

Public Service Commission of West Virginia

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August 19, 2026

Karen Buckley, Executive Secretary
Public Service Commission
PO Box 812
201 Brooks Street
Charleston, WV 25323

Re: **CASE NO. 26-0075-E-CN**
NEXTERA ENERGY TRANSMISSION MIDATLANTIC, INC
Application for a certificate of public convenience and necessity
authorizing the construction, financing, ownership, and operation of
the West Virginia portions of the MidAtlantic Resiliency Link Project

Dear Ms. Buckley:

Enclosed is Staff's "***Motion to Require NEET MA to Request a Tolling or in the Alternative to Dismiss***" in the above-referenced proceedings. A copy has been served upon all parties of record.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Victoria L. Wilson".

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and
Lucas R. Head
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VLW/LRH/jt
Enclosures

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**MOTION TO REQUIRE NEET MA TO REQUEST A TOLLING
OR IN THE ALTERNATIVE DISMISS**

CASE NO. 26-0075-E-CN

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

CASE NO. 26-0075-E-CN

NEXTERA ENERGY TRANSMISSION MIDATLANTIC, INC

Application for a certificate of public convenience and necessity authorizing the construction, financing, ownership, and operation of the West Virginia portions of the MidAtlantic Resiliency Link Project

**MOTION TO REQUIRE NEET MA TO REQUEST A TOLLING
OR IN THE ALTERNATIVE DISMISS**

Comes now the Staff of the West Virginia Public Service Commission (Staff) by Victoria L. Wilson and Lucas R. Head, Counsel, and files this Motion to require NEET MA to request a tolling or in the alternative to dismiss. Staff believes that additional time is needed in order for the New Affected Landowners to have due process and to fully participate in this hearing and for Staff to fully conduct its investigation. Additionally, there is additional information that the Commission does not have that needs in order to properly evaluate this project and reasonable alternatives. In support of this motion, Staff states:

I. INTRODUCTION

On January 30, 2026, NextEra Energy Transmission MidAtlantic, Inc. ("NEET MA" or "Applicant") filed an Application for a Certificate of Public Convenience and Necessity pursuant to W. Va. Code §24-2-11a (Application) for the West Virginia portions of the MidAtlantic Resiliency Link Project ("MARL

Project”). The MARL Project is a new approximately 107.5-mile, five hundred thousand volts (500 kV) transmission line that will traverse portions of Pennsylvania, West Virginia, Maryland, and Virginia. The West Virginia portions of the MARL Project will consist of approximately 58.9 miles of 500 kV transmission line and related facilities in Monongalia, Preston, Mineral, and Hampshire Counties.

II. The Proposed Route Revisions are significant and require additional evidence and time for parties to investigate

On July 30, 2026, NEET MA filed a Route Revision Supplement (“Supplement”). The Supplement contained separate route revisions. NEET MA described these five revisions as minor revisions to the proposed route. The route revisions are as follows:

- Route Revision 1 (“RR1”) – The West Virginia Division of Natural Resources (WV DNR) requested that the Applicant relocate a portion of the line to avoid or minimize forest fragmentation in the White Horse Mountain Wildlife Management Area in Hampshire County, West Virginia. This revision shifts the proposed route southwest, paralleling existing transmission infrastructure for 0.4 additional miles. This revision will not impact any new landowners, but will continue to impact seven landowners that were previously notified. This revision results in a project increase of \$334,611.
- Route Revision 2 (“RR2”) – This revision was made at the request of an impacted landowner. The centerline of the proposed project was adjusted to be further away from a residential dwelling on their property. This change includes 0.2 acres of additional ROW corridor, 0.4 acres of additional access road, and 3.1 more acres of temporary wire work areas to support conductor installation. This route does not impact any new landowners, but continues to impact eight landowners that have already

been notified of the proceeding. This revision will result in a \$198,668 increase in the projected costs of the project.

- Route Revision 3 ("RR3") – This revision was made at the request of an impacted landowner. The centerline of the proposed project was adjusted to be further away from a residential dwelling under construction on their property. This structure initially fell within the ROW of the transmission line. The Applicant had not identified the presence of this structure when the Application was filed. This route will continue to impact six landowners that were previously notified of this proceeding. This route revision also increases landowner impacts, with the addition of one New Affected Landowner¹. This revision will result in a \$13,918 decrease in the projected costs of the project.
- Route Revision 4 ("RR4") – The Applicant determined, during an engineering review, that terrain associated with an existing transmission crossing was a constructability concern. This revision angles the line more sharply from structure 95-2(A) into the existing Potomac Edison 138kV transmission corridor, paralleling it from an earlier point. This route revision will continue to impact five landowners that were previously notified. This route revision increases landowner impacts with the addition of two New Affected Landowners. This route revision results in a \$440,393 increase in the proposed cost of the project.
- Route Revision 5 ("RR5") – This route revision was made at the request of an impacted landowner, the Applicant relocated a proposed structure to a more suitable position in relation to other structures already on the property. This revision involves a small decrease in the ROW corridor, but a 4.8-acre increase in temporary wire work area. Does not result in any new landowners being impacted, but continues to impact four previously notified landowners. This revision results in a project increase of \$35,565.

Staff disagrees with NEET MA's description of the revisions as minor.

These five route revisions result in a total project increase of \$995,319, which is almost a million dollars. The revisions will impact three New Affected

¹ New Affected Owner as defined by NEET MA in its Route Revision Supplement at bates 000003-000004.

Landowners that did not previously receive notice of the proposed project. The RR4 modification is something that should have been identified and resolved prior to filing the application.

A. New Affected Landowners

The Application was filed pursuant to W.Va. Code §24-2-11a, because it involves the construction of a high voltage transmission line of two hundred thousand volts or more. W.Va. Code §24-2-11a requires more information and more stringent public notice than a typical application for a certificate of convenience and necessity filed pursuant to W.Va. Code §24-2-11. NEET MA has agreed to extend the intervention deadline by 30 days following the date of mailing the certified letter to the three New Affected Landowners. However, that fails to provide adequate notice for the New Affected Landowners. NEET MA filed this case with the Commission on January 30, 2026. The Commission entered orders setting deadlines for Parties, Intervenors, and the public's participation in this case in March 2026. The last public comment hearing in this case took place on June 11, 2026. The deadline to file direct testimony is September 8, 2026 and the evidentiary hearing is set to begin October 26, 2026. As such, the New Affected Landowners have missed the opportunity to participate at the public comment hearings.

Depending upon when the certified letters were mailed, the New Affected Landowners would have between 39 and 17 days to develop their case and determine how to prepare and file direct testimony. The Application alone is

nearly 4,000 pages. Staff, which includes financial and engineering professionals with expertise in utility regulation, has spent months reviewing and analyzing the Application and the thousands of pages of discovery that have been exchanged. Now, NEET MA expects laypeople who are impacted by the line to be able to determine the best way to advocate for their interest in less than 39 days. Thirty-nine days does not allow the New Affected Landowners to fully participate in this case and to receive the due process rights to which every impacted landowner is entitled.

Staff worked for weeks with impacted landowners and stakeholders to schedule in person meetings and site visits. In-person site visits and meetings with impacted parties and stakeholders is a critical part of Staff's investigation and essential to guaranteeing due process to those affected. When NEET MA filed its proposed route changes, Staff was concluding the last of its site visits and in-person meetings. With direct testimony due on September 8, 2026, Staff will not have the opportunity to meet with the New Affected Landowners. Staff believes that denying these New Affected Landowners the opportunity to meet in-person with Staff is an injustice that should not be permitted.

Further, Staff will have limited opportunity to meet with the landowners that NEET MA is attempting to accommodate with these route revisions. Staff is not sure whether the route revisions actually meet the requested needs of the landowners and stakeholders. It is unclear whether NEET MA intends to make

additional route revisions in order to accommodate requests and at what point NEET MA will cease making changes to the route.

B. Route Revision 4 shows a lack of an accurate constructability analysis

Staff has serious concerns about NEET MA's proposed RR4. RR4 was not a requested change by a landowner or stakeholder. Instead, this revision includes routing changes due to the topography of the route. The terrain along the proposed route is not an emergent phenomenon that would necessitate a last-minute change. The constructability issues NEET MA describes in RR4 should have been identified and rectified prior to the route being presented to the Commission. NEET MA's failure to properly identify constructability issues gives Staff great concern regarding the completeness and accuracy of the Application. Failure to identify a constructability issue shows a lack of thorough attention to detail that is required for a project of this scope. If this analysis was not accurately completed prior to filing the Application, NEET MA may locate other sites with constructability issues, necessitating further modifications even later in the process. Moreover, any member of the public that potentially could be impacted by these late changes would need the opportunity to have due process.

Although NEET MA contends that this change does not necessitate additional evidence or application modification, NEET MA does not get to decide whether Staff and other Parties and other intervenors would need to present additional evidence related to this route change. The short timeframe from when

the route revisions were filed until the time Direct Testimony is due does not give Staff the opportunity to conduct an in-person field visit to see the old and revised route locations. Staff has served some data request to NEET MA regarding these route revisions, but will have extremely limited opportunity to investigate these route revisions.

III. Major federal regulatory developments regarding transmission planning and data centers have resulted in a lack of critical information needed to fully evaluate this Application

On June 18, 2026, the Federal Energy Regulatory Commission (FERC) issued show cause orders specifically related to transmission planning and large load data center customers (PJM Interconnection, L.L.C., 195 FERC ¶ 61,211 (2026) (FERC Order)). The FERC Order applies to all six regional grid operators, including PJM, and Transmission Owners. This Commission is currently considering an Application for approval to build a transmission line within the PJM service territory, specifically to serve large-load data center customers. The issuance of the FERC Order introduced uncertainty to nearly every aspect of this Application, as they made preliminary findings that PJM's existing Open Access Transmission Tariff (Tariff) appears to be unjust, unreasonable, or unduly discriminatory or preferential. PJM and Transmission Owners have been required to address, in detail, nearly all aspects of the Tariff, and show-cause why there should not be significant changes made. The introduction of multiple variables to the pending Application has created gaps in critical data that must be considered before a decision is made. The outcome of the FERC Order will

inevitably upend the status quo regarding transmission planning for serving large-load customers, and the parties to this case must have time to evaluate these developing issues.

A. Cost shifting risk and effects on West Virginia ratepayers

Consideration of the pending Application, as filed, presents a risk to West Virginia ratepayers that may be unfairly required to cover the cost of the MARL line. The Application pending before this Commission was filed before the FERC Order was issued, and as such, the underlying transmission service agreements between PJM and NEET MA and/or the data centers that may be served by NEET MA through the proposed MARL transmission line are proceeding under the current PJM Tariff. The FERC Order at paragraph 66 noted a lack of transparency regarding costs of network upgrades and preliminarily found that PJM's Tariff appears to be unjust and unreasonable because it lacks adequate mechanisms to mitigate the risk of cost shifting among transmission customers, which may result in unjust and unreasonable rates for transmission service. PJM has been ordered to develop a pro forma cost recovery agreement that ensures eligible customers bear the risk and are ultimately responsible for costs incurred to provide transmission service, including the cost of network upgrades.

Everything that was done in preparation to develop and ultimately file this Application was done under the existing PJM Tariff, which now appears to be unjust and unreasonable for myriad reasons. The initial proposed Notice of Filing in the instant matter specifically indicated that customers of Appalachian Power

Company and Wheeling Power Company would not experience rate impacts from the MARL Project. NEET MA then filed a revised proposed Notice of Filing, which indicated that West Virginia customers of Appalachian Power Company and Wheeling Power Company would in fact experience rate impacts from the MARL Project, but details of those potential rate impacts were not included. The fact that oversights of that magnitude occurred under the current PJM Tariff that existed throughout the entire development process of the Application lends further support to the importance of pausing this pending Application to ensure that the full magnitude of effects to West Virginia ratepayers are understood in light of the sweeping changes to PJM's Tariff that are underway.

B. Critical information needed to fully evaluate this Application will not be available without further action by this Commission

NEET MA is not subject to the FERC Order because it is not yet a transmission owner or considered a public utility. The FERC Order applies to all six regional grid operators and current Transmission Owners. While several of NEET MA's affiliated companies are Transmission Owners, and thus required to respond to the FERC Order, NEET MA is not. This means that much of the crucial information Staff, and this Commission, needs to fully evaluate this pending Application will not be available in the responses filed with FERC. A thorough evaluation of the pending Application simply cannot be completed, and contemplation of vesting NEET MA with the status of being a public utility should not be considered without at least knowing NEET MA's position on the

substantial changes occurring, and what effects those changes will have on NEET MA's pending Application before this Commission. NEET MA should be required to provide detailed information to this Commission regarding how the issues raised in the FERC Order affect the pending Application; what problems those issues may have created or contributed to in relation to all aspects of the MARL project development; potential effects of the FERC Order with regard to status of prospective large load data centers that the MARL line is supposed to serve, i.e. if the data centers would still come to fruition if a major portion of the cost to construct MARL and related network upgrades is shifted from ratepayers within PJM at large to the individual data center customers that NEET MA currently intends to serve; details regarding existing transmission service agreements related to MARL between PJM and NEET MA and/or NEET MA and data center customers, whether any changes to those agreements will occur in light of the FERC Order, and the extent/effects of those changes on the pending Application; and any and all effects on cost to West Virginia ratepayers.

C. The need for the MARL Project is further in question given new information that has come to light regarding other transmission projects

The Commission is required to evaluate the need for any proposed project that requires a certificate of public convenience and necessity. The need for the MARL project has been called further into question given information that has come to light through the FERC Order and a document entitled "TEAC Recommendations to the PJM Board — February 2026" (PJM Interconnection,

LLC, *Transmission Expansion Advisory Committee (TEAC) Recommendations to the PJM Board* (Feb. 2026)), specifically under Section VI, Changes to Previously Approved Projects. The FERC Order specifically mentions a concern that PJM's existing Tariff lacks clear and consistent provisions to prevent duplicative requests for transmission service. Information Staff reviewed from the TEAC document raises concerns about whether any duplicative requests for transmission service may have been made due to a lack of clear provisions in the PJM Tariff to prevent such actions.

The pending Application was filed under the current PJM Tariff, which PJM and/or NEET MA used to evaluate the need for the MARL project to provide transmission service to data center customers. One of the shortlisted alternatives to the MARL project that was considered was a project designated by PJM as Proposal ID 2022-W3-904, and known as the Joshua Falls-Yeat 765kV (Southern Corridor) proposed by Transource. Staff has become aware that the Joshua Falls-Yeat 765kv project, among others, is now being pursued at the same time the Application for the MARL line is still pending before this Commission.

Staff issued discovery requests to NEET MA regarding these issues, and received responses on August 12, 2026. Staff is in the process of reviewing the responses, and does not yet know if additional information will be required. Regardless, these concerns are legitimate and must be addressed as part of determining whether a need exists for the proposed project. This Commission's

decision on the pending Application, and any future applications for certificates to construct transmission lines can and will directly affect the individual transmission owners that need to comply with the FERC Order. It is critical that the Commission has all of the necessary information to evaluate what effects the problems with PJM's current Tariff identified in the FERC Order may have had on the development of the MARL Project and the subsequent Application filed with this Commission.

IV. Conclusion

Staff believes that the changes presented by NEET MA constitute a material modification of the project that requires the case be tolled for a minimum of 60 days to allow the New Affected Landowners the opportunity to fully participate in this proceeding and have due process, and to allow Staff to fully investigate and analyze these changes. Additionally, the magnitude of issues identified in the FERC Order with regards to transmission service planning and serving large-load data center customers, which happen to be the exact two major components involved in NEET MA's pending Application, and the ultimate effects that the FERC Order will have on the same, require a reevaluation of, and likely revisions to, the pending Application. The volume of information in this case was already substantial. The issuance of the FERC Order introduced significant additional information and considerations that must be evaluated in detail, and additional time to do so is necessary and warranted.

Should NEET MA decline to agree to request a tolling of this proceeding,

Staff recommends this Application be dismissed for lack of completeness.

Respectfully submitted this 19th day of August 2026.

**STAFF OF THE PUBLIC SERVICE
COMMISSION OF WEST VIRGINIA**

By Counsel,



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And

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CERTIFICATE OF SERVICE

CASE NO. 26-0075-E-CN

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

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NEXTERA ENERGY TRANSMISSION MIDATLANTIC, INC

Application for a certificate of public convenience and necessity authorizing the construction, financing, ownership, and operation of the West Virginia portions of the MidAtlantic Resiliency Link Project

CERTIFICATE OF SERVICE

I, VICTORIA L. WILSON, Staff Attorney for the Public Service Commission of West Virginia, hereby certify that I have served a copy of the foregoing ***“Motion to Require NEET MA to Request a Tolling or in the Alternative to Dismiss”*** upon the following parties of record by US First Class mail and/or electronic mail correspondence, this 19th day of August 2026.

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