

COMMONWEALTH OF PENNSYLVANIA



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July 23, 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 Section 1.54 (relating to service by a participant), in the manner and upon the persons listed below.

Dated this 23rd day of July, 2026.

SERVICE BY E-MAIL ONLY

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Respectfully submitted,

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Dated: July 23, 2026

/s/ Jacob Guthrie
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Assistant Consumer Advocate

Melanie Joy El Atieh, PA Attorney I.D. #209323
Deputy Consumer Advocate

Ryan Morden, PA Attorney I.D. # 335679
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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

Pursuant to the Second Prehearing Conference Order that Administrative Law Judges (ALJs) John M. Coogan and Erin L. Gannon issued on June 26, 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 Office of Consumer Advocate (OCA) submits the following Prehearing Conference Memorandum:

I. BACKGROUND

On March 3, 2026, NextEra Energy Transmission MidAtlantic, Inc. (NEET MA or Company) filed two applications with the Commission, including (1) its Application under 52 Pa. Code Sections 57.72, seeking approval from the Commission to site and construct a high-voltage (HV) 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 (Siting Application); and (2) its Application under 66 Pa.C.S. Sections 1101, 1103, and 2102, seeking the Commission to grant all of the necessary authority, approvals, and certificates of public convenience for NEET MA to become a public utility that can, via the MARL Project, furnish and supply electric transmission service in Greene and Fayette Counties (CPC Application).

As explained in the Company's Siting Application, the MARL Project involves the proposed construction of a new approximately 107.5-mile 500-kV interstate transmission line that would be built on properties throughout Maryland, Pennsylvania, West Virginia, and 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

² 52 Pa. Code §§ 5.221–5.224.

West Virginia for 3.1 miles, then re-enter Pennsylvania in Greene County, traverse through Greene and Fayette Counties for 8.0 miles, and then proceed back into West Virginia.

On March 21, 2026, the Siting Application and the CPC Application were published in the Pennsylvania Bulletin, setting a deadline for interventions and protests of May 1, 2026.

On March 27, 2026, ALJ Coogan issued a prehearing conference order for the CPC Application proceeding. The prehearing conference order and Pennsylvania Bulletin notice advised that protests and petitions to intervene must be filed on or before May 1, 2026.

On April 20, 2026, NEET MA filed affidavits stating that notice of the CPC Application, including the protest and petition to intervene deadline, was published in the Herald Standard on March 11, 2026 and March 25, 2026. On April 30, 2026, NEET MA filed affidavits stating that notice of the applications, including the protest and petition to intervene deadline, was published in the Observer Reporter on March 12, 2026 and March 26, 2026.

On April 30, 2026, notices were issued to add ALJ Erin L. Gannon as a presiding officer in both application proceedings.

On May 1, 2026, the OCA filed a Protest to the Siting Application and CPC Application.

Also on May 1, 2026, the OCA filed a Petition for Interlocutory Review and Answer to Material Questions.

On May 4, 2026, the OCA filed a Corrected Petition for Interlocutory Review and Answer to Material Questions.

On May 6, 2026, the parties convened for the scheduled prehearing conference. The following parties were present during the prehearing conference: NextEra Energy Transmission MidAtlantic, Inc; the Office of Consumer Advocate; Center for Coalfield Justice; James E. Rockis, Quarter Pine Tree Farm Christmas Shoppe, LLC and J.E. Rockis Rental & Supply, Inc.; Pennsylvania State Representative Charity Grimm Krupa; Linda-Maust Jacobs; and Elizabeth Arthur. All parties indicated they would like to participate in this proceeding as active parties, except for Elizabeth Arthur, who stated that she wished to be identified as an inactive party. James Stickles and representatives from Ponderosa Properties were also present during the conference. At the prehearing conference, the ALJs consolidated the CPC Application and the Siting Application. The ALJs also set a June 12, 2026, deadline for NEET MA to respond to any protests or petitions to intervene filed by May 29, 2026.

On May 7, 2026, the OCA filed a letter asking the Commission to treat the OCA Petition as inclusive of its brief in support of its petition.

On May 11, 2026, NEET MA filed a brief in opposition to the OCA Petition.

On May 14, 2026, the Center for Coalfield Justice filed an answer and brief in response to the OCA Petition.

Also on May 14, 2026, State Representative Krupa filed both a response to the OCA Petition and a Petition of Proposed Intervenor Charity Grimm Krupa for Stay of Proceedings Pending Final Resolution of *Transource* Litigation and Resolution of All Petitions to Intervene.

On May 18, 2026, ALJs Coogan and Gannon issued a Procedural Order, which consolidated the proceedings. The Procedural Order gave directions to listed parties who filed Protests and Petitions to Intervene regarding their choice “to participate in this proceeding as either an active or inactive party.” Further, the Procedural Order listed June 12, 2026 as “the due date for filing pleadings in response to protests and petitions to intervene filed with the Commission by May 29, 2026.”

Numerous individuals and entities filed protests and petitions to intervene by May 29, 2026.

On June 1, 2026, the Commission issued an Opinion and Order denying the OCA’s Amended Petition for Interlocutory Review of a Material Question as premature (Interlocutory Review Order).

On June 26, 2026, the ALJs issued the Second Prehearing Conference Order establishing a Second Prehearing Conference on July 29, 2026, at 10:00 a.m.

Approximately 51 individual parties have filed protests or petitions to intervene in these proceedings.

NEET MA has filed answers and/or preliminary objections to 40 of those protests and petitions to intervene, and NEET MA also filed motions to file one preliminary objection and two answers *nunc pro tunc*.

On July 1, 2026, the ALJs issued Prehearing Order #1, which addressed the status of all entities who filed petitions to intervene and protests by May 29, 2026. The ALJs granted all but two of the petitions to intervene and denied NEET MA’s preliminary objections which sought to dismiss 23 protests.

On July 14, 2026, the ALJs issued Prehearing Order #2, which denied NEET MA's preliminary objections to the Protest filed by Susan Hager on June 8, 2026.

On July 16, 2026, the ALJs issued Prehearing Order #3, which denied the Petition for Stay of Proceedings filed by State Representative Krupa on May 14, 2026.

II. SERVICE ON THE OCA

Assistant Consumer Advocates Jacob Guthrie and Ryan Morden and Deputy Consumer Advocate Melanie Joy El Atieh represent the OCA in this proceeding. Parties should serve copies of all documents on the OCA as follows, utilizing the OCA's group email listed below for service of all documents:

Jacob Guthrie
Ryan Morden
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. OCA POSITION ON CONSOLIDATION

The OCA supports the ALJ's unwinding the consolidation of the Siting Application and CPC Application and further holding in abeyance the Siting Application until a final Commission determination is rendered in the CPC Application, given the Commission's legal conclusion that consolidation would violate the due process rights of parties to the Siting Application. Specifically, in the Interlocutory Review Order, the Commission stated that "we conclude that the ruling on any substantive legal issues in the Siting Application

prior to the determination whether to grant NextEra's CPC Application would violate the due process rights of the ultimate parties to the Siting Application."³ The parties to the Siting Application "should not be required to engage in litigation on the merits of the Siting Application, if no CPC has been issued."⁴ The Commission concluded that NEET MA's Siting Application is premature because NEET MA does not have CPC authority to provide electric transmission service in Greene and Fayette Counties, Pennsylvania.⁵ The Commission found that "only a public utility", meaning a public utility with CPC authority, "can apply for [HV transmission line siting] authorization and NextEra is not a public utility as it holds no CPC."⁶

Based on this finding, the Commission stated that "[o]ur determination that NextEra's CPC Application should be disposed of prior to its Siting Application appears to be procedurally incompatible with the ALJs' recent determination to consolidate both Applications for purposes of proceedings."⁷ As a result, the Commission offered the following solutions:

These consolidated cases may be bifurcated with the Application for CPC proceeding to litigation while the siting application and petition are held in abeyance pending the outcome of the CPC Application. Alternatively, as the siting application and petition were prematurely filed, they could be dismissed without prejudice and later refiled by Applicant NextEra if it is granted a CPC to provide transmission service in a service territory covering the area of the proposed project.⁸

³ Interlocutory Review Order at 14.

⁴ Interlocutory Review Order at 14.

⁵ Interlocutory Review Order at 11-12.

⁶ Interlocutory Review Order at n. 8.

⁷ Interlocutory Review Order at n. 10.

⁸ Interlocutory Review Order at n. 8.

The OCA supports the Commission's bifurcation option, which would require the ALJs to unwind the consolidation of the CPC and Siting Applications, and hold in abeyance the Siting Application pending a final Commission determination on the CPC Application.

As the Commission stated, unless and until NEET MA is a certificated public utility, it may not apply for transmission line siting authority.⁹ If the proceedings remain consolidated, in addition to potentially violating the due process rights of the parties to the Siting Application, unnecessary administrative burdens will result: the record built in the CPC Application proceeding will be built upon the Siting Application proceeding, indicating a high likelihood of a disorderly and unwieldy record. The CPC and Siting Applications involve distinct legal and factual issues,¹⁰ and a record created by consolidated proceedings will unnecessarily burden the parties to the proceedings.

Finally, the OCA is concerned about preserving judicial economy and serving the public interest. If proceedings remain consolidated, complicated procedural mechanisms will likely need to be utilized to hear the CPC and Siting Applications sequentially, such as needing to close and reopen the evidentiary record during the pendency of the Commission's determination or the need for the Commission to remand the record to the ALJs to conduct hearings on the Siting Application after reaching a determination on the CPC Application. Such complication is not in the public interest.

In sum, in order to effectuate the Commission's directive to resolve the CPC Application before the Siting Application, the OCA submits that unwinding consolidation

⁹ Interlocutory Review Order at 11.

¹⁰ See Interlocutory Review Order at 12-13.

of the two proceedings and holding the Siting Application and Zoning Petition in abeyance unless and until NEET MA is granted a CPC will produce the cleanest and most organized process for the resolution of these proceedings, and evidentiary record, without materially affecting the substantive rights of any party.

IV. 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 Officers 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 second 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 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.

V. PROPOSED SCHEDULES

The OCA continues to discuss potential procedural schedules with the other parties to this proceeding. Until such time as agreement on procedural schedules is reached, the OCA proposes the following schedule:

Certificate of Public Convenience Schedule:

Event	OCA Proposed Date
Other Parties' Direct	Tuesday, October 27, 2026
Rebuttal	Thursday, December 17, 2026
Surrebuttal	Thursday, February 18, 2027
Written Rejoinder	Thursday, February 25, 2027
Hearings	Wednesday, March 2, 2027 through
	Thursday, March 4, 2027
Main Brief	Wednesday, May 5, 2027
Reply Brief	Wednesday, May 26, 2027

Siting Application Schedule

Event	OCA Proposed Date
Other Parties Direct	Tuesday, September 21, 2027
Rebuttal	Wednesday, December 1, 2027
Surrebuttal	Wednesday, February 9, 2028
Written Rejoinder	Wednesday, February 23, 2028
Hearings	Wednesday, March 1, 2028 through
	Friday, March 3, 2028
Main Brief	Thursday, May 18, 2028
Reply Brief	Thursday, June 1, 2028

The OCA reserves the right to request a separate, supplemental direct testimony filing date for purposes of addressing matters raised at public input hearings or site visits. The OCA submits that public input hearings or site visits convened fewer than 10 days before the Other Parties' Direct Testimony filing deadline will require a supplemental direct testimony filing date be established.

VI. 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 mailed directly to its expert witnesses in this case, as well as to counsel for the OCA, through the use of the OCA's group email. The OCA's expert witnesses in this proceeding include:

Energy policy, large loads,
and resource adequacy

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Necessity of additional
transmission service providers in
Greene and Fayette Counties,
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Transmission line routing

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The OCA specifically reserves the right to call additional witnesses, as necessary. 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.

VII. 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 regarding the CPC Application, and others that may develop during discovery, as appropriate and with the assistance of its expert witnesses. The OCA intends to investigate:

1. Whether NEET MA has shown the requisite managerial, technical and financial fitness to be granted a certificate of public convenience in Greene and Fayette Counties, Pennsylvania;
2. Whether NEET MA has shown that it is necessary and/or proper for additional high voltage transmission service to be provided in Greene and Fayette Counties, Pennsylvania;
3. Whether the Commission should impose conditions on any certificate of public convenience granted to provide high voltage transmission service in Greene and Fayette Counties, Pennsylvania, in order for granting the certificate to be just and reasonable;
4. Whether NEET MA has shown that the proposed affiliated interest agreements are consistent with the Public Utility Code, the Commission's Regulations and are reasonable and consistent with the public interest.

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

1. Need for the Project

- 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.

2. Costs

- 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 objectives¹¹ 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.

3. Alternatives

- 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 Impacts

- a. Whether the environmental and land use impacts of the project are consistent with the requirements of 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.

¹¹ 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/>.

5. Public Health and Safety¹²

- 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.

VIII. PUBLIC INPUT HEARINGS

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—and beyond—regarding this controversial transmission line, the OCA requests that the Commission convene two public input hearings each in Greene and Fayette Counties, one each in the morning and one each in the afternoon, regarding the Applications. The OCA further specifically requests that separate public input hearings be convened for the CPC and Siting Applications.

IX. PARTY STATUS AND PARTICIPATION AT PUBLIC INPUT HEARINGS

In light of the numerous petitions to intervene and protests which were processed by the Commission following the First Prehearing Conference convened in this matter,¹³ the responsive pleadings submitted by NEET MA, and the ALJs' disposition of those pleadings, the OCA respectfully requests that the ALJs provide further clarification

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

¹³ See Tr. at 27-28.

regarding the roles of active and inactive party status in this proceeding and their ability to provide testimony. Namely, in the May 18, 2026, Procedural Order, the ALJs stated that:

For any protestants or intervenors who choose to take an active role in this proceeding, they must adhere to the Commission's regulations regarding all filings and testimony, including, but not limited to, 52 Pa. Code § 5.412 regarding the use of written testimony in Commission proceedings. Active parties will not be able to testify during any public input hearings held in this matter. Any protestants or intervenors taking an active role in this proceeding are expected to adhere to all applicable Commission regulations and the Public Utility Code at all times.¹⁴

The OCA recognizes that this direction is consistent with the statements made by ALJ Coogan on the record at the First Prehearing Conference regarding the role of active and inactive party status, and that no objection was raised to these statements at the First Prehearing Conference.¹⁵

However, upon further review, the OCA objects to this portion of the Procedural Order because it is inconsistent with the Commission's policy statement regarding the *Interpretation of Procedural Rules Regarding Party Status, Rights and Obligations*,¹⁶ which provides that a party's election of active or inactive party status does not control their ability to provide testimony at a public input hearing. In the policy statement, the Commission clarified: "the party, especially a pro se consumer, may elect to withdraw the formal complaint and, instead, testify at a public input hearing. However, *even if the complaint is not withdrawn, the Commission's procedural rules do not preclude a pro se*

¹⁴ Procedural Order at 7.

¹⁵ See Tr. 16-24.

¹⁶ *Interpretation of Procedural Rules Regarding Party Status, Rights and Obligations*, Docket No. M-00061975, Order at 4, 10, 13 (Apr. 18, 2007), available at: <https://www.puc.pa.gov/pcdocs/1071852.doc>.

*party from testifying at a public input hearing.”*¹⁷ Further, “[w]hether or not the consumer withdraws the complaint, the consumer may testify at the public input hearings scheduled for that matter.”¹⁸ Though this policy statement is particularly directed towards formal complaints, the principle remains: a party’s election as to active or inactive status – particularly one proceeding pro se – does not control whether that party can submit testimony at a public input hearing. The OCA submits that this clear Commission direction is equally applicable to protests and petitions to intervene in adversarial proceedings that will be decided based on a formal record, including but not limited to transmission line siting proceedings.

While the Commission’s regulations provide that the submission of written testimony is encouraged, particularly for expert witnesses, written testimony is only “required of expert witnesses testifying in rate cases,” and only required for those witnesses’ direct testimony.¹⁹ Further, the Commission’s regulations do not provide that presiding officers can direct that a party’s testimony be submitted in written format unless it is the direct testimony of an expert witness.²⁰ Pro se parties often wish to submit their own lay witness testimony, not testimony of an expert witness. The Commission’s regulations do not expressly permit a presiding officer to prohibit pro se parties from submitting oral lay testimony or to require their lay testimony be submitted in written format.

¹⁷ *Id.* at 10 (emphasis added).

¹⁸ *Id.* at 13.

¹⁹ 52 Pa. Code § 5.412(a).

²⁰ 52 Pa. Code § 5.412(b).

Preventing active parties – particularly those proceeding pro se – from submitting oral lay testimony at public input hearings could have a chilling effect on public participation in on-the-record proceedings. Indeed, pro se consumers could feel intimidated by submitting written testimony and navigating the Commission’s procedural rules and orders regarding the same. Furthermore, it is unclear whether a compelling reason exists for limiting active parties, especially pro se parties, from being able to provide oral lay testimony. The OCA concedes there is a compelling public interest reason to prevent two bites at the apple – that is, limiting a party to providing oral, lay witness testimony at the public input hearing or providing written testimony of the same witness during the course of the proceeding. However, the OCA cannot identify a compelling public interest reason to prevent active parties, particularly pro se parties, from providing oral lay testimony at the public input hearings if they so choose to present their testimony in that format.

Therefore, the OCA respectfully requests that the ALJs provide clarification that parties electing active status, especially pro se litigants, may choose to submit oral lay testimony at public input hearings, and to the extent an active party wishes to present expert testimony (whether in lieu of or in addition to lay testimony) that such party must submit the expert witness testimony in written format subject to the Commission’s procedural rules and the presiding officer’s orders. Providing such clarification will ensure consistency with the Commission’s policy statement regarding the *Interpretation of Procedural Rules Regarding Party Status, Rights and Obligations* and the Commission’s regulations.

X. 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,

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