

**BEFORE THE
PUBLIC SERVICE COMMISSION OF MARYLAND**

IN THE MATTER OF THE APPLICATION
OF PSEG RENEWABLE TRANSMISSION, LLC
FOR A CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY TO
CONSTRUCT A NEW 500 kV TRANSMISSION
LINE IN PORTIONS OF BALTIMORE,
CARROLL, AND FREDERICK COUNTIES

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CASE NO. 9773

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RESPONSE TO PSEG’S LETTER OF OCTOBER 7, 2025
OBJECTING TO PSC’S SCHEDULING ORDER AND
MOTION TO DISMISS PSEG’S APPLICATION FOR CPCN

Introduction

This motion arises at a turning point in the proceeding. When the Commission last addressed scheduling in September 2025, it did so against the backdrop of an incomplete CPCN application, balancing the applicant’s insistence on a June 2027 in-service date with the State agencies’ need for extensive field-based environmental and routing information. At that time, the Commission chose to move forward cautiously – establishing a procedural schedule to allow preliminary discovery while expecting PSEG to complete the required field studies and environmental documentation by the spring of 2026.

In the weeks since that order, however, circumstances have changed materially. PSEG has now informed the Commission, by letter dated October 7, 2025, that the procedural schedule the Commission deemed necessary to satisfy its statutory review obligations will prevent the project from being constructed by the contractual in-service date on which PSEG based its claimed urgency. In other words, the applicant now concedes that it cannot meet the very objective that justified accelerating this case. That admission makes clear what has become increasingly

apparent throughout this proceeding: the application is not merely incomplete—it is no longer viable on the terms presented.

The Commission therefore faces a timely and unavoidable question: whether State and private resources should continue to be devoted to a proceeding built on an application that remains incomplete under COMAR 20.79.03.02(B) and Order No. 91825, and that the applicant itself acknowledges cannot fulfill its stated purpose. Under the Public Utilities Article §§ 2-113, 3-104, and 7-207, the Commission retains broad discretion to manage its docket, ensure an efficient and fair process, and protect the public interest. Dismissal of the present application will conserve scarce agency resources, prevent unnecessary burdens on hundreds of Maryland private property owners, and reaffirm that Maryland’s CPCN process is grounded in completeness, transparency, and genuine public need.¹

Pertinent Procedural and Factual Background

On December 31, 2024, an out-of-state company that was not even registered to do business in Maryland filed an application (“Application”) for a Certificate of Public Convenience and Necessity (“CPCN”) to construct a project unprecedented in size and scope: a 67-mile-long greenfield transmission line with a 150-foot-wide right-of-way stretching through 409 properties in three counties, disrupting approximately 1,221 acres of land including hundreds of acres of bucolic and vital multi-generational family farmland, approximately 54 acres of floodplain as well as suspected sensitive habitat for multiple species, and requiring numerous stream crossings. Approval of a project of that magnitude should never be contemplated for a company that relentlessly demands the privilege of cutting corners.

¹ Dismissal would not preclude a utility from filing a new application for CPCN for a transmission line or any other proposed project.

PSEG's Application asserts that the **June 2027 in-service deadline** is a material and essential term in its contract with PJM for the largest ever greenfield utility project in Maryland history by order of magnitude:

- That June 2027 deadline contemplated PSEG obtaining a CPCN as well as multiple other regulatory permits, such as from the Army Corps of Engineers and three county governments, which require field-based environmental and other surveys of every property that would be impacted by the project then modifying the proposed design to mitigate environmental impacts, such as wetlands, stream crossings, forest stands, and sensitive habitat.
- That June 2027 deadline contemplated addressing the concerns of multiple stakeholders, including DNR, MDE, three county governments, and the private property owners of over 409 properties, in a rigorous and thorough regulatory process before Maryland's Public Service Commission.
- That June 2027 deadline contemplated obtaining eminent domain over those 409 properties, in whole or in part, including determining the constitutionally mandated just compensation for the taking of not only the physical land but also the impacts to hundreds of farm business interests, and the time necessary for engaging in good faith negotiations of just compensation before seeking relief from the courts.
- That June 2027 deadline contemplated hiring contractors, ordering and obtaining materials, clearing the rights-of-way, building access roads, siting and installing hundreds of 140-foot-tall transmission towers, and completing installation of approximately 67 miles of transmission line through largely rural areas of three counties.

PSEG has repeatedly emphasized its June 2027 contractual deadline with PJM as an important justification for this project. By PSEG's telling, if the MPRP is not in-service by June 2027, the mid-Atlantic grid – including Maryland's services – will be imperiled.² This contention has been highly suspect from the outset. Nevertheless, for there to have ever been any chance PSEG could meet that June 2027 in-service deadline, allowing the 18 months for construction that PSEG estimated,³ the utility would have had to complete all other preliminary components between signing the contract in 2023 and the end of 2025 – the surveys, the mitigation, the PSC hearing, the other permit processes, and the takings. That is simply not possible, and probably never was.

The linchpin in PSEG's agreement with PJM is the hard deadline of June 2027 for the MPRP to be in-service. Because PSEG now admits it is unable to satisfy the contract's essential purpose, PSEG's Application for CPCN should be dismissed. PSEG should not be allowed to monopolize limited government resources in reviewing this nonmeritorious project proposal. Moreover, ending this process at this stage would help press PJM to select a viable utility project(s) sooner, particularly projects that address the massive needs of the Virginia data centers without

² See, e.g. December 31, 2024 CPCN Application (PSC Case 9773 at No. 1, p. 4 (“The MPRP is Critically Needed for Maryland. The MPRP is needed to prevent extensive, severe, and widespread thermal overloads and voltage instability from imminently occurring in 2027 on the bulk 500 kV transmission system that serves Maryland electric customers and the surrounding PJM region. Unless addressed quickly, these overloads and voltage instability violations will compromise the safe and reliable service of electricity to customers in Maryland and elsewhere.”) and March 26, 2025 PSEG's Motion Requesting a Pre-Hearing Conference to Rule on Intervention Petitions and Establish a Procedural Schedule to Meet PJM's Required In-Service Date (PSC Case 9773 at No. 246, p. 10) (“...PJM...has directed the Project to be placed in service by **June 1, 2027** to prevent the ‘severe’ overloading of ‘numerous...lines in Maryland and the surrounding PJM system’.... If left unaddressed, PJM has determined that these violations ‘could compromise overall system reliability’ and lead to ‘widespread and extreme conditions, such as system collapse and blackouts’ for Marylanders and other customers in the region...” (Emphasis in original).

³ It is highly questionable whether PSEG could hire all the necessary subcontractors, clear the path in the right-of-way, obtain all the materials – including over 67 miles of 500 kV cable and sufficient galvanized steel for hundreds of transmission towers, and then complete the construction of the towers and install the transmission line in just 18 months. But that is what PSEG has repeatedly claimed. See, e.g., PSC Case 9773 at No. 1, Ex. 08, p. 27 (Shilkoski Direct Testimony) and PSC Case 9773 at No. 246, p. 2 FN 9. Solely for the purpose of this Motion, this is assumed to be accurate.

unduly burdening Marylanders. If there is any truth to PSEG's claim about grid stability, then that would be all the more reason to dismiss PSEG's ill-conceived Application promptly, sending the stakeholders back to the proverbial drawing board sooner, this time with the clear message that they must develop solutions that would be compatible with addressing real needs of the grid, not a "solution" that is itself a problem. Moreover, federal energy policy and technology is evolving at a rapid pace. For instance, there is now increasing emphasis on co-location for data centers, and soaring consumer rates have prompted further consideration about cost-effective energy transmission. There is a real question whether the proposed MPRP would be in alignment with current federal policy.

Authority to Dismiss the Application

The Commission is charged with significant responsibility to supervise and regulate utilities, considering multiple factors, including the economy of the State, the conservation of natural resources, and the preservation of environmental quality. *See, e.g.*, PUA § 2-113 (2). In performing its work, while the PSC is not bound by court rules, prior decisions in other cases and the Maryland Rules can certainly be instructive.

There is certainly precedent for the PSC to consider a Motion to Dismiss from a case that PSEG had cited several times already in this proceeding. Transource Maryland filed an application for CPCN on December 27, 2017. *See* PSC Case 9471. The PPRP initially concluded that Transource's application was complete. In December 2018, the PPRP filed a Motion to Dismiss Without Prejudice. *Id.* at 34. In it, the PPRP argued that through discovery in the case it had become clear that the utility was unable to demonstrate compliance with PUA §7-209, because the utility had failed to examine whether any existing transmission lines could be utilized "as an alternative to constructing an entirely new line through valuable natural resources and pastoral

landscapes.” *Id.* at p. 3. Because of this, the PPRP asked that Transource’s application for CPCN be dismissed without prejudice, so that it could be revised and re-filed, or, in the alternative, asked the Commission to suspend the schedule until Transource amended its application to resolve the issue. *Id.* In opposing the PPRP’s Motion, Transource stated it did not believe it necessary to evaluate reconductoring existing transmission lines, because PJM’s own evaluation process did not require this. *Id.* at 7-8. The Commission disagreed, emphasizing that “The PJM process is not a substitute for Maryland’s statutory requirements...” *Id.* The Commission then ordered that the schedule would be modified to facilitate additional discovery and analysis of this issue.⁴ The Commission’s decision on the PPRP’s Motion to Dismiss in *Transource* is illuminating here, because it again emphasizes the Commission’s authority to manage its own docket and to insist a case be viable.

Maryland’s Rules of Civil Procedure also provide useful guidance here. Modeled after the federal rules, state courts are obligated to dismiss cases or enter judgment as a matter of law in cases where there is no dispute of material fact. Md. Rule 2-501(f) (“The court shall enter judgment in favor of or against the moving party if the motion and response show that there is no genuine dispute as to any material fact and that the party in whose favor judgment is entered is entitled to judgment as a matter of law.”)⁵ This rule embodies sound jurisprudence in minimizing the adverse impacts of nonmeritorious litigation both on the public and the courts. Md. Rule 1-201 (“These rules shall be construed to secure simplicity in procedure, fairness in administration, and elimination of unjustifiable expense and delay. When a rule, by the word ‘shall’ or otherwise,

⁴ A settlement eventually entered more than two years later, authorizing Transource to construct approximately 4.5 miles of new 230kV line in Washington County.

⁵ As in *Transource*, the instant Motion is framed as a “Motion to Dismiss” rather than a “Motion for Summary Judgment,” because there be no court “judgment” here. Regardless of title, this dispositive motion is properly and timely filed.

mandates or prohibits conduct...”). Applying these rules to evaluate a dispositive motion, courts determine whether there are any material facts in dispute, whereby a “material fact” is a fact that “the resolution of which will somehow affect the outcome of the case,” and if none, then the court is empowered to issue a decision on the legal question before it and resolve the case more expeditiously. *See, e.g., Dolan v. McQuaide*, 215 Md. App. 24, 31 (2013). Applying such an approach here would be consistent with the Commission’s obligation to keep the lights on, while avoiding the unnecessary expenditure of resources (time and money) considering an Application for a project that cannot be completed. It is now uncontroverted fact that PSEG cannot meet the June 2027 in-service deadline, a key component of the contract to build the MPRP. Its Application should be dismissed now. This would further reinforce that while utility projects are and will be needed in this state, building them must be in Maryland’s best interests.

No Material Question of Fact in Dispute:
PSEG Admits It Cannot Meet Its Key Deadline

Some intervenors raised concern with the PJM contract deadline from the outset in Petitions to Intervene filed February 17, 2025:

As PSEG admits, “PJM requires the MPRP be in service by June 1, 2027.” This is impossible! It is highly unlikely that construction could even *begin* by June 1, 2027, much less be *completed*. When PSEG inevitably fails to make this deadline, PJM can terminate the contract with PSEG, and all the precious land that PSEG will have seized – our land – will be stuck forever. The risk of contract termination is quite real.

See e.g., PSC Case 9773 at 174, p. 9; at 178, p. 10; at 182, p. 11; at 184, p. 9; at 187, p. 11. In its letter of October 7, 2025, **PSEG now admits that it cannot meet its in-service contractual deadline** with PJM:

For the reasons it has previously stated in this proceeding, PSEG objects to the schedule set forth in the Procedural Order because it prevents the Project from being constructed by PJM's required in-service date for the Project.... Because the currently ordered procedural schedule does not provide the Company an opportunity to meet the required in-service date for the MPRP, the Company objects to the Procedural Order. PSEG's compliance with the Procedural Order should not be construed as an agreement on the Company's part to delay the Project's in-service date as determined by PJM, which remains unchanged.

PSC Case 9773 at 640, p. 2. (PSEG Letter in Response to Order No. 91825).

PSEG casts a wide net of blame for this⁶ but misses the real culprit: Namely, PSEG's own impossible overpromise to PJM. If this was not fraudulent from the outset, then it was an overly ambitious goal. PSEG has failed to manage its time wisely since signing the contract with PJM, and yet the company fails to respect PSC's authority to manage its own schedule, warning:

PSEG reserves the right to seek an amendment to the Procedural Order to move the remaining deadlines earlier in the interest of obtaining a final CPCN order sooner, considering the urgency of the severe and widespread reliability violations facing the regional transmission system serving Maryland.

Id. at FN 4.

PSEG's purported "urgency" is belied by PSEG's own slow pace from the outset. PSEG took a full year to file its admittedly incomplete Application for CPCN. PSEG was awarded the contract in 2023 and publicly announced July 8, 2024 that it would be applying for a CPCN to construct a transmission line through rural Maryland in one of several proposed paths. Perhaps the out-of-state company was surprised at the groundswell against a project that would burden Maryland family farms, destroying some of them entirely, in order to benefit Virginia data centers. (And to benefit PSEG too, of course!) At no time, though, did PSEG discuss with the public any alternatives to building massive new transmission lines through the Maryland countryside, such as

⁶ PSEG blames the PSC's scheduling order as the primary reason why PSEG will not meet its contractual deadline to have the MPRP fully permitted, completed constructed, and connected to some to-be-named lines at either end so as to be in-service by June 2027.

reconducting existing transmission lines, utilizing existing rights-of-way, co-location, or building a new transmission line through Virginia instead. PSEG sole motivation in this project is to maximize its profit.

On October 18, 2024, PSEG announced the path it had selected for the greenfield project⁷ and stated it would be applying for CPCN by the end of the year, which PSEG did. On the eve of the February 17, 2025 deadline for filing petitions to intervene, PSEG quietly filed over 400 pages of “supplement” to its Application. This “supplement” included some of the required viewshed information with autumn photographs, *i.e.* plainly taken months earlier. It also included a letter from the United States Department of the Interior dated January 17, 2025 listing at least six (6) threatened and endangered species, as well as concerns about migratory birds and wetlands, that could be impacted by the proposed MPRP. PSC Case 9773 at No. 119.

PSEG’s slow pace has continued throughout 2025 in its efforts to secure required property surveys to complete its Application for CPCN. On January 10, 2025, the PSC set a February 17, 2025 deadline for petitions to intervene and directed the PPRP to submit its completeness review by March 26, 2026. *See* PSC Case 9773 at No. 2. The PPRP timely submitted its recommendations to the PSC including that surveys be required (over PSEG’s objection), *see Id.* at No. 245, and, after receiving briefing from all parties, the Commission decided to follow the PPRP’s recommendations. *See Id.* at 514. As the PPRP has explained, the surveys needed for completeness of the Application include: a metes and bounds survey of each property, a topographical survey of each property, surveys of historical structures, and the delineation of all forests, all wetlands, and all streams, as well as searching all 409 properties for sensitive flora and

⁷ The undersigned do not contend that PSEG should have chosen a different path than the one it announced in October 2024, rather, that no CPCN should be granted for this ill-conceived project.

fauna. All findings from the environmental and archeological surveys would impact project planning.

PSEG knew from the outset that the proposed project required extensive property surveys and then to acquire rights-of-way from over four hundred property owners, and the utility knew from the thousands of people who had attended community meetings that all or nearly all property owners along the proposed path would not help facilitate the project. According to affidavits PSEG filed in federal court from its contracted “land agents,” even before filing the initial part of its Application for CPCN in December 2024, PSEG knew that almost no property owners had agreed to the utility’s offer of \$1,000 for 24/7/365 property access to conduct unlimited surveys for years to come. This meant that PSEG would need to convince a court that it was entitled to access to conduct surveys to each of those properties over the property owner’s objection, which it has, but it continues to do so by slowly filing piecemeal litigation. PSEG filed a federal case on April 15, 2025 and a second case in the same court on July 15, 2025, but PSEG did not even initiate litigation to seek access to over 100 properties along the right-of-way until October 9, 2025. Indeed, PSEG just filed its fourth federal access case on October 14, 2025. Upon information and belief, there are still properties along the proposed right-of-way for the transmission line whose owners have neither voluntarily given survey access to PSEG nor have they been sued for access.

In each of the four lawsuits so far, PSEG mischaracterizes the **requirement** of field-based environmental surveys as a mere **request**, for example:

In the Company’s CPCN proceeding before the PSC, *various state agencies have requested that the Company perform certain surveys* and gather certain environmental and socioeconomic information from Respondents' properties. (Id. at ¶ 19.)

PSC Case 9773 Entry 641. (Emphasis supplied.) More accurately, the PPRP recommended that the PSC agree that the Application is incomplete without the surveys, and the PSC agreed.

PSEG also avers that it cannot advance its CPCN and complete its project within the timeframe agreed in its contract without these surveys. Nowhere does PSEG explain, though, why it has waited so long before filing these access cases, or why it filed the access lawsuits piecemeal. There is no limit to the number of parties to a federal case, so there appears to be no legal obstacle that would have precluded PSEG from filing a single action for access at least as early as April 2025 – if indeed PSEG were really hurrying to build this transmission line by its contractual deadline of June 2027.

As the Commission is aware, on June 20, 2025, a federal court, concluding that PSEG’s proposed surveys did not constitute a taking, granted PSEG unlimited access to conduct whatever surveys PSEG might want or need to the Maryland properties listed in that first lawsuit. In the second access lawsuit PSEG filed July 15, 2025, the same federal judge granted the utility’s request for survey access even faster. Yet the utility has barely started that survey work. PSEG has conducted some metes and bounds surveys but has admittedly not even started hundreds of required environmental surveys.⁸ Obviously, PSEG has not even begun any surveys of over 100 properties that are the subject of the third and fourth access lawsuits the utility just filed this month.

After the federal court issued orders granting access on June 20 and September 2, PSEG started notifying property owners of scheduled surveys. In the notices,⁹ property owners are warned to stay away from the surveyors for 9 hours each day for the sake of “safety,” meaning that farm work and family life is disrupted for the weeks that surveyors are scheduled to come:

⁸ PSEG reported to the court last month that several property owners objected to the surveys and wrongfully interfered with them. Failing to comply with a court order is not condoned. Other than those very few concerns, PSEG has no valid excuse for the time it has taken to conduct the required surveys.

⁹ This notice is flawed on its face. The case cited here, *PSEG v. Alvi* was the second access case filed July 15, 2025. The court granted access in that case September 2, 2025. This erroneously references the court order as June 20, 2025.


MARYLAND PIEDMONT
RELIABILITY PROJECT


NOTICE

Site Address:

Date of Notice: 9/24/25

Dear Property Owner/Current Resident:

Beginning 9/29, 2025 and through 10/17, 2025, between the hours of 8 a.m. and 5 p.m., representatives working on behalf of PSEG and the Maryland Piedmont Reliability Project (MPRP) will be accessing the above property to conduct environmental and land surveys pursuant to the Order of Court dated June 20, 2025 in the United States District Court in the District of Maryland in PSEG RENEWABLE TRANSMISSION LLC, v. ALVI PROPERTIES, LLC, *et al.*, Case No. 1:25-cv-02296-ABA, a copy of which has already been served on you.

Please contact your Land Agent for additional information or visit MPRP.com to learn more about this project.

Safety is our highest priority. It is essential that you and anyone using your property, including children and pets, refrain from going near our activity zones.

1-833-451-MPRP (6777)

(“Safety is our highest priority. It is essential that you and anyone using your property, including children and pets, refrain from going near our activity zones.”) (Emphasis in original).

Property owners have reported receiving multiple such notices regarding upcoming surveys within the following week or weeks, but no surveyors come. Then another notice arrives, and another. At least one property owner has received survey notices for 9 weeks of proposed access just to conduct a metes and bounds survey, and PSEG recently admitted that environmental surveys are not likely to be started until November for many properties.

Notably, PSEG cannot validly conduct most types of field-based environmental surveys during winter months, such as surveys of sensitive plants or phase II bog turtle habitat.

Consequently, PSEG's intrusive survey process on hundreds of private properties will necessarily extend well into spring 2026.¹⁰ Dismissing the Application now would end PSEG's disruption of Marylanders' lives by surveying for a project that cannot be built by the in-service deadline of June 2027.

Dismissal is Appropriate

PSEG operates under the assumption that approval of its flawed Application for CPCN is a foregone conclusion and demands to burden Marylanders twice – first, with the construction of a massive 'extension cord' stretched across our beautiful state to power Virginia data centers, destroying numerous family farms and businesses, and, second, by passing a substantial portion of the enormous costs of this transmission line to those same Marylander farmers and homeowners. Government resources to review the Application are limited, and the funding resources of small business owners and individuals who reasonably oppose this are minute in comparison to PSEG's giant coffers.

Maryland has well-established policies and procedures for thoroughly reviewing such an Application. Numerous state agencies and hundreds of individuals, business owners,

¹⁰ In the first federal access cases, PSEG admitted that it does not currently have eminent domain authority, only that it would have the power to take private land if a CPCN were granted. Nevertheless, PSEG argued that its supposedly very limited survey work does not amount to a "taking." PSEG complained that it needed field-based environmental and other surveys to complete its application for CPCN and perform its lucrative contract. Many landowners objected to this survey work, in part because it infringed on their right to constitutional right to exclude people from their land – such as surveyors of an out-of-state utility company that did not have a permit.

In *Cedar Point Nursery v. Hassid*, 594 U.S. 139, 141 S.Ct. 2063 (2021), the United States Supreme Court considered whether a state statute in California that required farmers to allow union organizers to meet with employees on the farm amounted to a *per se* physical "taking" under the fourth and fifteen amendments, because the property owner's constitutional right to exclude people from their property was infringed. In that case, the new statute required farmers to allow union organizers to traverse their private property at will for up to 3 hours a day, 120 days a year (360 hours total). Distinguishing that sort of access from government-authorized access like police search warrants, and finding that 360 hours a year was more than just a nominal, temporary intrusion, the United States Supreme Court held that the union access statute did authorize a "taking" for which just compensation is required.

In the first survey access lawsuit here, PSEG convinced the federal court to grant survey access even though PSEG does not currently have eminent domain authority. PSEG assured the court that the survey access would be brief and noninvasive. However, as PSEG's notices to landowners to conduct surveys stretches on, with survey time already exceeding 360 hours in some instances, and more to come, this is hardly nominal, temporary access. Applying *Cedar Point*, PSEG has now engaged in unlawful taking of Maryland properties.

organizations, and local governments are actively participating in this process. The expenditure by government and private citizens is remarkable. The costs already expended are substantial – and the process of evaluating this Application has barely begun. These costs will continue to climb as discovery proceeds in earnest, and those monetary costs will balloon with experts and testimony. This process will absorb enormous human capital resources as well. For a case reviewing an Application of this magnitude, thousands of pages of documents must be evaluated, fact and expert witnesses will testify, and extensive briefing is expected.

Were the Application for CPCN granted, this would be a highly technical project – the largest of its kind in Maryland – and it would also require securing numerous state, federal, and local regulatory approvals. If PSEG were to secure those necessary permits, the utility would then need to proceed through the takings process for 409 properties or portions thereof. Again, even if some property owners would accept a low-ball offer, presumably some would assert their constitutional right to fair compensation, which would be litigated.

Only after navigating all of this could PSEG then begin construction, which the utility says would take 18 months to complete. In December 2024 and again in March 2025, PSEG said it would have to start construction by January 2026 to have the transmission line in-service by June 2027. That January 2026 deadline was implausible, as the PPRP emphasized months ago, and it has become less feasible given PSEG’s slow progress actually conducting the required surveys.

Proposed MPRP Burdens Marylanders to Benefit Virginia Data Centers

Dismissing this Application would be in Maryland’s best interests – by conserving limited government resources to review meritorious applications and also by pressing PJM to revisit the grid’s needs and to ensure that Maryland projects meaningfully benefit Marylanders.

The purported justification for the MPRP varies based on the audience, but it is beyond cavil that the real driver of this project is the stunning electrical demands of data centers in Northern Virginia. PJM recognized this and solicited bids in February 2023 for a variety of projects, and PSEG's proposed MPRP was one of 72 different bids PJM received in May 2023. So while there may be need for one or more utility projects to bolster the grid to support those Virginia data centers, whether this project is necessary is not a foregone conclusion.

PSEG has taken great pains to sidestep the fact that the proposed MPRP would almost entirely benefit the Virginia data centers, rather than benefiting Marylanders. At best, PSEG asserts that Maryland is part of an interconnected grid with neighboring states, and if that grid is not bolstered with new infrastructure to address increased electrical demand, Marylanders may suffer brownouts and disruptions. Again, that does not mean that this project is necessary.

As previously detailed in the Petitions to Intervene that this Commission granted, the many private property owners have substantial property rights that would be adversely impacted, if not destroyed, by the construction of the MPRP. These are not just esoteric or philosophical rights, but the rights of farmers to protect their multi-generational family farms from being cut in half by transmission lines, or to lose entire fields or established orchards. Agri-tourism businesses that are currently visited by thousands of school children, church groups, and families coming to the countryside would instead see massive transmission lines running through the middle of the property (if they continued to come at all). These property rights are considered foundational rights in the United States and should be deeply respected in considering whether or not to allow a case to proceed when the applicant has admitted that it cannot meet its key project deadline. Maryland property owners should not be compelled to expend considerable time and money defending their rights against an Application for CPCN for a project that is impossible to build.

No “Final Order Target Date”

In the interim while this Commission considers this Motion to Dismiss, the undersigned respectfully request that the Commission not constrain its diligent process by granting PSEG’s request to amend the Procedural Order to include a “final order target date.” *See* PSC Case 9771 at No. 640. This is not a small ask by the out-of-state utility. PSEG’s Application for CPCN, filed December 31, 2024, remains incomplete to this day, and the Commission’s Procedural Order already makes considerable accommodations to allow discovery to commence while PSEG completes its Application. This reflects the Commission’s willingness to facilitate PSEG completing field-based environmental and other required surveys while holding PSEG accountable to do so as a requirement of a complete Application.

Despite this extraordinary accommodation to the out-of-state utility, PSEG has not completed surveys on properties where it was granted access. Indeed, PSEG has not yet started many of them. As described further above, PSEG only just sought access to over 100 properties along the proposed right-of-way to *begin* surveys. While some surveys can be completed during winter months, substantive field-based environmental surveys cannot. In the federal court, PSEG has described these surveys as “requested,” not required, and in this case, PSEG has repeatedly sought to avoid completing those surveys.

Because of PSEG’s own delays, it will now be unable to complete those surveys until spring 2026. Thereafter, the PPRP must be accorded sufficient time to review PSEG’s analysis and determine whether any additional surveys are required. Also, the proposed path of the transmission line may need to be modified based on the results of those surveys to minimize environmental impacts – which is the purpose of those surveys for a complete CPCN Application.

Only *after* PSEG has finally completed its Application for CPCN could it possibly express good cause for modifying the current Procedural Order. Doing so now is plainly premature. In any event, setting a “target date” for issuance of a final order at this juncture – if ever – would reward PSEG’s dilatory conduct while handcuffing the Commission from completing a thorough analysis of the Application.

WHEREFORE, because PSEG now admits it is unable to meet its key contractual obligation to have the MPRP in-service by June 2027, in the interest of justice and economy, this Commission should dismiss PSEG’s Application for CPCN. Furthermore, in the interim while the Commission considers this Motion to Dismiss, the Commission should deny PSEG’s request to modify the Procedural Order and decline to set a “target date” for issuance of a final order on the CPCN Application.

Respectfully signed and submitted by:

/s/ Randall M. Lutz

Randall M. Lutz

RLutz@PKLaw.com

Susan M. Euteneuer

SEuteneuer@PKLaw.com

Anastacia E. Topaltzas

ATopaltzas@PKLaw.com

PESSIN KATZ LAW, P.A.

901 Dulaney Valley Road, Suite 500

Towson, Maryland 21204

(410) 938-8800

Attorneys for:

The Maryland Farm Bureau, in partnership with the Frederick County Farm Bureau, Carroll County Farm Bureau, and the Baltimore County Farm Bureau; Arnold Developer Associates Inc. and Jesse Smith LLP; Dwight Baugher and Baugher Enterprises, Inc.; Michael and Lisa Gaver and Gaver Farm, LLC; John and Robin Kable, Wakefield Farm, LLC, John Allder Kable Trust, and Robin Smith Kable Trust; John and Donna Reese and Broadview Farm, LLC; and Jane Shaw, Rockland Farms, Inc., and Jane Shaw Revocable Living Trust

Carolyn Elefant
carolyn@carolynelefant.com
LAW OFFICES OF CAROLYN ELEFANT
7315 Wisconsin Avenue
Bethesda, Maryland 20814
(202) 297-6100
Counsel to Stop MPRP

Timothy F. Maloney
tmaloney@jgllaw.com
Alyse Prawde
aprawde@jgllaw.com
JOSEPH GREENWALD LAAKE
6404 Ivy Lane, Suite 400
Greenbelt, Maryland 20770-1417
(301) 220-2200
Attorneys for Carroll County, Maryland

Michael J. Hinkle
mjh@tbhelaw.com
TIMMERMAN, BEAULIEU & HINKLE, LLC
215 Washington Avenue, Suite 402
Towson, MD 21204
(443) 608-5515
Counsel for Dells Generation Farms, LLC, Matthew Dell, and Francis and Marian Dell

Clark R. Shaffer
clark@smh-law.com
SHAFFER, MILLER, & HURFF, LLP
73 East Main Street
Westminster, Maryland 21157
(410) 848-3737
Counsel for Lippy Brothers Farms, ST and Sunnyside Poultry Farms, ST