

COMMONWEALTH OF PENNSYLVANIA



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May 1, 2026

Via Electronic Filing

Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120

Re: Application of NextEra Energy Transmission MidAtlantic, Inc., filed pursuant to 52 Pa. Code Chapter 57 Subchapter G, for approval to site and construct a 500 kV transmission line associated with the MidAtlantic Resiliency Link Project located in portions of Greene County and Fayette County, Pennsylvania; Docket No. A-2026-3060856; and

Application of NextEra Energy Transmission MidAtlantic, Inc., for All of the Necessary Authority, Approvals, and Certificates of Public Convenience (1) to Begin to Furnish and Supply Electric Transmission Service in Greene County and Fayette County, Pennsylvania; (2) for Certain Affiliated Interest Agreements; and (3) for any Other Approvals Necessary to Complete the Contemplated Transactions; Docket No. A-2026-3060921

Dear Secretary Homsher:

For electronic filing, please find enclosed the Prehearing Memorandum of the Office of Consumer Advocate.

Respectfully submitted,

/s/ Jacob Guthrie
Jacob Guthrie, PA Attorney I.D. # 334367
Assistant Consumer Advocate

Enclosures

cc: Administrative Law Judge John M. Coogan (Via Email Only: jcoogan@pa.gov)
Administrative Law Judge Erin L. Gannon (Via Email Only: egannon@pa.gov)
Certificate of Service

CERTIFICATE OF SERVICE

Application of NextEra Energy Transmission :
MidAtlantic, Inc., filed pursuant to 52 Pa. Code :
Chapter 57 Subchapter G, for approval to site : Docket No. A-2026-3060856
and construct a 500 kV transmission line :
associated with the MidAtlantic Resiliency Link :
Project located in portions of Greene County :
and Fayette County, Pennsylvania :

Application of NextEra Energy Transmission :
MidAtlantic, Inc., for All of the Necessary :
Authority, Approvals, and Certificates of Public : Docket No. A-2026-3060921
Convenience (1) to Begin to Furnish and Supply :
Electric Transmission Service in Greene County :
and Fayette County, Pennsylvania; (2) for :
Certain Affiliated Interest Agreements; and (3) :
for any Other Approvals Necessary to Complete :
the Contemplated Transactions :

I hereby certify that I have this day filed electronically on the Commission’s electronic filing system and served a true copy of the following document, the Office of Consumer Advocate’s Prehearing Memorandum, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below.

Dated this 1st day of May 2026.

SERVICE BY E-MAIL ONLY

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Dated: May 1, 2026

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of NextEra Energy	:	
Transmission MidAtlantic, Inc., Filed	:	
Pursuant to 52 Pa, Code Chapter 57	:	
Subchapter G, for Approval to Site and	:	Docket Nos. A-2026-3060856
Construct a 500 kV Transmission Line	:	
Associated with the MidAtlantic	:	
Resiliency Link Project Located in	:	
Portions of Greene County and Fayette	:	
County, Pennsylvania	:	
	:	
Application of NextEra Energy	:	A-2026-3060921
Transmission MidAtlantic, Inc., for All	:	G-2026-3060941
of the Necessary Authority, Approvals,	:	G-2026-3060942
and Certificates of Public Convenience	:	
(1) to Begin to Furnish and Supply	:	
Electric Transmission Service in	:	
Greene County and Fayette County,	:	
Pennsylvania; (2) for Certain	:	
Affiliated Interest Agreements; and (3)	:	
for any Other Approvals Necessary to	:	
Complete the Contemplated	:	
Transactions	:	

PREHEARING MEMORANDUM
OF THE
OFFICE OF CONSUMER ADVOCATE

Before Administrative Law Judges (ALJs) John M. Coogan and Erin L. Gannon, and pursuant to the Prehearing Conference Orders issued on March 10 and 27, 2026, Section 333 of the Public Utility Code,¹ and the Pennsylvania Public Utility Commission’s

¹ 66 Pa.C.S. § 333.

(Commission’s) regulations,² the Pennsylvania Office of Consumer Advocate (OCA) submits this Prehearing Conference Memorandum.

I. BACKGROUND

On March 3, 2026, NextEra Energy Transmission MidAtlantic, Inc. (NEET MA or Company) filed the above-captioned Applications with the Pennsylvania Public Utility Commission (Commission). Under 52 Pa. Code Sections 57.71-57.77,³ NEET MA filed an “Application . . . for Approval to Site and Construct” (Siting Application) a 500 kilovolt (kV) transmission line associated with the MidAtlantic Resiliency Link Project (MARL Project or Project) located in Dunkard Township in Greene County and Springhill Township in Fayette County, Pennsylvania. Under 66 Pa. C.S. Sections 1101, 1103, and 2102, NEET MA filed an “Application . . . for All of the Necessary Authority, Approvals, and Certificates of Public Convenience” (CPC Application) for the MARL Project. If the Commission approves NEET MA’s CPC Application, NEET MA would then become a Pennsylvania public utility that can furnish and supply electric transmission service in Greene and Fayette Counties and can request the Commission’s approval to exercise the power of eminent domain.

On March 10, 2026, ALJ Coogan issued a Prehearing Order regarding the Siting Application, establishing a Prehearing Conference on Wednesday, May 6, 2026, at 10:00 a.m. ALJ Coogan set a deadline for the prehearing memoranda on or before Monday, May 4, 2026.

² 52 Pa. Code §§ 5.221–5.224.

³ See 52 Pa. Code 57.72(a)-(c) (explaining form and content of standard application to site and construct transmission lines).

On March 10, 2026, ALJ Coogan issued an Order Directing NEET MA to Publish Notice of the Prehearing Conference.

On March 13, 2026, Sara Evans, *pro se*, filed a Protest.

On March 17, 2026, Robert Hetrick, *pro se*, filed a Protest.

On March 18, 2026, Goldie Keys, *pro se*, filed a Protest.

On March 23, 2026, David J. Browne, *pro se*, filed a Protest.

On March 27, 2026, ALJ Coogan issued a Prehearing Order regarding the CPC Application, establishing a single Prehearing Conference for the CPC Application and the Siting Application on Wednesday, May 6, 2026, at 10:00 a.m.

On April 20, 2026, NEET MA filed Proof of Publication in the Herald-Standard newspaper in Uniontown, PA.

On April 23, 2026, the County of Fayette, Pennsylvania filed a Protest.

On April 23, 2026, Thomas J. Bozek, *pro se*, filed a Petition to Intervene and a Protest.

On April 23, 2026, Kelsey Greathouse, *pro se*, filed a Protest.

On April 25, 2026, Keryn Newman, *pro se*, filed a Protest.

On April 27, 2026, Benjamin C. Dunlap entered a Notice of Appearance on behalf of James E. Rockis, Quarter Pine Tree Farm Christmas Shoppe, LLC, and J.E. Rockis Rental & Supply, Inc.

On April 27, 2026, Joseph Pennington, *pro se*, filed a Petition to Intervene.

On April 27, 2026, Dale Bushey, *pro se*, filed a Protest.

On April 27, 2026, Patrice Nitterhouse, *pro se*, filed a Protest.

On April 28, 2026, Andrea Funyak, *pro se*, filed a Protest.

On April 28, 2026, Tylee Ulmer filed Comments to the Applications.

On April 29, 2026, Debra S. Kase, *pro se*, filed a Protest.

On April 30, 2026, ALJ Erin L. Gannon was added as a presiding officer in this case.

On May 1, 2026, the OCA filed a Protest and Public Statement.

On May 1, 2026, the OCA filed a Petition for Interlocutory Review and Answer to Material Question of the OCA.

II. SERVICE ON THE OCA

Assistant Consumer Advocates Jacob Guthrie and Josiah B. Harmar and Deputy Consumer Advocate Melanie Joy El Atieh represent the OCA in this proceeding. Parties should serve a total of two copies of all documents on the OCA as follows:

Jacob Guthrie
Josiah B. Harmar
Melanie Joy El Atieh
Pennsylvania Office of Consumer Advocate
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, PA 17101-1923
Telephone: (717) 783-5048
Email: OCAMARL2026@paoca.org

For the purposes of the Prehearing Conference, Jacob Guthrie will be the primary attorney speaking on behalf of the OCA.

III. DISCOVERY

In conjunction with its proposed schedule, the OCA proposes the following modifications to the Commission's procedural rules regarding discovery. The OCA requests that the Presiding Officer direct that the modifications will take effect when

addressed during the on the record prehearing conference and apply to all future discovery requests served on and after the date of the prehearing conference Wednesday, May 6, 2026, at 10:00 a.m.

- A. Answers to written interrogatories and requests for document production, entry for inspection, or other purposes shall be served in-hand within ten (10) calendar days of service.
- B. Objections to interrogatories and/or requests for production shall be communicated orally to the propounding party within three (3) calendar days of service of the interrogatories; unresolved objections shall be served in writing to the propounding party within five (5) calendar days of service of the interrogatories and/or requests for production.
- C. Motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within five (5) business days of service of written objections.
- D. Answers to motions to dismiss objections and/or answering of interrogatories and/or requests for production shall be filed within three (3) business days of service of such motions.
- E. Requests for admissions will be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.
- F. Answers to on-the-record data requests shall be served in-hand within five (5) calendar days of the requests.
- G. Any discovery or discovery-related pleadings (such as objections, motions, and answers to same) served after served after 4:30 p.m. Monday through Thursday or after 1:30 p.m. on a Friday or the day before a holiday will be deemed to have been served on the next business day for purposes of calculating the due date for any responsive filing.

After the parties serve rebuttal testimony, the OCA proposes that the Commission reduce the deadlines as follows:

- A. Answers to interrogatories and responses to requests for document production, entry for inspection, or other purposes shall be served within five (5) calendar days of service of the interrogatories or requests for production.

- B. Objections to interrogatories and/or requests for production shall be communicated orally to the propounding party within two (2) calendar days of service; unresolved objections shall be served on the propounding party in writing within three (3) calendar days of service of the interrogatories and/or requests for production.
- C. Motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within three (3) business days of service of written objections.
- D. Answers to motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within three (3) business days of service of such motions.
- E. Requests for admission shall be deemed admitted unless answered or objected to within three (3) calendar days of service.
- F. Discovery requests and discovery related pleadings (such as objections, motions, and answers to same) served after 4:30 p.m. Monday through Thursday or after 1:30 p.m. on a Friday or the day preceding a holiday shall be deemed to have been served on the next business day.

IV. PROCEDURAL SCHEDULE

Importantly, the OCA requests that the setting of a procedural schedule for witness testimony and evidentiary hearings be held in abeyance until after the Commission addresses the OCA's Petition for Interlocutory Review and Answer to Material Questions. We request that the presiding officers schedule another prehearing conference to set the dates for testimony and evidentiary hearing promptly soon after the Commission enters an order addressing the OCA's Petition. However, a schedule can and should be set with regard to Public Input Hearings and potential Site Visits.

Additionally, the OCA has not been contacted by NEET MA's counsel to confer on a proposed procedural schedule prior to the submission of this Prehearing Conference Memorandum. However, the OCA remains open and willing to confer with NEET MA's

counsel prior to the prehearing conference to seek agreement on a procedural schedule with regard to Site Visits and Public Input Hearings.

V. WITNESSES

The OCA intends to present direct, rebuttal, and surrebuttal testimony of expert witnesses, as may be necessary. The OCA's witnesses will present testimony in written form and will also attach various exhibits, documents, and explanatory information which will bolster the OCA's case. To expedite this proceeding's resolution, the OCA requests that copies of all interrogatories, testimony, and answers to interrogatories be emailed directly to its expert witnesses in this case, as well as to counsel for the OCA. The OCA is still in the process of identifying and retaining its expert witness(es) at this time. As soon as the OCA has determined whether an additional witness or witnesses will be necessary for any portion of its case, all parties of record will be notified.

VI. ISSUES AND EVIDENCE

The OCA identified that NEET MA currently estimates a \$1.1 billion total cost in 2031 dollars to build the MARL Project, including an \$87.6 million cost for the Pennsylvania portion. The OCA is concerned that the primary function of this line may be to serve AI data center electricity demand in other states and resolve the transmission problems caused by out-of-state AI data centers. The MARL Project poses potential risks to Pennsylvania citizens' health, safety, property rights, and natural environment.

Based upon a preliminary analysis of the Applications, the OCA has compiled a list of issues and sub-issues which it anticipates will be included in its investigation. The OCA

anticipates that other issues may arise and may be pursued once the answers to all the OCA's interrogatories have been received and analyzed.

The OCA will analyze and present issues and sub-issues set forth below, and others that may develop during discovery, as appropriate with the assistance of its expert witnesses. The OCA intends to investigate:

1. Need for the Project^{4,5}

- a. Whether PJM determined the need for the Project in accordance with its FERC-approved criteria and selected the Project to meet the need.
- b. Whether and to what extent the MARL Project would serve or benefit Pennsylvania citizens.
- c. The engineering characteristics of the Project.
- d. The engineering characteristics of the potential reliability violations at issue.
- e. The engineering and economic effects of building MARL as compared to various alternative Projects to address the potential reliability violations at issue.
- f. The Project's effects on upstream and downstream customer reliability.
- g. Any other system harms or benefits which might result from NEET MA's proposed Project described in the Application.
- h. The extent to which the Project is the most cost-effective solution to the alleged need.

⁴ See 52 Pa. Code §§ 57.75(e)(1), 57.76(a)(1). See also 66 Pa. C.S. § 1103(a) (public need for the service); see also *Chester Water Authority v. Pa. PUC*, 868 A.2d 384 (Pa. 2005); see also *Application of Newtown Artesian Water Company*, 2003 Pa. PUC LEXIS 40 (entered July 1, 2003).

⁵ Issues are raised to the extent the Commission rejects the OCA's Petition, declines to answer the first Material Question, or answers the first Material Question in the negative.

2. Benefits/Costs of the Transmission Line^{6,7}

- a. The rate impacts upon Pennsylvania transmission ratepayers.
- b. The Project's costs and benefits to Pennsylvania citizens, as compared to the costs and benefits to citizens in other states, such as Virginia, which the MARL project was purportedly designed and selected to benefit. PJM indicated that a high concentration of new, large, AI data center customer interconnections in other states drove the reliability "need" for MARL, which the OCA intends to investigate further.
- c. The extent to which state, regional, and national public policy objectives⁸ regarding allocation of costs for the siting and construction of large, AI data centers is consistent with the proposals in, and assumptions underlying, the Applications.
- d. By what legal mechanisms NEET MA proposes to allocate the transmission costs.
- e. Whether there are any state jurisdictional costs.
- f. By what mechanisms, if any, the Commission will have a role in allocating state-jurisdictional costs.
- g. Whether NEET MA's proposed method of cost allocation will reduce or increase Pennsylvanians' overall transmission rates.

⁶ See 66 Pa.C.S. § 1501 (every public utility shall furnish and maintain efficient and reasonable facilities "as shall be necessary *or* proper for the accommodation, convenience, and safety of its patrons, employees, and the public."); see also 52 Pa. Code §§ 57.72(c)(15) ("an application shall contain "Additional information as the Commission may require."), 57.75(e) (providing that at hearings, the Commission "will accept evidence upon, and in its determination of the application it will consider, *inter alia*, the following"), 57.76(a) (providing a floor of criteria to be met for approval of a siting application). See 66 Pa. C.S. § 1103(a) (providing that the Commission must find that granting or conditionally granting a certificate of public convenience is "necessary *or* proper for the service, accommodation, convenience, or safety of the public").

⁷ Issues are raised to the extent the Commission declines to answer the second Material Question or answers the second Material Question in the affirmative.

⁸ See e.g. The White House, Ratepayer Protection Pledge, March 4, 2026, <https://www.whitehouse.gov/articles/2026/03/ratepayer-protection-pledge/> (bold emphasis in original); see also The White House, Fact Sheet: President Donald J. Trump Advances Energy Affordability with the Ratepayer Protection Pledge, March 4, 2026, <https://www.whitehouse.gov/fact-sheets/2026/03/fact-sheet-president-donald-j-trump-advances-energy-affordability-with-the-ratepayer-protection-pledge/>.

3. Route Evaluation and Alternatives⁹

- a. Whether reasonable alternative project designs and configurations exist and the comparative costs and benefits of those designs and configurations.
- b. Whether any such alternative designs would decrease or eliminate NEET MA's requested exercise of eminent domain to condemn the property of Pennsylvania citizens.

4. Environmental and Land Use Impacts¹⁰

- a. Whether the environmental and land use impacts of the project are consistent with the requirements of the Commission's regulations and Art. I, Section 27 of the Pennsylvania Constitution.
- b. Whether NEET MA's vegetation management plan along the transmission line route promotes the protection of the environment.

5. Public Health and Safety¹¹

- a. Whether the MARL Project will create unreasonable risks that endanger the health and safety of Pennsylvania citizens living in the high-voltage line's path.
- b. Whether NEET MA's vegetation management plan along the transmission line route promotes public health and safety and protection of the environment.
- c. Whether the electromagnetic fields (EMF) mitigation procedures that NEET MA proposes to utilize along the transmission line route promotes public health and safety.

VII. PUBLIC INPUT HEARINGS AND SITE VISITS

The OCA will be prepared to discuss Public Input Hearings at the prehearing conference. Given the magnitude of public engagement in Greene and Fayette Counties—

⁹ 52 Pa. Code § 57.75(e)(4), 69.3105.

¹⁰ 52 Pa. Code §§ 57.75(e)(3), 57.76(a)(3)-(4), 69.3106, 69.3107(a)(2),(3).

¹¹ 52 Pa. Code §§ 57.75(e)(2), 57.76(a)(2)-(3), 69.3107.

and beyond—regarding this controversial transmission line, the OCA requests that the Commission convene four Public Input Hearings in Greene and Fayette Counties, one in the morning and one in the afternoon for each location, regarding the Applications. The OCA received a Public Input Hearing request from a public interest organization in the affected communities which suggested the Charmichaels Activity Center¹² and/or Waynesburg Fairgrounds¹³ for Public Input Hearing locations in Greene County. The OCA requests that any and all Public Input Hearings should be scheduled on a Tuesday, Wednesday, or Thursday.

The OCA has received informal requests for Site Visits along the proposed route in Greene and Fayette counties. However, the OCA has not received specific addresses or dates for these Site Visits at this time. When such information becomes available, the OCA will promptly notify the ALJ and parties.

¹² The OCA believes that the address for this location is: 100 Nemaacolin Rd, Carmichaels, PA 15320. The listed phone number for this location is: (724) 491-2011.

¹³ The OCA believes that the address for this location is: 107 Fairgrounds Road Waynesburg, PA 15370. The listed phone number for this location is: (724) 852-5323.

VIII. SETTLEMENT

The OCA is willing to engage in settlement discussions with NEET MA and any other Parties to this matter at the appropriate time.

Respectfully submitted,

/s/ Jacob Guthrie

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Dated: May 1, 2026

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