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June 5, 2026

BY ELECTRONIC FILING

Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Second Floor
Harrisburg, Pennsylvania 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

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 and Fayette Counties, Pennsylvania; (2) for certain Affiliated Interest Agreements; and (3) for any other approvals necessary to complete the contemplated transactions

Docket Nos. A-2026-3060921, G-2026-3060941, G-2026-3060942

Dear Secretary Homsher,

Enclosed for filing please find the Center for Coalfield Justice's Motion to Compel Production of its Discovery Request, Set I, and Dismiss NextEra Energy Transmission Midatlatic, Inc.'s Objections in the above-captioned cases.

Thank you,

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CERTIFICATE OF SERVICE

I certify that on May 26, 2026, I sent a true copy of the foregoing Center for Coalfield Justice's First Set of Discovery Requests to NextEra Energy Transmission Inc. by electronic mail to:

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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 line associated with the MidAtlantic Resiliency Link Project located in portions of Greene County and Fayette County, Pennsylvania

Docket No. A-2026-3060856

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 ^LSEP and Fayette Counties, Pennsylvania; (2) for certain Affiliated Interest Agreements; and (3) for any other approvals necessary to complete the contemplated transactions

**Docket Nos. A-2026-3060921
G-2026-3060941
G-2026-3060942**

**CENTER FOR COALFIELD JUSTICE’S MOTION TO COMPEL PRODUCTION OF
ITS DISCOVERY REQUEST, SET I, AND DISMISS NEXTERA ENERGY
TRANSMISSION MIDATLANTIC, INC.’S OBJECTIONS**

In accordance with Rules 5.342 of the Rules of Practice and Procedure of the State Corporation Commission, 52 Pa. Code § 5.342, the Center for Coalfield Justice (CCJ) moves to compel NextEra Energy Transmission MidAtlantic Inc. (NextEra) to answer the interrogatories and produce the documents requested in CCJ’s First Set of Interrogatories and Requests for Production of Documents (Discovery Set I), and to dismiss the NextEra’s objections thereto.

CCJ notes that it has conferred with NextEra and believes that at least some of the disagreements may be resolved through continued discussion after a review of Next Era’s initial production. CCJ is committed to resolving disputes regarding specific documents through conference and discussion rather than motion practice. However, the deadline for responding to these objections coincides with NextEra’s first production in response to the original requests,

thereby preventing CCJ from reviewing the initial production before filing this motion. As such, CCJ moves to dismiss the objections described below as far as they have been used as a basis for withholding documents. CCJ will inform the Commission of any resolution of these issues that occurs prior to the Commission's resolution of the motion.

In accordance with Rule 5.342(g), NextEra's objections are reproduced below, along with the interrogatories, requests for production, or portions thereof that NextEra objects to. All other interrogatories, requests for production, and portions thereof must be answered according to Rules 5.342 and 5.349.

I. NEXTERA'S OBJECTIONS

1. NEET MA objects to these CCJ RFPD Set I, No. 2-7 because they are overly broad, would be unreasonably burdensome to answer, and/or seek information that is not relevant and not reasonably calculated to lead to the discovery of admissible evidence.
2. The Commission's regulations state that "a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action." 52 Pa. Code § 5.321(c). While the test for relevance for discovery purposes is whether the information sought is reasonably calculated to lead to the discovery of admissible evidence, the scope of discovery is not limitless; the relevance of a discovery request depends upon the nature and facts of the individual case, not upon the curiosity of the requesting party. *Koken v. One Beacon Ins. Co.*, 911 A.2d 1021, 1025 (Pa. Cmwlth. 2006); *Pa. PUC v. Pennsylvania-American Water Co.*, Docket Nos. R-2011-2232243, et al., at 22 (July 21, 2011) (Order on Motion to Compel) ("PAWC 2011").

3. Indeed, as noted by the Superior Court of Pennsylvania, “While discovery should be generally allowed, ‘fishing expeditions’ are not to be countenanced under the guise of discovery.” *Land v. State Farm Mutual Ins. Co.*, 600 A.2d 605, 608 (Pa. Super. 1991).
4. Moreover, the Commission’s regulations prohibit discovery which would cause unreasonable burden or expense to a party, or would require a party to make an unreasonable investigation. 52 Pa. Code § 5.361(a)(2), (4). The Commission has found that a discovery request is overly broad or unreasonably burdensome where that request amounts to a “fishing expedition,” i.e., where curiosity, not relevance, appears to be the driving factor for the discovery request. See PAWC 2011 at 21-22.
5. Finally, 52 Pa. Code § 5.323 provides that: “With respect to the representative of a party other than the party’s attorney, discovery may not include disclosure of his mental impressions, conclusions or opinions respecting the value or merit of a claim or defense or respecting strategy, tactics or preliminary or draft versions of written testimony or exhibits, whether or not final versions of the testimony or exhibits are offered into evidence.”

A. OBJECTION TO CCJ SET I, RFPD NO. 2

6. CCJ Set I, RFPD No. 2 requests the following:

CCJ-I-2: Please produce all reports, studies, analyses, modeling results, simulations, forecasts, presentations, memoranda, white papers, workpapers, spreadsheets, and other documents concerning any actual, projected, anticipated, potential, possible, or modeled benefits of the MARL Project to Pennsylvania residents.

7. CCJ RFPD Set I, No. 2 seeks information that is vague or irrelevant and outside the scope of this proceeding and would impose an undue burden or require an unreasonable investigation to respond. Set I, No. 2 requests that the Company produce reports, studies, etc., as to the “benefits” of the MARL Project as to Pennsylvania residents. The term “benefits” is vague, undefined language, and lacks the specificity sufficient to determine what information or documents are being sought through this request.
8. Further, discovery sought that is “unreasonable[ly] . . . burdensome” or “[w]ould require . . . an unreasonable investigation” is prohibited. 52 Pa. Code § 5.361(a)(2) and (4). NEET MA also objects to CCJ RFPD Set I, No. 2 to the extent that it is seeking information related to Pennsylvania specifically. The MARL Project is a multi-state reliability project reviewed and approved by PJM Interconnection, LLC (“PJM”) to solve reliability issues across the PJM region. The provision of information specific to Pennsylvania may require a special study and, therefore, is unreasonably burdensome and/or requires an unreasonable investigation.
9. Finally, the information sought by CCJ RFPD Set I, No. 2 does not appear to be limited to finalized documents or other materials produced by NEET MA party representatives. Thus, a response to this request would necessitate a violation of 52 Pa. Code § 5.323, which provides that draft materials produced by NEET MA party representatives are not discoverable. NEET MA maintains that, to the extent that drafts of materials by party representatives are sought, those materials are not discoverable, regardless of whether final versions of those materials were included in testimony or exhibits for purposes of admission as evidence.

B. OBJECTION TO CCJ SET I, RFPD NO. 3

10. CCJ Set I, RFPD No. 3 requests the following:

CCJ-I-3: Please produce all reports, studies, analyses, modeling results, simulations, contingency analyses, reliability assessments, forecasts, presentations, memoranda, and other documents concerning any actual, projected, anticipated, potential, possible, or modeled reliability impacts to Pennsylvania electricity consumers associated with the Project not being constructed, completed, energized, or placed into operation – including but not limited to blackouts, brownouts, load-shed or loss-of-load events, or curtailments affecting consumers within Pennsylvania.

11. CCJ RFPD Set I, No. 3 seeks information that would impose an undue burden or require an unreasonable investigation to respond. Discovery sought that is “unreasonable[ly] . . . burdensome” or “[w]ould require . . . an unreasonable investigation” is prohibited. 52 Pa. Code § 5.361(a)(2) and (4). NEET MA objects to CCJ RFPD Set I, No. 3 to the extent that it is seeking information related to Pennsylvania specifically. The MARL Project is a multi-state reliability project reviewed and approved by PJM to solve reliability issues across the PJM region. The provision of information specific to reliability impacts to Pennsylvania electricity consumers only may require a special study and, therefore, is unreasonably burdensome and/or requires an unreasonable investigation.

12. Additionally, the information sought by CCJ RFPD Set I, No. 3 does not appear to be limited to finalized documents or other materials produced by NEET MA party representatives. Thus, a response to this request would necessitate a violation of 52 Pa. Code § 5.323, which provides that draft materials produced by NEET MA party

representatives are not discoverable. NEET MA maintains that, to the extent that drafts of materials by party representatives are sought, those materials are not discoverable, regardless of whether final versions of those materials were included in testimony or exhibits for purposes of admission as evidence.

C. OBJECTION TO CCJ SET I, RFPD NO. 4

13. CCJ Set I, RFPD No. 4 requests the following:

CCJ-I-4: Please produce all reports, studies, analyses, modeling results, simulations, forecasts, presentations, memoranda, white papers, workpapers, spreadsheets, and other documents concerning any actual, projected, anticipated, potential, possible, or modeled rate impacts or other costs of the MARL Project to Pennsylvania residents.

14. CCJ RFPD Set I, No. 4 seeks information that is vague or irrelevant and outside the scope of this proceeding and would impose an undue burden or require an unreasonable investigation to respond. Set I, No. 4 requests that the Company produce reports, studies, etc., as to the “modeled rate impacts or other costs” of the MARL Project as to Pennsylvania residents. The term “other costs” is vague, undefined language, and lacks the specificity sufficient to determine what information or documents are being sought through this request.

15. CCJ Set I, RFPD No. 4 seeks information related to transmission rate impacts. Impacts to transmission rates are outside of the scope of the instant CPC Application and Siting Application proceedings. Indeed, the Federal Energy Regulatory Commission (“FERC”)

maintains exclusive jurisdiction over the regulation of electric transmission costs and rates. 16 U.S.C. § 824(b). Therefore, the transmission rate-related information sought by these discovery requests is irrelevant to the instant proceedings, and RFPD No. 4 is not likely to lead to the discovery of admissible evidence.

16. Further, discovery sought that is “unreasonable[ly] . . . burdensome” or “[w]ould require . . . an unreasonable investigation” is prohibited. 52 Pa. Code § 5.361(a)(2) and (4). NEET MA also objects to CCJ RFPD Set I, No. 4 to the extent that it is seeking information related to Pennsylvania specifically. The MARL Project is a multi-state reliability project reviewed and approved by PJM to solve reliability issues across the PJM region. The provision of rate impact and cost information specific to Pennsylvania may require a special study and, therefore, is unreasonably burdensome and/or requires an unreasonable investigation.

17. Finally, the information sought by CCJ RFPD Set I, No. 4 does not appear to be limited to finalized documents or other materials produced by NEET MA party representatives. Thus, a response to this request would necessitate a violation of 52 Pa. Code § 5.323, which provides that draft materials produced by NEET MA party representatives are not discoverable. NEET MA maintains that, to the extent that drafts of materials by party representatives are sought, those materials are not discoverable, regardless of whether final versions of those materials were included in testimony or exhibits for purposes of admission as evidence.

D. OBJECTION TO CCJ SET I, RFPD NO. 5

18. CCJ Set I, RFPD No. 5 requests the following:

CCJ-I-5: Please produce all reports, studies, analyses, modeling results, production-cost modeling outputs, dispatch modeling outputs, simulations, forecasts, presentations, memoranda, and other documents concerning any actual, projected, anticipated, potential, possible, or modeled impact of the MARL Project on: (a) generation-unit dispatch; (b) generation-unit utilization; (c) capacity factors; (d) operating hours; (e) uptime, downtime, outages, or availability factors; (f) retirement, deactivation, mothballing, or continued operation decisions; or (g) the economic competitiveness or profitability of generation resources – whether analyzed on an individual-unit basis or by fuel type, technology type, geographic region, ownership class, emissions profile, or other classification.

19. CCJ RFPD Set I, No. 5 seeks information that is irrelevant and outside the scope of this proceeding and would impose an undue burden or require an unreasonable investigation to respond. Set I, No. 5 requests that the Company produce reports, studies, etc., as to various generation impacts of the MARL Project. The impact of the MARL Project on generation resources is not relevant to the Commission's determination of whether to approve the CPC Application or the Siting Application for the MARL Project.
20. Further, the information sought by CCJ RFPD Set I, No. 5 does not appear to be limited to finalized documents or other materials produced by NEET MA party representatives. Thus, a response to this request would necessitate a violation of 52 Pa. Code § 5.323, which provides that draft materials produced by NEET MA party representatives are not discoverable. NEET MA maintains that, to the extent that drafts of materials by party representatives are sought, those materials are not discoverable, regardless of whether final

versions of those materials were included in testimony or exhibits for purposes of admission as evidence.

E. OBJECTION TO CCJ SET I, RFPD NO. 6

21. CCJ Set I, RFPD No. 6 requests the following:

CCJ-I-6: Please produce all reports, studies, analyses, modeling results, power-flow studies, load-flow studies, simulations, forecasts, presentations, memoranda, and other documents concerning any actual, projected, anticipated, potential, possible, or modeled east-to-west power flows on the MARL Project – including any analyses identifying the circumstances, contingencies, market conditions, generation patterns, transmission outages, or seasonal conditions under which such east-to-west flows may occur.

22. CCJ RFPD Set I, No. 6 seeks information that would impose an undue burden or require an unreasonable investigation to respond. Discovery sought that is “unreasonable[ly] . . . burdensome” or “[w]ould require . . . an unreasonable investigation” is prohibited. 52 Pa. Code § 5.361(a)(2) and (4). NEET MA objects to CCJ RFPD Set I, No. 6 to the extent that it is seeking information related to Pennsylvania specifically. The MARL Project is a multi-state reliability project reviewed and approved by PJM to solve reliability issues across the PJM region. The provision of information specific to reliability impacts to Pennsylvania electricity consumers only may require a special study and, therefore, is unreasonably burdensome and/or requires an unreasonable investigation.

23. Additionally, the information sought by CCJ RFPD Set I, No. 6 does not appear to be limited to finalized documents or other materials produced by NEET MA party representatives. Thus, a response to this request would necessitate a violation of 52 Pa. Code § 5.323, which provides that draft materials produced by NEET MA party representatives are not discoverable. NEET MA maintains that, to the extent that drafts of materials by party representatives are sought, those materials are not discoverable, regardless of whether final versions of those materials were included in testimony or exhibits for purposes of admission as evidence.

F. OBJECTION TO CCJ SET I, RFPD NO. 7

24. CCJ Set I, RFPD No. 7 requests the following:

CCJ-I-7: For each study or analysis responsive to Request Nos. 1-2 through 1-5, please produce all underlying inputs, assumptions, methodologies, scenario definitions, sensitivity analyses, model outputs, and draft versions.

25. CCJ RFPD Set I, No. 7 seeks information that is vague or irrelevant and outside the scope of this proceeding and would impose an undue burden or require an unreasonable investigation to respond. Set I, No. 7 requests inputs, assumptions, methodologies, etc. related to CCJ RFPD Set I, Nos. 2-5. The Company already maintains that the listed requests are objectionable because they are vague or irrelevant and outside the scope of the instant proceeding. See Section I.A-D. The documents and information underlying the studies and analyses that are being requested in CCJ RFPD Set I, No. 7 are objectionable for these same reasons. CCJ RFPD Set I, Nos. 2 and 4 are vague. CCJ RFPD Set I, Nos. 2-

5 seek information that is irrelevant and outside the scope of the proceeding, and would impose an undue burden or require an unreasonable investigation to respond.

26. Further, discovery sought that is “unreasonable[ly] . . . burdensome” or “[w]ould require . . . an unreasonable investigation” is prohibited. 52 Pa. Code § 5.361(a)(2) and (4). NEET MA also objects to CCJ RFPD Set I, No. 7 to the extent that it, similar to CCJ RFPD Set I, Nos. 2-4 is seeking information related to Pennsylvania specifically. The MARL Project is a multi-state reliability project reviewed and approved by PJM to solve reliability issues across the PJM region. The provision of rate impact and cost information specific to Pennsylvania may require a special study and, therefore, is unreasonably burdensome and/or requires an unreasonable investigation.

27. Finally, the information sought by CCJ RFPD Set I, No. 7 does not appear to be limited to finalized documents or other materials produced by NEET MA party representatives. Indeed, CCJ RFPD Set I, No. 7 explicitly requests drafts, underlying inputs, assumptions, etc. Thus, a response to this request would necessitate a violation of 52 Pa. Code § 5.323, which provides that draft materials produced by NEET MA party representatives are not discoverable. NEET MA maintains that, to the extent that drafts of materials by party representatives are sought, those materials are not discoverable, regardless of whether final versions of those materials were included in testimony or exhibits for purposes of admission as evidence.

28. The RFPDs also specifically fail to contain limitations on the subject matter sought to information within the scope of the proceedings. The Company has performed and participated in numerous reports, studies, analyses, models, etc., each of which has resulted in the production and circulation of a substantial number of documents which may be the

subject of RFPD Nos. 2 through 7. It would constitute an undue burden on the Company to compile, review, and provide all of the requested materials, which would almost certainly include voluminous irrelevant information.

G. GENERAL IRRELEVANCE OBJECTION

29. Further, the information sought in CCJ Set I, RFPD Nos. 2 through 7 is irrelevant and not likely to lead to the discovery of admissible evidence.
30. Each of these requests seeks information related to the need for the MARL Project – i.e., benefits of the MARL Project to Pennsylvania residents, reliability impacts to Pennsylvania electricity consumers associated with the MARL Project not being constructed, costs of the MARL Project to Pennsylvania residents, impact of the MARL Project on generation resources, east-to-west power flows.
31. However, as stated in the Siting Application, the U.S. Third Circuit Court of Appeals recently held that, “when an RTO has selected [a multi-state transmission line project] for inclusion in a regional transmission plan as part of its federal mandate, a state regulator cannot, consistent with the Supremacy Clause, reject the project based on a lack of ‘need’.”¹ NEET MA maintains that, because PJM has already determined that there is a need for the MARL Project, the Commission is preempted from denying the MARL Project based upon a finding that there is not sufficient need for it.
32. Thus, because CCJ Set I, RFPD Nos. 2 through 7 are seeking information related to the need for the MARL Project, and because the Commission is preempted from denying the MARL Project based on a lack of need, RFPD Nos. 2 through 7 are rendered irrelevant to the Commission’s considerations in the instant proceeding. The irrelevant nature of the

RFPDs means that they are not likely to lead to the discovery of admissible evidence, and are seeking information outside of the scope of the proceedings.

II. CCJ's RESPONSES

1. NextEra's objections contain five general objections directed universally to CCJ's requests for production 1-2 through 1-7. *See supra* Objections, ¶¶ 1-5. Specifically, NextEra asserts that these requests are "overly broad, would be unreasonably burdensome to answer, and/or seek information that is not relevant and not reasonably calculated to lead to the discovery of admissible evidence." *See supra* Objections, ¶ 1.
2. NextEra primarily associates both overly broad and irrelevant requests with "fishing expeditions." *See supra* Objections, ¶¶ 3-4. The Commission order cited by NextEra for that term explained that a requesting party was not entitled to certain meeting minutes because the party admitted that it did "not know whether the minutes contain information relevant to this case without first reviewing the minutes," thereby exposing "the quintessential premise of a 'fishing expedition.' " *Pa. PUC v. Pennsylvania-American Water Co.*, Docket Nos. R-2011-2232243, et al., at 22 (July 21, 2011) (Order on Motion to Compel) ("PAWC 2011"). CCJ's requests, however, seek relevant information by their own terms, as will be explained in detail for each request; there is no question as to whether or not documents that are responsive to these requests contain relevant information.
3. NextEra also cites 52 Pa. Code § 5.323 in its general objections. *See supra* Objections, ¶ 5. This rule protects opinions about the merit of legal arguments; opinions about legal strategy; and drafts of testimony or exhibits. *See* 52 Pa. Code § 5.323. NextEra does not

describe, in either its general or specific objections, what documents protected by Rule 5.323 are covered by CCJ's requests, so it is impossible to discern whether the documents NextEra has in mind are, in fact, opinions about legal strategy or draft testimony covered by 5.323. The objection must therefore be dismissed, both in general and as applied to specific requests. *See, e.g., Carlino East Brandywine, L.P. v. Brandywine Village Associates*, 260 A.3d 179, 197 (Pa.Super., 2021).

RESPONSE TO OBJECTION A (CCJ REQUEST 2)

4. NextEra objects to CCJ Request 1-2 on three grounds: the term "benefit" is undefined; the request seeks information and analyses conducted by NextEra about Pennsylvania in particular and is therefore unreasonably burdensome; and the request may cover materials exempted from discovery by Rule 5.323.
5. In CCJ request 1-2, the term "benefit" refers to any advantage related to electricity provision to Pennsylvanians that may result from the project: the term includes advantages related to the price and availability of electricity in Pennsylvania, but also extends to any other anticipated positive impacts from the project in Pennsylvania that NextEra has documented. NextEra has requested a Certificate of Public Convenience from the PUC, which can only be granted if the certificate is "necessary or proper for the service, accommodation, convenience, or safety of the public." 66 Pa.C.S. § 1103. Any aspect of the project that NextEra anticipates will serve, accommodate, prove convenient for, or increase the safety of Pennsylvanians is therefore relevant to the proceedings and responsive to this request.

6. CCJ clarifies that it is requesting documents that address benefits of the project to Pennsylvanians, and is not asking NextEra to conduct new studies or produce new reports. Any documents in NextEra's possession, including studies addressing multi-state impacts of the project, that contain information about benefits to Pennsylvanians as described above are responsive to this request and within the scope of this proceeding. Since the project's impacts on Pennsylvanians are core to this proceeding, *see* 66 Pa.C.S. § 1103, CCJ's request for the documents in NextEra's possession describing those impacts is not unreasonably burdensome, nor does it require an investigation outside the scope of these proceedings. Objection A should be dismissed and responsive documents should be produced.
7. 52 Pa. Code § 5.323 protects opinions about legal strategy or the merits of claims and drafts of testimony. It does not protect documents prepared for other internal purposes, such as research conducted for the purposes of deciding whether or not to pursue a project, nor does it protect data or other information contained in documents that are not themselves drafts of exhibits or testimony. NextEra's framing of Rule 5.323 is therefore too broad: the rule does not protect all "draft materials produced by NEET MA party representatives." *See, e.g.*, Objections ¶ 9. To the degree that NextEra is withholding documents or portions of documents that are not drafts of testimony or exhibits and do not contain NextEra representatives' opinions or mental impressions about legal claims or strategies, the objection should be dismissed and the withheld documents should be produced.

RESPONSE TO OBJECTION B (CCJ REQUEST 3)

8. NextEra objects to CCJ's Request 3 on two bases: the request seeks information and analyses conducted by NextEra about Pennsylvania in particular and is therefore unreasonably burdensome; and the request may cover materials exempted from discovery by Rule 5.323.
9. CCJ clarifies that it is requesting documents in NextEra's possession that address the reliability concerns that would affect Pennsylvanians (now or in the future) if the project were not built, and is not asking NextEra to conduct new studies or produce new reports. Any documents in NextEra's possession, including studies addressing the need for the project on a multi-state or regional basis, that contain information about reliability needs in Pennsylvania as described above are responsive to this request and within the scope of this proceeding. Since the project's impacts on Pennsylvanians are core to this proceeding, *see* 66 Pa.C.S. § 1103, CCJ's request for the documents in NextEra's possession describing those impacts is not unreasonably burdensome, nor does it require an investigation outside the scope of these proceedings. Objection B should be dismissed and responsive documents should be produced.
10. 52 Pa. Code § 5.323 protects opinions about legal strategy or the merits of claims and drafts of testimony. It does not protect documents prepared for other internal purposes, such as research conducted for the purposes of deciding whether or not to pursue a project, nor does it protect data or other information contained in documents that are not themselves drafts of exhibits or testimony. NextEra's framing of Rule 5.323 is therefore too broad: the rule does not protect all "draft materials produced by NEET MA party representatives." *See, e.g.*, Objections ¶ 12. To the degree that NextEra is withholding documents or portions of documents that are not drafts of testimony or exhibits and do

not contain NextEra representatives' opinions or mental impressions about legal claims or strategies, the objection should be dismissed and the withheld documents should be produced.

RESPONSE TO OBJECTION C (CCJ REQUEST 4)

11. NextEra objects to CCJ's Request 3 on four bases: the request includes the undefined term "other costs;" the request seeks documents addressing matters that are regulated by FERC and therefore beyond the scope of this proceeding; the request seeks information and analyses conducted by NextEra about Pennsylvania in particular and is therefore unreasonably burdensome; and the request may cover materials exempted from discovery by Rule 5.323.
12. In paragraph 14 of its objections, NextEra states that Request 4 "seeks information that is vague or irrelevant and outside the scope of this proceeding and would impose an undue burden or require an unreasonable investigation to respond" because the phrase "other costs" is undefined. Objections ¶ 14. CCJ clarifies here that "other costs" refers to any resources – economic, environmental, aesthetic, or otherwise – that Pennsylvanians will lose as a consequence of the project. Because this is a request for documents in NextEra's possession, specifically documents describing the project that is the subject of these proceedings, the term is necessarily limited to costs detailed in that finite set of documents. The project's effect on resources available to Pennsylvanians is relevant to both the CPC application and the siting application. The former requires an assessment of the project's necessity and propriety for the "service, accommodation, convenience, or safety of the public," all of which are lessened to the degree that the project deprives

Pennsylvanians of certain resources. 66 Pa.C.S. § 1103. The latter requires specific findings that the project will not create unreasonable health and safety risks and a consideration of both the environmental costs and the power needs of the public – all three considerations are influenced by the project’s costs to Pennsylvanians as described here. 52 Pa. Code § 57.76. The term is therefore sufficiently specific for NextEra to determine what documents are being sought, and refers to information relevant to these proceedings. This objection should be dismissed.

13. NextEra’s relevance objection is based on the notion that “the Federal Energy Regulatory Commission (“FERC”) maintains exclusive jurisdiction over the regulation of electric transmission costs and rates.” Objections ¶ 15. This may be so, but as an objection it misunderstands the scope of the request and of these proceedings. The request does not solely or primarily seek information about “transmission rate impacts” – instead, it extends to all of the project’s costs to Pennsylvanians documented by NextEra, including rates for the retail distribution of electricity. Because the PUC is obligated to consider the necessity and propriety of the project for the public generally, *see* 66 Pa.C.S. § 1103, the fact that one portion of the costs of the project falls under federal regulation does not mean that documents discussing those costs will not lead to the discovery of admissible evidence. While the PUC may not have direct regulatory authority over the transmission rates set by NextEra, it must be able to fully consider the project’s impacts on Pennsylvanians – if the project will indirectly or directly raise or lower electricity rates paid by retail or transmission customers within the Commonwealth, or affect the cost and availability of electricity within the Commonwealth, that information is relevant to the PUC’s CPC and siting determinations. *See* 66 Pa.C.S. § 1103, 52 Pa. Code § 57.76(4).

The relevance-related portions of Objection C should be dismissed, and any documents or portions of documents withheld on the basis that they discuss federally-regulated aspects of the project should be produced.

14. Furthermore, CCJ clarifies that it is requesting documents in NextEra's possession that address the cost concerns that would affect Pennsylvanians if the project were built, and is not asking NextEra to conduct new studies or produce new reports. Any documents in NextEra's possession, including studies addressing the need for the project on a multi-state or regional basis, that contain information about costs in Pennsylvania as described above are responsive to this request and within the scope of this proceeding. Since the project's impacts on Pennsylvanians are core to this proceeding, *see* 66 Pa.C.S. § 1103, CCJ's request for the documents in NextEra's possession describing those impacts is not unreasonably burdensome, nor does it require an investigation outside the scope of these proceedings. [CITE?] Objection C should be dismissed and responsive documents should be produced.

15. 52 Pa. Code § 5.323 protects opinions about legal strategy or the merits of claims and drafts of testimony. It does not protect documents prepared for other internal purposes, such as research conducted for the purposes of deciding whether or not to pursue a project, nor does it protect data or other information contained in documents that are not themselves drafts of exhibits or testimony. NextEra's framing of Rule 5.323 is therefore too broad: the rule does not protect all "draft materials produced by NEET MA party representatives." *See, e.g.*, Objections ¶ 17. To the degree that NextEra is withholding documents or portions of documents that are not drafts of testimony or exhibits and do not contain NextEra representatives' opinions or mental impressions about legal claims

or strategies, the objection should be dismissed and the withheld documents should be produced.

RESPONSE TO OBJECTION D (CCJ REQUEST 5)

16. In response to CCJ Request 5, NextEra reiterates its argument about Rule 5.323 and argues that the project's impact on generation resources is not relevant to these proceedings.
17. 52 Pa. Code § 5.323 protects opinions about legal strategy or the merits of claims and drafts of testimony. It does not protect documents prepared for other internal purposes, such as research conducted for the purposes of deciding whether or not to pursue a project, nor does it protect data or other information contained in documents that are not themselves drafts of exhibits or testimony. NextEra's framing of Rule 5.323 is therefore too broad: the rule does not protect all "draft materials produced by NEET MA party representatives." *See, e.g.*, Objections ¶ 20. To the degree that NextEra is withholding documents or portions of documents that are not drafts of testimony or exhibits and do not contain NextEra representatives' opinions or mental impressions about legal claims or strategies, the objection should be dismissed and the withheld documents should be produced.
18. This project will likely have an extensive impact on power generation in Pennsylvania and immediately across the border in West Virginia. NextEra itself describes the project as satisfying a need for "new transmission pathways to reliably move power across the region due to significant electric generation retirements and electric load growth. These needs are driven by the need to serve new data center loads in the APS (FirstEnergy) and

DOM (Dominion Energy) zones across existing, constrained 500 kV and 230 kV transmission lines in the area, and the cumulative impact of generation changes and deactivations [described in attached testimony].” Siting Approval Application ¶ 28. The increased load and decreased generation in those zones led to a PJM determination “that transmission reinforcements in the Western Cluster are critical due to the high demand for west to east power flow into the APS (Maryland) and Dominion (Northern Virginia) areas” – the project was designed to satisfy that need. *See* Abdusalam Testimony at 64. In short, the project, as described by NextEra, is meant to increase the flow of power from generation in western PJM zones to satisfy load in eastern zones. If the purpose of the project is to allow more power to flow from west to east, there will have to be an increase in generation in the western zones, most likely at the coal-fired power plants immediately surrounding the project’s western endpoint at the 502 Substation in Greene County.¹ *See* Siting Approval Application ¶ 40.

19. This increase in generation is relevant to these proceedings. Fossil fuel-powered electricity generation has an extensive effect on environmental resources and human health, both in the form of the global effects of climate change and the local effects of air pollution. *See, e.g., Shirley v. Pennsylvania Legislative Reference Bureau*, 318 A.3d 832, 854 (Pa. 2024) (describing the global and local effects of fossil fuel-powered generation and specifically explaining how the “tissue damage, asthma and chronic obstructive pulmonary disease” caused by air pollution from fossil fuel generation were at least sufficient to grant plaintiffs standing in that case). Any increase in power generation in

¹ For a rough picture of the generation resources in the vicinity of the 502 Substation, *see* Open Infrastructure Map, <https://openinframap.org/#10/39.6998/-80.0094> (accessed April 26, 2026). Discovery and expert testimony will be necessary to determine the actual impacts of the project on generation in and around southwestern Pennsylvania.

and around western Pennsylvania caused by this project will therefore have a direct “adverse environmental impact” on Pennsylvania. 52 Pa. Code § 57.76(4). It may also create an “unreasonable risk of danger to the health and safety of the public.” 52 Pa. Code § 57.76(2). The project’s impact on power generation is therefore squarely within the factors that the Commission must consider when evaluating NextEra’s siting application under 52 Pa. Code § 57.76. It should also be noted that these impacts are not remote consequences of the project – as explained above, the project is designed so as to increase generation in the immediate vicinity of the Pennsylvania portions of the project and use the power generated to satisfy load demand created by data centers in Maryland and Virginia. The environmental and health impacts of power generation are therefore integral parts of the Commission’s consideration of NextEra’s siting approval application, and any information in NextEra’s possession regarding the generation impacts of the project is a proper subject for discovery.

20. Furthermore, the environmental and health impacts of increased power generation are also relevant to the CPC application, which requires the Commission to evaluate the project’s propriety for, among other things, the convenience and safety of the public. 66 Pa.C.S. § 1103. Making such an evaluation requires an evaluation of the health impacts of air pollution caused by generation in the vicinity of the 502 Substation. In both the CPC and Siting Approval proceedings, the Commission also has obligations under Article 1, Section 27 of the Pennsylvania Constitution to assess whether and to what degree a project impairs the cleanliness of the Commonwealth’s air and to act as a prudent trustee of that air. Pa. Constit. art. I, sec. 27. While that assessment may not necessarily entail a “little NEPA”-style review in every case, it does require the

Commission to hear and consider evidence on the designed impacts of the project on Pennsylvania's air quality and other natural resources. *See Township of Marple v. Pennsylvania Public Utility Commission*, 352 A.3d 1144 (Pa. Cmwlth. 2026) (*Marple II*). The documents contained in CCJ Request 5 are therefore relevant to these proceedings, and Objection D should be dismissed.

21. 52 Pa. Code § 5.323 protects opinions about legal strategy or the merits of claims and drafts of testimony. It does not protect documents prepared for other internal purposes, such as research conducted for the purposes of deciding whether or not to pursue a project, nor does it protect data or other information contained in documents that are not themselves drafts of exhibits or testimony. NextEra's framing of Rule 5.323 is therefore too broad: the rule does not protect all "draft materials produced by NEET MA party representatives." *See, e.g.*, Objections ¶ 20. To the degree that NextEra is withholding documents or portions of documents that are not drafts of testimony or exhibits and do not contain NextEra representatives' opinions or mental impressions about legal claims or strategies, the objection should be dismissed and the withheld documents should be produced.

RESPONSE TO OBJECTION E (CCJ REQUEST 6)

22. CCJ Request 6 does not reference Pennsylvania specific materials and instead addresses the power flows identified by NextEra as a need for the project – specifically, CCJ is asking for documents that discuss potential east-west flows of power through the project in addition to or in the alternative to the much-discussed west-east flows along the proposed line. *See supra* ¶18. NextEra, however, only objects to the request on the

grounds that it contains Pennsylvania specific materials requiring further study and its general Rule 5.323 concerns. CCJ therefore clarifies that it is requesting documents in NextEra's possession and is not asking NextEra to conduct new studies or produce new reports. NextEra has not made any other objections to the specific content of this request, and therefore should not withhold any responsive documents.

23. Furthermore, 52 Pa. Code § 5.323 protects opinions about legal strategy or the merits of claims and drafts of testimony. It does not protect documents prepared for other internal purposes, such as research conducted for the purposes of deciding whether or not to pursue a project, nor does it protect data or other information contained in documents that are not themselves drafts of exhibits or testimony. NextEra's framing of Rule 5.323 is therefore too broad: the rule does not protect all "draft materials produced by NEET MA party representatives." *See, e.g.*, Objections ¶ 23. To the degree that NextEra is withholding documents or portions of documents that are not drafts of testimony or exhibits and do not contain NextEra representatives' opinions or mental impressions about legal claims or strategies, the objection should be dismissed and the withheld documents should be produced.

RESPONSE TO OBJECTION F (CCJ REQUEST 7)

24. CCJ Request 7 asks for the production of documents underlying studies or analyses responsive to requests 2-5. NextEra therefore objects to Request 7 on the same bases that it objects to Requests 2-5. CCJ, in turn, incorporates its responses to those objections, *see supra* ¶¶ 4-23, and moves that Objection F be dismissed to the same degree and on the same bases that it moves for the dismissal of Objections A-E.

25. NextEra also objects to a general lack of limitations “on the subject matter sought to information within the scope of the proceedings.” Objections ¶ 28. According to NextEra, compiling, reviewing, and providing the requested materials would be an undue burden and lead to the production of “voluminous irrelevant information.” *Id.* It is unclear whether or not this objection is coterminous with the relevance objections found in Objections A-E, or if it is directed specifically at CCJ’s request for “underlying inputs, assumptions, methodologies, scenario definitions, sensitivity analyses, model outputs, and draft versions” of responsive studies and analyses. In the former case, CCJ incorporates its responses to Objections A-E, *see supra* ¶¶ 4-23. In the latter, CCJ responds that, generally, the information used to produce a responsive document is necessary to understand the conclusions contained in that document and assess their accuracy, meaning that the underlying information is relevant, and in fact essential, to these proceedings. If NextEra believes that certain specific information underlying a responsive document is irrelevant to understanding that document or the subjects of these proceedings, it must make that objection with enough specificity for a response. In the absence of such an objection, this general objection should be dismissed.

RESPONSE TO OBJECTION G (GENERAL IRRELEVANCE)

26. NextEra objects generally to requests “seeking information related to the need for the MARL Project.” Objections ¶ 32. The objection is grounded in the Third Circuit’s *Transource* opinion, which held that, when making siting approval determinations, the PUC is preempted from substituting its own determination of the necessity of a project for FERC’s and must therefore accept FERC’s methodology for assessing need.

Transource Pa., LLC v. DeFrank, 156 F.4th 351, 379 (3rd Cir. 2025). From this holding on preemption, NextEra has apparently developed an argument that any information or document touching on or discussing preempted matters is irrelevant and cannot be discovered. Objections ¶ 32 (“[B]ecause the Commission is preempted from denying the MARL Project based on a lack of need, RFPD Nos. 2 through 7 are rendered irrelevant to the Commission’s considerations in the instant proceeding”). This objection is misguided for two reasons: first, the fact that a request seeks information “related to” a preempted subject does not justify a blanket objection; second, CCJ requests 2-7 do not request materials on preempted subjects.

27. NextEra’s general objection appears to state that material “related to” a preempted subject is thereby protected from discovery. Objections ¶ 30. To the contrary, when evaluating discovery requests “any doubts are to be resolved in favor of relevancy.” *Koken v. One Beacon Ins. Co.*, 911 A.2d 1021, 1028 (Pa. Cmwlth. 2006). In discovery, relevancy is “broader than the standard for admission of evidence at a hearing” and encompasses at least any information that “tends to establish a material fact, tends to make a fact at issue more or less probable, or supports a reasonable inference or presumption regarding a material fact.” *Application of Exeter Township for Certificate of Public Convenience to Offer, Furnish, Render and Supply Wastewater Service to the Public in Certain Portions of Lower Alsace Township, Berks County, Pennsylvania*, Docket No. A-2018-3006505, 2019 WL 1506802 (Pa. Pub. Utility Com. 2019) (citations omitted). Even if information would be relevant to a question not at issue in a hearing, it is the objecting party’s “burden to establish that the requested information is not relevant” to another question that *is* at issue in the hearing. *Id.* (citing *Koken*, 911 A.2d

1021). Even if all of CCJ's requests were relevant to the preempted need determination discussed in *Transource*, NextEra has made no argument that the requests are irrelevant to the many other questions at issue in this hearing.

28. In fact, each of CCJ's requests is aimed at an issue not preempted by FERC's need determination. *Transource* specifically held that "the PUC may, consistent with our opinion today, 'grant[] or deny[]' a siting application for reasons other than a disagreement with PJM's FERC-approved basis for selecting the project. Pennsylvania law indicates that such reasons may include public safety and environmental concerns." *Transource*, 156 F.4th at 379 (citing 52 Pa. Code § 57.76(a)(2-4)). As described above, CCJ Request 5 is specifically aimed at safety and environmental concerns, not "a disagreement with PJM's FERC-approved basis for selecting the project." *See supra* ¶¶ 16-21. *Transource* also specifically denied that its holding would interfere with the PUC's mandate to grant "a certificate of public convenience only upon a finding that 'such certificate is necessary or proper for the service, accommodation, convenience, or safety of the public.' " *Transource*, 156 F.4th at 381 (citing 66 Pa. C.S. § 1103(a)). As distinct from the FERC-approved PJM need determination given preemptive power by *Transource*, Pennsylvania can only make such a determination in reference to Pennsylvanians, since doing otherwise would constitute the improper use of Pennsylvania's eminent domain power on behalf of another sovereign. *See Darlington v. United States*, 82 Pa. 382, 387 (1876); *see also Mountain Valley Pipeline v. McCurdy*, 793 S.E.2d 850, 862 (W. Va. 2016); *Adams v. Greenwich Water*, 83 A.2d 177, 182 (Conn. 1951); *Square Butte Electric Cooperative v. Hilken*, 244 N.W.2d 519, 525 (N.D. 1976). In regards to NextEra's CPC application, all of CCJ's requests are therefore

related to a question at the core of the Commission's analysis and outside the *Transource* holding: whether or not the project is necessary or proper for the service, accommodation, convenience, or safety of Pennsylvanians.

29. Because *Transource* does not apply to the aspects of these proceedings to which CCJ's requests are relevant, NextEra's general relevance objection should be dismissed.

CONCLUSION

WHEREFORE, CCJ moves for the dismissal of NextEra's Objections to CCJ's First Set of Interrogatories and Requests for Production of Documents and for the court to compel the production of any documents withheld on the basis thereof.

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Respectfully submitted,



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