

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 Protest and Public Statement 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 Protest and Public Statement, 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 Construct a 500 kV Transmission	:	Docket Nos. A-2026-3060856
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	:	A-2026-3060921
Authority, Approvals, and Certificates of	:	G-2026-3060941
Public Convenience (1) to Begin to Furnish	:	G-2026-3060942
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	:	

PROTEST OF THE
OFFICE OF CONSUMER ADVOCATE

Under 52 Pa. Code Sections 5.51, *et seq.*, the Office of Consumer Advocate (OCA) files this Protest to the Application of NextEra Energy Transmission MidAtlantic, Inc. (NEET MA or Company). On March 3, 2026, NEET MA filed the above-captioned Applications with the Pennsylvania Public Utility Commission (Commission). Under 52 Pa. Code Sections 57.71-57.77,¹ NEET MA filed an “Application . . . for Approval to Site and Construct” (Siting Application) a 500 kilovolt (kV) transmission line associated with

¹ See 52 Pa. Code 57.72(a)-(c) (explaining form and content of standard application to site and construct transmission lines).

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.

The MARL Project involves the proposed construction of a new approximately 107.5-mile 500-kV transmission line across Maryland, Pennsylvania, West Virginia, and Virginia, as well as a new Woodside 500/138 kV Substation in Virginia. The Pennsylvania portion of the MARL Project would extend approximately 10.7 miles from the existing FirstEnergy Corp. 502 Junction Substation in Greene County, Pennsylvania for approximately 2.7 miles to the West Virginia border, extend through West Virginia for 3.1 miles, and then re-enter Pennsylvania in Greene County, and traverse through Greene and Fayette Counties for 8.0 miles, and then proceed back into West Virginia.

The OCA now files this Protest to protect the interests of NEET MA’s customers in this proceeding. Specifically, the OCA avers as follows:

1. The name and contact information of the protestant is:

Darryl A. Lawrence, Consumer Advocate
Office of Consumer Advocate
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, PA 17101-1923
Telephone: 717-783-5048

Throughout this Protest, the protestant will be referred to as the Office of Consumer Advocate or OCA.

2. The names and contact information for the OCA's attorneys for the purpose of receiving service of all documents in this proceeding are shown in the signature line of this Protest. The OCA has created a group email for purposes of receipt of email service and requests that all parties utilize the group email.

That group email is: OCAMARL2026@paoca.org.

3. The Pennsylvania General Assembly, by statute, authorizes the OCA to represent the interests of Pennsylvania's utility consumers in all matters before the Commission.²

4. The Commission has jurisdiction over the lines in question and must examine the CPC Application and Siting Application.³

5. The OCA agrees with NEET MA's request that the Commission evaluate the CPC Application and Siting Application together in a consolidated proceeding.⁴

² 71 P.S. §§ 309-1, *et seq.*

³ 52 Pa. Code §§ 57.71-57.77.

⁴ See NEET MA Siting Application at PP 90-91 (citing 52 Pa. Code § 57.75(i)(1)) (requesting consolidation of Siting Application and CPC Application); NEET MA CPC Application at PP 79-80 (citing 52 Pa. Code § 57.75(i)(1)) (requesting consolidation of Siting Application and CPC Application).

Consolidating these proceedings for purposes of hearings, briefing, and adjudication will promote adjudicative efficiency, as these proceedings have common questions of law and fact. Consolidation will promote efficiency without burdening Pennsylvania citizens' vital rights—to oppose transmission lines that impact their lives and land—through unnecessary prejudice, delay, or confusion.

6. The Commission may not grant the CPC Application unless it finds “that the granting of such certificate is necessary or proper for the service, accommodation, convenience, or safety of the public.”⁵ In delegating this authority to grant or deny CPC Applications, the General Assembly “provided no definition of specifically what the criteria were to be in determining the propriety of granting a certificate, leaving the formulation of such criteria to the PUC.”⁶

7. The Commission may not grant the Siting Application and approve the project in question, unless it finds:

- (1) That there is a need for it;
- (2) That it will not create an unreasonable risk of danger to the health and safety of the public;
- (3) That it is in compliance with applicable statutes and regulations providing for the protection of the natural resources of this Commonwealth, and
- (4) That it will have minimum adverse environmental impact, considering the electric power needs of the public, the state of available technology and the available alternatives.⁷

⁵ 66 Pa.C.S. § 1103(a).

⁶ *Elite Indus. v. Pa. PUC*, 832 A.2d 428, 432 (2003).

⁷ 52 Pa. Code § 57.76(a) (emphasis added).

8. Concurrent with this Protest, the OCA filed a Petition for Interlocutory Review and Answer to Material Questions (Petition) to address NEET MA’s legal assertion in its Application that based on the U.S. Third Circuit’s decision in *Transource Pa., LLC v. DeFrank*,⁸ the Commission is preempted from rendering a need determination that conflicts with PJM’s need determination for the MARL Project.⁹

9. In the event the Commission denies the OCA’s Petition, declines to answer the first Material Question, or answers the first Material Question in the negative, for purposes of issue preservation, it is the OCA’s position that PJM, a Regional Transmission Organization (RTO) and private entity, and its *ex parte* administrative transmission planning processes, cannot preempt the quasi-judicial exercise of a state’s sovereign police power to permit the siting and construction of specific transmission facilities within the state’s boundaries. Regarding need, NEET MA points to the Third Circuit’s recent, erroneous decision in *Transource* as a reason not to consider need, here.¹⁰ That is incorrect—the Commission must consider need. Pennsylvania Courts and (most) federal courts—including the U.S. Supreme Court—presume that ambiguous federal statutory text

⁸ *Transource Pa., LLC v. DeFrank*, 156 F.4th 351, 379 (3d Cir. 2025), affirming *Transource Pa., LLC v. DeFrank*, 705 F. Supp. 3d 266 (M.D. Pa. 2023) (*Transource*).

⁹ As stated in the Petition, the OCA recognizes that the *Transource* decision is the law of the land and further does not dispute NEET MA’s legal assertions regarding preemption over the “need” determination for the MARL Project. This concession is made notwithstanding the OCA’s strong belief that the *Transource* decision is fundamentally misguided and wrong as well as the OCA’s support for the Pennsylvania Office of Attorney General’s pursuit of further review of the Third Circuit’s decision before the Supreme Court of the United States (SCOTUS). In summary, NEET MA and the OCA agree that, based on the holding of *Transource*, because PJM, the RTO, has selected the MARL Project, a multi-state transmission line project for inclusion in the 2022 RTEP, as part of its federal mandate, the Commission cannot, consistent with the Supremacy Clause, reject the Project based on a lack of need.

¹⁰ NEET MA Siting Application at P 13 (citing *Transource*, 156 F.4th at 379).

does not preempt laws and regulations enacted pursuant to historic state police power.¹¹ The Commonwealth strongly protects the sovereign interests of Pennsylvania citizens in the federalist structure.¹² Congress must make an “unmistakably clear” preemptive statement “in the language of the statute” to preempt the Commonwealth’s exercise of historic state police power.¹³ In *Transource*, the Third Circuit incorrectly interpreted the Federal Power Act to preempt Pennsylvania’s need determination, contrary to settled law.¹⁴ The Pennsylvania Office of Attorney General and the OCA have jointly filed a Petition for Writ of *Certiorari* with the U.S. Supreme Court regarding intervention. A favorable ruling should give the *en banc* Third Circuit and, if necessary, the U.S. Supreme Court the opportunity to correct the Third Circuit’s erroneous ruling in *Transource*.¹⁵ In the meantime, the Commission and Pennsylvania Courts should adhere to Pennsylvania law,¹⁶

¹¹ *Miller v. Se. Pennsylvania Transp. Auth.*, 103 A.3d 1225, 1235 (2014) (quoting *Wyeth v. Levine*, 555 U.S. 555, 565 (2009)).

¹² *See id.* at 1234-36 (explaining, with rhetorical force, Pennsylvania’s sovereign role in a federalist system).

¹³ *Id.* at 1235 (quoting *Gregory v. Ashcroft*, 501 U.S. 452, 460-61 (1991)).

¹⁴ Brief of Amicus Curiae Mark C. Christie at 8-9, *Sunday v. Transource Pennsylvania, LLC*, (Apr. 17, 2026) (No. 25-1095), https://www.supremecourt.gov/DocketPDF/25/25-1095/404698/20260417072750267_26-04-17%20Christie%20SCOTUS%20Amicus%20Transource.pdf.

¹⁵ *See generally*, Petition for Writ of *Certiorari*, *Sunday v. Transource Pennsylvania, LLC*, (Mar. 16, 2026) (No. 25-1095), https://www.supremecourt.gov/DocketPDF/25/25-1095/400897/20260316094200934_Sunday%20v.%20Transource%20Cert%20Pet.%20v.FINAL.pdf.

¹⁶ *See Miller v. Se. Pennsylvania Transp. Auth.*, 103 A.3d 1225, 1234-36 (2014):

Similarly, given that this Court’s powers are derived from the citizens of Pennsylvania, we do not lightly set aside their existing rights or remedies in deference to uncertain federal law, particularly where doing so would leave Pennsylvania citizens without any remedy at all in an area where a remedy otherwise might obtain. Thus, independent of the teaching of the High Court, there is good reason for this Court to be certain of federal congressional intent before allowing federal law to divest Pennsylvanians of the rights and remedies afforded under the laws of this Commonwealth. Thus, this Court has held: ‘concepts of

and Pennsylvania law requires determining “that there is a need for” the proposed transmission line.¹⁷

10. Regarding the Siting Application, the Commission must determine whether the Project, as proposed, is necessary and must examine the Project’s potential adverse impact on the area’s residents and natural environment, as compared with any potential reliability improvements.¹⁸

11. The OCA is concerned by the estimated cost of building this Project. NEET MA currently estimates a \$1.1 billion total cost in 2031 dollars, including an \$87.6 million cost for the Pennsylvania portion.¹⁹

12. The OCA is also 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.²⁰

federalism and state sovereignty make clear that in discerning whether Congress intended to preempt state law, there is a presumption against preemption[,]’ as we also require a clear manifestation of congressional intent to preempt. We have emphasized that, even where federal law contains an express preemption clause, our duty is to further inquire as to the scope and substance of any displacement of our state laws. As a final point of framing background, and as stated earlier, we recognize that *we are not bound by the lower federal courts’ decisions as to the preemption issue before us*, but may look to them for guidance.” *Id.* (emphasis added) (citing *Dooner v. DiDonato*, 971 A.2d 1187, 1193-94 (Pa. 2009)).

¹⁷ 52 Pa. Code § 57.76(a)(1).

¹⁸ 52 Pa. Code § 57.76(3)-(4); *see also Re Proposed Electric Regulation*, 1976 Pa. PUC LEXIS 114 *6-7.

¹⁹ NEET MA Siting Application at 36.

²⁰ *See 2023 Regional Transmission Expansion Plan Report*, PJM at 1, 5, 17-18, 38, 46, 229, 234-243 (Mar. 7, 2024), <https://www.pjm.com/-/media/DotCom/library/reports-notices/2023-rtep/2023-rtep-report.pdf> (identifying role of data center load growth in RTEP that produced MARL, B3800); Sami Abdulsalam, *Reliability Analysis Update*, PJM at 2-9 (Dec. 5, 2023), <https://www.pjm.com/-/media/DotCom/committees-groups/committees/teac/2023/20231205/20231205-item-15---reliability-analysis-update-2022->

13. These costs could be disproportionately allocated to Pennsylvania ratepayers even though Pennsylvania ratepayers may not receive a commensurate benefit—or any benefit at all—from the MARL Project. The Commission should examine these potential outcomes for purposes of the need determination and permit the OCA to investigate further.

14. NEET MA and PJM may not have adequately and thoroughly explored various alternatives to the proposed Project, including, but not limited to, grid-enhancing technologies, demand-side options, and whether building out the MARL Project is the best long-term option for improved reliability, resiliency, and ratepayer affordability.

15. The environmental impacts of NEET MA’s proposed Project warrant thorough review and implicate the Commission’s duties of loyalty, impartiality, and prudence to Pennsylvania’s environmental public trust under Article I, Section 27 of Pennsylvania’s Constitution, the Environmental Rights Amendment.²¹

16. The MARL Project could create unreasonable risks that endanger the health and safety of Pennsylvania citizens living in the high-voltage Project’s path.

17. The Commission should subject NEET MA’s request to a thorough formal investigation and evidentiary hearings. In so doing, the Commission should allow for notice and opportunity to be heard for all affected parties, including public input hearings

[window-3.ashx](#) (identifying data center load growth in Dominion and APS as focus of PJM 2022 RTEP Window 3).

²¹ See *Twp. of Marple v. Pa. PUC*, 294 A.3d 965, 973–74 (Pa. Commw. Ct. 2023) (holding PUC decision deficient, vacating, and remanding for “constitutionally sound environmental impact review”); *Pa. Env’tl. Def. Found. v. Commonwealth*, 161 A.3d 911, 931 n.23 (Pa. 2017) (“[A]ll agencies and entities of the Commonwealth government, both statewide and local, have a fiduciary duty to act toward the corpus with prudence, loyalty, and impartiality.” (citations omitted)).

throughout the areas that may be affected by this Project. NEET MA has the burden of proof in this matter, and the written testimony submitted in support of its request should be subject to cross-examination by the parties.

18. The OCA reserves the right to raise additional issues as the case proceeds and as the OCA obtains further information regarding the Project.

WHEREFORE, the Office of Consumer Advocate respectfully requests that the Pennsylvania Public Utility Commission not approve this Project at this time due to the issues raised above and the need for additional information. The Office of Consumer Advocate respectfully requests that the Pennsylvania Public Utility Commission set this matter for evidentiary hearings to permit a full investigation into the proposed Project.

Respectfully submitted,

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Dated: May 1, 2026

Email: OCAMARL2026@paoca.org

PUBLIC STATEMENT OF THE
OFFICE OF CONSUMER ADVOCATE
PURSUANT TO 71 P.S. SECTION 309-4(e)

Act 161 of the Pennsylvania General Assembly, 71 P.S. Section 309-2, as enacted July 9, 1976, authorizes the Consumer Advocate to represent the interests of consumers before the Pennsylvania Public Utility Commission (Commission). In accordance with Act 161, and for the following reasons, the Consumer Advocate determined to file an Intervention and participate in proceedings before the Commission involving NextEra Energy Transmission MidAtlantic, Inc. (NEET MA).

NEET MA is an applicant for public utility status, requesting that the Commission grant it a certificate of public convenience for the purpose of siting transmission facilities within Pennsylvania. Should the Commission grant NEET MA's application, it will be permitted to request authorization to exercise powers of eminent domain, construct transmission facilities, and to begin transmitting electricity from Pennsylvania into Northern Virginia.

On March 3, 2026, NEET MA applied for transmission line siting authority under 52 Pa. Code Sections 57.71-57.77 for approval to site and construct a portion of the Pennsylvania facilities associated with the Mid-Atlantic Reliability Link (MARL) 500 kilovolt (kV) transmission line, with such facilities being proposed to be located in Dunkard Township, Greene County and Springhill Township, Fayette County, Pennsylvania. The NEET MA portion of the MARL line extends approximately 107.5 miles through Maryland, Pennsylvania, West Virginia, and Virginia to a new Woodside 500/138 kV Substation in Virginia. The Pennsylvania portion of the MARL Project would

extend approximately 10.7 miles from the existing FirstEnergy Corp. 502 Junction Substation in Greene County, Pennsylvania for approximately 2.7 miles to the West Virginia border, extend through West Virginia for 3.1 miles, and then re-enter Pennsylvania in Greene County, and traverse through Greene and Fayette Counties for 8.0 miles, and then proceed back into West Virginia. Of the estimated \$1.1 billion project cost for the MARL line, \$87.6 million will be incurred for the NEET MA Pennsylvania portion.

The Office of Consumer Advocate (OCA) has determined to participate in this proceeding in order to protect the interests of all customers who may be affected by NEET MA's Applications. The OCA seeks to ensure that adequate and continuous service is provided to all customers in a just and reasonable manner and in accordance with applicable statutes and regulations. The OCA also intervenes to review the proposed project, including its design, need, cost, and other effects on health, safety, and the environment, and to ensure that the allocation of the costs of the project is consistent with principles of cost causation.