

COMMONWEALTH OF PENNSYLVANIA



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March 8, 2018

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

Re: Application of Transource Pennsylvania, LLC For Approval of the Siting and Construction of the 230kV Transmission Line Associated with the Independence Energy Connection-East Project in Portions of York County
Docket No. A-2017-2640195

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Prehearing Memorandum in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Phillip D. Demanchick", written over a horizontal line.

Phillip D. Demanchick
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Enclosure

cc: Honorable Elizabeth H. Barnes, ALJ
Honorable Andrew M. Calvelli, ALJ
Certificate of Service

CERTIFICATE OF SERVICE

Application of Transource Pennsylvania, LLC :
for Approval of the Siting and Construction : A-2017-2640195
of the 230kV Transmission Line Associated :
with the Independence Energy Connection-East :
Project in Portions of York County :

I hereby certify that I have this day served a true copy of the foregoing document, the Office of Consumer Advocate's Prehearing Memorandum, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 8th day of March 2018

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Transource Pennsylvania LLC :
for Approval of the Siting and Construction :
of the 230 kV Transmission Line Associated : Docket No. A-2017-2640195
with the Independence Energy Connection - :
East Project in Portions of York County :

PREHEARING MEMORANDUM
OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to the Prehearing Conference Order and Section 333 of the Public Utility Code, 66 Pa.C.S. Section 333, the Office of Consumer Advocate (OCA) provides the following:

I. INTRODUCTION

On December 27, 2017, Transource Pennsylvania, LLC (Transource or Transource PA or Company), a subsidiary of Transource Energy, LLC (Transource Energy), filed two Applications with the Pennsylvania Public Utility Commission (Commission) seeking approval of the siting and construction of the Pennsylvania portion of two 230 kV transmission lines and two substations associated with the Independence Energy Connection Project (IEC Project) in portions of York and Franklin Counties. The applications are as follows:

- Application of Transource Pennsylvania, LLC Filed Pursuant to 52 Pa. Code Chapter 57, Subchapter G, for Approval of the Siting and Construction of the 230 kV Transmission Line Associated with the Independence Energy Connection – East Project in Portions of York County, Pennsylvania, A-2017-2640195 (Application)
- Application of Transource Pennsylvania, LLC Filed Pursuant to 52 Pa. Code Chapter 57, Subchapter G, for Approval of the Siting and Construction of the 230 kV Transmission Line Associated with the Independence Energy Connection – West Project in Portions of Franklin County, Pennsylvania, A-2017-2640200

The Independence Energy Connection Project involves the construction of two new substations in Pennsylvania, the Rice Substation and the Furnace Run Substation, and the construction of the Pennsylvania Portion of two new overhead double-circuit 230 kV interstate transmission lines, both of which extend into Maryland. The Furnace Run Substation and the Furnace Run-Conastone 230 kV Transmission Line is referred to as the IEC-East Project. The Rice substation and the Rice-Ringgold 230 kV Transmission Line is referred to as the IEC-West Project.

PJM Interconnection LLC (PJM) approved the IEC Project as part of its Regional Transmission Expansion Plan (RTEP) as a market efficiency project. The purpose of the RTEP Market Efficiency Analysis is to identify electric transmission constraints that have an economic impact on PJM's wholesale energy or capacity markets. Approved as a market efficiency project, Transource PA alleges that the IEC Project will alleviate congestion constraints and lower wholesale market prices in Maryland, Virginia, and a portion of Western Pennsylvania.

The Furnace Run-Conastone 230 kV Transmission Line will extend approximately 15.7 miles to connect the existing Conastone Substation located near Norrisville, Harford County, Maryland, and the new Furnace Run Substation to be located in York County, Pennsylvania. Approximately 12.7 miles of the IEC-East Project will be located in Pennsylvania and approximately 3.1 miles will be located in Maryland. The Rice-Ringgold 230 kV Transmission Line will extend approximately 28.8 miles to connect the existing Ringgold Substation located near Smithsburg, Washington County, Maryland and the new Rice Substation to be located in Franklin County, Pennsylvania. Approximately 24.4 miles of the IEC West Project will be located in Pennsylvania and approximately 4.4 miles will be located in Maryland.¹

¹ As part of its Application for the siting and construction of the Independence Energy Connection, Transource PA must acquire rights-of-way and easements from affected landowners to install the lines upon their land. There are 99 Pennsylvanian landowners of 123 deeded properties in Pennsylvania along the route selected for the proposed IEC-West Project. There are 38 Pennsylvanian landowners of 53 deeded properties in Pennsylvania along the

The Commission issued an Initial Pre-hearing Conference Notice setting an initial pre-hearing conference for Tuesday, March 13, 2018 for both the east and west proceedings. The Commission has assigned both dockets to Administrative Law Judges Elizabeth H. Barnes (ALJ Barnes) and Andrew M. Calvelli (ALJ Calvelli) for investigation and review.

The ALJs issued a Prehearing Conference Order on February 26, 2018. Topics for discussion at the Prehearing Conference shall include, but are not limited to: (1) the issues each party is investigating, (2) the statutory deadline and possibility of waiver, and (3) the procedural schedule.

In summary, the OCA will examine, among other things, whether the proposed project meets the requirements set forth under 52 Pa. Code § 57.71, *et. seq.*, including whether there is a need for the project and whether other reasonable alternative projects and routes exist, and whether the IEC Project is consistent with Article I, Section 27 of the Pennsylvania Constitution in light of the standards set forth in Pa. Env'tl. Def. Found. v. Commonwealth, 161 A.3d 911 (Pa. 2017). The OCA will also examine other impacts on Pennsylvania consumers. A more comprehensive list of preliminary issues the OCA is investigating is set forth in Section V of the OCA's Prehearing Memo.

As to the statutory deadline referenced in the Prehearing Conference Order, the OCA submits that there is no statutory deadline for a Commission determination in this case. Specifically, Section 216(b)(1)(C) of the Federal Power Act, which sets a one year deadline for electric transmission projects, is not applicable in this proceeding because this time frame only applies to projects sited within a National Interest Electric Transmission Corridor (NIETC). The

transmission line route selected for the IEC-East Project. Transource PA is currently negotiating with affected landowners to reach mutually acceptable right-of-way agreements. Transource PA has yet to file any eminent domain applications. The Company, however, intends to promptly file and serve separate applications seeking Commission approval to exercise the power of eminent domain if it is unable to negotiate with the landowners.

Ninth Circuit, however, vacated the Secretary of Energy's designation of the Mid-Atlantic National Interest Electric Transmission Corridor in 2011. Cal. Wilderness Coalition v. DOE, 631 F.3d 1072, 1081 (9th Cir. 2011). Since this decision, the Secretary of Energy has not designated any areas within Pennsylvania as an NIETC. The statutory deadline, therefore, is not applicable to this proceeding. Section VI of this Prehearing Memo elaborates further on the OCA's position in this matter.

Lastly, because there is no statutory deadline within which the Commission must make a decision, the OCA respectfully submits that the procedural schedule outlined in the Prehearing Conference Order need not be adopted. Due to the very complex and technical issues, the number of participants in this proceeding, the amount of discovery that each party may potentially propound, and the fact that this is not a reliability project, the Commission should adopt a procedural schedule that provides for an adequate amount of time in order to create a full and complete record for the Commission's review. The Company likewise expects to have a Commission decision by June 1, 2019. Transource PA St. 1 at 14-15. Accordingly, the procedural schedule proposed by the OCA should be adopted because it allows for the development of a full and complete record while also respecting the Company's expectation that the Commission enter an Order by June 1, 2019.

II. BACKGROUND

PJM, a Regional Transmission Organization charged by the Federal Energy Regulatory Commission (FERC) with ensuring the reliable and efficient operation of the electric transmission system that spans all or parts of thirteen states, prepares an annual Regional Transmission Expansion Plan (RTEP) detailing a series of analyses to ensure reliable flow of electricity to its customers. Application at 6-7. The RTEP also includes a Market Efficiency Analysis, the purpose

of which is to identify congestion constraints across its electrical grid that effects its economic efficiency and can increase prices on the wholesale market for certain customers. Application, at 7.

As part of its RTEP process, PJM identified congestion that it sought to resolve. As part of the 2014/2015 Long Term Proposal Window, PJM solicited proposals to address the congestion identified in PJM's Market Efficiency Analysis. *Id.* Specifically, congestion on the AP South Reactive Interface, a set of four 500 kV lines which originate in West Virginia and terminate in Maryland. *Id.* Transource Energy submitted its proposal, now known as the IEC Project, which PJM identified as "201415_1-9A," composed of both the IEC-East and IEC-West portions. On August 2, 2016, the PJM Board of Directors approved Project 9A as Baseline Upgrade Numbers b2743 and b2752. Application at 8-9.

On November 2, 2016, PJM and Transource Energy executed a Designated Entity Agreement (DEA). FERC approved the Designated Entity Agreement on January 12, 2017 at Docket No. ER17-349-000. Application at 9-10. Pursuant to Schedule E of the FERC-approved Designated Entity Agreement, Transource PA is responsible for the construction, ownership, maintenance, and operation of the Pennsylvania portion of the IEC Project. Under the same agreement, Transource MD, is responsible for the construction, ownership, maintenance, and operation of the Maryland portion of the IEC Project.

On February 7, 2017, Transource PA filed an Application with the Commission seeking a Certificate of Public Convenience to begin to furnish and supply electric transmission service in Franklin and York Counties, docketed at A-2017-2587821, *et al.* On January 23, 2018, the Commission entered an order granting Transource PA its Certificate of Public Convenience, but

making clear that such approval did not constitute approval of any transmission project proposed for the Company's service area.

Transource PA now applies for approval of the siting and construction of the IEC project within its service areas. In addition to the two Applications filed with the Commission, on December 27, 2017, Transource Maryland, LLC (Transource MD), an affiliate of Transource PA and a subsidiary of Transource Energy, filed an Application with the Maryland Public Service Commission, requesting a Certificate of Public Convenience and Necessity to construct the Maryland portion of the two new 230 kV transmission lines associated with the IEC Project.²

On January 10, 2018, the OCA filed two Protests in the matter of Transource's Applications to build the Independence Energy Connection, one for the IEC-East Project and one for the IEC-West Project. The OCA seeks to ensure that Transource PA adheres to all legal requirements of the Public Utility Code, applicable Commission Rules and Regulations, and Pennsylvania Law, as well as to protect the interests of ratepayers.

Over 100 Protests, Petitions to Intervene and Objection Letters have been filed in this proceeding. By way of example, on February 14, 2018, PECO Energy Company (PECO) filed a Petition to Intervene because Transource PA will construct a portion of the Furnace Run-Conastone line in PECO's service territory and connect the line to PECO facilities. On February 15, 2018, the York County Planning Commission filed a Protest. On February 20, 2018, Mid-Atlantic Interstate Transmission, LLC (MAIT) filed a Petition to Intervene because it will be required to make relay upgrades at its substation facilities if the Commission approves the IEC-East Project. On February 20, 2018, the Maryland and Pennsylvania Railroad Preservation Society

² In the Matter of the Application of Transource Maryland LLC for a Certificate of Public Convenience and Necessity to Construct Two New 230 kV Transmission Lines Associated with the Independence Energy Connection Project in Portions of Harford and Washington Counties, Maryland, Case No. 9471.

filed a Petition to Intervene. Additionally, Citizens to STOP Transource filed a Petition to Intervene on February 20, 2018. For a full description of the individuals and organizations participating in the east proceeding, please see Appendix A.

III. CONSOLIDATION OF CASES

The OCA supports consolidation of both Applications for the IEC-East and IEC-West Projects.

IV. SERVICE LIST

The OCA will be represented in this proceeding by Senior Assistant Consumer Advocate Darryl A. Lawrence and Assistant Consumer Advocates David T. Evrard and Phillip D. Demanchick. One hard copy of all documents should be served on the OCA as follows:

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Additionally, the OCA will accept e-service of all documents at the following e-mail address, Transource@paoca.org.

The OCA would also request that, because of the number of potential participants, the Presiding Officers include on the full service list only those parties who state on the record or request in writing that they wish to be served with all documents pursuant to 52 Pa. Code §1.54(c). The OCA further submits that the creation of a limited service list for a proceeding with this many participants would aid in public participation and yet significantly reduce the copying and service requirements for the other parties. Participants could elect to remain as full parties to the case, yet elect to be on the limited service list and only receive important documents that are issued in this

matter such as the ALJs' orders and any Recommended Decision that may be issued. Such procedures have been effectively implemented in many other cases. For example, in Pa. PUC v. UGI Penn Natural Gas, Inc., Administrative Law Judge Mary D. Long issued a Prehearing Conference Order, which stated:

Any party may send to the undersigned presiding officer a letter requesting to be moved from either the full service list to the limited service list, or to be moved from the limited service list to the full service list. Upon receipt of such a request, the undersigned presiding officer will issue an Order revising the service lists for this case. Such changes will be effective as of the date of the Order and will not apply to any document filed and served prior to the date of that Order.

Pa. PUC v. UGI Penn Natural Gas, Inc., Docket No. R-2016-2580030, Prehearing Conference Order at 5 (Feb. 9, 2007); see also Pa. PUC v. Metropolitan Edison Company, *et al.*, Docket No. R-2016-2537349, *et al.*, Prehearing Order at 7 (June 22, 2016).

V. ISSUES

The OCA is currently in the process of conducting discovery. To date, the OCA has served eight sets of interrogatories on Transource PA. Most recently, the Company has provided responses to OCA Set V on March 7, 2018. The OCA is awaiting responses for OCA Set IV and Sets VI through VIII. Accordingly, the OCA's identified list of issues is preliminary and the OCA reserves the right to add additional issues as necessary.

The Commission will not grant an application for the siting and construction of electric transmission lines, unless it finds and determines as to the proposed high-voltage 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, and (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. 52 Pa. Code § 57.76(a). To that end the Commission will consider, among other things, 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 habits.

(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 alternatives.

52 Pa. Code § 57.75(e). Accordingly, the OCA and its experts are currently investigating and analyzing the following general issues:

1. Need for the IEC Project

- a. The level of congestion that is alleged to be occurring in the project area, including whether such congestion is reasonably expected to continue over the 15-year review period.

- b. Whether the resolution of this alleged congestion is necessary and reasonable and the extent that the resolution will provide benefits to ratepayers.
 - c. To the extent that resolution of congestion in the project area is necessary and reasonable in order to provide benefits to ratepayers, whether the IEC project is a reasonable solution.
 - d. Whether the IEC project is needed to provide cost savings or other economic benefits to Pennsylvania ratepayers.
 - e. Whether all segments of the proposed line and all substations are needed.
 - f. Investigation and analysis of the cost/benefit studies produced by PJM as support for its determination of need for the IEC Project.
2. Costs
- a. The rate impacts upon all Pennsylvania ratepayers.
 - b. The extent to which the IEC Project is the most cost-effective remedy to address the congestion alleged in the project area.
3. Alternatives
- a. The analysis of alternatives, both transmission and non-transmission, that may also tend to address any congestion issues that are identified and that should be considered.
 - b. The extent to which existing transmission facilities and right-of-ways in the project area have been fully evaluated in order to ascertain whether such facilities are currently being utilized to their fullest extent in order to address the alleged congestion issues.
 - c. The analysis of the Company's proposed routes for the IEC Project and whether the route evaluations and proposed routes are reasonable and consistent with the Commission's regulations and the laws of Pennsylvania.
4. Environmental and Land Use Impacts
- a. Investigation and analysis of both transmission and non-transmission alternatives to the installation of the facilities as a whole and whether the IEC Project is the least environmentally intrusive alternative.
 - b. Whether the environmental and land use impacts of the project are consistent with the requirements of Art. I, Section 27 of the Pennsylvania Constitution and the standards set forth in Pa. Env'tl. Def. Found. v. Commonwealth, 161 A.3d 911 (Pa. 2017).

5. Other Impacts on Pennsylvania Ratepayers

The OCA specifically reserves the right to expand or narrow the issues it will address, as necessary.

VI. STATUTORY DEADLINE AND POSSIBILITY OF WAIVER

The Prehearing Conference Order states that the statutory deadline and possibility of waiver shall be considered. Specifically, the Order cites to Section 216(b)(1)(C) of the Federal Power Act. It states that a public utility may file an application with the Federal Energy Regulatory Commission ("FERC") for approval of the need for the siting of certain high voltage transmission lines if a state public utility commission that has authority to approve the siting of high voltage transmission facilities has "withheld approval for more than 1 year after the filing of an application seeking approval pursuant to applicable law..."

The OCA submits that Section 216(b)(1)(C), which sets forth the one year deadline, is not applicable to this project. Moreover, Transource has not made such a claim and has stated that it anticipates a Commission decision by June 1, 2019. Transource PA St. 1 at 14-15.

The statutory deadline arises from Section 1221 of the Energy Policy Act of 2005 (codified as 16 U.S.C. § 824p). Pursuant to this Section, the Department of Energy must conduct a Congestion Study every three years to determine the extent of energy congestion in the United States. 16 U.S.C. § 824p(a)(1). As a result of these studies, the Secretary of Energy can designate National Interest Electric Transmission Corridors (NIETC's), which are geographic areas that experience electric energy transmission capacity constraints or congestion that adversely affects consumers. 16 U.S.C. § 824p(a)(2). FERC may issue one or more permits for the construction or modification of electric transmission facilities located within a NIETC if the Commission finds that the state commission has no authority to consider the facilities or has failed to act within a year. 16 U.S.C. § 824p(b)(1).

In 2006, the Department of Energy exercised this authority by releasing a Congestion Study, which was the basis for designating two NIETC's: the Mid-Atlantic Area National Corridor and the Southwest Area National Corridor. Cal. Wilderness Coalition v. DOE, 631 F.3d 1072, 1081 (9th Cir. 2011).

The Ninth Circuit, however, ruled that the Congestion Study was improperly conducted and vacated the Secretary's designation of the NIETC's in 2011. Id., at 1107. The Court reasoned that the Department of Energy did not properly consult with affected States, as the statute required. Id., at 1080. Since this decision, the Secretary has not designated any other NIETC's. Most recently, the DOE issued a congestion study in September 2015 finding that the results did not provide a basis for designating an NIETC partly because congestion in the Northeast is "down due to lower demand reflecting the economic recession of 2008-2009, aggressive energy efficiency and demand response, lower natural gas prices, and the resulting smaller price differentials between natural gas and competing generation fuels." U.S. DEPARTMENT OF ENERGY, NATIONAL ELECTRIC TRANSMISSION CONGESTION STUDY, Executive Summary at xix (2015).³

The OCA submits that because the Secretary of Energy has not designated any NIETC's since the Cal. Wilderness Coalition decision, FERC no longer has the authority to approve the IEC project if the Commission does not issue a decision within one year. The plain language of the statute supports this interpretation as it explicitly limits FERC's authority to electric transmission facilities inside an NIETC. The text states that:

(b) Construction permit. The Commission may, after notice and an opportunity to be heard, issue one or more permits for the construction or modification of electric transmission facilities *in a national interest electric transmission corridor* designated by the secretary under subsection (a) if the commission finds that—

³ The 2015 National Electric Transmission Congestion Study can be accessed at <https://www.energy.gov/oe/downloads/2015-national-electric-transmission-congestion-study>.

(1) (C) a state Commission or other entity that has authority to approve the siting of the facilities has—

(i) withheld approval for more than 1 year after the filing of an application seeking approval pursuant to applicable law or 1 year after the designation of the relevant national interest electric transmission corridor, whichever is later; or...

16 U.S.C. § 824p(b) (emphasis added).

In addition, court decisions that deal with 16 U.S.C. § 824p have consistently stated that FERC's authority is tied to the designation of NIETC's. In Cal. Wilderness Coalition, the Ninth Circuit stated "the designation of an area as a 'national interest electric transmission corridor' makes available a fast-track approval process to utilities seeking permits for transmission lines within the corridor." 631 F.3d 1072, at 1080. In Piedmont Env'tl. Council v. FERC, the Fourth Circuit stated that "16 U.S.C. § 824p(a) gives FERC the authority in national interest corridors to issue permits for the construction or modification of transmission facilities in certain instances, including the one at issue here..." 558 F.3d 304, 310 (4th Cir. 2009) (emphasis added).⁴

For these reasons, the OCA submits that FERC has no authority to approve the IEC project in the absence of a Commission decision within one year. Accordingly, the Commission is not required to issue a decision within a year.

VII. EXPERT WITNESSES

The OCA intends to present direct, rebuttal, and surrebuttal testimony of expert witnesses, as may be necessary. The OCA witnesses will present testimony in written form and may also attach various exhibits, documents, and explanatory information which will assist in the presentation of the OCA's case. In order to expedite the resolution of this proceeding, the OCA

⁴ Section 216(b)(1)(C)(i) of the Federal Power Act also does not give FERC approval authority of a transmission line within a NIETC when a state has affirmatively denied a permit application within the one-year deadline. Piedmont Env'tl. Council, 558 F.3d at 313-315.

requests that copies of all interrogatories, testimony, and answers to interrogatories be e-mailed directly to its expert witnesses, as well as to counsel for the OCA, and mailed a hard copy where e-mail would not be possible due to file size constraints. The following is a list of individuals that will assist with discovery and present testimony:

Name: Peter Lanzalotta
Subject Matter: Technical and Engineering Issues
Mailing Address: Lanzalotta & Associates LLC
14250 Royal Harbour Court #914
Fort Myers FL 33908
Phone: 239-433-1428
Fax: 239-267-0087
petelanz@lanzalotta.com

Name: Scott J. Rubin
Subject Matter: Policy Issues
Mailing Address: 333 Oak Lane
Bloomsburg, PA 17815
scott.j.rubin@gmail.com

Name: Geoffrey Crandall
Jerry E. Mendl
Subject Matter: Non-Transmission Alternatives
Mailing Address: MSB Energy Associates, Inc.
6907 University Avenue
Suite #162
Middleton, WI 53562
mendl@msbnrg.com

The OCA specifically reserves the right to call additional witnesses, as necessary. If the OCA determines that any additional witness may be necessary for any portion of its presentation, Your Honors and all parties of record will be promptly notified.

VIII. PROCEDURAL SCHEDULE

A. The OCA's Proposed Schedule

The OCA proposes the following procedural schedule:

Prehearing Conference	March 13, 2018
Public Input Hearing and Site Visits, York County	May 14 – 18, 2018
Public Input Hearing and Site Visits, Franklin County	May 21 – 25, 2018
Additional Public Input Hearings Or Rain Dates for Site Visits (if needed)	June 4 – 8, 2018
Intervenor Direct Testimony	July 25, 2018
Rebuttal Testimony	October 3, 2018
Surrebuttal Testimony	November 7, 2018
Written Rejoinder	November 20, 2018
Hearings	December 4 – 7, 2018
Overflow Hearing Days (if needed)	December 10 – 12, 2018
Main Briefs	February 1, 2019
Reply Briefs	February 28, 2019

B. The Procedural Schedule Outlined in the Prehearing Conference Order Does Not Allow for the Creation of a Full and Complete Record for Commission Review

The OCA is aware that if the parties cannot come to an agreement on the procedural schedule, the Prehearing Conference Order states that the following dates will be adopted:

Deadline for requesting a site view	March 30, 2018
Public Input Hearings	May TBD
Site views	TBD
Testimony of parties other than Transource	June 27, 2018
Rebuttal Testimony	August 3, 2018

Surrebuttal Testimony	August 17, 2018
Evidentiary Hearings	August 27 - 31, 2018
Main Briefs	September 26, 2018
Reply Briefs	October 5, 2018

In summary, the OCA submits the above schedule will not allow the OCA to fully represent the interests of ratepayers in this matter, nor will it allow for the creation of a full and complete record for the Commission's review in this highly complex and technical proceeding. The OCA's proposed schedule as set out above will provide a reasonable time frame for investigation and analysis of this matter, will provide the necessary time for the large number of consumers who have an interest in this matter to fully participate and will also provide a final Commission decision consistent with the Company's own testimony and in alignment with the DEA milestones as agreed to by PJM and the Company.

The procedural schedule contained in the Prehearing Conference Order should not be adopted here for several reasons. First, as stated above, the Secretary of Energy has not designated any NIETC's since the decision in Cal. Wilderness Coalition, 631 F.3d 1072. Accordingly, FERC has no authority to approve the IEC project in the absence of a Commission decision within one year. The Commission, therefore, is not required to issue a decision within one year.

Second, these proceedings will involve extensive discovery, investigation, and analysis for all parties involved. For the IEC-East Project, over one hundred parties have filed Protests and over seventy parties have filed Petitions to Intervene. For the IEC-West Project, over seventy parties have filed Protests and four parties have filed Petitions to Intervene. Accordingly, public input hearings, site views, reviewing testimony, and evidentiary hearings will exceed the time allotted in the Prehearing Conference Order. The evidence in this proceeding is also subject to change as discovery progresses. For example, it is expected that PJM will continually update the

cost/benefit ratio of the IEC Project to ensure that it remains economically beneficial. PJM has updated this cost/benefit ratio as recently as February 2018. Given the number of parties involved, the extensive discovery that must take place, and the potential for the evidence to change over time, the procedural schedule laid out in the Prehearing Conference Order will not allow for a full, complete, and orderly development of the record.

Third, unlike the procedural schedules set forth in other high voltage transmission line cases meant to address reliability and potential violations of the standards set forth by the North American Electric Reliability Corporation (NERC), the IEC Project is meant to address congestion.⁵ Whether a transmission line constructed to resolve economic congestion issues meets the test for need pursuant to 52 Pa. Code § 57.76 is a novel issue, which the Commission has not yet addressed. Furthermore, the development, investigation, and analysis of congestion constraints is a highly technical process including, but not limited to, issues concerning future projections of electric cost benefits of the IEC Project and its alternatives, the assumptions used to calculate and determine the benefits of the IEC project and its alternatives, and weighing how the benefits of the IEC Project are distributed amongst ratepayers.

Fourth, the procedural schedule adopted by the Maryland Public Service Commission must also be considered. On February 16, 2018, the Maryland Public Service Commission held a pre-hearing conference to determine, among other things, the procedural schedule. On February 22, 2018, the Maryland Public Service Commission adopted the following procedural schedule:

Applicant Supplemental Testimony

June 29, 2018

⁵ See Application of PPL Electric Utilities Corporation for Approval of the Siting and Construction of Transmission Lines Associated with the Northeast-Pocono Reliability Project in Portions of Luzerne, Lackawanna, Monroe, and Wayne Counties, Pennsylvania, et al., Docket No. A-2012-2340873, 2013 Pa. PUC LEXIS 620, at *180-81 (Oct. 8, 2013), Application of PPL Electric Utilities Corporation for Approval of the Siting and Construction of the Pennsylvania Portion of the Proposed Susquehanna-Roseland 500 kV Transmission Line in Portions of Lackawanna, Luzerne, Monroe, Pike and Wayne Counties, Pennsylvania, et al., Docket No. A-2009-2082652, 2010 Pa. PUC LEXIS 434, at *62 (Feb. 12, 2010).

Intervenor Direct Testimony	November 16, 2018
Rebuttal Testimony	December 21, 2018
Surrebuttal Testimony	January 18, 2019
Evidentiary Hearings	February 5 – 20, 2019

In the Matter of the Application of Transource Maryland, LLC for a Certificate of Public Convenience and Necessity to Construct Two New 230 kV Transmission Lines Associated with the Independence Energy Connection Project in Portions of Harford and Washington Counties, Maryland, Case No. 971, Order No. 88585 at 2-3 (Feb. 22, 2018).⁶ The Maryland procedural schedule does not yet establish a briefing schedule. The OCA’s proposed procedural schedule, therefore, would better allow for development of a full record and work with the Maryland procedural schedule.

Fifth, according to the DEA, the Company’s deadline for acquisition of all necessary federal, state, county, and local site permits is December 1, 2019. Att. 2, App. 2.3, Sch. C. Additionally, the Company has also requested that the Commission enter a decision no later than June 1, 2019. Transource PA St. 1 at 14-15 (“Accordingly and in anticipation of receiving the PUC’s approval by June 1, 2019, Transource PA currently is planning for a 12-month construction schedule...”). Similarly in Maryland, Transource MD also anticipates that the Maryland Public Service Commission make a decision by June 1, 2019. Transource MD St. 1 at 13.

Lastly, this matter has already generated substantial public interest and the Commission’s decision in this matter will significantly affect the residents of York and Franklin Counties. The possible impact of this proceeding and the substantial rights at stake demand that the highest level

⁶ The Maryland Public Service Commission’s procedural schedule can be accessed at http://webapp.psc.state.md.us/newIntranet/casenum/CaseAction_new.cfm?CaseNumber=9471.

of due process be afforded to the public. Such a level of due process with this many participants is consistent with the need for a lengthier schedule.

For the reasons above, the OCA's proposed procedural schedule allows all the parties to adequately represent their interests and have the opportunity to be heard and will allow the Commission to make a decision near the June 1, 2019 deadline set forth by Transource PA.

IX. PUBLIC INPUT HEARINGS

The OCA requests that public input hearings be held in all areas affected by the proposed project where substantial public interest has been demonstrated. *See* 52 Pa. Code § 69.321. As stated above, many individuals and organizations have submitted Protests, Petitions to Intervene, Objection Letters, as well as informal complaints to the Commission, the OCA and legislators concerning this Application. The OCA will work with the other parties, the ALJs and the Company to identify appropriate areas for public input hearings within the dates indicated by the proposed schedule.

The OCA would note that public hearings in transmission siting cases are required to be publicized in accord with the specific requirements of 52 Pa. Code § 57.75, which requires, among other things, that notice to the public begin no later than 45 days in advance of the commencement of hearings.

X. SITE VIEWS

The OCA supports the use of site views in these proceedings. Site views provide an opportunity for the ALJs, Attorneys, and other interested Parties to visit a specific location, generally an affected landowner's property, to conduct an on-site hearing in order to view the property and listen to the specific concerns relating to the potential effect of the IEC Project on the location.

The Prehearing Conference Order states that all interested Parties should provide their site view request by March 30. The OCA will work with the other parties, the ALJs the Company, and the requesting Parties to establish a time and date to attend the site view.

XI. DISCOVERY MODIFICATIONS

The OCA has served eight sets of interrogatories on Transource PA. Under the Commission's regulations, the Company has twenty days from the date it is served with interrogatories to serve a response on the propounding party pursuant to 52 Pa. Code § 5.423(d). Most recently, the Company has provided responses to OCA Set V on March 7, 2018. Additionally, responses to the OCA's Set IV interrogatories were due on March 5, 2018. The OCA, however, came to an agreement with the Company and provided it an additional ten days to respond to specific interrogatories of OCA Set IV. At the time of this filing, the OCA has not received any responses to Set IV, although the Company has stated it will provide responses to a portion of the interrogatories shortly. Additionally, the OCA is awaiting a response to Set I, Question 3, which has exceeded its twenty-day time limit.

The OCA understands the significant task that the Company has in answering all interrogatories and discovery requests. Accordingly, the OCA does not seek extensive modification of the discovery rules under the OCA's proposed schedule. If, however, a shorter procedural schedule for preparing testimony and conducting hearings is adopted, more significant discovery modifications will be needed immediately.

In the event that the ALJs adopt a procedural schedule similar to the schedule proposed by the OCA, the OCA requests that the Commission's rules and regulations, 52 Pa. Code § 5.321, *et seq.*, be modified after the due date for Rebuttal Testimony as follows:

1. Answers to written interrogatories, requests for production, and requests for admissions shall be served in-hand within ten (10) calendar days of service.

2. Objections to written interrogatories, requests for production, and requests for admission shall be communicated orally within three (3) calendar days of service of the interrogatories; unresolved objections shall be served upon the ALJ within five (5) days of service of the interrogatories.

In the event that the ALJs adopt a procedural schedule more closely aligned with the one contained in the Prehearing Conference Order, the OCA respectfully requests the Commission's Rules and Regulations be modified immediately as follows:

1. Answers to written interrogatories, requests for production, and requests for admissions shall be served in-hand within ten (10) calendar days of service.
2. Objections to written interrogatories, requests for production, and requests for admission shall be communicated orally within three (3) calendar days of service of the interrogatories; unresolved objections shall be served upon the ALJ within five (5) days of service of the interrogatories.
3. Motions to dismiss objections and/or direct the answering of interrogatories, requests for production, and requests for admission shall be filed within five (5) calendar days of service of such motions.
4. Answers to motions to dismiss objections and/or answering of interrogatories, requests for production, and requests for admission shall be filed within five (5) calendar days of service of such motions.
5. Requests for admission will be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.
6. Answers to on-the-record data requests shall be served in-hand within seven (7) calendar days of the requests.

XII. TRANSCRIPTS

For Application proceedings, it is the OCA's understanding that transcripts would be available on a twenty-one day time frame. The OCA submits that under any of the schedules being considered, the transcripts should be expedited. The OCA submits that transcripts should be received within seven to ten days depending on the schedule adopted.

Additionally, given the number of participants in this proceeding and the public interest in this matter, the OCA requests that a discussion should be held at the prehearing conference as to

whether additional copies of the transcript could be purchased and made available at public locations in the affected areas, such as the local libraries where the filing is made available.

XIII. PROTECTIVE ORDER

On March 5, 2018, Transource PA filed a Motion for Protective Order to limit and prohibit the disclosure of confidential information. The OCA respectfully requests that the ALJs approve the Protective Order expeditiously so that critical discovery information can be timely served.

Respectfully submitted,



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Dated: March 8, 2018
244931

The following is a specific summation of the Protests, Petitions to Intervene, and Notices of Intervention filed in the IEC-East Project proceeding, docketed at A-2017-2640195:

On January 10, 2018, the Office of Consumer Advocate filed a Protest. On January 30, 2018, John and Louise Kennedy filed a Petition to Intervene. On February 1, 2018, Kira D. Rohrer and J. Lamar Rohrer each filed a Petition to Intervene. On February 9, 2018, Stephen Snell filed a Petition to Intervene. On February 12, 2018, Lynda Manning filed a Petition to Intervene. On February 14, 2018, PECO Energy Company (PECO) filed a Petition to Intervene. On February 15, 2018, the following individuals and organizations each filed a Protest: Russell Burton, Ian Blouse, Brenton Blouse, Kathryn Judy, Robert and Trisha Bowman, Brooke E. Anderson, Laurie Donaldson, Derek Dettinger, Daniel R. McElwain, David Miller, Brett Tompkins, David W. Anderson, Stephen M. Judy, Robert and Johneva Mickey, Stacy A. Wolfe, Jack Wolfe, Bryce A. Anderson, Zackery W. Anderson, Thomas R. Jr. and April R. Krell, Paige Blouse, Diane M. Neff, George W. Treadway, Barron and Jana Shaw, Westley W. Tompkins, Jack D. Miller, Matthew Keller, Abigail Anderson, Christine Blouse, Jake Taylor, Jason Wolfe, Carole K. King, Carly Miller, John and Carol Hamilton, Byron Jess Boyd, Kathleen Tompkins, Bradley Waltermyer, Barry Shenk, Kay Taylor, Ben Heishman, Kristi Taylor, Kristin Thomas, Margaret Taylor, Morgan Anderson, Patrice Taylor, Patricia Miller, Peggy Stewart, Randall Stewart, Randall Stewart Jr, Raymond and Rachel Lins, Rona Kaufman, Samuel Taylor, Shane Taylor, Stephen and Dolores Krick, Taylor Anderson, Twin Good Farms, Virginia Anderson, William Tompkins, Barbara L. Gallagher and Jane R. Baer on behalf of Mary E. Boone, Gary D. Anderson, Barbara Anderson, Bailey Anderson, Austin Taylor, Andy Taylor, Alan Yost, Alan Taylor, Stephen, Michael, and Eva Hecner and Theresa Norris, Gregory Goss, Gloria Wolfe, Donna Miller, Dylan Miller, David Downs, Henry and Glenda Sommer, Christine Anderson, Jerry Taylor, Melanie Goss, Jeffrey

Neutzel, Robert Bleister, Sharlie Taylor, Gregory and Kristina Wilt, Daniel Rohrer, Martha Rohrer, James R. McGinnis Jr., Rose Tree-Blue Mountain Hunt Club, Inc., and the York County Planning Commission. On February 15, 2018, the following individuals each filed Petitions to Intervene: Kay A. Baldwin, Carl Baldwin, Tim Krick, and John Krick. On February 20, 2018, the following individuals and organizations each filed a Protest: Douglas Rohrer, Sandra Traynor, Leonard Traynor, Martha Rohrer, Justine Traynor, Tiffany Peiffer, Kent Blevins, Pamela Moser, Jonathan R. Hash, Leonard M. Traynor II, Kelly Musser, and Maple Lawn Farms, Inc. On February 20, 2018, the following individuals and organizations each filed a Petition to Intervene: 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, Maryland and Pennsylvania Railroad Preservation Society, 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, Citizens to STOP Transource, Scott Welch, Amber Geiger, Trevor Lewis, David Hawkins, Mike Martinez Jr., Judeth Hawkins, and Mid-Atlantic Interstate Transmission, LLC (MAIT). On February 21, 2018, Deborah and Andrew Macklin, and Hugh McPherson each filed a Protest. On March 5, 2018, the Office of Small Business Advocate filed a Notice of Intervention.