-3001902, A-2018-3001904, A-2018-3001906, A-2018-3001907, A-2018-3001922, A-2018-3001923, A-2018-3001925, A-2018-3001929, A-2018-3001932, A-2018-3001933, A-2018-3001936, A-2018-3001943, A-2018-3001944, A-2018-3001954, A-2018-3001956, A-2018-3001957, A-2018-3001958, A-2018-3001960, A-2018-3001961, A-2018-3001962, A2018-3001963, A-2018-3001965, A-2018-3001966, A-2018-3001967, A-2018-3001968, A-2018-3001982, A-2018-3001984, A-2018-3001985, A-2018-3001986, A-2018-3001989, A-2018-3001999, A-2018-3002012, A-2018-3002022, A-2018-3002028, A-2018-3002031, A-2018-3002032, A-2018-3002037, A-2018-3002041, A-2018-3002046, A-2018-3002047, A-2018-3002048, A-2018-3002051, A-2018-3002052, A-2018-3002053, A-2018-3002054, A-2018-3002055, A-2018-3002057, A-2018-3002061, A-2018-3002066, A-2018-3002067, A-2018-3002069, A-2018-3002072, A-2018-3002074, A-2018-3002075, A-2018-3002103, A-2018-3002104, A-2018-3002107, A-2018-3002108, A-2018-3002111,

A-2018-3002125, A-2018-3002128, A-2018-3002140, A-2018-3002147, A-2018-3002140, A-2018-3002147, A-2018-3002163, A-2018-3002169, A-2018-3002232, A-2018-3002238, A-2018-3002251, A2018-3002310, A-2018-3002312, A-2018-3002329, A-2018-3002331, and A-2018-3002332 be marked closed.

9. That the certificate of public convenience and necessity issued to Transource Pennsylvania, LLC, by Commission Order in Application of Transource Pennsylvania, LLC for all of the Necessary Authority, Approvals, and Certificates of Public Convenience: (1) to Begin to Furnish and Supply Electric Transmission Service in Franklin and York Counties, Pennsylvania; (2) for Approval of Certain Affiliated Interest Agreements; and (3) for Any Other Approvals Necessary to Complete the Contemplated Transactions, Docket No. A-2017-2587821, Docket No. G-2587822 (Opinion and Order entered Jan. 23, 2018), is rescinded.

BY THE COMMISSION,



Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: May 20, 2021

ORDER ENTERED: May 24, 2021