



STATE OF NEW JERSEY
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ENERGY

IN THE MATTER OF THE VERIFIED PETITION)
OF JERSEY CENTRAL POWER & LIGHT)
COMPANY FOR APPROVAL OF AN)
INFRASTRUCTURE INVESTMENT PROGRAM II)
("ENERGIZENJ"))
ORDER ON MOTIONS TO
INTERVENE OR PARTICIPATE
DOCKET NO. EO23110793

Parties of Record:

Gregory Eisenstark, Esq., Cozen O'Connor on behalf of Jersey Central Power & Light Company
Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel
Steven S. Goldenberg, Esq., Giordano, Halleran and Ciesla, P.C. for New Jersey Large Energy Users Coalition

BY COMMISSIONER ZENON CHRISTODOULOU:

I. BACKGROUND AND PROCEDURAL HISTORY

On November 9, 2023, Jersey Central Power & Light Company ("JCP&L" or "Company") filed a petition with the New Jersey Board of Public Utilities ("Board") seeking approval of an Infrastructure Investment Program ("EnergizeNJ," "IIP," or "Program") and an associated cost recovery mechanism pursuant to N.J.A.C. 14:3-2A ("Petition").¹ The Company proposed a five (5)-year Program beginning in June 2024 with a total investment level of approximately \$930.5 million.²

In the Amended Petition, JCP&L grouped its proposed work into three (3) Program categories: 1) Grid Modernization; 2) System Resiliency; and 3) Substation Modernization. The estimated cost and proposed programs in each category are as follows:

¹ On December 19, 2017, the Board adopted new regulations for utility "Infrastructure Investment and Recovery" supporting the implementation of an IIP, which allows a utility to accelerate its investment in the construction, installation, and rehabilitation of certain non-revenue producing utility plant and facilities that enhance safety, reliability, and/or resiliency. The rules are codified at N.J.A.C. 14:3-2A.1 et seq. and became effective on January 16, 2018.

² On February 27, 2024, JCP&L submitted a revised Petition, which reduced its proposed spending from approximately \$934.8 million to approximately \$930.5 million ("Amended Petition").

1. Grid Modernization
 - a. Cost: \$271.3 million
 - b. Projects:
 - i. Lateral Fuse Replacement with TripSaver II;
 - ii. Circuit Protection and Sectionalization;
 - iii. Distribution Circuit of the Future;
 - iv. Underground Cable Replacement; and
 - v. Selective Undergrounding.

2. System Resiliency
 - a. Cost: \$559.3 million
 - b. Projects:
 - i. Distribution Voltage Standardization;
 - ii. Automatic Circuit Ties with Supervisory Control and Data Acquisition (SCADA) (Loop Schemes);
 - iii. New Distribution Sources; and
 - iv. Distribution Automation Enablement.

3. Substation Modernization
 - a. Cost: \$100.0 million
 - b. Projects:
 - i. Coastal Substation Switchgear Replacement;
 - ii. Oil Circuit Breaker Replacements;
 - iii. Modernize Protective Equipment;
 - iv. Remote Terminal Unit Replacements; and
 - v. Mobile Substations.

JCP&L proposed to recover costs associated with the Program through its base rates via annual and semi-annual base rate adjustment filings.³ As such, JCP&L requested a waiver of N.J.A.C. 14:3-2A.6(d), which requires that IIP-related costs be recovered through a separate clause of the utility's Board-approved tariff. For each base rate adjustment filing, JCP&L proposed to calculate the revenue requirements associated with the Program's costs as follows: Pre-Tax Cost of Capital multiplied by the rate base plus depreciation and/or amortization. JCP&L also proposed to earn a return on its investment based on the return on equity, long-term debt and capital structure approved by the Board in its most recent base rate case. As further proposed, any future changes in the Weighted Average Cost of Capital authorized by the Board would be reflected in the subsequent revenue requirement calculations and subsequent base rate adjustment filings for EnergizeNJ.

According to the Amended Petition, the initial bill impact of the proposed rates effective on April 1, 2025 to the typical residential customer using 777 kWh/month is an increase of approximately \$0.42 in their average monthly bill, or approximately 0.3%. Additionally, the estimated cumulative bill impact of the proposed Program on the typical residential customer using 777 kWh/month is an increase of approximately \$4.07 in their average monthly bill, or approximately 3.3%.

³ Specifically, JCP&L proposed to conduct seven (7) rate adjustment filings, consisting of four (4) semi-annual filings and three (3) annual filings.

On December 20, 2023, the Board designated myself, Commissioner Zenon Christodoulou, as Presiding Commissioner, with the authority to rule on all motions that arise during the pendency of the proceedings, and to modify any schedules that may be set as necessary to secure a just and expeditious determination of the issues.⁴ The Board further ordered that any entities seeking to intervene or participate must file the appropriate application with the Board by January 19, 2024, and any party wishing to file a motion for admission of counsel *pro hac vice* should do so concurrently with any motion to intervene or participate.

II. THE MOTIONS

Motions to Intervene:

New Jersey Large Energy Users Coalition

On November 27, 2023, the New Jersey Large Energy Users Coalition ("NJLEUC") filed a Motion to Intervene.

According to its motion, NJLEUC is an association whose members include large electric distribution customers served by JCP&L. NJLEUC stated that it has consistently been granted intervenor status in JCP&L's regulatory, merger, rate and infrastructure proceedings, including JCP&L's 2023 base rate case and the prior Reliability Plus proceeding.⁵ NJLEUC argued that it would be directly affected by the significant infrastructure upgrades proposed in this proceeding given its capacity as an association of large end-use customers of JCP&L. NJLEUC further stated that the interests of its members are unique from those of any other party.

NJLEUC also stated that it has a unique perspective and insight regarding the potential impact of the costs at issue in this proceeding on large usage-based customers. Specifically, NJLEUC stated that its members employ thousands of New Jersey residents and are a bedrock of the State's business community. Additionally, its members continually assess the competitiveness of their New Jersey operations, including consideration of regulatory proceedings such as these.

NJLEUC stated that it would be substantially, specifically, and directly affected by the issues to be decided in this proceeding. NJLEUC further stated that it would measurably and constructively advance this proceeding because of the unique, well-informed status of its members that are among the largest customers on JCP&L's electric distribution system. Therefore, NJLEUC requested that it be permitted to intervene in this proceeding with full procedural and substantive rights.

Commercial Metals Company

On January 16, 2024, Commercial Metals Company ("CMC") filed a Motion to Intervene.

⁴ In re the Verified Petition of Jersey Central Power & Light Company for Approval of an Infrastructure Investment Program II ("EnergizeNJ"), Order Designating Commissioner and Setting Manner of Service and Bar Date, BPU Docket No. EO23110793, Order dated December 20, 2023.

⁵ In re the Verified Petition of Jersey Central Power & Light Company For Review and Approval of Increases in, and Other Adjustments to, Its Rates and Charges For Electric Service, and For Approval of Other Proposed Tariff Revisions in Connection Therewith ("JCP&L 2023 Base Rate Filing"), BPU Docket No. ER23030144 and OAL Docket No. PUC 3346-23; and In re the Verified Petition of Jersey Central Power & Light Company for Approval of an Infrastructure Investment Program (JCP&L Reliability Plus), BPU Docket No. EO18070728.

According to its motion, CMC, together with its subsidiaries, manufactures, recycles, and markets steel and metal products, related materials, and services through a network of facilities, including a steel mill with an electric arc furnace in Sayreville, New Jersey ("Sayreville Steel Mill"). CMC argued that it will be directly and specifically affected by JCP&L's requested rate relief because it takes service from JCP&L under the General Service Transmission ("GT") rate class. As a large volume purchaser of services from JCP&L at transmission level voltage, CMC stated that its interests are distinct from other customers of JCP&L and no other party to this proceeding can adequately represent its interests.

Additionally, CMC noted that the Board previously granted full intervenor status to CMC in prior rate cases, including the 2020 JCP&L base rate case and the 2023 JCP&L base rate case.⁶ Since CMC is already an intervenor in JCP&L's 2023 base rate case, CMC argued that it should also be granted intervenor status in this related proceeding to ensure that CMC participates in the decisions affecting its future rates. CMC also noted that JCP&L's proposed projects are focused on the distribution system, rather than the transmission system. Therefore, CMC stated that it has a strong interest in ensuring that these proposed distribution system upgrades are not allocated to its rate class in a manner that does not comport with the cost of serving CMC's rate class. As such, CMC requested that the Board grant it full procedural and substantive rights as an intervenor pursuant to N.J.A.C. 1:1-16.1 et seq.

Motions to Participate:

Atlantic City Electric Company

On December 13, 2023, Atlantic City Electric Company ("ACE") filed a Motion to Participate.

As stated in its motion, ACE is an electric public utility that serves approximately 565,000 customers in southern New Jersey. ACE argued that it is entitled to participate in this proceeding because it has a significant interest in this matter. Additionally, ACE stated that substantive policy and/or procedural requirements established in this proceeding can significantly influence, if not have a precedential effect on, the positions taken by parties in, and the outcome of, proceedings involving ACE. ACE further stated that its interests in this proceeding are materially different than those of JCP&L, and no other party will represent the interests of ACE in this case.

Public Service Electric and Gas Company

On January 18, 2024, Public Service Electric and Gas Company ("PSE&G") filed a Motion to Participate.

As stated in its motion, PSE&G is New Jersey public utility that serves more than 2,300,000 electric customers and more than 1,900,000 gas customers. PSE&G stated that the Board's decision in this proceeding is likely to have a precedential effect on not only JCP&L and its customers, but also upon PSE&G and the other New Jersey utilities. Additionally, PSE&G stated

⁶ In re the Verified Petition of Jersey Central Power and Light Company for Review and Approval of Increases In and Other Adjustments to Its Rates and Charges for Electric Service, and for Approval of Other Proposed Tariff Revisions in Connection Therewith ("2020 Base Rate Filing"), BPU Docket No. ER20020146 and OAL Docket No. PUC 04343-2020N; and In re the Verified Petition of Jersey Central Power & Light Company For Review and Approval of Increases in, and Other Adjustments to, Its Rates and Charges For Electric Service, and for Approval of Other Proposed Tariff Revisions in Connection Therewith ("JCP&L 2023 Base Rate Filing"), BPU Docket No. ER23030144 and OAL Docket No. PUC 3346-23.

that its service territories, customers, and operations are distinct from those of other parties in this case and, therefore, no other party will represent the interests of PSE&G in this matter. According to PSE&G, it has a history of coordinating its activities in dockets at the Board with those of other utilities where appropriate. Further, PSE&G argued that its participation is likely to add constructively to the proceeding due to its experience in the electric industry.

III. RESPONSES TO THE MOTIONS

On January 26, 2024, the New Jersey Division of Rate Counsel ("Rate Counsel") filed a letter in opposition to the Motion to Intervene filed by CMC. In its letter, Rate Counsel noted that CMC's Motion indicated that CMC is a transmission customer, not a distribution customer. Additionally, Rate Counsel stated that CMC's Motion specifically notes that the focus of this IIP is safety, reliability, and resiliency of its distribution system, not JCP&L's transmission system. Rate Counsel did not agree with CMC's argument that its intervention in JCP&L's prior base rate cases should warrant its intervention in this matter. Specifically, Rate Counsel stated that IIP filings are different than base rate filings, as the Board has consistently limited discussions of and findings related to any adjustments to base rate design in the IIP proceedings. Therefore, Rate Counsel stated that it did not agree with CMC's request to intervene, but it had no objection to CMC being granted participant status in this matter.

IV. REPLIES TO THE RESPONSES TO THE MOTIONS

On January 31, 2024, CMC filed a reply to Rate Counsel's opposition to its Motion to Intervene. In its letter, CMC stated that Rate Counsel appears to be arguing that JCP&L's proposed IIP would not impact CMC because it is focused on the safety, reliability, and resiliency of JCP&L's distribution system, rather than the transmission system. However, CMC noted that JCP&L proposes to allocate at least \$229,625 of the IIP revenue requirement to the GT rate class from which CMC takes service. Although CMC, like all customers in the GT rate class, receives electric service from JCP&L at transmission level voltage, CMC noted that it is required by JCP&L's tariff to pay distribution charges.

CMC further stated that the Board has previously granted intervention to customers like CMC in other IIP proceedings. Specifically, CMC stated that the Board previously granted intervention to CMC's predecessor, Gerdau, in a 2009 JCP&L IIP proceeding.⁷ In addition, CMC noted that the Board previously granted intervention to NJLEUC in JCP&L's 2018 IIP proceeding (Reliability Plus) as well as PSE&G's 2021 IIP proceeding (Infrastructure Advancement Program).^{8,9}

⁷ In re the Proceeding for Infrastructure Investment and a Cost Recovery Mechanism For Gas & Electric Utilities; and In re the Verified Petition of Jersey Central Power & Light Company for an Economic Stimulus Infrastructure Investment Program and Associated Cost Recovery Mechanism, Order Granting Motions for Intervention and Admission Pro Hac Vice, BPU Docket Nos. EO09010049 and EO09010055, Order dated March 12, 2009.

⁸ In re the Verified Petition of Jersey Central Power & Light Company for Approval of an Infrastructure Investment Program (Reliability Plus), Prehearing Order with Procedural Schedule and Order on Motions to Intervene or Participate and for Admission Pro Hac Vice, BPU Docket No. EO18070728, Order dated November 22, 2018.

⁹ In re the Petition of Public Service Electric and Gas Company for Approval of an Infrastructure Advancement Program (IAP), Prehearing Order with Procedural Schedule and Order on Motions to Intervene or Participate and for Admission Pro Hac Vice, BPU Docket Nos. EO21111211 and GO21111212, Order dated March 3, 2022.

V. DISCUSSION AND FINDINGS

Motions to Intervene and/or Participate

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, file a statement or brief, file exceptions, or all of these as determined by the trier of fact.

As the Board 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 intervenor'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.¹⁰

Motions to Intervene

NJLEUC

After consideration of NJLEUC's Motion to Intervene, and given the lack of any objections, I **HEREBY FIND** the members of NJLEUC, who represent large and identifiable customer groups of JCP&L, will be directly and substantially affected by the outcome of this proceeding. I **FURTHER FIND**, pursuant to N.J.A.C. 1:1-16.3(a), that NJLEUC has met the standards for intervention as it has a significant interest in this proceeding, its interest is different from that of any other party, and it will add measurably and constructively to the proceeding without causing delay. Accordingly, I **HEREBY GRANT** NJLEUC's Motion to Intervene.

CMC

After consideration of CMC's Motion to Intervene, and Rate Counsel's objection thereto, I am persuaded that CMC failed to satisfy the requirements for intervention. N.J.A.C. 1:1-16.3(a) requires, in part, that I consider the nature and extent of CMC's interest in the outcome of this case, and whether CMC's interest is sufficiently different from that of any party so as to add

¹⁰ See In re the Joint Petition of Public Service Electric and Gas Company and Exelon Corporation for Approval of a Change in Control, BPU Docket No. EM05020106, Order dated June 8, 2005.

measurably and constructively to the scope of the case. In this instance, it is apparent that CMC's interest in this matter is similar to that of NJLEUC, as both parties represent large commercial customers of JCP&L. Additionally, the record in this proceeding indicates that NJLEUC's membership is more expansive than that of CMC. Specifically, NJLEUC indicates that it is an association of large distribution customers that employ thousands of New Jersey residents, while CMC's motion makes reference only to the Sayreville Steel Mill.

As such, I **HEREBY FIND** that the nature of CMC's interest is not sufficiently different from that of any party so as to add measurably and constructively to the scope of this matter. Accordingly, I **HEREBY DENY** CMC's Motion to Intervene. However, I **HEREBY FIND** that CMC is likely to add constructively to the case without causing undue delay or confusion. As such, and in the alternative, I **HEREBY GRANT** participant status to CMC.

Motions to Participate

In reviewing motions to participate, I consider whether the movant's interest in the matter is significant and whether participation is likely to add constructively to the case without causing undue delay or confusion. See N.J.A.C. 1:1-16.6.

With regard to the Motions to Participate filed by ACE and PSE&G, and after careful review of the individual facts and circumstances detailed in each motion, I **HEREBY FIND**, that these entities' interest in this proceeding is sufficient to merit participation and that such participation is likely to add constructively to this matter without causing undue delay or confusion. Accordingly, and having received no objection, I **HEREBY GRANT** the motions to participate filed on behalf of ACE and PSE&G.

Summary of Rulings

The following entity is **HEREBY GRANTED** Intervenor status:

- NJLEUC

The following entities are **HEREBY GRANTED** Participant status, which I determine shall be limited, as to each participant, pursuant to N.J.A.C. 1:1-16.6(c), to the right to argue orally and file a statement or brief:

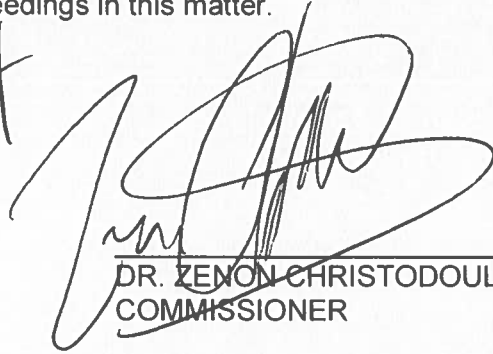
- CMC;
- ACE; and
- PSE&G

I **FURTHER DIRECT** that this Order be posted on the Board's website.

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

DATED:

3/20/24



DR. ZENON CHRISTODOULOU
COMMISSIONER

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities.

IN THE MATTER OF THE VERIFIED PETITION OF JERSEY CENTRAL POWER & LIGHT
COMPANY FOR APPROVAL OF AN INFRASTRUCTURE INVESTMENT PROGRAM II
("ENERGIZENJ")

DOCKET NO. EO23110793

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