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July 23, 2026

BY ELECTRONIC FILING

Matthew L. Homsher, Secretary
PENNSYLVANIA PUBLIC UTILITY COMMISSION
400 North Street
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,

Please find enclosed for filing in the above-captioned cases the Center for Coalfield Justice's Second Prehearing Conference Memorandum. Please don't hesitate to contact me with any questions about this filing.

Thank you,

Evan Dimond Johns

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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

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Docket Nos. A-2026-3060921

G-2026-3060941

G-2026-3060942

**CENTER FOR COALFIELD JUSTICE'S SECOND
PREHEARING CONFERENCE MEMORANDUM**

In anticipation of the upcoming July 29, 2026 prehearing conference and in accordance with Judges Coogan and Gannon's June 26, 2026 Second Prehearing Conference Order in the now-consolidated Docket Nos. A-2026-3060856, A-2026-3060921, G-2026-3060941, and G-2026-3060942, Intervenor Center for Coalfield Justice (CCJ) distributes this second prehearing memorandum.

1. Relevant Procedural History

At present, this consolidated proceeding encompasses two general requests, distributed across four dockets:

- In Docket Nos. A-2026-3060921, G-2026-3060941, and G-2026-30609, NextEra Energy Transmission MidAtlantic Inc. (NextEra) has requested certificates of public convenience (CPCs), affiliated interest approvals, and other necessary approvals under Sections 1102 and 1103 of the Public Utility Code, 66 Pa. C.S. § 1102, 1103, to furnish electric transmission service in Greene and Fayette Counties, Pennsylvania, through a proposed 500 kilovolt (kV) transmission line designated as the MidAtlantic Resiliency Link (MARL) project.
- In Docket No. A-2026-3060856, NextEra requests a siting certificate under 52 Pa. Code Chapter 57, Subpart G approving the siting and construction of the proposed MARL project.

The Commission held an initial prehearing conference encompassing both requests on May 6, 2026. At that hearing, Presiding Officers Coogan and Gannon consolidated the two requests for purposes of hearing and a recommended decision.

NextEra’s requests elicited numerous petitions to intervene and objections to its requested relief. For its part, CCJ filed a Petition to Intervene on May 1, 2026, noting the direct, immediate, and substantial impacts of the MARL project its members—particularly those who live and own property in close proximity to or directly on the proposed route. No party opposed CCJ’s petition to intervene, and the Commission granted CCJ active party status by its July 1, 2026 Prehearing Order No. 1.¹

¹ CCJ also filed a motion for Admission *Pro Hac Vice* of J. Michael Becher on June 6, 2026. The Commission granted that motion and admitted Mr. Becher *pro hac vice* by Order dated July 2, 2026.

Earlier in the proceedings, the Office of Consumer Advocate (OCA) filed a Petition for Interlocutory Review and Answer to Material Questions of the Office of Consumer Advocate on May 4, 2026. That Petition sought an interlocutory answer from the Commission on two material questions:

1. Pursuant to *Transource*, is the Commission preempted from modifying or denying the Pennsylvania portions of the MARL Project on the basis of insufficient need for it given that PJM has made a determination that there is a reliability-based need for the MARL Project and has selected the MARL Project to address the need?
2. Notwithstanding an affirmative answer to the first Material Question, can the Commission consider evidence of the costs and benefits of the MARL Project in rendering a determination to approve, reject, modify, or condition the Applications?²

NextEra, CCJ, and fellow-Intervenor Charity Grimm Krupa each filed briefs in response to OCA's Petition.³

The Commission denied OCA's Petition by Opinion and Order dated June 1, 2026,⁴ reasoning that the OCA's questions related to "substantive legal issues involved in the Siting Application" that remain premature "prior to the disposition of NextEra's CPC Application"

2 See Petition for Interlocutory Review & Answer to Material Questions of the Office of Consumer Advocate at 5 (May 4, 2026).

3 See, respectively, Brief in Opposition of NextEra Energy Transmission MidAtlantic to OCA's Petition for Interlocutory Review & Answer to Material Questions (May 11, 2026); Center for Coalfield Justice's Answer & Brief in Response to OCA's Petition for Interlocutory Review & Answer to Material Questions (May 14, 2026) (CCJ Material Question Brief); Response of Proposed Intervenor Charity Grimm Krupa in Both Opposition & Support to OCA's Petition for Interlocutory Review & Full Support of Full Commission Review of Issues Concerning Public Need, Siting Authority, Costs, Benefits & Eminent Domain (May 14, 2026).

4 See generally Opinion & Order (June 1, 2026) (Material Question Order).

under Section 1103.⁵ The Commission noted that the plain language of the Chapter 57 siting regulations allow “only a public utility [to] apply for authorization” thereunder, and that formal certification under Section 1101 is therefore a necessary prerequisite for a siting application.⁶ Given that fact, the Commission held that any consideration of NextEra’s Siting Application “prior to a determination on the CPC Application would pose due process concerns.”⁷ Upon concluding that its ruling was “procedurally incompatible with the ALJs’ recent determination to consolidate both Applications,” the Commission directed “the parties and the ALJs to develop a procedural framework that is consistent with this Opinion and Order.”⁸

2. Proposed Plan & Schedule for Discovery

Consistent with its initial prehearing conference memorandum, CCJ continues to believe a 10-day response period for discovery requests will better facilitate full and efficient factual development relative to the default 20-day deadlines under Commission Rules 5.342(d), 5.349(d), and 5.350(c).⁹ CCJ is willing, however, to consider discovery schedules proposed by other parties to this proceeding at the upcoming prehearing conference.

3. Possibility of Settlement

CCJ stands ready to engage in settlement discussions with any party seeking to resolve or narrow the issues in these proceedings. At the very least, CCJ anticipates that ongoing discovery efforts

5 *Id.* at 11.

6 *Id.* at 12 n.8.

7 *Id.* at 13.

8 *Id.* at 14 n.10.

9 52 Pa. Code §§ 5.342(d), 5.349(d), 5.350(c).

will allow the parties to proceed at hearing with a significant body of stipulated facts and pre-authenticated documents.

4. Issues

4.1. Consolidation of Dockets

The Presiding Officers’ June 26, 2026 Prehearing Conference anticipates further “discussion of whether the Siting Application and the CPC Application should remain consolidated.”¹⁰ CCJ believes one key reason a proponent should obtain a CPC before requesting a siting certificate is that non-incumbent utilities like NextEra may have difficulty finalizing a route without availing themselves of survey rights granted to certificated utilities under Section 309 of the Eminent Domain Code.¹¹ NextEra, in fact, admits that its “lack of utility status has delayed [its] ability to access land, complete negotiations, and acquire the ROW needed for the Pennsylvania Portions of the MARL Project.”¹² If a siting certificate is requested *after* a route has been surveyed and finalized, the applicant can provide the Commission, the parties, and the public with more (or more *certain*) information about the anticipated impacts of the project. It also ensures due process is afforded landowners who find themselves in the path of a re-routed project.

In short, CCJ believes the two-step, sequential process described in the Commission’s Opinion and Order contemplates greater precision in a siting certificate request than NextEra is able to provide given its present “lack of utility status.” The prospect that NextEra’s eventual

¹⁰ Second Prehearing Conference Order at 5.

¹¹ 26 Pa. C.S. § 309.

¹² Siting Application ¶ 71.

siting application could significantly differ from its current, yet-uninformed proposal tends toward dismissing the current Siting Application without prejudice, proceeding with the CPC Application, and allowing NextEra to file a new, better-informed siting application as needed.

4.2. Certificate of Public Convenience Issues

In denying the OCA’s Petition for Interlocutory Review, the Commission’s June 1, 2026 Opinion and Order nonetheless significantly clarified the issues now-ripe for adjudication. Based on that Opinion and Order, CCJ currently plans to address three issues in a deconsolidated or phased proceeding on NextEra’s CPC Application:

(a) *Section 1103 “Need Test.”* As articulated in the Commission’s Opinion and Order, the primary issue in resolving NextEra’s CPC Application will be whether there exists an actual “need for additional transmission service within the proposed service territory of Greene and Fayette Counties.”¹³ If it finds such a need exists, the Commission may then consider “impos[ing] such conditions as it may deem to be just and reasonable” under the circumstances.¹⁴

(b) *Eminent Domain Considerations.* The Third Circuit’s recent decision in *Transource v. DeFrank* affirms the critical role of Section 1103 certification proceedings in the Commonwealth’s “robust process” for “empower[ing] private part[ies] to wield the sovereign power of eminent domain.”¹⁵ But as noted in CCJ’s Material Questions Brief,¹⁶

¹³ Material Question Order, *supra* note 4, at 12–13.

¹⁴ 66 Pa. C.S. § 1103(a).

¹⁵ 156 F.4th 351, 381–82 (3d Cir. 2025).

the Supreme Court of Pennsylvania has held that a Commonwealth agency cannot authorize “tak[ings] for the benefit of another sovereignty[’s] citizens, nor can it delegate its right of eminent domain to another sovereignty for such purpose.”¹⁷

Because certification under Section 1103 is the statutory trigger for delegating the Commonwealth’s eminent domain authority,¹⁸ the Commission must ensure that any decision on NextEra’s CPC Application is consistent with recognized limits on that authority. To the extent the “necessary or proper” standard under Section 1103 does not already incorporate those limitations,¹⁹ then the Commission must inquire separately as to: (i) whether it can properly delegate eminent domain authority in furtherance of NextEra’s proposed service, (ii) whether to impose conditions on NextEra’s exercise of that authority, and/or (iii) NextEra’s ability to provide the proposed service without exceeding properly delegated authority.²⁰

16 CCJ Material Question Brief, *supra* note 3, at 5–11.

17 *Darlington v. United States*, 82 Pa. 382, 387 (1876); *see also, e.g., Mountain Valley Pipeline v. McCurdy*, 793 S.E.2d 850, 862 (W. Va. 2016); *Square Butte Electric Cooperative v. Hilken*, 244 N.W.2d 519, 525 (N.D. 1976); *Adams v. Greenwich Water*, 83 A.2d 177, 182 (Conn. 1951).

18 66 Pa. C.S. § 1104; *Clean Air Council v. Sunoco Pipeline*, 185 A.3d 478, 482–83 (Pa. Cmwlth. 2018); *see also* CCJ Material Question Brief at 9–11 (noting that, while *condemnation* of property requires additional process before the Commission and the courts, lesser forms of eminent domain authority like survey rights flow directly and automatically from certification under Section 1103).

19 *But see, e.g., New Garden Township v. Public Utility Commission*, 241 A.3d 115 (Table) (Pa. Cmwlth. 2020) (describing Commission’s review under Section 1103 as “a Pennsylvania-specific inquiry” that considers “affirmative public benefits for [a utility’s] Pennsylvania customers”).

20 *See Chester Water Authority v. Public Utility Commission*, 868 A.2d 384, 386 (Pa. 2005).

(c) *Environmental Impacts on Pennsylvanians*. In discharging its duty of care as a trustee under Article I, Section 27 of the Pennsylvania Constitution,²¹ and in evaluating the public convenience under Section 1103,²² the Commission must consider the environmental impacts of NextEra’s proposal to provide electric transmission service in Greene and Fayette Counties. In addition to environmental impacts within and adjacent to the linear route of the MARL project, the proposed transmission service will raise demand for electricity generation in Pennsylvania and northern West Virginia, increase combustion of coal and gas, and in turn degrade air quality throughout western Pennsylvania.

CCJ reserves the right to raise and address such additional issues relating to NextEra’s CPC Application as may arise on further review, analysis, and discovery.

4.3. Siting Certificate Issues

At the appropriate time, CCJ plans to address NextEra’s Siting Application, or a new request filed in its stead, under the substantive standards set out in Subchapter G. Those standards include a demonstration that the MARL project complies with all “applicable statutes and regulations providing for the protection of the natural resources of this Commonwealth,” and that it will have only “minimum adverse environmental impact, considering the electric power needs” it is designed to fulfill.²³

21 *See Township of Marple v. Public Utility Commission*, 294 A.3d 965, 973–75 (Pa. Cmwlth. 2023).

22 *Id.* at 974 (holding that the results of the Commission’s Section 27 review must be factored into “its ultimate determination regarding the reasonable necessity of [a] proposed” facility).

23 52 Pa. Code § 57.76(a)(3)–(4).

5. Amount of Hearing Time Needed

In the event that the parties to this Proceeding are unable to resolve issues through settlement, CCJ respectfully submits that the outstanding issues should be adequately analyzed and addressed on the record during hearings. CCJ anticipates that the amount of hearing time needed will be shaped by the issues remaining for adjudication.

6. Proposed Witnesses & Exhibits

At present, CCJ anticipates sponsoring the testimony of two witnesses:

(a) Ron Nelson

Founding Partner, Current Energy Group
4764 East Sunrise Drive, Unit No. 508
Tucson, Arizona 85718

Subject: Transmission system planning and benefits

(b) Christopher Tessum

Assistant Professor of Civil & Environmental Engineering
University of Illinois Urbana-Champaign
3213 Newark Civil Engineering Building, MC-250
205 North Mathews Avenue
Urbana, Illinois 61801

Subject: Air quality and health impact modeling

Mr. Nelson and Dr. Tessum will each develop exhibits to aid in the presentation of their testimony, and CCJ will continue to seek relevant documentary exhibits through discovery. CCJ will inform the Commission and the other parties of any exhibits it plans to sponsor at the hearing in accordance with the governing rules and regulations. If CCJ decides to present testimony from different or additional witnesses, it will notify the Presiding Officers and all parties of record accordingly.

7. Procedural Schedule

In accordance with the Second Prehearing Conference Order's directive, CCJ has engaged in discussions with other active parties toward agreement on a proposed procedural schedule. As of the filing of this memorandum, CCJ has reviewed competing proposals from NextEra and the OCA. CCJ shares the OCA's reservations about NextEra's proposed schedule, and thus anticipates supporting the OCA's counter-proposal at the prehearing conference.

8. Counsel & Service

CCJ is represented in this matter by:

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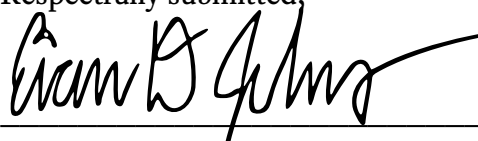
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CCJ consents to receive electronic service of all documents as provided in Rule 1.54(b)(3) of the Commission's Rules of Administrative Practice and Procedure, 25 Pa. Code § 1.54(b)(3).

Dated: July 23, 2026

Respectfully submitted,



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CERTIFICATE OF SERVICE

I certify that on July 23, 2026, I sent a true copy of the foregoing Second Prehearing Conference Memorandum by electronic mail to:

The Honorable John M. Coogan
The Honorable Erin L. Gannon
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