



**STATE OF NEW JERSEY**  
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ENERGY

IN THE MATTER OF THE VERIFIED PETITION OF )  
JERSEY CENTRAL POWER & LIGHT COMPANY )  
("JCP&L") AND MID-ATLANTIC INTERSTATE )  
TRANSMISSION, LLC ("MAIT") FOR: (1) APPROVAL )  
OF THE TRANSFER OF ITS TRANSMISSION ASSETS )  
TO MAIT PURSUANT TO N.J.S.A. 48:3-7; (2) )  
APPROVAL OF A LEASE OF JCP&L's REAL )  
PROPERTY AND THE REAL PROPERTY RIGHTS )  
ASSOCIATED WITH ITS TRANSMISSION ASSETS TO )  
MAIT PURSUANT TO N.J.S.A. 48:3-7; (3) APPROVAL )  
OF A MUTUAL ASSISTANCE AGREEMENT )  
PURSUANT TO N.J.S.A. 48:3-7.1; AND (4) A )  
DECLARATION THAT MAIT WILL BE DEEMED A )  
PUBLIC UTILITY FOR, *inter alia*, THE PURPOSES OF )  
SITING AUTHORITY UNDER N.J.S.A. 40:55D-19 AND )  
EMINENT DOMAIN AUTHORITY PURSUANT TO )  
N.J.S.A. 48:3-17.6 et. seq.

ORDER ON MOTIONS TO  
INTERVENE OR  
PARTICIPATE

DOCKET NO. EM15060733

-and-

IN THE MATTER OF THE VERIFIED PETITION OF )  
JERSEY CENTRAL POWER AND LIGHT COMPANY )  
FOR AUTHORIZATION PURSUANT TO N.J.S.A. 48:3-  
7.2 FOR APPROVAL TO PARTICIPATE IN THE )  
FIRSTENERGY CORP. INTRASYSTEM MONEY POOL )

DOCKET NO. EF02030185

**Parties of Record:**

**Gregory Eisenstark, Esq.**, Jersey Central Power and Light Co.  
**Stefanie A. Brand, Esq.**, Director, New Jersey Division of Rate Counsel

BY PRESIDENT MROZ:

On June 19, 2015, Jersey Central Power and Light Company ("JCP&L") and the Mid-Atlantic Interstate Transmission, LLC ("MAIT") filed a joint petition requesting various approvals from the New Jersey Board of Public Utilities ("Board") related to the proposed transfer of JCP&L's transmission assets to MAIT, including approval of leases pertaining to real property and real property rights associated with the transmission assets, approval of a mutual assistance

agreement between JCP&L and MAIT, and a declaration that MAIT will be deemed a public utility in New Jersey for certain purposes. JCP&L is also requesting that the Board approve the addition of MAIT as a participant in the FirstEnergy Corp. Intrasystem Utility Money Pool.

By Order dated August 19, 2015 ("August 19 Order"), the Board retained this matter for hearing and I was designated as the Presiding Officer with the authority to establish and modify schedules, decide all motions and otherwise control the conduct of this case, subject to Board ratification. Additionally, the August 19 Order set September 18, 2015 as the deadline to file motions to intervene or participate in this matter.

#### THE MOTIONS:

##### Public Service Electric and Gas Company

By motion dated July 16, 2015, Public Service Electric and Gas Company ("PSE&G") moves to intervene pursuant to N.J.A.C. 1: 1-16.1 et seq. According to the motion, PSE&G is a wholly owned direct subsidiary of Public Service Enterprise Group Incorporated ("PSEG") with principal and executive offices located in Newark, New Jersey. PSEG is an exempt public utility holding company engaged in, among other things, the generation of electricity, and the transmission, distribution, and sale of electricity and natural gas through its subsidiaries.

PSE&G is an electric and gas public utility subject to the regulatory jurisdiction of the Board. PSE&G is engaged in the production, generation, purchase, transmission, distribution, and sale of electric energy and related utility services in the State of New Jersey. PSE&G currently serves nearly three quarters of the State's population in a service area consisting of a 2,600 square mile diagonal corridor across the State from Bergen to Gloucester Counties. PSE&G is the largest provider of electric and gas service in New Jersey, with over 1.7 million gas and 2.1 million electric customers in 300 urban, suburban, and rural communities, including New Jersey's six largest cities.

PSE&G argues its motion to intervene should be granted because of its substantial transmission and distribution assets throughout the state. PSE&G argues that any decision by the Board could have a precedential effect and other impacts on PSE&G that could impact operations of PSE&G directly as its transmission and distribution assets are interconnected with JCP&L's transmission assets, and it is a customer of JCP&L for station light and power to some PSE&G substation assets.

##### New Jersey Large Energy Users Coalition

By motion dated August 4, 2015, the New Jersey Large Energy Users Coalition ("NJLEUC") moves to intervene in this proceeding. According to the motion, NJLEUC is an association whose members include large volume electric customers serviced by JCP&L. According to the motion, NJLEUC was formed, in part, to monitor regulatory proceedings involving the State's electric and natural gas utilities, including JCP&L.

NJLEUC maintains its role is to participate or intervene in regulatory and rate proceedings to the extent necessary to protect its members' common interests. Members of NJLEUC purchase electric distribution and transmission services from JCP&L and, therefore, NJLEUC argues they have a significant interest in, and will be substantially and specifically affected by, the outcome of this proceeding. Additionally, NJLEUC states its interests are substantially different from



those of any other party seeking intervention or participation. NJLEUC states its members will be directly affected by the transfer of all of JCP&L's transmission assets and transmission-related property rights to a to-be-formed transmission company. Additionally, the cost and quality of electric transmission and distribution service to the NJLEUC members will be directly and substantially affected by the issues in this proceeding. Furthermore, NJLEUC asserts that its inclusion in the proceeding would promote an informed and balanced presentation on these issues, and it will endeavor to work cooperatively with other parties.

NJLEUC, via Mr. Steven Goldenberg, also moved for the admission pro hac vice of Paul F. Forshay, Esq., a member of the bar of the District of Columbia.

#### Atlantic City Electric Company

By motion dated September 18, 2015, Atlantic City Electric Company ("ACE") moves to participate in this proceeding. According to the motion, ACE is an electric public utility that serves approximately 545,000 electric customers in a 2,700 square-mile area located in southern New Jersey.

ACE argues it should be granted participant status because it owns and operates transmission assets in New Jersey. Any changes in the Board's approach to the ownership of transmission facilities by New Jersey electric public utilities could have a direct impact on ACE and its operations in New Jersey. ACE asserts that no other party can adequately represent its interests.

#### Rockland Electric Company

Rockland Electric Company ("Rockland") moves to participate in this proceeding. According to the motion, Rockland is a New Jersey public utility which maintains its principal offices at One Lethbridge Plaza, Suite 32 – 2<sup>nd</sup> Floor, Route 17 North, Mahwah, NJ 07430. Rockland is engaged in the distribution and sale of electric energy for residential, commercial, and industrial purposes within New Jersey in the northern parts of Bergen and Passaic Counties and small areas in northeastern and northwestern parts of Sussex County. Rockland represents that it serves 72,000 retail electric customers in New Jersey.

According to the motion, as an owner of distribution and transmission assets, Rockland will be impacted by a decision by the Board on this issue, and has a significant interest in any decision on this issue as a member of a holding company structure. Rockland asserts its interests are materially different from the petitioners and it will add constructively to the proceeding and contribute to the development of a complete record for consideration by the Board.

#### RESPONSES:

##### JCP&L

By letter dated September 16, 2015, JCP&L responded to the motions to intervene filed by PSE&G and NJLEUC, and the motion to participate filed by Rockland. In sum, JCP&L does not object to PSE&G's intervention or Rockland's participation in the matter. JCP&L does not object to NJLEUC's intervention, subject to certain conditions.

JCP&L contends that NJLEUC should be directed to file a complete membership list that identifies the large volume electric customers it services in order to be granted intervenor status. JCP&L argues that it would be impossible to determine whether NJLEUC has met the standards for intervention without a membership list to determine if NJLEUC's interest is sufficiently different from that of any other party so as to add measurably and constructively to the scope of the case.

JCP&L further argues that because NJLEUC represents large customer interests, its participation may overlap with that of the Division of Rate Counsel, which is the statutory representative of all utility customers, including NJLEUC members. JCP&L argues that NJLEUC's inclusion would cause the prospect for confusion and delay because of the duplicative discovery, testimony, or other activities.

### NJLEUC

In its reply dated September 29, 2015, NJLEUC asserts that JCP&L's motion is baseless and should be rejected. NJLEUC states that it has consistently been granted intervenor status, and its members have an unquestionable and direct stake in the outcome of the proceedings. It further argues that its presence alongside Rate Counsel assures that relevant issues are fully addressed and properly resolved. NJLEUC motions have consistently contained a representation that it will cooperate with other parties, and that its entry into each proceeding will not cause confusion or delay.

NJLEUC further argues that JCP&L's request for a complete list of its members is unjustified and irrelevant. As it has done in the past, NJLEUC is providing the names of some of its membership which are companies located in the JCP&L service territory, namely Gerdau Longsteel, N.A.; Novartis Pharmaceuticals, and Merck, Inc. NJLEUC requests the Board continue its practice of granting intervenor status to NJLEUC based on the standing conferred by these representative member companies which would otherwise have standing to intervene in their own names.

### DISCUSSION AND FINDINGS:

In ruling on a motion to intervene, N.J.A.C. 1:1-16.3(a) requires that the decision-maker consider the following factors:

1. The nature and extent of the moving party's interest in the outcome of the case;
2. whether that interest is sufficiently different from that of any other party so as to add measurably and constructively to the scope of the case;
3. the prospect for confusion and delay arising from inclusion of the party, and
4. other appropriate matters.

If the standard for intervention is not met, N.J.A.C. 1:1-16.5 provides for a more limited form of involvement in the proceeding as a "participant," if, in the discretion of the trier of fact, the addition of the moving party is likely to add constructively to the case without causing undue delay or confusion. Under N.J.A.C. 1:1-16.6(c), such participation is limited to the right to argue orally, or file a statement or brief, or file exceptions, or all of these as determined by the trier of fact.



As the Board has stated in previous proceedings, application of these standards involves an implicit balancing test. The need and desire for development of a full and complete record, which involves consideration of a diversity of interests, must be weighed against the requirements of the New Jersey Administrative Code, which recognizes the need for prompt and expeditious administrative proceedings by requiring that an intervener's interest be specific, direct and different from that of the other parties so as to add measurably and constructively to the scope of the case. See, Order, In re the Joint Petition of Public Service Electric and Gas Company and Exelon Corporation for Approval of a Change in Control, Docket No. EM05020106 (June 8, 2005).

After consideration of the papers and given the lack of any objections, I HEREBY FIND, pursuant to N.J.A.C. 1:1-16.6(b), that the participation of ACE and Rockland in this matter is likely to add constructively to the case without causing undue delay or confusion. Accordingly, I HEREBY GRANT the motions to participate submitted on behalf of ACE and Rockland, limited to the right to argue orally and file a statement or brief as set out in N.J.A.C. 1:1-16.6(c)(1) and (2).

After consideration of the papers, including JCP&L's response and NJLEUC's reply, I HEREBY FIND, pursuant to N.J.A.C. 1:1-16.6(b), that PSE&G and the members of NJLEUC will be directly affected by the outcome of this proceeding. PSE&G and the NJLEUC members identified are customers of JCP&L whose interests differ from those represented by Rate Counsel. I FIND NJLEUC's identification of representative members is sufficient to allow me to determine its interest in this proceeding. Therefore, I HEREBY FIND that PSE&G and NJLEUC have met the standards for intervention in this proceeding as each has an interest that is not represented by another party. Accordingly, I HEREBY GRANT the motions for intervention of PSE&G and NJLEUC.

In light of this grant of intervention to NJLEUC, I have reviewed NJLEUC's motion and the supporting affidavit of Steven S. Goldberg, Esq., for admission pro hac vice of Paul F. Forshay, Esq. I will address that motion in a separate order.

All parties are directed to work cooperatively with each other to the fullest extent possible in the interests of reaching a just determination in this proceeding.

I HEREBY DIRECT Staff to post this Order on the Board's website and serve a copy of the Order to the service list electronically.

This ruling is provisional and subject to ratification or other alteration by the Board as it deems appropriate during the proceeding in this matter.

DATED: October 19, 2015



RICHARD S. MROZ  
PRESIDENT  
PRESIDING COMMISSIONER

IN THE MATTER OF THE VERIFIED PETITION OF JERSEY CENTRAL POWER & LIGHT COMPANY ("JCP&L") AND MID-ATLANTIC INTERSTATE TRANSMISSION, LLC ("MAIT") FOR: (1) APPROVAL OF THE TRANSFER OF ITS TRANSMISSION ASSETS TO MAIT PURSUANT TO N.J.S.A. 48:3-7; (2) APPROVAL OF A LEASE OF JCP&L's REAL PROPERTY AND THE REAL PROPERTY RIGHTS ASSOCIATED WITH ITS TRANSMISSION ASSETS TO MAIT PURSUANT TO N.J.S.A. 48:3-7; (3) APPROVAL OF A MUTUAL ASSISTANCE AGREEMENT PURSUANT TO N.J.S.A. 48:3-7.1; AND (4) A DECLARATION THAT MAIT WILL BE DEEMED A PUBLIC UTILITY FOR, *inter alia*, THE PURPOSES OF SITING AUTHORITY UNDER N.J.S.A. 40:55D-19 AND EMINENT DOMAIN AUTHORITY PURSUANT TO N.J.S.A. 48:3-17.6 et. seq.

-and-

IN THE MATTER OF THE VERIFIED PETITION OF JERSEY CENTRAL POWER AND LIGHT COMPANY FOR AUTHORIZATION PURSUANT TO N.J.S.A. 48:3-7.2 FOR APPROVAL TO PARTICIPATE IN THE FIRSTENERGY CORP. INTRASYSTEM MONEY POOL

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