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Anthony D. Kanagy  
Principal

akanagy@postschell.com  
717-612-6034 Direct  
717-720-5387 Direct Fax  
File #: 166570

January 12, 2021

***VIA ELECTRONIC FILING***

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor North  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**Re: Application of Transource Pennsylvania, LLC for Approval of the Siting and Construction of the 230 kV Transmission Line Associated with the Independence Energy Connection - East and West Projects in Portions of Franklin and York Counties, Pennsylvania - Docket No. 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 - Docket Nos. 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 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 - Docket Nos. A-2018-3001881, et al.**

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Dear Secretary Chiavetta:

Enclosed are the Exceptions of Transource Pennsylvania, LLC and PPL Electric Utilities Corporation for filing in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Rosemary Chiavetta, Secretary  
January 12, 2021  
Page 2

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Anthony D. Kanagy". The signature is fluid and cursive, with a large initial "A" and "K".

Anthony D. Kanagy

ADK/jl  
Attachment

cc: Honorable Elizabeth Barnes  
Certificate of Service  
Office of Special Assistants (*via E-mail*)

## **CERTIFICATE OF SERVICE**

**Docket Nos. A-2017-2640195 & A-2017-2640200, et al.**

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

### **VIA E-MAIL & FIRST-CLASS MAIL**

PHILLIP D DEMANCHICK, ESQUIRE  
DAVID T EVRARD, ESQUIRE  
DARRYL A LAWRENCE, ESQUIRE  
OFFICE OF CONSUMER ADVOCATE  
555 WALNUT STREET 5<sup>TH</sup> FLOOR  
FORUM PLACE  
HARRISBURG PA 17101

SHARON E WEBB, ESQUIRE  
OFFICE OF SMALL BUSINESS  
ADVOCATE  
555 WALNUT STREET  
FORUM PLACE, 1<sup>ST</sup> FLOOR  
HARRISBURG PA 17101

JACK GARFINKLE, ESQUIRE  
JENNEDY S JOHNSON, ESQUIRE  
ROMULO L DIAZ, JR., ESQUIRE  
PECO ENERGY COMPANY  
2301 MARKET STREET  
LEGAL DEPT S23-1  
PHILADELPHIA PA 19103

JOANNA A WALDRON, ESQUIRE  
MARK L FREED, ESQUIRE  
CURTIN & HEEFNER LLP  
DOYLESTOWN COMMERCE CENTER  
2005 S EASTON ROAD SUITE 100  
DOYLESTOWN PA 18901  
*STOP Transource Franklin County*

TERESA HARROLD, ESQUIRE  
FIRSTENERGY  
2800 POTTSVILLE PIKE  
PO BOX 16001  
READING PA 19612-6001  
*MAIT*

KIMBERLY A KLOCK, ESQUIRE  
MICHAEL J. SHAFER, ESQUIRE  
PPL ELECTRIC UTILITIES  
TWO NORTH NINTH ST  
ALLENTOWN PA 18101  
*PPL Electric Utilities Corporation*

KAREN O MOURY, ESQUIRE  
ECKERT SEAMANS  
213 MARKET ST  
HARRISBURG PA 17101  
*Maple Lawn Farms, Inc.,  
Rose Tree-Blue Mountain Hunt Club, Inc.  
& Citizens to Stop Transource*

THOMAS J SNISCAK, ESQUIRE  
WHITNEY E SNYDER, ESQUIRE  
HAWKE MCKEON AND SNISCAK LLP  
100 N TENTH STREET  
HARRISBURG PA 17101  
*York County Planning Commission*

LINUS E FENICLE, ESQUIRE  
REAGER & ADLER PC  
2331 MARKET ST  
CAMP HILL PA 17011  
*Quincy Township*

BARRON SHAW  
JANA SHAW  
445 SALT LAKE RD  
FAWN GROVE PA 17321

JOHN L MUNSCH, ESQUIRE  
800 CABIN HILL DRIVE  
GREENSBURG PA 15601  
*MAIT & WEST PENN POWER*

SCOTT T WYLAND, ESQUIRE  
G BRYAN SALZMANN, ESQUIRE  
ISAAC P WAKEFIELD, ESQUIRE  
SALZMANN HUGHES PC  
112 MARKET STREET, 8<sup>TH</sup> FLOOR  
HARRISBURG, PA 17101  
*Franklin County Board of Commissioners*

**VIA FIRST CLASS MAIL**

BYRON JESS BOYD  
831 NEW PARK ROAD  
NEW PARK PA 17352

ALLEN & LORI RICE  
1430 HENRY LANE  
CHAMBERSBURG PA 17202

LOIS WHITE  
1406 WALKER ROAD  
CHAMBERSBURG PA 17202

HUGH MCPERSON  
2885 NEW PARK ROAD  
NEW PARK PA 17352

J ROSS MCGINNIS ESQUIRE  
41 WEST MAIN STREET  
FAWN GROVE PA 17321

FRED BYERS  
1863 COLDSMITH RD  
SHIPPENSBURG PA 17257

KAREN BENEDICT  
RODNEY MYER  
5413 MANHEIM RD  
WAYNESBORO PA 17268

LEONARD KAUFFMAN  
MARY KAUFFMAN  
4297 OLDE SCOTLAND RD  
CHAMBERSBURG PA 17202

WILLA WELLER KAAL  
67 SUMMER BREEZE LANE  
CHAMBERSBURG PA 17202

DANIELLE BERNECKER  
1827 WOOD DUCK DR E  
CHAMBERSBURG PA 17202

JAN HORST  
GEORGIANA HORST  
826 NEW FRANKLIN RD  
CHAMBERSBURG PA 17202

ROY CORDELL  
EMMA CORDELL  
4690 FETTERHOFF CHAPEL ROAD  
CHAMBERSBURG PA 17202

ASHLEY HOSPELHORN  
8010 HIDDEN VALLEY LN  
WAYNESBORO PA 17268

ASHLEY HOSPELHORN  
116 WEST 3<sup>RD</sup> STREET  
WAYNESBORO PA 17268

LANTZ SOURBIER  
LAURA SOURBIER  
64 EDGEWOOD CIR  
CHAMBERSBURG PA 17202

MICHAEL CORDELL  
4219 ALTENWALD RD  
WAYNESBORO PA 17268

AARON KAUFFMAN  
MELINDA KAUFFMAN  
4220 OLD SCOTLAND RD  
CHAMBERSBURG PA 17202

ALLAN STINE  
HEATHER STINE  
867 CIDER PRESS ROAD  
CHAMBERSBURG PA 17202

COLT MARTIN  
KRISTYN MARTIN  
8020 HIDDEN VALLEY RD  
WAYNESBORO PA 17268

COURTNEY DETTINGER  
DEREK DETTINGER  
24 CHANCEFORD RD  
BROGUE PA 17309

JAMES MCGINNIS JR  
290 WOOLEN MILL ROAD  
NEW PARK PA 17352

DARWYN BENEDICT  
410 N GRANT STREET  
WAYNESBORO PA 17268

CLINT BARKDOLL  
OWLS CLUB, INC.  
87 W MAIN ST  
WAYNESBORO PA 17268

DELORES KRICK  
MUDDY CREEK MEADOWS  
RIDING STABLE  
699 FROSTY HILL ROAD  
AIRVILLE PA 17302

KATHRYN URBANOWICZ  
CLEAN AIR COUNCIL  
135 SOUTH 19TH ST  
SUITE 300  
PHILADELPHIA PA 19103

Date: January 12, 2020



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Anthony D. Kanagy

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Transource Pennsylvania, LLC	:	
for approval of the Siting and Construction of	:	Docket No. A-2017-2640195
the 230 kV Transmission Lines Associated with	:	Docket No. A-2017-2640200
the Independence Energy Connection – East	:	
and West Projects in portions of Franklin and	:	
York Counties, Pennsylvania	:	
Petition of Transource Pennsylvania, LLC for a	:	
finding that a building to shelter control	:	Docket No. P-2018-3001878
equipment at the Rice Substation in Franklin	:	
County, Pennsylvania is reasonably necessary	:	
for the convenience or welfare of the public	:	
Petition of Transource Pennsylvania, LLC for a	:	
finding that a building to shelter control	:	Docket No. P-2018-3001883
equipment at the Furnace Run Substation in	:	
York County, Pennsylvania is reasonably	:	
necessary for the convenience or welfare of the	:	
public	:	
Application of Transource Pennsylvania, LLC	:	
for approval to acquire a certain portion of the	:	Docket No. A-2018-3001881, <i>et al.</i>
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	:	

**EXCEPTIONS OF TRANSOURCE PENNSYLVANIA, LLC.  
AND PPL ELECTRIC UTILITIES CORPORATION**

Hector Garcia (VA ID # 48304)	David B. MacGregor (PA ID # 28804)
American Electric Power Service Corporation	Anthony D. Kanagy (PA ID # 85522)
1 Riverside Plaza, 29th Floor	Lindsay A. Berkstresser (PA ID #318370)
Columbus, OH 43215	Post & Schell, P.C.
	17 North Second Street, 12th Floor
	Harrisburg, PA 17101-1601
	 Counsel for Transource Pennsylvania, LLC

Michael J. Shafer (PA ID # 205681)  
PPL Services Corporation  
Office of General Counsel  
Two North Ninth Street  
Allentown, PA 18106

Date: January 12, 2021

Counsel for PPL Electric Utilities Corporation

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## **I. INTRODUCTION**

On December 23, 2020, the Recommended Decision (“RD”) of Administrative Law Judge Elizabeth H. Barnes was issued in this proceeding. The RD recommends that the above-captioned siting applications,<sup>1</sup> shelter control building petitions and eminent domain applications be denied. Transource Pennsylvania, LLC (“Transource PA”) and PPL Electric Utilities Corporation (“PPL Electric”) hereby file these Joint Exceptions to the RD.

## **II. SUMMARY OF EXCEPTIONS**

The RD’s recommendations are based upon substantial errors of law and fact, are not supported by substantial evidence and should not be adopted by the Commission. The most fundamental errors in the RD, which drive the result, are a basic misunderstanding of the interstate transmission system and related wholesale power market, a complete disregard for regional transmission planning (from both a reliability and market efficiency perspective) as mandated by FERC Order 1000, and a misapplication of the need and environmental standards under Pennsylvania law. The RD is also replete with instances where, contrary to evidentiary rules, factual findings are based on speculation and unsupported claims over the well-reasoned expert testimony of Transource PA’s witnesses. These inaccurate factual findings form the basis for the RD’s erroneous recommendation to deny Settlement 9A.

The need for Project 9A arises from Order 1000’s requirement for regional transmission planning, which is largely ignored in the RD. FERC issued Order 1000 in order to require public

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<sup>1</sup> The Siting Applications seek approval for the Pennsylvania portions of electric transmission lines related to a project known as the Independence Energy Connection Project (“IEC Project”). The IEC Project consists of two segments—the “East Portion,” as reconfigured by the Settlements with parties in York County located in areas of York County, Pennsylvania and the “West Portion” located in areas of Franklin County, Pennsylvania. The IEC Project is a component of Project 9A, which was approved by PJM as a market efficiency project. During the course of this proceeding, Transource PA, PPL Electric and the active parties in York County agreed to reconfigure the route in York County to rely on existing PPL Electric transmission infrastructure and rights-of-way to the extent reasonably possible. In these Exceptions, Transource PA and PPL Electric refer to the reconfigured Project 9A as Settlement 9A.

utility transmission providers, including RTOs such as PJM, to conduct *regional* transmission planning to relieve congestion in order to ensure that FERC-jurisdictional interstate transmission services and wholesale generation services are provided at just and reasonable rates that are not unduly discriminatory or preferential. To comply with FERC’s directives in Order 1000, PJM has implemented its Market Efficiency process, which is tariffed and approved by FERC. Project 9A was selected pursuant to PJM’s Market Efficiency process and provides significant congestion relief to the region encompassing the AP South interface and related constraints. In addition, Project 9A resolves 5 significant reliability violations identified by PJM to occur in 2023 on facilities in Pennsylvania. The Commission has also recognized a need for regional transmission planning, and regional coordination is required under Pennsylvania law.<sup>2</sup> Transource PA and PJM have clearly demonstrated a need for the Project.

In viewing Settlement 9A from a “Pennsylvania only” perspective, the RD fails to recognize how Pennsylvania benefits from regional interstate transmission planning. Participation in PJM’s regional planning process has provided substantial benefits to Pennsylvania by enhancing the efficiency of the wholesale power market and providing substantial cost savings for customers in Pennsylvania. Regional transmission planning across the PJM zones reduces the need for additional generation by up to \$3.78 billion annually. The RD also errs by failing to recognize that need from a regional perspective is consistent with need under Pennsylvania law. The RD’s Pennsylvania only approach would effectively eliminate regional interstate transmission planning,

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<sup>2</sup> See 66 Pa.C.S. § 2805(a); *Energy Conservation Council of Pa.*, 995 A.2d 465, 484-86 (upholding the Commission’s interpretation of its obligation under Section 2805 as requiring the Commission to work with NERC and regional coordinating councils); *TrAILCo*, Docket No. A-110172, 2008 Pa. PUC LEXIS 35 (December 12, 2008); *Application of PPL Electric Utilities Corporation Filed Pursuant to 52 Pa. Code Chapter 57, Subchapter G, 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*, Docket No. A-2009-2082652, 2010 Pa. PUC LEXIS 434 (Order entered February 12, 2010)

as well as all of the reliability and cost savings benefits that Pennsylvania receives through participation in the regional transmission system.

The RD confuses federal and state roles by attempting to overturn PJM's transmission planning role as approved by FERC. It is undisputed that states retain jurisdiction over transmission siting and construction issues. However, FERC has exclusive jurisdiction over interstate transmission planning and has approved PJM's role as outlined in its tariff. FERC held in Order 1000 that the regional planning requirements, including transmission planning to address market efficiency considerations, were being adopted pursuant to FERC's rate jurisdiction under Section 206 of the Federal Power Act. The Federal Power Act preempts state jurisdiction over the wholesale rates of electricity in interstate commerce. Nevertheless, the Commission need not even address the RD's jurisdictional errors because PJM's determination that Project 9A is needed to relieve congestion on the interstate transmission system combined with the fact that Project 9A will resolve 5 significant reliability violations in Pennsylvania clearly satisfies the need requirements under Pennsylvania law. The RD fails to acknowledge that the Commission has historically relied on PJM's determination of need to support the need for an interstate transmission project under Pennsylvania law.

The RD demonstrates a fundamental misunderstanding of the interstate transmission system. The RD incorrectly concludes that Project 9A is no longer needed because congestion on a single specific element called the AP South interface has declined since 2014. There are many errors with this conclusion. First, Project 9A was not solicited or designed to only address congestion on AP South. This is not even possible because congestion shifts between interfaces and related constraints over time. When PJM reviews proposals, the proposal cannot simply shift congestion to other constraints. PJM reviews how the solicited projects impact congestion on the



entire PJM grid. This is clear from reviewing the PJM documents from 2016 and from PJM witness Horger's testimony. It is also clear from Transource PA's witness Ali who testified in his Direct Testimony in 2017 that there was an understanding that AP South congestion also responded to other congested facilities that interconnect Pennsylvania and Maryland and that the Project had to be designed to address congestion on all of these facilities. Second, PJM has reevaluated Project 9A many times, and it has always passed the benefit-to-cost ratio. The RD's attempts to consider only congestion on the AP South interface demonstrate a misunderstanding of the interstate transmission system, result in an incorrect conclusion that is contrary to the record evidence, and should not be adopted.

The RD also demonstrates a fundamental misunderstanding of the wholesale generation market. FERC adopted Order 1000 in part to relieve congestion which causes discriminatory wholesale power prices. The RD incorrectly concludes that congestion does not create discriminatory rates and therefore should not be addressed through transmission solutions. The RD misinterpreted Section 1304 of the Public Utility Code in reaching this conclusion. The RD's premise is incorrect because the rate discrimination that Project 9A is addressing is at the wholesale level, not the retail level under Section 1304. In addition, the RD's conclusions are directly contrary to FERC's directives in Order 1000. This misunderstanding of the wholesale power market permeates through the RD's analysis regarding increases in wholesale power prices in Pennsylvania. The RD incorrectly, and impermissibly, concludes that PJM's benefit-to-cost methodology is flawed because it does not include increases in wholesale power prices and that increases in wholesale power prices in certain portions of Pennsylvania are a reason to deny the Project. These are FERC-jurisdictional issues – not state issues and cannot provide a basis for denying the Project. The current lower wholesale prices in parts of Pennsylvania are the result of

congestion that, according to FERC in Order 1000, must be addressed in order to provide just and reasonable wholesale rates. PJM has followed its FERC-approved benefit-to-cost methodology in selecting Project 9A. The RD's attempts to discredit this FERC-approved methodology are improper because it can only be changed at FERC.

The RD also commits a fundamental error by attempting to discredit PJM's findings that Project 9A will resolve 5 significant reliability violations in Pennsylvania. The RD goes so far as to state that PJM did not actually conduct reliability testing. This statement is completely inaccurate. PJM conducted reliability testing and identified 5 significant reliability violations to occur in 2023 that will not occur if Project 9A is constructed. The RD then contradicts itself on this point and concludes that PJM did not conduct its *full* set of reliability tests, and therefore, PJM's findings should be ignored. The RD ignores testimony from PJM witness Herling who testified that full reliability testing could have identified more violations, but it would not have identified a lower number of violations.

The RD arbitrarily concludes that the reliability violations should be ignored because the Project was not designed to address reliability violations. This conclusion should not be accepted because the Commission has recognized that congestion and reliability issues are often related. The RD also erroneously concludes that PJM can simply solicit other projects to address the reliability violations. This conclusion is imprudent, contrary to the overwhelming evidence in the record, and should not be accepted. It will take many years to design, review, approve and build other Projects to address these significant violations, which PJM has identified as occurring in 2023 with Settlement 9A. In the meantime, PJM may have to implement customer load reductions to avoid failure of the grid, outages, and other significant consequences of reliability failures in backbone transmission infrastructure.

The RD also concludes that the Project should be denied because it will have adverse environmental and economic impacts. The RD commits error of law by failing to apply the Commonwealth Court standard which provides that a utility's route for a transmission line should be approved where the route selection process was reasonable and the utility properly considered the factors relevant to siting a transmission line. Transource PA clearly met this standard. The RD recommends that the Commission deny the siting because Transource PA did not use West Penn's infrastructure in Franklin County, similar to the settlement in York County where Transource PA was able to use PPL Electric's existing infrastructure for a portion of the lines. The RD is in error. The West Penn project was an alternative project that was considered and not selected by PJM. It was not an alternative route. In addition, no party presented any evidence whatsoever that West Penn's existing infrastructure in Franklin County could be used as an alternative route. The RD also states that environmental and economic impacts in Franklin County were not minimized. This is complete error – no party presented any evidence at all either (1) showing how Transource PA could further reasonably minimize impacts on the existing route, or (2) proposing a route that would have less environmental and economic impacts. The RD's conclusions are unsupported by evidence and cannot stand.

Transource PA and PPL Electric have clearly demonstrated a need for Project 9A in order to relieve congestion and to resolve significant reliability violations in Pennsylvania. Transource PA has taken significant steps to minimize environmental and economic impacts by agreeing to use PPL Electric's existing infrastructure in York County and by paralleling existing infrastructure in Franklin County to the extent reasonably possible. The Maryland Public Service Commission has recognized the benefits of Settlement 9A and has approved it in Maryland. If Settlement 9A is denied, another project or projects will need to be designed to address the congestion issues and

to resolve the reliability violations. These projects could have significantly more environmental impacts and significantly more costs to Pennsylvania. Settlement 9A is needed, provides many benefits to Pennsylvania, including that the majority of costs will be paid for by other states, and minimizes environmental and economic impacts. Transource PA and PPL Electric respectfully request that Settlement 9A and the consolidated filings be approved.

### **III. EXCEPTIONS**

#### **A. EXCEPTION NO. 1 – THE RD ERRED IN CONCLUDING THAT SETTLEMENT 9A IS NOT NEEDED. (RD, P. 80)**

##### **1. Transource PA and PPL Electric Have Demonstrated that Settlement 9A is Needed to Alleviate Congestion and Resolve Reliability Violations**

The RD improperly concluded that there is no congestion or reliability need for Settlement 9A. RD, pp. 80, 84. As summarized in this section and as fully explained in the Joint Applicants' MB, pages 35-73, and RB, pages 15-50, Settlement 9A is necessary to relieve congestion and to resolve reliability violations that have been identified by PJM to occur in 2023.

The AP South interface and related constraints have experienced significant and persistent congestion for many years. In addition, PJM has determined that congestion on the AP South and related constraints will continue well into the future. Joint Applicants' MB, p. 47. In compliance with FERC Order 1000 and its FERC-approved market efficiency process, PJM solicited competitive proposals in the 2014/2015 Long-Term Window to address this problem. PJM evaluated 41 competitive proposals that were designed to relieve the identified congestion. Joint Applicants' MB, p. 13. Of the forty-one competitive proposals, PJM independently selected Project 9A because it provided the most congestion benefits and the highest benefit-to-cost ratio.<sup>3</sup> Settlement 9A is estimated to provide approximately \$845 million in congestion benefits over the

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<sup>3</sup> The process that PJM used to evaluate Project 9A is described in Joint Applicants' MB, pages 40-46.

15-year future planning window and will continue to provide congestion benefits past the 15-year planning window over its useful life of 50 or more years. Joint Applicants' MB, pp. 45-47. PJM has evaluated Project 9A multiple times under varying circumstances since it was approved in 2016. Each time, Project 9A has passed the benefit-to-cost ratio. Settlement 9A also passed the benefit-to-cost ratio. Based on these evaluations, PJM continues to recommend that Settlement 9A be included in the RTEP. Joint Applicants' MB, pp. 47-50.

In addition to the congestion benefits to the PJM region, Settlement 9A also resolves 5 significant NERC reliability violations in Pennsylvania that have been identified by PJM to occur in 2023 if the Project is not constructed, including an N-0 overload on a 500 kV conductor. This provides a significant benefit for Pennsylvania and Pennsylvania residents, especially considering that the Project will be paid for by zones that benefit from the congestion relief. Moreover, if Project 9A is not constructed, PJM could be required to take significant actions to ensure that the PJM transmission system is not overloaded, including emergency load reductions until an alternative project or projects are designed by transmission providers, submitted to PJM for review and approval, submitted to states for siting approval and constructed. Joint Applicants' MB, pp. 50-54. This will take many years and could result in a project or projects that have significantly more environmental impacts and costs to Pennsylvania.

The RD does not accept these benefits based on the RD's inappropriate conclusion that the FERC-approved process PJM used to select Project 9A is flawed. RD, pp. 86, 93, 9-100. The Joint Applicants' explained in their MB, pp. 36-54, that PJM analyzed Project 9A in accordance with its FERC-approved market efficiency process to determine that Project 9A is needed to relieve congestion and that no party in this proceeding presented any evidence or even alleged that PJM did not follow its FERC-approved process. In addition, Project 9A resolves significant

reliability violations in Pennsylvania. For the reasons explained herein and in the Joint Applicants' MB, pp. 35-73, and RB, pp. 15-50, the RD's rejection of these benefits and PJM's process is not supported by the record evidence and is contrary to law.

**2. The RD fails to consider FERC's requirement for regional transmission planning in Order 1000.**

The RD focuses on the congestion relief that Settlement 9A will provide to transmission zones in other states and concludes that Settlement 9A is not needed for Pennsylvania. RD, p. 97. The RD's narrow view of need is not only contrary to Pennsylvania law, but also contrary to FERC's directives in Order 1000 and should be rejected. The Joint Applicants explained in their MB, pp. 37-40, and RB, pp. 15-20, that Order 1000 requires transmission planning from a regional perspective and not a state-by-state perspective. One of the main reasons that FERC issued Order 1000 was to require RTOs to focus on regional transmission planning. Order 1000, ¶ 3. The United States Court of Appeals for the District of Columbia upheld FERC's authority to mandate regional transmission planning under Section 206 of the Federal Power Act. *S.C. Puc. Serv. Auth. v. FERC*, 762 F.3d 41, \*58-59 (August 15, 2014). The U.S. Court of Appeals expressly noted FERC's broad authority over transmission planning matters. *Id.* at \*63, \*\*\* 51-52.

The RD's examination of need from only a "Pennsylvania perspective" is inconsistent with regional transmission planning. If regional projects were required to produce positive benefits or no impact in every state through which a proposed line traverses, regional transmission planning could not be accomplished. The RD's approach sets a precedent for regulators in other PJM states to reject projects that primarily benefit Pennsylvania on the basis that those projects must also benefit (or not impact) their jurisdictions. A regional transmission system cannot be sustained under such an individualistic framework. Joint Applicants' RB, p. 19. The RD's rejection of Settlement 9A based on the conclusion that most of the Project's benefits will be realized in other

states within the PJM region has no basis in Pennsylvania law and is directly contrary to FERC's directives for regional transmission in Order 1000. The RD also fails to recognize the significant benefits that operating in a regional grid versus a single-state grid brings to Pennsylvania.

**3. Need from a PJM regional planning perspective is consistent with the need standard under Pennsylvania law.**

The RD incorrectly concluded that need from a regional perspective is insufficient to meet the need standard under Pennsylvania law. RD, p. 103. Pennsylvania utilities have elected to be a part of PJM and to participate in the interstate transmission system within the PJM Region. PJM's regional planning process has provided substantial benefits to Pennsylvania for many years. Regional planning greatly enhances the efficiency of the wholesale power market and provides substantial cost savings for customers in Pennsylvania. For example, regional transmission planning across the PJM zones reduces the need for additional generation by up to \$3.78 billion annually. Joint Applicants' MB, p. 55. The regional transmission system helps to maintain reliable service across the region during periods of extreme weather and when there is sudden loss of large generation. Interstate transmission lines allow the lowest-cost power to reach the greatest number of people. Joints Applicants' MB, pp. 55-57. The RD fails to recognize how participation in the regional transmission system benefits its participants, including Pennsylvania.

The Commission is statutorily required to work with the Federal Government and other states to establish independent system operators, such as PJM, to operate the transmission system and interstate power pools. See 66 Pa. C.S. § 2805(1). The Commission has implemented regional transmission planning in its *Application of Trans-Allegheny Interstate Line Company* ("TrAILCo") and *Susquehanna-Roseland* decisions.<sup>4</sup> In *TrAILCo*, the Commission determined that, pursuant to

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<sup>4</sup> See also *Stone v. Pa. PUC*, 162 A.2d 18, 21 (Pa. Super. 1960) ("One of the principal considerations of public convenience and necessity is the need for integration of the bulk power transmission systems of Philadelphia and Baltimore.")

Section 2805, the “Commission has an obligation to enhance regional reliability and mitigate transmission constraints in order to reduce congestion for ratepayers in Pennsylvania and adjacent jurisdictions.” *TrAILCo*, Docket No. A-110172, 2008 Pa. PUC LEXIS 35 (December 12, 2008).<sup>5</sup> The Commonwealth Court upheld the Commission’s interpretation of its obligation under Section 2805 as requiring the Commission to work with NERC and regional coordinating councils. *Energy Conservation Council of Pa. v. PUC*, 995 A.2d 465, 484-86. The Commission also recognized the need for regional transmission planning in *Susquehanna-Roseland*.<sup>6</sup> In addition, the Commission has historically relied upon PJM’s determination of need to support the Commission’s determination of need in siting application proceedings. *Susquehanna-Roseland* at 55-56; *TrAILCo*. at 30-33.

The RD’s conclusion that the Commission, as a participant in an interstate, regional transmission system, must review the need for Settlement 9A based on benefits to Pennsylvania, rather than from a regional perspective, is contrary to law and should be rejected.

#### **4. The RD Fails to Give Proper Weight to PJM’s Regional Transmission Planning Authority as Directed by FERC in Order 1000**

As explained in this section, the RD ignores FERC’s exclusive jurisdiction over the elimination of discriminatory wholesale power rates and the authority it has delegated to PJM to address congestion through regional transmission planning. Nevertheless, the Commission need not even address the RD’s jurisdictional errors in order to approve Settlement 9A because, as explained above, Settlement 9A meets the need standard under Pennsylvania law.

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<sup>5</sup> The RD states that Commonwealth Court’s decision regarding regional concerns and Section 2805 in *TrAILCo* was based solely on the need to ensure a reliable regional transmission system. RD, p. 81. However, *TrAILCo* did not involve an Order 1000 project because the case was decided before Order 1000 was issued.

<sup>6</sup> *Application of PPL Electric Utilities Corporation Filed Pursuant to 52 Pa. Code Chapter 57, Subchapter G, 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*, Docket No. A-2009-2082652, 2010 Pa. PUC LEXIS 434 (Order entered February 12, 2010) (“*Susquehanna-Roseland*”) at 44.



**a. FERC has Ordered Transmission Providers, including RTOs such as PJM, to relieve congestion.**

In Order 1000, FERC ordered RTOs to identify and reduce congestion as part of the regional transmission planning process in order to eliminate discriminatory rates. Joint Applicants' MB, pp. 37-39. This was not just a suggestion – it was an Order. FERC stated as follows with respect to its directives in Order 1000:

These reforms are intended to correct deficiencies in transmission planning and cost allocation processes so that the transmission grid can better support wholesale power markets and thereby ensure that commission-jurisdictional services are provided at rates, terms and conditions that are just and reasonable and not unduly discriminatory or preferential.

*Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, 136 FERC ¶ 61,051 (Issued July 21, 2011) at ¶ 99 (“Order 1000”). FERC has approved PJM as an RTO and has designated it with responsibility for planning and operating the transmission grid in the PJM footprint.

**b. In selecting Project 9A, PJM was carrying out its FERC Ordered mandate to reduce congestion on the interstate transmission system.**

PJM conducts a market efficiency analysis<sup>7</sup> as part of its regional transmission planning process to comply with its obligations under FERC Order 1000 to improve the efficiency of the transmission system by identifying and reducing congestion. PJM's market efficiency process has been reviewed by stakeholders and approved by FERC.<sup>8</sup>

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<sup>7</sup> PJM's market efficiency process is explained in detail in the Joint Applicants' MB, pp. 43-44.

<sup>8</sup> See *PJM Interconnection, L.L.C.*, Docket No. ER06-1474-005, 126 FERC ¶ 61,152 (Feb. 20, 2009); *PJM Interconnection, L.L.C.*, Docket No. ER14-1394-000, *Market Efficiency Transmission Project Analysis* (April 23, 2014). PJM's methodology for evaluating market efficiency projects is set forth in PJM's Operating Agreement and has the force and effect of law. See *New York State Elec. & Gas Corp. v. New York Indep. Sys. Operator*, 2001 U.S. Dist. LEXIS 27071, \*20, (2001); see also *Lowden v. Simonds-Shields Lonsdale Grain Co.*, 306 U.S. 516, 520 (1939).

It is undisputed that PJM evaluated Project 9A within the framework of its market efficiency process, and that PJM followed its FERC-approved and tariffed process in selecting Project 9A. Nevertheless, the RD concludes that PJM's market efficiency process should not be relied upon to support a finding of need for Project 9A. The RD disregards PJM's FERC-approved process in favor of the RD's own view of how market efficiency projects should be evaluated. RD, pp. 98-100. In doing so, the RD erred by attempting to negate PJM's authority to identify and eliminate congestion on the regional transmission system as required by the FERC-approved tariff. *See* Order 1000. The RD's rejection of PJM's market efficiency analysis should not be accepted.

**c. The RD confuses Federal and State roles.**

FERC has exclusive jurisdiction over interstate transmission planning under the Federal Power Act. 16 U.S. § 824. FERC oversees the prices for interstate transactions and ensures that wholesale rates are just and reasonable. *FERC v. Elec. Power Supply Ass'n.*, 136 S. Ct. 760, 767 (January 25, 2016); *see also Nat'l. Ass'n. of Regulatory Util. Comm'rs. v. FERC*, 2020 U.S. App. LEXIS 21400 (Order issued July 10, 2020). The Federal Power Act preempts state jurisdiction over the wholesale rates of electricity in interstate commerce. *New York v. FERC*, 535 U.S. 1, 18-19 (March 4, 2002). FERC held in Order 1000 that the regional planning requirements, including transmission planning to address market efficiency considerations, were being adopted pursuant to FERC's rate jurisdiction under Section 206 of the Federal Power Act. FERC Order 1000, ¶ 99. FERC also stated:

The transmission planning activities that are the subject of this Final Rule have a direct and discernable effect on rates. It is through the transmission planning process that public utility providers determine which transmission facilities will more efficiently or cost-effectively meet the needs of the region, the development of which directly impacts the rates, terms and conditions of jurisdictional service. *The rules governing the transmission planning process are therefore squarely within our jurisdiction, whether the particular transmission facilities in*

*question are planned to meet reliability needs, address economic considerations or meet transmission needs driven by a Public Policy requirement.*

FERC Order 1000, ¶112 (emphasis supplied).<sup>9</sup>

The RD confuses federal and state roles. On page 85, the RD cites FERC Order 1000 as support for the decision to ignore PJM's determination of need. However, the paragraph cited by the RD is taken out of context, and the express words of that paragraph demonstrate that the RD's determination that Project 9A is not needed should be reversed. FERC recognizes that states have authority over siting, permitting and construction of transmission facilities. FERC Order 1000, ¶107, FERC Order 1000-A, ¶186. However, FERC expressly notes that it has jurisdiction over transmission planning which includes *identifying transmission needs and potential solutions to those needs*. FERC stated as follows in the paragraph cited on page 85 of the RD:

***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.***

FERC has exclusive jurisdiction over the processes used to identify and evaluate transmission system needs and solutions to those needs. Through its Market Efficiency process, PJM is carrying out its FERC mandate to identify transmission needs and has selected Project 9A to address those regional needs. Through its criticisms of PJM's benefit/cost analysis and attempts to only consider congestion on a single interface, the RD is attempting to negate PJM's FERC-approved process for identifying interstate transmission system needs and solutions to those needs. This is unlawful and cannot be accepted.

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<sup>9</sup> The Commission has recently recognized FERC's exclusive jurisdiction over interstate transmission rates in *Petition of PPL Electric Utilities Corporation for Approval of Its Default Service Plan For the Period June 1, 2021 Through May 31, 2025*, Docket No. P-2020-3019356, Order entered December 17, 2020, pp. 147 – 150.

The RD concludes that Settlement 9A is not needed to address congestion because, in the RD's view, congestion and the resulting wholesale rate impacts are simply results of the market and are not problematic. RD, p. 94. The RD also states that "Addressing congestion on the bulk electric system with transmission-based solutions is problematic." RD, p. 89. This position is completely contrary to FERC Order 1000 which directs RTOs to relieve congestion through transmission solutions. In this regard, the RD again impermissibly seeks to overturn FERC's determination that economic congestion should be addressed through regional transmission planning. The RD's conclusions should be rejected because the RD inappropriately mixes the Commission's role of overseeing the siting, permitting and construction of transmission projects with FERC's and PJM's authority over regional interstate transmission system planning and the impact of such planning on wholesale rates.

**5. The RD improperly accepts other parties' speculation and unsupported claims as credible evidence over the expert opinions of the PJM witnesses.**

In rejecting PJM's analysis of Project 9A's congestion benefits, the RD inappropriately gives no weight to PJM's extensive expertise in transmission planning. The RD ignores PJM's expertise in favor of criticisms from witnesses that have never designed a transmission project to address congestion issues. *See* Joint Applicants' MB, p. 40. For example, STFC witness McGavran admitted that he does not have any direct experience with PJM Market Efficiency projects. Transource PA Ex. 20. The RD erred in accepting the unsupported claims of other parties over PJM's analysis, which includes over 23,000 hours of computation time. Joint Applicants' MB, p. 46. It is well-settled that mere bald assertions, personal opinions or perceptions, when not substantiated by facts, do not constitute evidence. *See Pa. Bureau of Corrections v. City of Pittsburgh*, 532 A.2d 12 (Pa. 1987); *Consolidated Edison Company of New York v. National Labor Relations Board*, 305 U.S. 197, 229; *Norfolk & Western Ry. Co. v. Pa. PUC*, 489 Pa. 109 (1980);

*Myers v. PPL Electric*, 2019 Pa. PUC LEXIS 261, \*33-34 (2019) (ALJ's recommendation was unsupported by the record evidence).

**6. The RD's criticisms of PJM's market efficiency process should not be accepted.**

**a. The Commission cannot change PJM's FERC-approved Market Efficiency Process.**

The RD states that even though PJM's market efficiency process is open to public participation, this does not constitute due process before the Commission. RD, p. 80. The RD misses the point. The purpose of this proceeding is to review Settlement 9A under Pennsylvania law and the Commission's siting regulations. The Market Efficiency process, including the benefit-to-cost methodology and inputs for the model, are approved by FERC. PJM cannot change its Market Efficiency analysis without approval from FERC, and the Commission cannot order PJM to modify its Market Efficiency process. As explained in the subsections below, the RD's findings are based on statements that are contrary to PJM's FERC-approved process.

**b. Benefit-to-Cost Methodology**

PJM's process for evaluating market efficiency projects has been thoroughly reviewed by stakeholders and accepted by FERC. Nevertheless, the RD concludes that PJM's FERC-approved benefit-to-cost methodology is flawed. Specifically, the RD criticizes PJM's benefit-to-cost ratio for not taking into account increased wholesale prices in the unconstrained area. RD, pp. 98-100. The Independent Market Monitor ("IMM") for PJM has previously proposed to add increased wholesale prices to the analysis. FERC continues to uphold PJM's market efficiency methodology despite the IMM's attempts to overturn it. Transource PA St. No. 3AA-RJ, pp. 3-4. The Joint Applicants fully addressed PJM's benefit-to-cost methodology in their MB, pp. 47-50, and RB, pp. 43-46. As explained in the Joint Applicants' briefs and summarized herein, the RD's criticisms of PJM's benefit-to-cost methodology are without merit and should be rejected.

PJM's benefit-to-cost methodology discourages rate discrimination. In resolving congestion issues, Former Commissioner Cawley explained that it is not appropriate to consider increased costs that would result in unconstrained regions because the costs in unconstrained regions are artificially low due to the congestion constraints. The elimination of a market inefficiency is not a "cost" to customers in the unconstrained area. Customers are entitled to fair, just, and reasonable rates, but not to discriminatory rates that are the result of market inefficiencies that do not exist in a well-functioning marketplace. As Mr. Cawley explained, when the wholesale market is not functioning properly, the retail market cannot function properly. Joint Applicants' MB, pp. 59-61.<sup>10</sup>

PJM's benefit-to-cost methodology aligns payment of costs with the zones that benefit. Therefore, the transmission zones that benefit from Settlement 9A will pay the costs of the Project. It is appropriate that the regions that benefit from market efficiency projects are the regions paying for the upgrades. Joint Applicants' MB, p. 60. The RD observes that Pennsylvania zones receive little congestion relief benefits from Settlement 9A, as the majority of the congestion benefits will be seen by zones outside of Pennsylvania. RD, pp. 97-103. Pursuant to PJM's cost allocation methodology, if a Pennsylvania zone does not receive congestion benefits from the Project, it will not pay for the Project. Joint Applicants' MB, p. 59.

### **c. Non-transmission Alternatives**

The RD faults PJM for not considering whether non-transmission alternatives could alleviate the congestion. RD, pp. 92-93. The RD's statement that PJM does not consider non-

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<sup>10</sup> Including increases in wholesale power prices in unconstrained areas in the benefit-to-cost calculation, as the RD recommends, would support the continuation of discriminatory rates because the increased wholesale power prices in the unconstrained areas would offset the reductions in constrained areas. The RD's calculated net benefit of \$32.5 million over 15 years is flawed because it includes the net effects of discriminatory low wholesale power prices in the unconstrained area. RD, p. 97. Moreover, the RD's analysis of the impacts to zones in Pennsylvania is based upon the impacts to wholesale rates, not the impacts to retail rates. There is no evidence in this proceeding that Pennsylvania retail customers' rates will increase as a result of the Project. Joint Applicants' RB, pp. 43-46.

transmission alternatives in its model is incorrect and inconsistent with the evidence in the record. PJM forecasts non-transmission alternatives, including renewable resources, distributed generation, end-use energy efficiency measures and demand response programs in its model. The inclusion of non-transmission alternatives in PJM's forecasts is described in the Joint Applicants' MB, pp. 62-66, and RB, pp. 68-72. However, non-transmission alternatives have not relieved the congestion problem.

The RD's suggestion that the various examples of non-transmission alternatives identified by other parties in this proceeding, as well as the examples suggested by RD – state carbon reduction policies and offshore wind development – could eliminate the need for Settlement 9A is mere speculation and is not supported by evidence. RD, pp. 92-93. The fact is that these types of generation have not materialized in the more than four years since Project 9A was approved. The Commission has previously rejected parties' attempts to include unproven renewable resources in the regional transmission planning model. *Susquehanna-Roseland* at 62.<sup>11</sup>

#### **7. The RD's Conclusion that Economic Congestion is Not Rate Discrimination is Contrary to Law (RD, p. 92)**

The RD concludes that economic congestion does not produce discriminatory rates. RD, p. 92. According to the RD, economic congestion “is the wholesale power market working as intended.” RD, p. 94. The RD states that economic congestion is not a form of rate discrimination

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<sup>11</sup> The RD also criticizes PJM for not considering Facilities Service Agreement (“FSA”) generation as part of its analysis. RD, p. 93. The RD fails to recognize that FERC explicitly approved the exclusion of FSA generation from the market efficiency analysis, and PJM cannot change the market efficiency analysis without approval from FERC. *PJM Interconnection, L.L.C., Order Accepting Operating Agreement Revisions*, Docket No. ER19-562-000, 166 FERC ¶ 61,104 (Issued February 12, 2019). Specifically, FERC stated, “[g]iven that only 36 percent of completed projects with only executed FSAs or executed ISAs under suspension reach commercial operation, PJM has a reasonable basis to exclude those generation projects as a default in conducting its market efficiency analysis.” *Id.*, p. 9. Each evaluation of Project 9A is based on an updated forecast, which includes any new generation added since the last evaluation. Moreover, PJM has demonstrated that even when FSA generation was included in the Model, Project 9A still passed the benefit to cost ratio. Joint Applicants' MB, pp. 44-45. This demonstrates that Settlement 9A is the appropriate long-term solution.

that implicates the Commission’s authority pursuant to Section 1304 of the Public Utility Code, 66 Pa. C.S. § 1304. RD, pp. 92-94. The RD also states that “The Company does not rely on any statutory language or case law to support its proposition that economic congestion is a form of rate discrimination that must be remedied by the Commission.” RD, n. 20. The RD’s statements regarding economic congestion not constituting rate discrimination are seriously flawed.

The RD’s first statement that economic congestion “is the wholesale power market working as intended” is directly contrary to FERC’s primary directive in Order 1000 to eliminate congestion through market efficiency transmission projects to ensure that rates in the wholesale power market are just and reasonable and not unduly discriminatory. In Order 1000, FERC emphasized the need to address congestion through transmission planning so that the transmission grid can better support wholesale power markets and ensure that services are provided at just and reasonable rates that are not unduly discriminatory. FERC Order 1000, ¶¶ 2, 12, 17, 42, 99, 112. FERC’s purpose in directing RTOs to address congestion was to eliminate wholesale rate discrimination. *Id.* The RD’s conclusion is completely incorrect and cannot stand because it would interfere with FERC’s exclusive jurisdiction over interstate transmission planning and the wholesale power market.<sup>12</sup>

The RD’s focus on Section 1304 of the Code regarding discriminatory rates is misplaced. Section 1304 prohibits undue discrimination in retail rates. The RD finds that there is no need for the project because there is no rate discrimination within the meaning of Section 1304. RD, pp. 93-94. Retail rate discrimination is not at issue here. Rather, it is wholesale rate discrimination that is being addressed by PJM as part of the market efficiency process.

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<sup>12</sup> As noted above, FERC has exclusive jurisdiction over transmission rates. *See Hughes v. Talen Energy Mktg., LLC*, 136 S. Ct. 288, 1292 (April 19, 2016); *New York v. FERC*, 535 U.S. 1, March 4, 2002.



Under the RD's view of rate discrimination, no project that is selected through PJM's market efficiency process could ever be approved because market efficiency projects are designed to address discriminatory wholesale power rates. Thus, the RD's view of rate discrimination cannot be accepted. *See Nantahala Power & Light Co. v. Thornburg*, 476 U.S. 953, 966 (1986) ("A State must . . . give effect to Congress' desire to give FERC plenary authority over interstate wholesale rates, and to ensure that the States do not interfere with this authority.").

The RD also states that eliminating congestion in the wholesale market is not something that must be remedied by the Commission. RD, p. 92. The RD again confuses federal and state roles. FERC has directed PJM to relieve congestion issues on the interstate transmission system to mitigate wholesale rate discrimination. The state PUC should not interfere with that determination in finding no need for a transmission project that relieves congestion when PJM has determined that there is a need for the project in order to comply with FERC's directives.

**8. The RD's Attempts to Focus Solely on Historic AP South Congestion Levels Demonstrate a Fundamental Misunderstanding of the Interstate Electric Transmission System (RD, pp. 86-91)**

The RD states that Project 9A was intended to address congestion on the AP South interface, and congestion on that interface has declined since 2014. RD, p. 95. The RD also states that the AP South interface was not listed as one of the top 25 congested interfaces for the first quarter of 2020. RD, p. 88. Therefore, the RD concludes that Project 9A is no longer needed for the purpose that it was intended. RD, pp. 86, 91. The RD is incorrect for several reasons.

First, Project 9A was not intended to address congestion only as it exists on the AP South interface. Congestion is never isolated to a single interface but shifts across the transmission grid. For this reason, PJM evaluates market efficiency projects on a system-wide basis and does not just examine how a project affects congestion on a single interface. There are multiple constraints in the area mitigated by Project 9A. Joint Applicants' MB, pp. 66-68; RB pp. 24-26. PJM has

determined that Project 9A will alleviate congestion on the AP South and related constraints, i.e. the entire congested area. This is one of the many benefits of Project 9A. PJM witness Mr. Horger explained as follows:

The congestion on the AP South Interface is one of the, but not the only, area of congestion alleviated by the Project 9A inclusive of the IEC project because congestion often shifts and there are multiple constraints in the same area that are impacted by the upgrade provided by the Project. PJM's 2014/2015 Long-Term Proposal Window sought proposals for many congested facilities as identified in PJM's simulations. Although the AP South Interface was the major congestion point that Project 9A inclusive of the IEC Project resolved, the Project also relieves congestion in other areas. For example, in PJM's operations, PJM typically does not experience congestion on the AP South, AEP-Dominion, Conastone – Peach Bottom, and Graceton-Safe Harbor interfaces at the same time; when one of these areas is constrained the others typically would not be, but all areas are persistently constrained. One of the distinct advantages of Project 9A inclusive of the IEC Project that also speaks to the Project's benefits is that the Project does not just mitigate congestion in one interface—it mitigates the problem in all of these areas. Indeed, in PJM's evaluations and summary of Project 9A inclusive of the IEC Project, PJM identified the Project's impact in multiple areas as one of the Project's advantages.

Transource PA St. No. 3AA-RJ, p. 8, lines 143-162.

The RD cites to Transource PA's witness Mr. Kamran Ali's direct testimony as support for the proposition that Project 9A was only intended to address congestion on the AP South interface. RD, p. 87. The RD misinterprets Mr. Ali's direct testimony. In the same quote, Mr. Ali states that higher cost generators that respond to AP South "also respond to other congested facilities that interconnect Pennsylvania and Maryland." Therefore, constructing IEC-West alone would not solve the congestion issue because it would shift congestion to other parts of the system. Transource PA St. No. 2, p. 11. Mr. Ali is clearly stating that Project 9A was designed to address congestion on AP South and other congested facilities.

The RD also attempts to ignore PJM documents from when the Project was solicited and approved and PJM witness testimony that demonstrate that the Project 9A was not designed to solely address congestion on the AP South interface. In the Transmission Expansion Advisory Committee Market Efficiency Update dated April 17, 2016, PJM not only identified congestion relief provided by Project 9A for the AP South interface but also identified congestion relief from Project 9A for the AEP-DOM interface, congestion relief for all interfaces, and total congestion relief for PJM. Transource PA Exh. No. TH-11R, p. 5. The TEAC Market Efficiency update dated March 10, 2016, also identified congestion relief for AP South, AEP total interfaces and Total PJM congestion and further expressly noted that Project 9A would provide major congestion reductions on AP South and *other PJM facilities*. Transource PA Exh. No. 10R, p. 17, emphasis supplied. In the PJM Staff White Paper dated October 2015, the PJM staff identified the area of Proposal as “AP South and/or AEP-DOM Area.” Transource PA Exh. No. TH-1R, p. 4. PJM staff in 2015 identified the proposals as addressing congestion relief in the “area” of the AP South and AEP-DOM interfaces. At the hearing, PJM witness Mr. Horger also testified that Project 9A was designed to relieve congestion in the region, including not only on the AP South interface. Tr., pp. 2906, 2920-21, 2926-27, 2939-40.

Second, the 2014 congestion levels were never used in the benefit-to-cost ratio to support the Project. The benefit-to-cost ratio is not calculated based upon historic congestion. Rather, it is forward looking. Transource PA Ex. No. TH-3R, p. 17; Transource PA Ex. No. TH-9R. PJM’s model forecasts congestion over a 15-year planning period to determine if a market efficiency project is needed. PJM’s 15-year forward looking studies show that congestion continues on the AP South and related constraints without Project 9A. Joint Applicants’ MB, pp. 66-67; RB, p. 26.

The RD's focus on 2014 congestion levels is not relevant to the selection of Project 9A because the forecast used to select Project 9A did not include 2014 congestion.

Third, PJM demonstrated that its forecasts for congestion in the AP South area are accurate. In 2015, PJM forecasted total congestion costs for the AP South, Graceton-Safe Harbor, Peach Bottom-Conastone and AEP-DOM constraints to be within 5% of the actual amount of total congestion on those facilities in 2019. Joint Applicants' MB, p. 67; RB p. 26.

Finally, PJM has reevaluated Project 9A many times from over the past five years, and it exceeded the benefit-to-cost ratio of 1.25 every time.<sup>13</sup> Joint Applicants' MB, pp. 47-48. The fact that Project 9A has consistently passed the benefit-to-cost ratio confirms that Project 9A continues to provide significant congestion benefits.

**9. The RD's conclusion that the Hunterstown-Lincoln Project and Project 5E may alleviate the AP South Congestion is pure speculation and has been refuted by PJM witness Herling.**

On page 89, the RD concludes that the Hunterstown-Lincoln ("H-L") Project and Project 5E may eliminate the need for Project 9A.<sup>14</sup> The RD's statement is speculation and unsupported by evidence. PJM witness Herling refuted the possibility that Project H-L and Project 5E could eliminate the need for Project 9A. Mr. Herling stated that it is unreasonable to conclude that relatively small upgrades and projects like 5E and H-L will resolve the significant reliability and congestion issues on their own. Transource PA St. No. 7-R, p. 25. Mr. Herling also testified that the three projects work effectively together to resolve broader congestion issues. Transource PA St. No. 2AA-RJ, p. 3. The RD's speculation regarding other projects, which were approved by PJM after Project 9A, should not be a basis for denying Project 9A.

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<sup>13</sup> Settlement 9A also passes the benefit-to-cost ratio. *See* Joint Applicants' MB, pp. 47-48.

<sup>14</sup> Projects 5E and H-L were approved by PJM pursuant to the same FERC-approved RTEP process that was used to approve Project 9A.

**10. The RD Committed Fundamental Error by Dismissing the Reliability Violations that will be Resolved by Project 9A (RD, p. 84)**

**a. The RD misconstrues PJM’s reliability testing.**

The RD concludes that “Transource has insufficient evidence to show need because PJM did not conduct reliability testing.” RD, p. 84. This statement is incorrect. PJM *did* conduct reliability testing and identified that Project 9A will resolve the following 5 reliability violations:

Facility Name	Limiting Equipment	Loading
Three Mile Island 500/230 kV Transformer	Transformer	<b>117%</b>
Peach Bottom-Conastone 500 kV Line	Conductor	<b>109%</b>
Hunterstown-Lincoln 115 kV Line	Conductor	<b>123%</b>
Lincoln Tap-Lincoln 115 kV Line	Conductor	<b>120%</b>
Lincoln-Straban 115 kV Line	Conductor	<b>104%</b>

The Peach Bottom-Conastone 500kV Line is an N-0 violation. The other violations are N-1 violations.<sup>15</sup> These reliability violations were identified by PJM in an RTEP 2023 study year case generator deliverability analysis. Joint Applicants’ MB, pp. 50-51.

The RD then contradicts itself and states that PJM did not perform its full set of reliability tests to confirm that the violations exist. RD, p. 84. This statement represents a fundamental misunderstanding of PJM’s reliability testing procedures. PJM’s reliability testing was limited to “N-0” and “N-1” thermal analysis under generator deliverability test conditions. The reliability analysis that was performed identified N-0 and N-1 reliability violations. Conducting N-1-1 testing would not have made these violations go away. To the contrary, such additional reliability testing could have identified *more* violations. Other NERC reliability criteria violations may have been identified if PJM had completed its full body of RTEP process analyses, including “N-1-1”

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<sup>15</sup> An N-0 violation is a violation that is projected to occur under normal operating conditions with no contingencies. An “N-1” or “N minus 1” violation is an overload that occurs following a single contingency, i.e., when one system element is taken out of service. Transource PA St. No. 7-RJ-SUPP, p. 2.

testing. Joint Applicants' RB, p. 33; Transource PA St. No. 7-RJ-SUPP, pp. 4, 8. The RD's recommendation that the Commission should disregard the reliability violations because PJM did not conduct its full reliability analysis should not be accepted.

**b. The RD's statements that the reliability violations may be resolved by upgrading other facilities are pure speculation.**

Page 1 of the RD attempts to dismiss the need for Project 9A to resolve the reliability violations identified by PJM by stating that "the facilities that may experience these potential violations are due for upgrades and some are currently undergoing rebuilds that may increase capacity." This statement is complete speculation. If another party suggests an alternative to Project 9A, they bear the burden of proving that alternative will work.<sup>16</sup> There is no evidence in the record to support this conclusion. It is mere speculation which cannot be used to support an evidentiary conclusion and should be disregarded.<sup>17</sup>

**c. The RD's dismissal of the reliability violations as only potential violations is imprudent and inconsistent with proper transmission system planning. (RD, pp. 1, 84)**

The RD dismisses the identified reliability violations by classifying them as only "potential" violations. RD, pp. 1, 84.<sup>18</sup> The RD also states that the reliability violations had not occurred as of July 9, 2020, the last day of the evidentiary hearings in this proceeding. RD, p. 84. Ignoring identified reliability violations because they have not occurred yet is imprudent, and the regional transmission system cannot be safely and efficiently operated in such a manner.

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<sup>16</sup> See *Pa. PUC v. Metropolitan Edison Co., et al.*, Docket Nos. R-00061366, *et al.*, 2007 Pa. PUC LEXIS 5 (Order entered Jan. 11, 2007).

<sup>17</sup> See *Pa. Bureau of Corrections v. City of Pittsburgh*, 532 A.2d 12 (Pa. 1987); *Consolidated Edison Company of New York v. National Labor Relations Board*, 305 U.S. 197, 229; *Norfolk & Western Ry. Co. v. Pa. PUC*, 489 Pa. 109 (1980).

<sup>18</sup> The RD also states that the reliability testing was based upon 2014 data. RD, p. 1. This statement is incorrect and should not be accepted. See Transource PA St. No. 7-R, pp. 20-25.

PJM is responsible for ensuring that the regional grid operates reliably, and there is no record evidence to refute PJM's findings of reliability violations. Furthermore, the reliability violations must be addressed pursuant to FERC-approved NERC Reliability Standards. The Commission has previously approved siting applications based upon modeling of NERC violations that are identified to occur in the future. *TrAILCo*; *aff'd Energy Conservation Council of Pa. v. Pa. PUC*, 995 A.2d 465 (Pa. Cmwlth. 2010); *Susquehanna-Roseland* at 55-56.

The reliability violations have been identified to occur if nothing is done to resolve them. Transource PA St. No. 7-R, p. 21, lines 2-4. PJM cannot wait for reliability violations to occur before addressing them. By then, it is too late. PJM explained that the consequences for ignoring the reliability violations are serious. If PJM does not resolve the reliability violations before they occur, PJM would be required to implement operational procedures, including emergency load reductions and even load shedding in parts of the system that are affected by the constraint. It is not prudent to shed load, or in effect have outages, to avoid reliability violations. Customers could experience interruption in service if the reliability violations are not resolved in time. Joint Applicants' RB, p. 37.

- d. The RD's statement that PJM can select other projects to resolve the reliability violations is unreasonable and does not consider the time that it would take to select other projects. (RD, p. 1)**

The five reliability violations on facilities in Pennsylvania are identified to occur in 2023 if Settlement 9A is not constructed. Joint Applicants' MB, p. 8. No other projects can be constructed in time to resolve the reliability violations before 2023. If Project 9A were removed from the RTEP, PJM would be required to restart the planning process in 2021. Transmission developers would have to design solutions to address the violations. These solutions would have to be evaluated by PJM. The PJM Board would be required to approve any new projects, and then

the new projects would need to be submitted to the appropriate states for siting approval. The *earliest* that new projects could be constructed to address these severe reliability criteria violations would be 2025 or 2026. However, given the timeline for Project 9A, which is now estimated to be 9 years from planning to in-service, it is much more likely that it would be 2030 before a solution could be constructed. In any event, this is several years past when the reliability violations are identified to occur. The RD's suggestion that PJM could select other projects to resolve the reliability violations in place of Project 9A is unrealistic.

**e. Resolving the reliability violations will provide significant benefits to Pennsylvania.**

The RD states that Project 9A was not intended to be the best or most economical solution to resolve the reliability violations. RD, p. 84. While Project 9A was not originally designed to address reliability violations, the RD fails to recognize that other solutions designed to address the reliability violations could result in greater costs and impacts to Pennsylvania as compared to Settlement 9A. The RD also fails to recognize that resolving the reliability violations will provide significant benefits to Pennsylvania.

All of the reliability violations that Settlement 9A solves will occur on facilities that are located in Pennsylvania. PJM explained that solutions for reliability violations on 500kV facilities are not typically small in scope or cost. Joint Applicants' MB, pp. 51-53. Thus, other solutions that are designed to resolve the reliability violations could result in greater costs being allocated to Pennsylvania and may not be capable of minimizing impacts to Pennsylvania as well as Settlement 9A. PJM stated that it is not known what new transmission projects would be needed to address the reliability violations, and new greenfield transmission lines in Pennsylvania could be required. Joint Applicants' RB, p. 39. In addition, other solutions designed to address the reliability violations may not address the congestion to the same degree that Settlement 9A does. Settlement



9A timely solves the five reliability violations that have been identified by PJM to occur in 2023 *and* addresses the congestion issues in the region.

**11. Transource PA is Not Creating New Reasons for Project 9A**

**a. The RD incorrectly suggests that Transource PA is creating new reasons for Project 9A. (RD, p. 86)**

The RD states that Project 9A was not designed to address congestion on related constraints or to resolve reliability violations. RD, pp. 75, 86. The RD then concludes that Transource PA “seems to be creating new reasons for the project.” RD, p. 86. As explained herein, Transource PA is not creating new reasons for the Project. Congestion on the AP South and related constraints has always been the driver of Project 9A since it was selected by PJM.

The RD suggests that Project 9A was intended to address congestion only as it exists on the AP South interface. RD, p. 86. As explained above in Section III.A.8., PJM never intended Project 9A to address congestion on only a single constraint. The RD’s emphasis on PJM’s and Transource PA’s use of the shorthand phrase “AP South and related constraints” is misplaced and does not support the RD’s conclusion that Project 9A was originally limited to address only AP South congestion. The congestion that Project 9A was intended to address has not changed since PJM selected the project. PJM has always evaluated Project 9A based on the congestion benefits that it provides to the system as a whole. See Section III.A.8. above.

The RD suggests that the reliability violations do not constitute need for the Project because the Project was not initially proposed for reliability reasons. RD, p. 84. This is not a valid basis for ignoring the need for the Project to resolve the reliability violations. The reliability violations that Settlement 9A will solve were not created by Transource PA as a new reason for the project. The reliability violations were identified by PJM. PJM has noted the reliability violations in multiple public documents since they were identified. See Section III.A.10. above. In addition,

PJM witnesses have continuously noted the reliability violations throughout the course of this proceeding since they were first identified in September 2018. Joint Applicants' MB, 50-54; RD, pp. 28-39. It is clear that the reliability violations are not simply new justifications for the Project but are real violations that must be addressed by PJM.

**b. Contrary to the RD's suggestions, congestion and reliability are not mutually exclusive.**

The RD states that reliability and market efficiency projects are different. RD, p. 84. The RD simply ignores Commission precedent on this issue. Contrary to the RD's suggestions, congestion and reliability are related, and the Commission has recognized this to be the case. In *TrAILco*, the Commission stated as follows:

We also agree with the ALJs that economics was a consideration of TrAILCo in proposing the Pennsylvania 502 Junction Facilities. The record is well-established that Project Mountaineer, as well as an earlier version of TrAILCo, were discussed and proposed within the context of a response to west-to-east transfer enhancements and in response to the National Interest Electric Transmission Corridor (NIETC). These projects were very similar to the April 13, 2007 filing that initiated this proceeding. *However, one cannot easily distinguish between transmission efficiency projects and reliability projects within a congested region. Removing congestion resolves reliability violations, and vice versa.* There is nothing inherently wrong with removing reliability violations on a heavily congested line through construction of a new transmission line.

*TrAILco*, Docket No. A-110172, et al., Order entered December 12, 2008 (emphasis supplied).

PJM also explained that congestion, if continued, often results in reliability criteria violations. Transource PA St. No. 7-R, p. 21, lines 3-7. There is no basis to treat congestion relief and reliability benefits as mutually exclusive as the RD suggests.

**c. Settlement 9A is approved by the PJM Board and has been approved in Maryland.**

The Maryland PSC approved the Project, as modified by the Settlement Agreement in Maryland, as in the public interest.<sup>19</sup> The fact that the Project is approved by the PJM Board and has been approved by the Maryland PSC demonstrates that there is a true need for the Project.

**12. The RD's Focus on Transource PA as a Foreign Transmission Provider is Misguided (RD, pp. 2, 92)**

The RD states that “this Project appears to be a means for a foreign electric transmission provider to gain access to the Washington D.C./Baltimore metro-area . . .” RD, p. 2. The RD fails to recognize that it is the wholesale market, not Transource PA, who will gain access to the constrained area as a result of Settlement 9A.

The RD also refers to Transource PA as a “foreign company” in rejecting Transource PA’s evidence of need for the Project. RD, p. 92. The RD’s characterization of Transource PA as a “foreign company” is contrary to Order 1000’s elimination of a federal right of first refusal for incumbent transmission owners. Order 1000, ¶ 225.<sup>20</sup> FERC expressed its concerns in Order 1000 that the existence of a federal right of first refusal may lead to rates for jurisdictional transmission service that are unjust and unreasonable. FERC Order 1000, ¶ 256. FERC noted that it was not in the economic self-interest of incumbent transmission providers to permit new entrants to develop transmission facilities, even if the new entrants’ proposal was a more efficient or cost-

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<sup>19</sup> See *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 (Order No. 89571), p. 95.

<sup>20</sup> Non-incumbent transmission providers are: (1) a transmission developer that does not have a retail distribution territory or footprint; and (2) a public utility transmission provider that proposes a transmission project outside of its existing retail distribution service territory or footprint where it is not the incumbent for that project. The United States Court of Appeals for the District of Columbia upheld FERC’s authority to remove the Federal right of first refusal to allow non-incumbent transmission developers to compete to construct regional transmission facilities. *S.C. Puc. Serv. Auth. v. FERC*, 762 F.3d 41, \*76, 2014 U.S. App. LEXIS 15674, \*\*\*89 (August 15, 2014).

effective solution. FERC's Order 1000 directives are embodied in PJM's competitive bidding process. PJM's competitive bidding process is extremely effective because it solicits competitive proposals from many different entities and brings additional creativity to the process. This is evidenced by the fact that PJM received forty-one different proposals from many different entities with vast expertise all competing to develop the best solution. Joint Applicants' MB, pp. 41-42.

**B. EXCEPTION NO. 2 – THE RD COMMITTED FUNDAMENTAL ERROR OF LAW IN CONCLUDING THAT TRANSOURCE PA DID NOT MINIMIZE ENVIRONMENTAL IMPACTS.**

**1. The RD Applied the Wrong Legal Standard**

The RD concludes that there will be adverse environmental impacts, and therefore Settlement 9A should be denied. RD, p. 119. According to the RD's standard, the Project would be denied unless there is no environmental impact. If all that is required to defeat the routing of the transmission line is to demonstrate some adverse effects, no transmission line would ever be built. Joint Applicants' RB, p. 61. The RD's "no impact" standard is not supported by the Commission's siting regulations or the applicable Commonwealth Court precedent and should be rejected.<sup>21</sup>

The Commission's regulations require it to consider whether Settlement 9A "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)(4). The Commonwealth Court has stated that a utility's route for a proposed high voltage transmission line should be approved where the record evidence shows that the utility's route selection process was reasonable and that the utility properly considered the factors relevant to siting a transmission line. *Energy Conservation Council of Pa. v. PUC*, 25 A.3d 440, 449 (Pa. Cmwlth. 2011). The

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<sup>21</sup> Transmission line siting projects do not have a heightened standard of review under *PEDF*. Joint Applicants' RB, pp. 5-6.

Commonwealth Court explained that Section 57.76(a)(4) requires the applicant to demonstrate reasonable efforts to minimize adverse environmental impacts of the proposed route when compared to the available alternative routes, but the utility need not consider all possibilities. *Id.* at 448-49. Moreover, the applicant is not required to choose a route that has no adverse impacts. *Id.* The RD erred in failing to apply this standard.

**2. The RD Erred in Finding that Transource PA Did Not Minimize Environmental Impacts for the West Portion of the Project**

**a. The RD inappropriately considered Project 18H as an alternative route. (RD, p. 119)**

The RD does not find “minimum adverse environmental impact” based on the assumption that a different project, Proposal 18H, would have less environmental impact than Settlement 9A. RD, p. 119. The RD’s conclusion that Proposal 18H is a viable alternative route and that it would have less environmental impact than Settlement 9A is speculation and not supported by evidence. Transource PA did not propose this as an alternative route, and no party in this proceeding presented any evidence that Proposal 18H could be a viable route.

The RD fails to recognize that Proposal 18H is not an alternative route for siting the West portion of the Project. Proposal 18H is an entirely different project altogether. Proposal 18H was one of the many engineering solutions submitted in response to PJM’s 2014/15 RTEP Proposal Window. Proposal 18H was rejected by PJM as an engineering solution because Proposal 18H did not provide the congestion benefits that Project 9A provided, and it created additional congestion in the BGE control area. Joint Applicants’ MB, pp. 118-119.

By suggesting that Proposal 18H is a possible route, the RD improperly attempts to place the burden of disproving Proposal 18H as a route option on Transource PA. It is well established that the selection of routes for transmission lines is a matter for the utility in the first instance. *Laird v. Pa. P.U.C.*, 183 Pa. Super. 457, 133 A.2d, 579, 581 (1957). An applicant is required to

make reasonable efforts to minimize environmental impacts but is not required to consider every possible route. *Energy Conservation Council of Pa. v. PUC*, 25 A.3d 440, 449 (Pa. Cmwlth. 2011). Likewise, the Commission is not required to withhold approval simply because another route might have been adopted. *Laird*, 133 A.2d, 579, 581. In this case, there is no evidence to even suggest that Proposal 18H is a viable alternative route. The RD erred by finding that Transource PA did not minimize environmental impacts based on the erroneous assumption that Proposal 18H is an alternative route.

**b. The RD did not consider Transource PA's extensive siting study and significant mitigation measures.**

Transource PA has met the applicable legal standard of making a reasonable route selection that complies with the Commission's siting regulations. *See Energy Conservation Council of Pa. v. PUC*, 25 A.3d 440, 449 (Pa. Cmwlth. 2011). Transource PA has extensively considered each of the factors set forth in the Commission's regulations as well as the available alternative routes in selecting the proposed route. Transource PA's consideration of each of these factors and the available alternative routes is discussed in the Joint Applicants' MB, pp. 78-120 and RB, pp. 64-68. Careful attention was given to minimizing environmental impacts when selecting a proposed route. Joint Applicants' MB, pp. 84-85. Transource PA has also undertaken significant mitigation measures to minimize environmental impacts and address concerns raised at the public input hearings, including making numerous modifications to the proposed route at landowners' requests. These mitigation measures are explained in the Joint Applicants' MB, pp. 115-18.

Transource PA is committed to working with state and local agencies to minimize impacts and will obtain and comply with all necessary permits. Joint Applicants' MB, p. 113. As explained in the Joint Applicants' MB, pp. 78-80, Settlement 9A is expected to have little to no adverse impact on the environment and any potential impacts that do exist will be minimized. Over 40%

of the proposed route alignment for the West portion parallels existing highways, railroads, or transmission line rights-of-way. Joint Applicants' MB, p. 86. The proposed route for the West portion is the shortest option, crosses the fewest parcels, and has the fewest landowners. A number of residences along the proposed route are already adjacent to existing infrastructure. Joint Applicants' MB, p. 116.

The RD does not address Transource PA's comprehensive siting study for the West portion of the Project<sup>22</sup> or the many significant mitigation measures that Transource PA has undertaken to minimize environmental impacts in Franklin County. Due to page limitations for these Exceptions, Transource PA cannot describe herein every mitigation measure that it has undertaken to minimize environmental impacts.<sup>23</sup> Transource PA respectfully requests that the Commission refer to the Joint Applicants' MB, pp. 78-120, and RB, pp. 64-68, for a full description of how Transource PA has minimized environmental impacts. The RD erred by not considering these mitigation measures in its determination. There is no basis for rejecting Transource PA's proposed route.

**C. EXCEPTION NO. 3 – THE RD COMMITTED FUNDAMENTAL ERROR OF LAW IN CONCLUDING THAT TRANSOURCE PA DID NOT MINIMIZE ECONOMIC IMPACTS.**

**1. Transource PA has Demonstrated that the Economic Impact will be Minimal.**

The RD concluded that there will be adverse economic impacts to Franklin County, and therefore Settlement 9A should be denied. RD, p. 124. Again, the RD applies an incorrect standard. The Commission's regulations do not require "no impact," but rather that economic impacts are minimized. *See* 52 Pa. Code § 57.76(a)(4); *Energy Conservation Council of Pa. v. PUC*, 25 A.3d 440, 449 (Pa. Cmwlth. 2011). The RD states that there will be adverse economic

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<sup>22</sup> *See* Transource PA Ex. No. 1, Attachment 3.

<sup>23</sup> 52 Pa. Code § 5.533(c).

impacts to agricultural businesses, schools, tourism, and real estate values in Franklin County. RD, pp. 119-24. As summarized below and fully explained in the Joint Applicants' briefs, Transource PA has demonstrated that the economic impact in all of these areas will be minimal.

**a. Agricultural Businesses**

Transource PA has undertaken significant efforts to minimize the impact of the Project on farming operations. These efforts are described on pages 113-16 of the Joint Applicants' MB. In particular, Transource PA proposes to use steel monopoles, which will allow for large farm equipment to operate between the structures. The loss of farmland soils for the West portion of the Project amounts to a total of approximately 0.44 acre. When compared to the level of residential and commercial development in the area, this impact can be considered de minimis. Joint Applicants' MB, p. 115-16.

Typical farming practices will be able to continue within the right-of-way after the proposed line is constructed. Transource PA has committed to compensate landowners for any impacts or crop loss during the construction and restoration period. In addition, Transource PA asked landowners to provide input and made over 150 alignment shifts at landowners' requests. Joint Applicants' MB, p. 116.

**b. Tourism**

With respect to tourism, there is no evidence that tourism will be negatively impacted by the Project. Although some parties expressed concern that the presence of a transmission line would deter tourism, transmission lines are already present in Franklin County. Transource PA pointed to several examples of nurseries, farm markets, and pick-your-own orchards in Pennsylvania that are bordered and even crossed by transmission lines and/or gas pipelines that have successfully been in business for decades. Joint Applicants' MB, p. 1-5.

**c. Schools**



The Proposed Route is located in a forested area southeast of Falling Spring Elementary School with approximately 680 feet of woods between the school and the Proposed Route. Tr. at 2169, ln. 18-24. There are many examples of school buildings that are in much closer proximity to HV transmission line rights-of-way than the proposed line will be to the Falling Spring Elementary School. Tr. at 2169, ln. 20-24. Transource PA examined alternative options throughout this area. However, the presence of a municipal building and residential properties makes this the only open area that could reasonably be crossed through. Tr. at 2124, ln. 3-19.

The impact to the Falling Spring Elementary School will be limited to removing trees underneath the right-of-way. Tr. at 2182, ln. 16-25. Transource PA demonstrated that the Falling Spring Elementary School and the cross-county track located on the school property can continue to be utilized in the same manner after the proposed transmission line is constructed. *See* Joint Applicants' MB, p. 110. The RD found that the proposed transmission line does not present a safety threat. RD, p. 104-07.

#### **d. Real Estate Values**

Transource PA presented the testimony of two real estate valuation experts who analyzed the potential impact of the proposed transmission line on real estate values in Franklin County. Both experts concluded that the existence of a transmission line crossing or abutting a property does not impact the market value of the property. The analyses conducted by Transource PA's real estate experts and the results of their analyses is described on pages 105-110 of the Joint Applicants' MB. No other party presented expert testimony on this subject. The RD bases its finding regarding real estate values in part on the testimony of Mr. Byers that the transmission line will reduce the value of his rental property. RD, p. 119. However, Transource PA has reached an agreement with Mr. Byers, and there is no pending Eminent Domain Application for Mr. Byers'

property. The RD erred by accepting generalized concerns regarding real estate values over the expert opinions of Transource PA's witnesses.

Moreover, the RD overstates the number of remaining Eminent Domain Applications that are needed if Settlement 9A is approved. The RD states that there are 77 remaining pending Eminent Domain Applications. RD, p. 2. However, Transource PA will withdraw the 34 pending Eminent Domain Applications associated with the East portion of the Project if Settlement 9A is approved. *See* Partial Settlement Agreements filed on October 17, 2019.

**2. The RD Fails to Recognize the Economic Benefits to Franklin County as a Result of the Project**

The RD fails to recognize the economic benefits to Franklin County as a result of Settlement 9A. Transource PA witness Judy Chang explained that the Project will bring significant employment and economic stimulus benefits to the local economy in Franklin County and will create additional tax revenue for state and local governments within Pennsylvania. Joint Applicants' MB, pp. 111. The RD erred in rejecting Settlement 9A on the basis that there will be economic impacts. Transource PA has fully addressed concerns regarding economic impacts. When considering the record as a whole, it is clear that the economic impact to Franklin County will be minimal.

**D. EXCEPTION NO. 4 – THE RD'S FINDINGS REGARDING GPS INTERFERENCE SHOULD BE OVERTURNED.**

The RD found that the GPS equipment used for farming will likely become unreliable as a result of the proposed transmission line. RD Findings of Fact ¶ 212. The RD bases this finding on a concern expressed by Mr. and Mrs. Rice, who own property within the proposed right-of-way. The RD's finding is not supported by expert testimony. Transource PA presented the expert testimony of Mr. Silva who addressed Mr. and Mrs. Rice's concern regarding GPS interference. Mr. Silva testified that he has conducted research regarding whether GPS devices are adversely

affected by EMF from power lines and that the transmission lines would not affect GPS systems. Transource PA St. No. 15-R, pp. 22-23. The RD erred in accepting generalized concerns over the expert testimony of Mr. Silva. Farm machinery has operated under and near transmission lines for many years, and transmission lines are already present on Mr. and Mrs. Rice's property. Joint Applicants' MB, p. 76. Allegations that the proposed transmission will "likely" interfere with GPS use on farm equipment is not reason to deny the Project.

**E. EXCEPTION NO. 5 – TRANSOURCE PA'S CERTIFICATE OF PUBLIC CONVENIENCE SHOULD NOT BE RESCINDED.**

Transource PA holds a certificate of public convenience authorizing it to furnish and supply electric transmission service as a public utility in Franklin and York Counties, Pennsylvania.<sup>24</sup> The RD *sua sponte* recommends that the Commission issue a Rule to Show Cause directing Transource PA to show cause why its certificate of public convenience should not be revoked. RD, p. 125. Transource PA's certificate of public convenience should not be rescinded. As explained in Exception No. 1, the RD erred in finding that there is no need for Settlement 9A, and the Commission should reject the RD's finding of no need. As a result, there is no reason to revoke Transource PA's certificate of public convenience.

**F. EXCEPTION NO. 6 – THE RD ERRED BY DENYING TRANSOURCE PA'S EMINENT DOMAIN APPLICATIONS**

The RD denied the outstanding Eminent Domain Applications filed by Transource PA. RD, p. 124.<sup>25</sup> The Commission should reject the RD's denial of the Eminent Domain Applications because it is based on the RD's erroneous finding that there is no need for Settlement 9A.

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<sup>24</sup> See *Application of Transource Pennsylvania, LLC for All of the Necessary Authority, Approvals, and Certificates of Public Convenience to Begin to Furnish and Supply Electric Transmission Service in Franklin and York Counties, Pennsylvania*, Docket No. A-2017-2587821 (Order entered January 23, 2018).

<sup>25</sup> The outstanding Eminent Domain Applications are listed in Appendices E and F of the Joint Applicants' MB. The Applications in Appendix E are only necessary if the Commission selects Project 9A over Settlement 9A.

**G. EXCEPTION NO. 7 – THE RD ERRED BY DENYING TRANSOURCE PA’S ZONING PETITIONS**

The RD denied Transource PA’s Zoning Petitions associated with the Furnace Run Substation in York County, Docket No. P-2018-3001883, and the Rice Substation in Franklin County, Docket No. P-2018-3001878. RD, p. 124. The Commission should reject the RD’s denial of the Zoning Petitions because it is based on the RD’s erroneous finding that there is no need for Settlement 9A.

**H. EXCEPTION NO. 8 – SEVERAL OF THE RD’S FINDINGS OF FACT SHOULD NOT BE ADOPTED**

As explained above, much of the RD’s opinion is based on factual inaccuracies. Several of the RD’s findings of fact are based on bald assertions, unsupported allegations, and pure speculation. It is well-settled law that these generalized concerns and unsupported statements do not constitute evidence.<sup>26</sup> In many cases, the findings of fact are based on lay testimony that Transource PA’s expert witnesses have specifically refuted. If all that was required to defeat a transmission line project were sweeping allegations and speculative statements without any factual basis, no transmission project would ever be built. Much of the RD’s support for its recommendation to deny Settlement 9A is based on these faulty findings.<sup>27</sup> As a result, the RD’s recommendation should not be relied upon.

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<sup>26</sup> See *Pa. Bureau of Corrections*, 532 A.2d 12 (Pa. 1987); *Consolidated Edison Company of New York*, 305 U.S. 197, 229; *Norfolk & Western Ry. Co.*, 489 Pa. 109 (1980). *Myers v. PPL Electric*, 2019 Pa. PUC LEXIS 261, \*33-34 (2019) (ALJ’s recommendation was unsupported by the record evidence).

<sup>27</sup> The following findings of fact are inaccurate and should not be adopted: 50, 58, 59, 63, 64, 65, 70, 71, 72, 79, 81, 84, 86, 88, 89, 91, 92, 115, 119, 142, 143, 149, 150, 151, 152, 154, 158, 159, 160, 161, 162, 163, 168, 169, 170, 171, 175, 178, 182, 184, 185, 191, 192, 202, 203, 204, 206, 211, 212, 220, and 221. This list is not exclusive, and Transource PA excepts to all findings of fact, conclusions of law and ordering paragraphs that are inconsistent with its Exceptions, Briefs and Testimony in this proceeding.

#### IV. CONCLUSION

WHEREFORE, Transource Pennsylvania, LLC and PPL Electric Utilities Corporation respectfully request that the Commission: (1) grant the Joint Applicants' Exceptions; (2) approve the consolidated Siting Applications as amended; (3) approve the Zoning Petitions associated with the Furnace Run Substation in York County, Docket No. P-2018-3001883, and the Rice Substation in Franklin County, Docket No. P-2018-3001878; (4) approve the consolidated Condemnation Applications that are necessary for the approved routes; and (5) grant such other approvals as are necessary or appropriate under the circumstances.

Respectfully submitted,



David B. MacGregor (PA ID # 28804)  
Anthony D. Kanagy (PA ID # 85522)  
Lindsay A. Berkstresser (PA ID #318370)  
Post & Schell, P.C.  
17 North Second Street, 12th Floor  
Harrisburg, PA 17101-1601  
Phone: 717-731-1970  
Fax: 717-731-1985  
E-mail: akanagy@postschell.com  
E-mail: lberkstresser@postschell.com

Counsel for Transource Pennsylvania, LLC



Michael J. Shafer (PA ID # 205681)  
PPL Services Corporation  
Office of General Counsel  
Two North Ninth Street  
Allentown, PA 18106  
Phone: 610-774-2599  
Fax: 610-774-6726  
E-mail: mjshafer@pplweb.com  
Counsel for PPL Electric Utilities Corporation

Hector Garcia (VA ID # 48304)  
American Electric Power Service Corporation  
1 Riverside Plaza, 29th Floor  
Columbus, OH 43215  
Phone: 614-716-3410  
Fax: 614-716-1613  
E-mail: hgarcia1@aep.com

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