



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
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[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

ENERGY

IN THE MATTER OF THE PETITION OF JERSEY	)	PREHEARING ORDER WITH
CENTRAL POWER & LIGHT COMPANY FOR	)	PROCEDURAL SCHEDULE AND
APPROVAL OF AN ADVANCED METERING	)	ORDER ON MOTIONS TO
INFRASTRUCTURE (AMI) PROGRAM (JCP&L	)	INTERVENE OR PARTICIPATE AND
AMI)	)	FOR ADMISSION PRO HAC VICE
	)	
	)	DOCKET NO. EO20080545

**Parties of Record:**

**Stefanie A. Brand, Esq., Director**, New Jersey Division of Rate Counsel  
**James C. Meyer, Esq.,** Riker Danzig Scherer Hyland & Perretti LLP on behalf of Jersey Central Power & Light Company  
**Christopher E. Torkelson, Esq., Karen O. Moury, Esq., Sarah C. Stoner, Esq.,** Eckert Seamans Cherin & Mellott, LLC on behalf of the Market Participants  
**William Harla, Esq., Alice M. Bergen, Esq.,** DeCotiis, FitzPatrick, Cole & Giblin, LLP on behalf of Utilidata

**BY COMMISSIONER ROBERT M. GORDON:**

**BACKGROUND**

On February 19, 2020, the New Jersey Board of Public Utilities (“Board”) ordered three (3) of the New Jersey’s electric distribution utilities to file, or update previously filed, petitions for an Advanced Metering Infrastructure (“AMI”) program by August 27, 2020.<sup>1</sup> In compliance with the AMI Order, on August 27, 2020, Jersey Central Power & Light Company (“JCP&L” or “Company”) filed a petition seeking approval of an AMI Program, including an associated cost recovery mechanism pursuant to N.J.S.A. 48:2-21 and N.J.S.A. 48:2-21.1 (“Petition”).

In the Petition, the Company proposed to install advanced meters and other AMI throughout its service territory over a three (3) year period commencing on January 1, 2023 and ending in December 2025 (“Deployment Phase”). Prior to the start of the Deployment Phase, the Company

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<sup>1</sup>In re the Petition of Rockland Electric Company for Approval of an Advanced Metering Program; and for Other Relief, BPU Docket No. ER16060524, Order dated February 19, 2020 (“AMI Order”).

proposed to commence a one (1)-year Pre-Deployment Phase on January 1, 2022 consisting of two (2) successive six (6)-month periods. The first six (6)-month period would consist of JCP&L confirming its project team, assessing market conditions and pricing, contracting with key vendors, make arrangements for procurement of equipment and resources and developing construction and deployment schedules. The second six (6)-month period would be for the build out of necessary Information Technology infrastructure.

JCP&L proposed to install approximately 1.15 million advanced meters and related infrastructure throughout the Deployment Phase. During the Deployment Phase, the Company intends to integrate the AMI system with an advanced distribution management system (“ADMS”).

In the Petition, JCP&L estimated that, through the first 20 years, AMI Program costs would be \$733 million, with \$506 million in capital investment and \$227 million in operations and maintenance (“O&M”) costs. During the Deployment Phase and the Pre-Deployment Phase, JCP&L estimated expenditures of \$418 million, consisting of capital investment of \$342 million and O&M costs of approximately \$76 million.

The Company proposed to recover program costs through a new Rider AMI. As proposed, Rider AMI would employ a separate customer charge for residential and small commercial customers in rate classes Residential Service, Residential Time-of-Day Service/Residential Geothermal & Heat Pump Service and General Service and for larger commercial and industrial customers in rate classes General Service Secondary Time-of-Day and General Service Primary. JCP&L proposed that the costs recovered in Rider AMI would include return on net investment, plus depreciation expense, O&M, amortization of stranded meter costs and cost of removal. The proposed return on net investment would be the weighted average cost of capital approved in the Company’s most recent rate case. JCP&L proposed to recover the revenue requirement associated with the Program through annual recovery filings.

In the Petition, JCP&L also sought approval to defer the stranded costs associated with the removed legacy non-AMI meters, which will be retired on a real-time basis, as a regulatory asset. The average remaining net book value of all non-AMI meters removed would be added to a regulatory asset and amortized over a rolling five (5)-year period from the month they are retired.<sup>2</sup>

According to the Petition, the AMI Program would have an estimated maximum incremental bill impact on residential customers over the entire deployment period of approximately \$1.47, or 1.4% of the current average monthly bill.

By Order dated September 23, 2020, the Board determined that the Petition should be retained by the Board for hearing, and pursuant to N.J.S.A. 48:2-32, designated myself, Commissioner Robert Gordon, as the Presiding Commissioner with the authority to rule on all motions that arise during the pendency of these proceedings and modify any schedules that may be necessary to secure a just and expeditious determination of the issues.<sup>3</sup> Further, the Board directed that any entity seeking to intervene or participate file the appropriate application with the Board by October 14, 2020. Any party wishing to file a motion for admission of counsel, pro hac vice, was requested to do so concurrently with any motion to intervene or participate.

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<sup>2</sup> The net book value of JCP&L’s meters was approximately \$126 million as of July 31, 2020.

<sup>3</sup> In re the Verified Petition of Jersey Central Power & Light Company for Approval of an Advanced Metering Infrastructure (AMI) Program (JCP&L AMI), Order Designating a Commissioner, Setting A Bar Date and Manner of Service, BPU Docket No. EO20080545, Order dated September 23, 2020.

## **MOTIONS TO INTERVENE AND PARTICIPATE**

The following motions were filed in this matter:

1. Motion to Intervene filed on behalf of NRG Energy, Inc. ("NRG"), Direct Energy Business, LLC, Direct Energy Business Marketing, LLC, Direct Energy Services, LLC, and Gateway Energy Services Corporation, (collectively, "Direct Energy"), and Centrica Business Solutions (collectively, the "Market Participants");
2. The Market Participants' Motion for Admission Pro Hac Vice;
3. Motion to Intervene filed on behalf of Utilidata, Inc. ("Utilidata");
4. Motion to Participate filed on behalf of Public Service Electric and Gas Company ("PSE&G"); and
5. Motion to Participate filed on behalf of Energy Efficiency Alliance of New Jersey ("EEANJ").

### **Market Participants Motion to Intervene**

#### Market Participants Motion to Intervene

The Market Participants seek intervener status, arguing that their interests will be substantially and directly affected by the outcome of this proceeding. The Market Participants want to ensure that smart meter data is owned by the customer, thereby allowing the customer to freely and easily authorize the release of the data to third parties. Additionally, the Market Participants want to ensure that entities in the competitive market have access to their customers' interval use data (with their consent) as soon as it becomes available. Finally, the Market Participants argue the importance of establishing guidelines for JCP&L's use of smart meter data only for JCP&L's pole and wire functions and not for new products and services that are within the domain of third party suppliers ("TPSs") and other market participants.

The Market Participants also request that the Board complete the implementation of supplier consolidated billing ("SCB") so that TPSs can utilize that data. The Market Participants argue that without the ability to issue consolidated bills, which include both the electricity supply charges of the TPS and utility distribution charges, the Market Participants efforts to leverage this investment in smart meters would be hampered. Stated differently, to effectively present offers to customers, the Market Participants argue that they must have the ability to handle their own billing services so they can demonstrate what benefits are accruing to the customer.

The Market Participants further argue that no other parties to this case will adequately represent their interest in this proceeding because the Market Participants have unique business models, interests, and perspectives. The Market Participants also argue that intervention will not result in a delay, and fundamental fairness and due process considerations require that they be afforded an opportunity to fully participate as an intervener due to their substantial and direct interests in the outcome of this proceeding.

## JCP&L's Objection to the Market Participants' Motion to Intervene

JCP&L argues that the Market Participants do not have a statutory right to intervene under the standard provided in N.J.A.C. 1:1-16.1(a), and have not demonstrated that they will be "substantially, specifically and directly affected by the outcome" of JCP&L's case. Specifically, JCP&L's states:

The crux of NRG and Direct Energy's alleged interest is that, as competitive retail providers, they have an interest in meter "data" issues (i.e., meter data ownership, meter data use by JCP&L, and the timing of meter data availability to third parties). While that may constitute a "significant" interest sufficient for participant status, it does not manifest a substantial, specific and direct affect" from the outcome of JCP&L's case. Indeed, as a participant, they can simply and plainly state their positions on these policy issues in their post-hearing comments; there is no need for further "party" status. Centrica Business Solutions claimed interest suffers the same deficiency as Utilidata. It is a vendor of "energy solutions" that seeks to capitalize on the profit potential from AMI, and it should pursue this goal through normal business channels.<sup>4</sup>

JCP&L also argues that the Market Participants' interest is outside the scope of this proceeding, particularly regarding SCB which arose from a separate 1999 docket.<sup>5</sup> As such, JCP&L claims that the Market Participants are utilizing this case to address an issue that is entirely separate from JCP&L's AMI filing.

Finally, JCP&L differentiates the Market Participant's intervener status in the PSE&G AMI matter from possible intervention here. JCP&L explained that the Market Participants were admitted in the PSE&G AMI matter after filing a Motion for Reconsideration, and the admission was based upon a concession by PSE&G that the Market Participants could be substantially, specifically and directly affected while the matter is pending before the Board. This "key element of fact" is not present here. Unlike PSE&G, JCP&L does not concede that the Market Participants will warrant intervener status at any point in this proceeding.

JCP&L also argues that approval of intervention for Market Participants will cause confusion, cause delay, and introduce other problems because not only do the Market Participants have no substantial, direct interests burdens the case, the Market Participants are actually six (6) companies embedded in the group, and represent the prospect of significant burdens on the movement of the case.

Regardless of status, JCP&L argued that the following conditions should be imposed to avoid confusion and delay<sup>6</sup>:

- 1) The Market Participants must proceed as a group, since that is how they present themselves to the Board (e.g., as an

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<sup>4</sup> See JCP&L's October 21, 2020 Response to Motions to Intervene and Participate, p.3.

<sup>5</sup> Citing I/M/O the Electric Discount and Energy Competition Act of 1999 Customer Account Services, BPU Docket No. EX99090676.

<sup>6</sup> See JCP&L's October 21, 2020 Response to Motions to Intervene and Participate, p.5-6.

- [intervener] they would submit a collective set of discovery, a collective piece of testimony, and a collective brief);
- 2) The Market Participants are precluded from raising issues not involving this proceeding, including specifically, issues of [SCB] related to the 1999 Customer Account Services proceeding;
  - 3) Market Participants are precluded from addressing “JCP&L’s cost estimates for its proposed AMI Program, its proposed cost recovery mechanism, [or] “its proposed accounting treatment” since their motion states they have no interest in those issues.

JCP&L does not object to the Market Participants being granted participant status.

#### Market Participants’ letter in response to JCP&L’s Opposition

In response to JCP&L’s objections, the Market Participants claim that, “[t]he single most compelling factor supporting intervention in this proceeding by the Market Participants relates to access by [TPSs] and market participants to the customer usage data that will be made available through the deployment of [AMI].”<sup>7</sup> The Market Participants argue that with access to this smart meter data, the Market Participants will have the opportunity to develop innovative products and services in the competitive market. Therefore, the Market Participants claim that it is critical that access issues are adequately resolved prior to deployment of smart meters. Additionally, the Market Participants argue that the Board must establish parameters regarding access to data by TPSs and other market participants, along with use of the data by JCP&L, including that the data belongs to the customer, not JCP&L.

The Market Participants also state that their offerings (including demand response, energy efficiency and distributed energy solutions) will be specifically, directly and substantially impacted by the use of, and access to, customer meter data. Additionally, the Market Participants assert that SCB is directly relevant to the deployment of smart meters, which will result in valuable customer usage data being made available. Further, the Market Participants argue that they must be allowed to advocate in this proceeding for the implementation of SCB to enable them to utilize the smart meter data to provide customized energy solutions to customers in the competitive market.

Additionally, as the Market Participants were granted intervention status in PSE&G’s AMI proceeding based upon showing that they would be substantially, specifically and directly affected by the outcome of the case, the Market Participants argue that the same determination should be reached here. The Market Participants note that Commissioner Mary-Anna Holden ultimately decided that the Market Participants “will add measurably and constructively to the record.”<sup>8</sup> Thus, the Market Participants argue that being granted intervener status here will maintain consistency between the various AMI proceedings.

The Market Participants contend that their intervention will not cause delay or confusion. Although the Market Participants consist of six (6) companies, they have unified interests in this proceeding such that they collectively moved to intervene, and they note that they will participate in this proceeding on a collective basis. With regard to participant status, the Market Participants argue that it is inadequate because it prevents the Market Participants from participating in all aspects

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<sup>7</sup> See Market Participants’ October 26, 2020 correspondence in accordance with N.J.A.C. 1:1-12.2(c) in response to JCP&L’s October 21, 2020 Response to Motions to Intervene and Participate, p.1.

<sup>8</sup> *Id.* at p.4.

of this proceeding, including the service of discovery, submission of testimony and cross-examination of witnesses during the evidentiary hearings, and they would be deprived of an opportunity to fully develop the record on the issues they have identified to protect their direct and substantial business interest in the outcome of this proceeding. The Market Participants note that they do not intend to challenge the cost estimates for JCP&L's proposed AMI Program, its proposed cost recovery mechanism, or its proposed accounting treatment.

### **Market Participants Motion for Admission *Pro Hac Vice***

The Market Participants filed a Motion for Admission *Pro Hac Vice* of Karen O. Moury, Esq. and Sarah C. Stoner, Esq. In support thereof, the Market Participants relied upon the Certification of Christopher E. Torkelson, Esq., and the Affidavits of Ms. Moury, Esq. and Ms. Stoner, Esq. Mr. Torkelson is a member of the law firm of Eckert Seamans Cherin & Mellott, LLC ("Eckert Seamans"), attorneys for the Market Participants. He is a member in good standing of the Bar of the State of New Jersey and qualified to practice pursuant to R. 1:21-1. Mr. Torkelson stated that Ms. Moury and Ms. Stoner are members of the law firm of Seamans Cherin & Mellott, LLC in its Harrisburg office, located at 213 Market Street, 8th Floor, Harrisburg, PA 17101. Ms. Moury and Ms. Stoner are members in good standing of the Bar of the Commonwealth of Pennsylvania, and are not now, and have never been, under any suspension or disbarment by the bar of any Court, and there are no disciplinary proceedings pending against them. Both Ms. Moury and Ms. Stoner represent that they paid the fees required by R. 1:20-1(b) and 1:28-2, and agree to abide by the other requirements for admission *pro hac vice*.

### **Utilidata's Motion to Intervene**

#### Utilidata's Motion to Intervene

Utilidata argues that its full participation in this proceeding will contribute to the development of a complete record, promote judicial economy, and not delay this matter. Utilidata claims it has seen firsthand the risks associated with deploying AMI without robust consideration of future use cases and the role of on-meter software. Utilidata argues that, "without consideration of these issues, the Board risks approving a JCP&L AMI rollout that will be unable to achieve all of JCP&L's proposed use cases, and will prematurely become a stranded asset."<sup>9</sup>

Utilidata explained that its interests will not be addressed by any other party. Utilidata is a software company with over a decade of experience operating the electric distribution grid, primarily for the purpose of optimizing voltage to make the grid more efficient and reliable. Utilidata's platform uses AMI data to improve grid operations and deliver industry-leading energy savings. Utilidata claims it is an "industry leader" in building meter-based software, helping drive additional value from AMI deployments.<sup>10</sup>

Utilidata argues that its intervention is vital since its interests will be directly affected by the outcome of the proceeding. Utilidata also argues that on September 23, 2020, the Board issued an Order implementing provisions of the Electric Vehicle Act of 2020. AMI, approved with the right performance standards and deployed with the right capabilities, is critical to advance the adoption of electric vehicles and the development of EV charging infrastructure. Utilidata contends AMI can provide granular EV hosting capacity analysis to better site charging

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<sup>9</sup> See October 14, 2020 letter in lieu of a more formal brief on behalf of Utilidata in support of its Motion to Intervene pursuant to N.J.A.C. 1:1-16.1 et seq., p. 4-5.

<sup>10</sup> Id. at p. 1.

infrastructure, streamline interconnection of charging infrastructure using real-time grid conditions and enable flexible load management by sending price signals to charging infrastructure.

Utilidata's software leverages AMI data and is often deployed in conjunction with AMI rollouts. Therefore, Utilidata claims its software platform and meter-based applications can increase the value of AMI deployment, streamline and modernize utility operations, provide an enhanced customer experience, benefit the environment, and serve as a means to achieve the goals of the 2019 Energy Master Plan.<sup>11</sup>

Additionally, as the Board's decision in this proceeding is expected to have an effect on Utilidata's business operations in JCP&L's service territory, Utilidata argues that it will be substantially, directly and specifically affected by the relief provided herein.

#### JCP&L's opposition to Utilidata's Motion to Intervene

JCP&L argues that Utilidata does not satisfy the standard for intervention, nor has it demonstrated that it will be "substantially, specifically and directly affected by the outcome" of JCP&L's case. Id.; N.J.A.C. 1:1-16.3(a).

JCP&L argues that Utilidata seeks intervenor status on the grounds that as a vendor of software for AMI meters, it substantially, specifically and directly will be affected because the case will have an effect on its business operations in the JCP&L service territory. JCP&L argues that Utilidata wishes to "explain how its technology can assist JCP&L with its goals."<sup>12</sup> JCP&L argues that this is not a basis for intervention, but rather, "Utilidata should attempt to market its product to JCP&L through normal business channels, and not use this contested litigation as a means to either foist its product on JCP&L by regulatory fiat or gain a leg up on its competitors."<sup>13</sup>

JCP&L further argued that approval of intervention will result in confusion, cause delay, and introduce other problems in contravention of N.J.A.C.1:1-16.3, for several reasons: 1) adding other parties with no substantial, direct interests burdens the case, which has a short time frame, with unnecessary and voluminous discovery, motions and testimony; 2) the ability to reach settlement may be impaired by interjection of issues related to Utilidata's concerns as a software vendor that do not concern JCP&L, its programs, or its cost recovery; 3) Utilidata references the Electric Vehicles Act, but never references what issues it would address related to electric vehicles in this proceeding, or what its interest is with regard to electric vehicles. Additionally, JCP&L asserts that Utilidata several times refers to "use cases," which is a term used by PSE&G, suggesting Utilidata's interest does not lie in this case and its intervention would interject issues regarding other utilities' filings and cause confusion.

Nonetheless, JCP&L did not object to Utilidata being granted participant status.

#### Utilidata's reply to JCP&L's opposition

Utilidata argued that JCP&L erroneously opposes Utilidata's full party status by contending that Utilidata's ulterior motive for intervention is to gain "a leg up on its competitors."<sup>14</sup> Utilidata stated

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<sup>11</sup> Id. at p.4.

<sup>12</sup> See JCP&L's October 21, 2020 Response to Motions to Intervene and Participate, p.2.

<sup>13</sup> Id.

<sup>14</sup> See Utilidata's November 6, 2020 letter reply brief in further support of its motion to intervene and in reply to the opposition brief submitted by JCP&L, p. 1

that JCP&L's assertion is false, and in fact, Utilidata's goal in seeking intervention is simply to provide the Board additional information currently not included in the record in order to close the gap between commercial conversations about advanced meter software potential and the regulatory discussion of advanced meter use cases. Utilidata asserts that information regarding the latest capabilities of AMI and the outcomes they enable will be critical to informing a Board decision and is a reasonable basis for intervention.

Additionally, Utilidata argues that it is in the public interest that the Board build a substantial and diverse record to ensure any AMI approval provides the maximum value for ratepayers. This is especially critical in lieu of the COVID-19 pandemic and it cannot be credibly disputed that evidence from a diverse set of parties with relevant expertise only serves the public interest. Utilidata maintains that its technical expertise will only positively impact any settlement discussions by providing relevant evidence to submit a robust proposal to the Board.

Finally, Utilidata claims it has a specific interest in AMI issues and is participating in relevant proceedings across many jurisdictions. Utilidata indicated that it has filed motions to intervene in all three (3) parallel AMI proceedings because it can provide the Board valuable information to consider in a statewide AMI rollout.

#### JCP&L Letter Response to Utilidata's Reply

JCP&L argued that Utilidata's Reply was "improper" because it was out of time, i.e. 11 days late.<sup>15</sup> Therefore, without requesting leave, JCP&L asserted that Utilidata afforded itself 16 days to file its late reply. JCP&L argued that this late filing confirms that Utilidata's addition to the case as a party will add confusion and delay and should not be a full intervener.

Further, JCP&L argued that Utilidata's reply brief contains a material, dispositive omission. As noted in its October 21 opposition, JCP&L asserted that Utilidata's focus on "use cases" demonstrated that its primary interest lay in PSE&G's AMI case. Yet, in its reply in the PSE&G case, JCP&L noted that Utilidata withdrew its request for intervener status in the PSE&G AMI case, and instead, sought only participant status "in order to avoid causing any confusion or delay."<sup>16</sup> Utilidata also deemed a post-hearing brief sufficient to represent its interest in PSE&G's AMI case. Given that admission, and its submission here that it seeks to make the same presentations in all pending AMI cases, JCP&L asserted that only participant status should be afforded here as well to avoid confusion and delay.

#### PSE&G Motion to Participate

Pursuant to its Motion to Participate, PSE&G argued that AMI and the related cost recovery issues may establish precedent, and as such, PSE&G will be directly and specifically affected by this matter. Furthermore, PSE&G stated that as the service territories, customers, and the operations of PSE&G are distinct from those of other parties and participants in this case, no other party or participant will represent the interests of PSE&G. PSE&G also noted that it has a history of coordinating its activities in dockets with those of other utilities, and thus, will coordinate its representation with other similarly-situated parties or participants in this docket to the extent

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<sup>15</sup> JCP&L argues that under the applicable procedural rules, a movant's reply brief is due five days from receipt of the opposition brief. Since JCP&L filed and served its opposition brief on October 21, 2020, Utilida's brief was due on or before October 26. N.J.A.C.1:1-12.2(c) (requiring filing of reply briefs "no later" than five days following receipt of opposition).

<sup>16</sup> See JCP&L's November 9, 2020 letter reply to the November 6, 2020 reply brief submitted by Utilidata.

appropriate. As such, PSE&G argued that its participation in this proceeding is likely to add constructively to the proceeding, not cause delay or confusion, and it will abide by the schedule set for this proceeding.

JCP&L did not object to PSE&G being granted participant status

### **EEANJ Motion to Participate**

In its Motion, EEANJ requested participant status in this proceeding, arguing that it is a 501(c)(6) trade association that, together with its sister organization the Keystone Energy Efficiency Alliance (“KEEA”), represents 75 business members that manufacture, design, and implement energy efficiency (“EE”) improvements in buildings across New Jersey on behalf of regulated utilities, the State, and ratepayers. EEANJ and its New Jersey members argued that they have a significant interest in this case because AMI programs provide the opportunity to improve and advance EE and demand response program offerings across the state. EEANJ also argued that its participation in this action will not cause any confusion or undue delay.<sup>17</sup> EEANJ indicated that it will aim to play a constructive role throughout this proceeding by coordinating its efforts with other parties and abiding the schedule set forth by the Board.

JCP&L did not object to the Motion to Participate filed by EEA-NJ.

## **DISCUSSION AND FINDINGS**

### **Motions to Intervene 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 interveners' 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 In the

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<sup>17</sup> There is an erroneous mention that this is a motion for intervention. However, it is clear from the title and JCP&L's response that it is a motion to participate.

Matter of 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.

After consideration of the Market Participants' Motion for Intervene, and having considered all of the arguments presented by JCP&L in objection thereto, I am persuaded that the Market Participants satisfy the legal requirements to warrant intervention. As such, I **HEREBY FIND** that the Market Participants will be directly affected by the outcome of this proceeding, and I **FURTHER FIND**, pursuant to N.J.A.C. 1:1-16.3, that the Market Participants have met the standards for intervention. Therefore, I **HEREBY GRANT** the Motion for Intervention of the Market Participants, without limitation or condition, pursuant to the authority granted to me by the Board under the September 23, 2020 Order.

After consideration of Utilidata's papers, including Utilidata's Motion to Intervene, JCP&L's opposition, Utilidata's reply to JCP&L's opposition, and JCP&L's reply to Utilidata's reply, I **HEREBY FIND** that Utilidata has a significant interest in this matter as it pertains to AMI due to Utilidata's experience in AMI deployment and implementation. Utilidata's expertise and interest is distinct from other parties in this case. Thus, no other party will represent the interests or insights of Utilidata. Therefore, I **HEREBY FIND**, pursuant to N.J.A.C. 1:1-16.3, that Utilidata has met the standards for intervention, and I **HEREBY GRANT** the Motion for Intervention on behalf of Utilidata.

With regard to the Motion to Participate filed by PSE&G, I **HEREBY FIND** that pursuant to N.J.A.C. 1:1-16.6(b), PSE&G is likely to add constructively to the case without causing undue delay or confusion, and note that JCP&L did not object to granting participant status to PSE&G. Accordingly, I **HEREBY GRANT** the Motion to Participate filed on behalf of PSE&G 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).

In addition, I **HEREBY FIND**, pursuant to N.J.A.C. 1:1-16.6(b), that EEANJ has met the standards for participation, and note that JCP&L did not object to EEANJ being granted participant status. Accordingly, I **HEREBY GRANT** the Motion to Participate of EEANJ on the basis of their representation that they will adhere to the scope of the issues to be addressed in this proceeding, and 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).

**Motions for Admission Pro Hac Vice**

I reviewed the Market Participants Motion filed by Mr. Torkelson, Esq., and the supporting affidavits of Ms. Moury, Esq. and Ms. Stoner, Esq. I agree that this proceeding involves a complex field of law. I am persuaded that Mr. Torkelson, Esq. specializes in this area and has an attorney-client relationship with the Market Participants, and Ms. Moury, Esq. and Ms. Stoner, Esq. specialize in this area and have an attorney-client relationship with the Market Participants. Having received no objections to the motion after due notice to the parties, I **HEREBY FIND** that Ms. Moury, Esq. and Ms. Stoner, Esq. satisfied the conditions for admission *pro hac vice*, submitted to the Board proof of payment to the New Jersey Lawyers' Fund for Client Protection of the fees required by R. 1:20-1(b) and 1:28-2, and therefore, are **HEREBY ADMITTED** to practice before the Board *pro hac vice* in this matter provided that they shall:

- (1) Abide by the Board's rules and all applicable New Jersey court rules, including all disciplinary rules;

- (2) Consent to the appointment of the Clerk of the Supreme Court as agent upon whom service of process may be made for all actions against each of them that may arise out of his participation in this matter;
- (3) Notify the Board immediately of any matter affecting his/her standing at the bar of any other jurisdiction; and
- (4) Have all pleadings, briefs and other papers filed with the Board signed by an attorney of record authorized to practice in this State, who shall be held responsible for them and for the conduct of this cause and the admitted attorney therein.

Therefore, I hereby grant the following Motions:

1. The Market Participants' Motion to Intervene;
2. The Market Participants' Motion for admission *pro hac vice*;
3. Utliidata's Motion to Intervene;
4. PSE&G's Motion to Participate; and
5. EEANJ's Motion to Participate.

In addition, I reviewed the proposal for a preliminary schedule, which has been agreed to by Board Staff, Rate Counsel and the Company. I **HEREBY ISSUE** the following as the Prehearing Order, along with the procedural schedule identified as Exhibit A, and **HEREBY DIRECT** the parties to comply with its terms.

## PREHEARING ORDER

### 1. NATURE OF PROCEEDINGS AND ISSUES TO BE RESOLVED:

Through this proceeding, JCP&L filed a Petition seeking approval of an AMI Program, including an associated cost recovery mechanism pursuant to N.J.S.A. 48:2-21 and N.J.S.A. 48:2-21.1. The Company proposed to install advanced meters and other AMI throughout its service territory over a three (3) year Deployment Phase commencing on January 1, 2023 and ending December 2025. Prior to the start of the Deployment Phase, the Company proposed to commence a one-year Pre-Deployment Phase on January 1, 2022 consisting of two (2) successive six (6)-month periods. The first six (6)-month period would consist of JCP&L confirming its project team, assessing market conditions and pricing, contract with key vendors, make arrangements for procurement of equipment and resources and develop construction and deployment schedules. The second six (6)-month period would for the build out of necessary Information Technology infrastructure.

JCP&L proposed to install approximately 1.15 million advanced meters and related infrastructure throughout the Deployment Phase. During the Deployment Phase, the Company intends to integrate the AMI system with an ADMS. JCP&L estimates that, through the first 20 years, AMI Program costs will be \$732 million, with \$506 million in capital investment and \$227 million in O&M costs. During the Deployment Phase and the Pre-Deployment Phase, JCP&L estimates expenditures of \$418 million, consisting of capital investment of \$342 million and O&M costs of approximately \$76 million.

The Company proposed to recover program costs through a new Rider AMI. JCP&L proposed that the costs recovered in Rider AMI would include return on net investment, plus depreciation expense, O&M, amortization of stranded meter costs and cost of removal. The proposed return on net investment would be the weighted average cost of capital approved in the Company's most recent rate case. JCP&L proposed to recover the revenue requirement associated with the Program through annual recovery filings.

JCP&L also sought approval to defer the stranded costs associated with the removed legacy non-AMI meters, which will be retired on a real-time basis as a regulatory asset. The average remaining net book value of all non-AMI meters removed would be added to a regulatory asset and amortized over a rolling five (5)-year period from the month they are retired.

According to the Petition, the AMI Program would have an estimated maximum incremental bill impact on residential customers over the entire deployment period of approximately \$1.47, or 1.4% of the current average monthly bill.

#### Issues to be Resolved

- A. The cost effectiveness and cost efficiency of the activities and programs of the proposed AMI program;
- B. Is the AMI Program necessary accelerated capital spend; and
- C. The reasonableness and lawfulness of the proposed cost recovery mechanism.

2. **PARTIES AND THEIR DESIGNATED ATTORNEYS OR REPRESENTATIVES:**

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No change in designated trial counsel shall be made without leave if such change will interfere with the dates for hearings. If no specific counsel is set forth in this Order, any partner or associate may be expected to proceed with evidentiary hearings on the agreed dates.

3. **SPECIAL LEGAL REQUIREMENTS AS TO NOTICE OF HEARING:**

Pursuant to N.J.S.A. 48:2-32.6, public hearings will be held in the Company's service territory after publication of notice in newspapers of general circulation in JCP&L's service territory. The dates, times, and locations of the public hearings are to be determined.

4. **SCHEDULE OF HEARING DATES, TIME AND PLACE:**

Evidentiary hearings are tentatively scheduled for the week of May 24, 2021 at a time and location to be determined based upon the availability of the parties and myself.

5. **STIPULATIONS:**

The Staff of the Board of Public Utilities, the Division of Rate Counsel and JCP&L have entered into an Agreement of Non-Disclosure of Information Agreed to Be Confidential.

6. **SETTLEMENT:**

Parties are encouraged to engage in settlement discussion. Notice should be provided to all parties of any settlement discussions for the preparation of an agreement to resolve the issues in the case.

7. **AMENDMENTS TO PLEADINGS:**

None at this time.

8. **DISCOVERY AND DATE FOR COMPLETION:**

The time limits for discovery shall be in accordance with N.J.A.C. 1:1-10.4 or as provided in Exhibit A.

9. **ORDER OF PROOFS:**

JCP&L has the burden of proof. The hearings will be conducted by topic in the following order:

First – JCP&L

Second – Rate Counsel

Third – The Market Participants

Fourth – Utilidata

Fifth – Board Staff

10. **EXHIBITS MARKED FOR IDENTIFICATION:**

None at this time.

11. **EXHIBITS MARKED IN EVIDENCE:**

None at this time.

12. **ESTIMATED NUMBER OF FACT AND EXPERT WITNESSES:**

Unknown at this time. Any party substituting witnesses shall identify such witnesses within five (5) days of determining to replace a witness, and in no event later than five (5) days before filing of testimony of a substitute witness. All direct testimony will be pre-filed, and all witnesses submitting pre-filed direct testimony will be subject to cross examination at evidentiary hearings, which will be conducted by topic (e.g., program elements, revenue requirements, and so forth).

13. **MOTIONS:**

All pending motions to intervene and/or participate have been addressed.

14. **SPECIAL MATTERS:**

None at this time.

The 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** 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: January 13, 2021

By:



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ROBERT M. GORDON  
COMMISSIONER

**EXHIBIT A**

**In the Matter of the Verified Petition of Jersey Central Power & Light Company for  
Approval of an Advanced Metering Infrastructure (AMI) Program (JCP&L AMI)**

**BPU Docket No. EO20080545**

Procedural Schedule

Motions to Intervene/Participate	October 14, 2020
First Round Discovery Requests+	November 13, 2020
First Round Discovery Answers	December 4, 2020
Second Round Discovery Requests	December 14, 2020
Second Round Discovery Answers	January 8, 2021
Discovery/Settlement Conference	Week of January 25, 2021
Third Round Discovery Requests	February 5, 2021
Third Round Discovery Answers	February 22, 2021
Settlement Meeting	February 16, 2021
Public Hearings	TBD
Rate Counsel/Intervener Testimony	March 5, 2021
Discovery on Testimony	March 19, 2021
Responses to Discovery	April 2, 2021
Rebuttal Testimony	April 16, 2021
Discovery on Rebuttal	April 30, 2021
Answers to Rebuttal Discovery	May 17, 2021
Evidentiary Hearings with oral surrebuttal*	Week of May 24, 2021
Initial Briefs	June 25, 2021
Reply Briefs	July 9, 2021

+ Petitioner agrees that discovery is ongoing and will endeavor to answer all discovery within fifteen days of service or earlier if possible.

++ Petitioner requests evidentiary hearings with oral surrebuttal and rejoinder. Commissioner Gordon will consider this request prior to the evidentiary hearings.

\* Subject to Presiding Commissioner Availability

IN THE MATTER OF THE PETITION OF JERSEY CENTRAL POWER & LIGHT COMPANY  
FOR APPROVAL OF AN ADVANCED METERING INFRASTRUCTURE (AMI) PROGRAM  
(JCP&L AMI)

BPU DOCKET NO. EO20080545

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