



State of New Jersey

DIVISION OF RATE COUNSEL

140 EAST FRONT STREET, 4TH FL

P.O. Box 003

TRENTON, NEW JERSEY 08625

PHIL MURPHY
Governor

SHEILA OLIVER
Lt. Governor

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BOARD OF PUBLIC UTILITIES
TRENTON, NJ
STEFANIE A. BRAND
Director

July 25, 2018

Via Hand Delivery and Electronic Mail

Ms. Aida Camacho-Welch, Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
P.O. Box 350
Trenton, New Jersey 08625-0350

**I/M/O the Verified Petition of Jersey Central Power & Light
Company For Approval of the Sale and Conveyance of Certain
Portions of the Property in the Borough of Allenhurst, Monmouth
County, New Jersey, and the Granting and Transfer of Certain
Easements in Connection therewith Pursuant to N.J.S.A. 48:3-7 and
N.J.A.C. 14:1-5.6
BPU Docket No. EM18020193**

Dear Secretary Camacho-Welch:

Please accept this letter (original and 10 copies) setting forth the position of the Division of the Rate Counsel ("Rate Counsel") in the above-captioned matter. Because two of the attachments referenced in this letter are designated as Confidential by the Petitioner, we are providing both a public and a Confidential version of this filing.

Rate Counsel does not object to the sale of the Allenhurst Property and transfer of related easements by Jersey Central Power & Light Company ("JCP&L" or the "Company"). However, Rate Counsel recommends that the gain on this property sale be fully reviewed in the Petitioner's next base rate case. We enclose one additional copy of

this filing. Kindly date stamp and return it with our courier.

Tel: (609) 984-1460 • Fax: (609) 292-2923 • Fax: (609) 292-2954

<http://www.nj.gov/rpa> E-Mail: njratepayer@rpa.state.nj.us

CMS
Energy
J. Zorzycki, Energy
DAG

Background

JCP&L filed a Petition on February 26, 2018 requesting approval from the Board of Public Utilities (“Board” or “BPU”) for the sale and transfer of certain property in the Borough of Allenhurst, Monmouth County (the “Property”) to Power Station At Allenhurst LLC (“Buyer”) for a purchase price of \$5,238,095.24. *Petition*, ¶ 5. There is no relationship between JCP&L and the Buyer other than seller and buyer. *Petition*, ¶ 3(e).

JCP&L has owned the Property since the 1930s. *RCR-13*. Until mid-2009, JCP&L used the Property for administrative and business offices, an electric line shop, a garage, and maintenance facilities in support of utility operations. *Petition*, ¶¶ 31 & 35 & *App. B-1*, ¶ (d)(1); *RCR-11*, 13 & 14. Environmental investigation and remediation efforts began in the early 1990s, *RCR-1* & 6 n. 1, and continued through 2017, *RCR-13*. The Company has determined that the sale of the Property will not adversely affect the public interest, is not and will not be required or useful for utility purposes, and produces no income. *Petition*, ¶¶ 3, 12 & 14.

Applicable Board Statute and Regulations

The applicable law for utility sale of property is N.J.S.A. 48:3-7 and N.J.A.C. 14:1-5.6. The Company’s petition claims that all legal requirements under the applicable statute and regulation have been met and Rate Counsel does not object to JCP&L’s claim at this time. The Company states that the selling price represents the fair market value of the Property. *Petition*, ¶ 3. In support of this claim, JCP&L points to extensive marketing efforts including newspaper ads and the use of an on-line real estate marketing

service. *Petition*, ¶¶ 23-30. As further support, the Company notes that more than 15 sealed bids were received by the advertised bid date and that the accepted bid price was consistent with an independent appraisal performed for JCP&L by J. L. Guyer on June 23, 2017. *Petition*, ¶¶ 2(d), 11 & 30; *Redacted RCR-41, Attachment 1*.¹

Conditions of Sale

Environmental Liability

In its *Petition*, JCP&L stated that, under the terms of the sale, the Company retained liability for “among other things, compliance with remediation obligations under ISRA [Industrial Site Recovery Act], . . . breaches of representations and warranties by the Company, and other matters.” *Petition*, ¶ 16. Accordingly, JCP&L sought Board authorization to defer any costs incurred relating to ISRA remediation obligations for future recovery through the Company’s non-utility generation clause (“NGC”). *Id.* Subsequently, in response to Rate Counsel discovery requests (attached), JCP&L determined that the Company has received all requisite Response Action Outcomes, other than biennial environmental monitoring, from the Licensed Site Remediation Professional it hired. *RCR-1*, 3, 4, 5 & 29; *see Petition, App. B-1*, ¶ (e)(1). Upon completion of the sale, Buyer will assume responsibility for JCP&L’s biennial monitoring obligations; therefore, JCP&L anticipates that it will have no ongoing environmental responsibilities, liabilities or costs at the Allenhurst Property. *Id.* However, due to the possibility that the New Jersey Department of Environmental Protection may require the Company to conduct additional remediation, JCP&L has

¹ The Company has claimed the independent appraisal performed by J.L. Guyer is confidential. Rate Counsel takes no position on this claim. Pursuant to the terms of a Non-Disclosure Agreement, however, Rate Counsel has reviewed the appraisal and is satisfied that the bid price was in fact consistent with the appraisal.

entered into a Post-Closing Access Agreement with the Buyer. *Petition*, ¶ 21(c)iii & *App. B-1*, ¶ (e)(3)(i).

After filing its Petition, the Company changed its position on both the scope of additional required remediation and its claim for those costs. In response to RCR-29, the Company acknowledged that its request for cost recovery “should be withdrawn” as “there are no post-closing cost responsibilities for any on-going environmental liabilities at the Allenhurst Property.” See also *RCR-1*, 3, 4 & 5. Because a discovery response cannot formally amend a petition, Rate Counsel respectfully asks that, in any Board Order approving this transaction, the Board specifically acknowledge that the Company no longer seeks, either through the NGC or any other rate recovery mechanism, any environmental costs that may be incurred other than as discussed below.²

Agreement to Provide Future Access for Utility Operations

Certain electrical distribution and transmission facilities will remain on the Property and JCP&L will continue to operate and maintain them in connection with the provision of electric service. *Petition*, ¶¶ 14, 36 & 37. The Purchase and Sale Agreement provides that the Buyer will grant to JCP&L an easement to allow the Company necessary access to these electric facilities. In addition, JCP&L will grant an access easement to the Buyer over a portion of an adjacent lot that JCP&L will retain. Rate Counsel does not object to these provisions.

² JCP&L reported that, from June 1, 2003 through March 30, 2018, it expended \$817,340.73 to investigate and remediate environmental conditions related to the Property. *RCR-6*. JCP&L included \$95,887.28 of environmental costs for the Property in its most recent, 2016 base rate case test year expenses. *RCR-37*.

**Post-Closing Escrow Agreement and Accounting for the Gain on the
Sale of the Property**

According to JCP&L, during the pre-closing inspection period, the Buyer raised concerns relating to certain environmental conditions on the Property. *Petition*, ¶ 10. As discussed above, after closing, JCP&L anticipates that it will have no ongoing environmental responsibilities, liabilities or costs at the Property. *RCR-1, 3, 4 & 5*. To address the Buyer's concerns, the parties entered into a Post-Closing Escrow Agreement in which JCP&L agreed to deposit certain funds to be used by the Buyer for "reasonable, actual and verifiable costs of post-closing environmental remediation associated with" the Property. *Petition*, ¶ 10. The Petition does not specify when any funds placed in escrow by the Company will be released or confirm that any unused funds remaining in escrow will be returned to JCP&L. *See Redacted RCR-39, Attachment 1; Redacted RCR-40*.³ Rate Counsel asks that the Board direct JCP&L to specify a date by which ratepayers will be credited any funds remaining in escrow.

In a footnote, the Company expressed the view that the Post-Closing Escrow Agreement does not constitute a JCP&L post-closing environmental liability but rather "a transaction cost responsibility, which creates a fund for Buyer's use related to Buyer's post-closing environmental responsibilities." *RCR-29, n. 1*. The Company also proposes to reduce the net gain on the sale of the Property by the amount of that escrow. *RCR-26*. The Company has provided no basis to claim that the escrow funds simply represent transaction costs. A typical commercial real estate transaction involves negotiating

³ Because Rate Counsel relied upon confidential information in reaching its conclusions, Rate Counsel also submits with this comment letter a sealed set of JCP&L's Confidential responses to *RCR-39, with Attachment 1, and RCR-40* to ensure a complete record in this matter.

certain types of closing costs; however, those costs do not include environmental remediation costs.⁴ In fact, JCP&L states that the escrow funds represent the cost of completing JCP&L's biennial environmental monitoring obligations that the Buyer has assumed. *RCR-29 & RCR-29, n. 1*. Accordingly, Rate Counsel respectfully requests that the Board include any escrow amount spent by the Buyer to complete JCP&L's existing environmental obligations, net of any refund to the Company, among the environmental costs subject to review in JCP&L's next base rate case. Rate Counsel further requests that the Board direct JCP&L to book any escrow amount refunded by the Buyer to Account 253, Other Deferred Credits, for appropriate disposition in JCP&L's next rate case.

How the Company intends to account for the return of any unused escrow funds, or the time frame for doing so, has not been addressed. Moreover, the Company has not provided a full accounting of the other closing costs associated with the calculation of the net gain on the sale. Furthermore, there are outstanding environmental remediation costs associated with the Property for which JCP&L will seek recovery in the Company's next

⁴ Typical commercial real estate transaction closing costs include: the title policy; ALTA survey; UCC searches; state and county transfer taxes; utility bills; real estate taxes; paying off financing; recording satisfactions of liens or mortgages; paying off municipal assessments; environmental due diligence, including a Phase I or Phase II study; title endorsements (such as for environmental hazards); municipal transfer taxes (such as operating permits or pre-paid business licenses); special survey additions (such as a flood or topographical data or aerial views); property inspection expenses; financing expenses (such as recording the mortgage and deed, assignment of rents, lender administration and closing fees); title company settlement closing or escrow fees. Daniel Doran, "Buyers Closing Costs for Commercial Real Estate Purchases," *Realty Biz News*, Sept. 25, 2012, available at <http://realtybiznews.com/buyers-closing-costs-for-commercial-real-estate-purchases/98715725/> (viewed 7/24/18); see also Christine F. Li, Esq., "Preliminary Client Representation Considerations," *Real Estate Closing Procedures*, Section 2.3.5, Information Regarding Closing Costs, © 2014, New Jersey Institute for Continuing Legal Education.

base rate case. *RCR-28*. Finally, the Allenhurst Property has been undergoing investigation and remediation efforts since the early 1990s, *RCR-1 & 6 n. 1*, with ongoing monitoring and maintenance work since prior to 2004, *Petition*, ¶ 36. The costs associated with JCP&L's environmental obligations on the site have been recovered through base rates from JCP&L ratepayers. *RCR-37*; see *RCR-19, 20 & 22*. In addition, the Property has not been used to provide utility service since 2009 and yet the Property continues to be financially supported by JCP&L ratepayers. Ongoing costs associated with the Property continue to be collected from JCP&L ratepayers in base rates. *RCR-24*. Property taxes, depreciation and operation and maintenance expenses associated with the Property are included in the Company's cost of service and will remain there until JCP&L's base rates are re-set in the Company's next base rate case.

The Company has calculated a net gain on the sale of the Property of approximately \$900,000, after subtracting amounts it proposes to place in escrow. *RCR-42*. JCP&L has conceded that the net gain should be split equally between the utility's shareholders (Gain on Disposition of Property, Account 421.1) and JCP&L ratepayers (Other Deferred Credits, Account 253). *RCR-42*. While such treatment is certainly supported by BPU precedent, it is Rate Counsel's position that this allocation is not fair to JCP&L ratepayers in this instance. Rate Counsel's position is that the entire net gain on the sale of the Allenhurst Property should be booked to Account 253 for final review in the Company's next base rate case. As explained above, ratepayers have always paid the rate of return and all operating expenses and taxes associated with maintaining the Property in base rates and will continue to do so until the Company's base rates are re-set. Therefore, the gain on the sale, any payments to shareholders and any return of

escrow should all be considered in the context of JCP&L's rates in its next base rate case. Once all costs, including any outstanding environmental remediation costs incurred during the test year, have been fully reviewed in the context of a base rate case, the appropriate allocation of the sales proceeds can be determined. To immediately credit JCP&L shareholders with half of the sale proceeds does a disservice to the utility's ratepayers who have carried the cost of this Property with no corresponding benefit for many years.

Conclusion

In conclusion, Rate Counsel does not object to the sale of the Allenhurst Property. However, it is Rate Counsel's recommendation that the gain on this property sale not be treated in the same way as prior gains on the sale of New Jersey utility properties. Rate Counsel respectfully asks the Board to order JCP&L to flow 100% of the Net Gain on Sale into Account 253, Other Deferred Credits, for appropriate disposition in JCP&L's next rate case. This would allow an allocation of the gain that fairly accounts for the long-term contributions for Property by JCP&L's ratepayers. In addition, the Company intends to seek recovery for its environmental remediation costs in its next base rate case. Those remediation costs under review should include the amount of escrow funds spent by the Buyer to complete JCP&L's environmental obligations on the Property. Therefore, the Company's accounting related to the Allenhurst Property should be fully reviewed in its next base rate case and any portion of the sale proceeds fairly allocable to shareholders can be determined at that time.

Rate Counsel reserves all rights to review the Company's accounting for all costs and revenues from the remediation and sale of the Allenhurst Property in JCP&L's next

base rate case for prudence, recoverability and allocation. Accordingly, in any Order approving this Petition, Rate Counsel respectfully asks the Board to require JCP&L to meet the conditions set forth below:

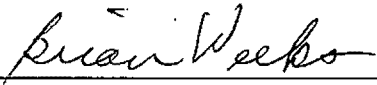
1. JCP&L shall notify the Board and Rate Counsel if it anticipates any material changes in the contract for sale of the Allenhurst Property.
2. JCP&L shall flow 100% of the net gain from this sale as a deferred credit to ratepayers in JCP&L's next base rate case through Account 253 - Other Deferred Credits.
3. JCP&L may no longer seek, either through the NGC or any other rate recovery mechanism, any environmental costs incurred in relation to the Property.
4. JCP&L shall set a date certain by which it will credit to ratepayers any amounts remaining in escrow after the closing, as part of the net gain from this sale.
5. Rate Counsel retains all rights to review all costs and proceeds related to the purchase and sale of the Property in JCP&L's next base rate case or another appropriate proceeding.
6. This Order shall not affect nor in any way limit the exercise of the authority of the Board or of this State, in any future Petition or in any proceeding with respect to rates, franchises, service, financing, accounting, capitalization, depreciation, or any other matter affecting the Petitioner.

Honorable Aida Camacho-Welch, Secretary
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7. Nothing in this comment letter shall be construed to affect JCP&L's liability for Natural Resource Damages or other responsibilities or damages arising from its activities at any site or JCP&L's responsibilities or claims in any other matter arising from environmental investigation and remediation of any of its properties.

Respectfully submitted,

STEFANIE A. BRAND
DIRECTOR, DIVISION OF RATE COUNSEL

By: 
Brian Weeks, Esq.
Deputy Rate Counsel

c: Service List
Enclosures:

JCP&L Public responses to RCR-1, 3, 4, 5, & 29; and RCR-39 & 40 (redacted).
JCP&L CONFIDENTIAL responses to RCR-39, with Attachment 1, and RCR-40.

**I/M/O the Verified Petition of Jersey Central Power & Light Company
For Approval of the Sale and Conveyance of Certain Portions of its Property in the
Borough of Allenhurst, Monmouth County, New Jersey and the
Granting and Transfer of Certain Easements in Connection
Therewith Pursuant to N.J.S.A. 48:3-7 and N.J.A.C. 14:1-5.6
BPU Docket No. EM18020193**

RESPONSE TO DISCOVERY REQUEST

RCR-1 Please provide a copy of each document that describes environmental conditions at the Petitioner's property on Block 18, Lot 1 and Block 21, Lots 5, 6 and 7, Borough of Allenhurst, Monmouth County, N.J. (the "Property"), including the soil, groundwater and subsurface areas.

Response: Under §7 of the Purchase and Sales Agreement ("PSA"), Jersey Central Power & Light Company ("JCP&L" or the "Company") remained obligated to comply with certain remediation obligations under the New Jersey Industrial Site Recovery Act, N.J.S.A., 13:1K-6 et seq., and Hazardous Discharge Site Remediation Act, N.J.S.A. 58:10B-1 et seq. (collectively, "ISRA") (see PSA §7) until such time as the Company obtains a Response Action Outcome ("RAO") related to JCP&L's completion of its ISRA compliance with respect to the Allenhurst Property. §7. (c) and (e).

Upon review, JCP&L has, in fact, received all requisite RAOs (See Company's response to RCR-3). Therefore, on the basis of the RAOs received from New Jersey Department of Environmental Protection ("NJDEP"), there are no ongoing environmental liabilities at the Property other than biennial monitoring. As provided in the PSA, upon completion of its ISRA compliance with respect to the Allenhurst Property, Buyer will assume responsibility for the monitoring obligations. As such, upon completion of the sales transaction, the Company will have no ongoing environmental liabilities or costs at the Allenhurst Property.

As the Company understands the request in this RCR-1, it appears to be premised on the Company's request for Additional Relief in ¶16 of the Petition. As indicated in the Company's response to RCR-29, the Company is withdrawing the request for Additional Relief under ¶16 of the Petition, which the Company believes should render the nature and extent of the request unnecessary and not relevant to the approval of the proposed transaction. With that understanding, the Company provides the following historical summary:

Environmental investigations and remedial activities have been conducted at the Allenhurst property since the early 1990's. As such, there are approximately 100 individual reports for Allenhurst that fully describe the environmental activities that have been conducted at the property. In order to provide a summary of the remediation projects conducted to date and the disposition of the identified Areas of Concern ("AOC"), the Company is providing Figure 1 and the Summary Table from the Case Inventory Document ("CID") as RCR-1 Attachment 1.

The following is a list of documents prepared by the Company's environmental consultant, the Licensed Site Remediation Professional ("LSRP") and the NJDEP that are the basis for the CID summary:

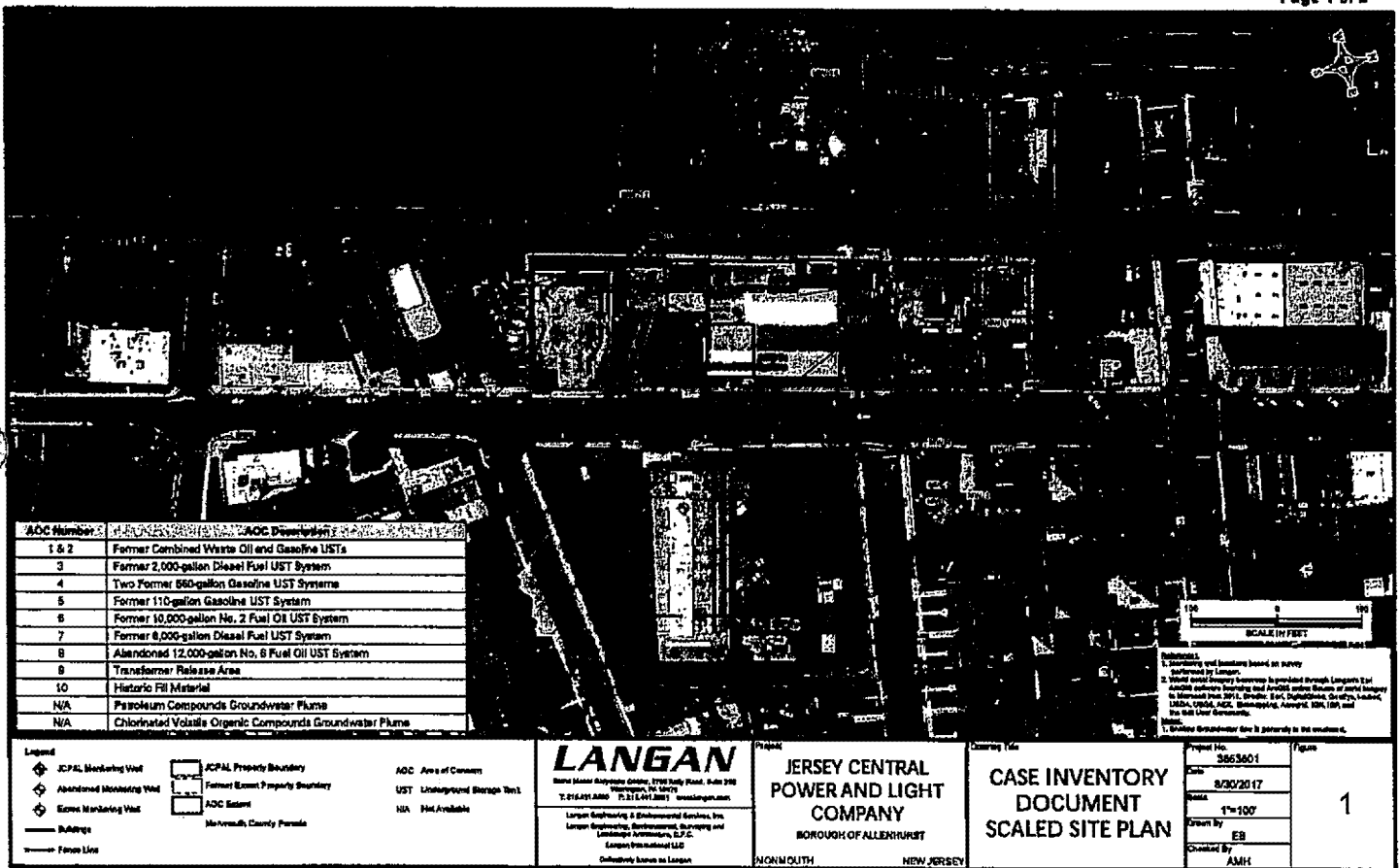
- December 28, 2011 – Response Action Outcome, Unrestricted Use, former 6,000-gallon diesel fuel underground storage tank ("UST") and former 10,000-gallon unleaded gasoline UST, Block 18, Lot 1, Langan Engineering and Environmental.
- July 12, 2016 – Soil Remedial Action Permit, Block 18, Lot 1, NJDEP.
- November 30, 2016 – Groundwater Remedial Action Permit, NJDEP.
- March 30, 2017 - Response Action Outcome, Unrestricted Use, former 2,000-gallon diesel fuel UST, two former 550-gallon unleaded gasoline UST's and former 110-gallon Gasoline UST, Block 21 Lots 2, 3, 5, 6 and 7, Langan Engineering and Environmental.
- March 30, 2017 - Response Action Outcome, Restricted Use, Two former 120-gallon gasoline USTs, one-former 275-gallon waste oil UST and one-former 10,000-gallon Gasoline UST, Block 18 Lot 1, Langan Engineering and Environmental.
- August 30, 2017 - Response Action Outcome, Unrestricted Use, Former 10,000-gallon No.2 fuel oil UST, former 6,000-gallon diesel fuel UST, abandoned 12,000-gallon No.6 fuel oil UST and transformer release area, Block 21 Lots 2, 3, 5, 6 and 7, Langan Engineering and Environmental.
- October 13, 2017 – Soil Remedial Action Permit, Block 21 Lots 5, 6 and 7, NJDEP.
- November 10, 2017 - Response Action Outcome, Restricted Use, Historic Fill Area, Block 21 Lots 2, 3, 5, 6 and 7, Langan Engineering and Environmental.

Additional more comprehensive descriptions than provided in the above Response Action Outcome ("RAO"), and Remedial Action Permit ("RAP") are contained in the following:

- December 28, 2011 – Site Investigation Report, former 6,000-gallon diesel fuel UST and former 10,000-gallon unleaded gasoline UST, Block 18, Lot 1, Langan Engineering and Environmental.
- December 30, 2013 – Site Investigation Report, Former 10,000-gallon No.2 fuel oil UST, former 6,000-gallon diesel fuel UST, abandoned 12,000-gallon No.6 fuel oil UST, and transformer release area, Block 21 Lots 2, 3, 5, 6 and 7, Langan Engineering and Environmental.

- April 29, 2016 - Remedial Investigation, Remedial Action Workplan, and Remedial Action Report, Two former 120-gallon gasoline USTs, one-former 275-gallon waste oil UST and one-former 10,000-gallon Gasoline UST, Block 18 Lot 1; and 2,000-gallon diesel fuel UST, two former 550-gallon unleaded gasoline UST's and former 110-gallon Gasoline UST, Block 21 Lots 2, 3, 5, 6 and 7, Langan Engineering and Environmental.
- September 5, 2017 - Remedial Investigation, Remedial Action Workplan, and Remedial Action Report, Former 10,000-gallon No.2 fuel oil UST, former 6,000-gallon diesel fuel UST, abandoned 12,000-gallon No.6 fuel oil UST, transformer release area, and Historic Fill Block 21 Lots 2, 3, 5, 6 and 7, Langan Engineering and Environmental.

As indicated above, the Company's understanding of the request is mainly premised on the Company's request for Additional Relief in ¶16 of the Petition. As indicated in the Company's response to RCR-29, the Company is withdrawing the request for Additional Relief under ¶16 of the Petition, which the Company believes should render the nature and extent of the request unnecessary and not relevant to the approval of the proposed transaction. However, if necessary, these documents, which are voluminous, can be made available for review at the Company's Morristown, New Jersey office.



[illegible]

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BPU Docket No. EM18020193

RESPONSE TO DISCOVERY REQUEST

RCR-3 Please describe the current status of the investigation and remediation of environmental conditions on the Property, including work that has been done and work that remains to be done, and provide a copy of all related documents.

Response: See the Company's introductory response to RCR-1. With that understanding, the Company provides the following summary:

All required environmental work related to the Areas of Concern ("AOC") identified in the Preliminary Site Assessment and Industrial Site Recovery Act (ISRA) filing have been addressed by the Company. As required, Remedial Action Outcomes ("RAO") have been issued by the Licensed Site Remediation Professional ("LSRP"). The Areas of Concern identified and their disposition are described and summarized below and in RCR-1 Attachment 1. Please note that these do not include groundwater impacts, if any, that have migrated from offsite sources onto the Property that are not the responsibility of the Company. A summation of various reports and other documents associated with the status of each AOC are included in the Company's response to RCR-1.

- AOC 1 & 2 – Former Combined Waste Oil and Gasoline underground storage tank ("UST") – Restricted Use RAO issued on 3-30-17 for soil (Deed Notice) and groundwater (Classification Exception Area).
- AOC 3 – Former 2,000-gallon Diesel Fuel UST System – Unrestricted Use RAO issued on 3-30-17.
- AOC 4 – Two Former 550-gallon Gasoline UST Systems – Unrestricted Use RAO issued on 3-30-17.
- AOC 5 – Former 110-gallon Gasoline UST System – Unrestricted Use RAO issued on 3-30-17.
- AOC 6 – Former 10,000-gallon No. 2 Fuel Oil UST System – Unrestricted Use RAO issued on 8-30-17.
- AOC 7 – Former 6,000-gallon Diesel Fuel Oil UST System – Unrestricted Use RAO issued on 8-30-17.
- AOC 8 – Abandoned 12,000-gallon No. 6 Fuel Oil UST System – Unrestricted Use RAO issued on 8-30-17.
- AOC 9 – Transformer Release Area – Unrestricted Use RAO issued on 8-30-17.
- AOC 10 – Historic Fill Material Area – Restricted Use RAO issued on 11-10-17 for soil (Deed Notice)

Pursuant to the NJDEP Remedial Action Outcomes (RAOs), there are no ongoing environmental liabilities at the Property other than biennial monitoring. As stated in the Agreement of Sale, and as discussed in the introductory response to RCR-1, the Buyer is assuming the monitoring obligations and as such, upon closing of the sale transaction, the Company will have no ongoing environmental responsibilities or liabilities at the Property.

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RESPONSE TO DISCOVERY REQUEST

RCR-4 Please provide an estimate of the time needed to complete the investigation and remediation of environmental conditions on the Property.

Response: See the Company's introductory response to RCR-1. Pursuant to the New Jersey Department of Environmental Protection ("NJDEP") Remedial Action Outcomes ("RAO"), there are no ongoing environmental liabilities at the Property other than biennial monitoring. As stated in the Agreement of Sale, the Buyer is assuming the monitoring obligations and as such, upon closing of the sales transaction, the Company will have no ongoing environmental responsibilities or liabilities at the Property.

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RESPONSE TO DISCOVERY REQUEST

RCR-5 Please provide an estimate of the total costs to investigate and remediate environmental conditions on the Property.

Response: See the Company's introductory response to RCR-1. The Company interprets this request to be for future costs. As stated in the Company's responses to RCR-1, 3, and 4, pursuant to the New Jersey Department of Environmental Protection ("NJDEP") Remedial Action Outcomes ("RAO"), there are no ongoing environmental liabilities at the Property other than biennial monitoring. As stated in the Agreement of Sale, the Buyer is assuming the monitoring obligations and as such, upon closing the sale transaction, the Company will have no ongoing environmental responsibilities or liabilities at the Property.

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RESPONSE TO DISCOVERY REQUEST

RCR-29 Please identify and provide a copy of the financial accounting basis for the Company to request deferral accounting of its environmental costs for the Property through its non-utility generation clause.

Response: Since the filing of the Petition in this matter, upon further review, JCP&L has determined that the request under paragraph 16 of the Petition for deferred accounting and cost recovery under the Non-Utility Generation Charge ("NGC") should be withdrawn because there are no post-closing cost responsibilities for any on-going environmental liabilities at the Allenhurst Property.¹ More specifically, under §7 of the Purchase and Sale Agreement ("PSA"), JCP&L, remained obligated to comply with certain remediation obligations under the New Jersey Industrial Site Recovery Act, N.J.S.A., 13:1K-6 et seq., and Hazardous Discharge Site Remediation Act, N.J.S.A., 58:10B-1 et seq. (collectively, "ISRA") (see PSA §7) until such time as the Company obtains a Response Action Outcome ("RAO") related to JCP&L's completion of its ISRA compliance with respect to the Allenhurst Property. §7. (c) and (e). In fact, JCP&L has received all requisite RAOs (See the Company's introductory response to RCR-1, and the Company's responses to RCR-3, 4, and 5). Therefore, on the basis of the RAOs received from NJDEP, there are no ongoing environmental liabilities at the Property other than biennial monitoring. As provided in the PSA, upon completion of its ISRA compliance with respect to the Allenhurst Property, Buyer will assume responsibility for the monitoring obligations. As such, upon completion of the sales transaction, the Company will have no ongoing environmental responsibilities, liabilities or costs at the Allenhurst Property.

¹ The post-closing escrow agreement, which is explained in the Company's response to RCR-40, does not constitute a Company post-closing environmental cost responsibility but rather a transaction cost responsibility, which creates a fund for Buyer's use related to Buyer's post-closing environmental responsibilities as described in the Memorandum of Understanding and the Post-Closing Escrow Agreement.

REDACTED

Discovery Request: RCR-39 Supplemental
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BPU Docket No. EM18020193

SUPPLEMENTAL REDACTED RESPONSE TO DISCOVERY REQUEST

RCR-39 Supplemental: Please provide a copy of the post-closing escrow agreement for the proposed sale of the Property, which ¶ 2.b of the Verified Petition states is "to be provided" as Appendix B-4 to the Verified Petition.

Supplemental Response: In the original response, the Company provided RCR-39 Attachment 1, which was a copy of the CONFIDENTIAL Memorandum of Understanding (the "MOU") to which was attached as an exhibit thereto, the form of the CONFIDENTIAL post-closing escrow agreement (the "Post-Closing Escrow Agreement"), which is to be executed at the closing of the property sales transaction, as explained and discussed in the Company's CONFIDENTIAL response to RCR-40. The form of the Post-Closing Escrow Agreement is to be executed at the closing of the property sales transaction.

At the request of, and after discussion with, the Division of Rate Counsel, the Company provides this supplemental response with a version of RCR-39 Attachment 1, from which the specific information, currently considered confidential, has been redacted.

See the attached RCR-39 Attachment 1 (REDACTED).

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (this "MOU") is dated this 23rd day of February, 2018 (the "Effective Date") by and between **Power Station at Allenhurst, LLC**, a New Jersey limited liability company, with its principal place of business at 520-523 Main Street and 312-324 Hume Street, Allenhurst, New Jersey 07711 ("Buyer"), and **Jersey Central Power & Light Company**, a New Jersey corporation, with its principal place of business at 76 South Main Street, Akron, Ohio 44308 ("Seller"), (collectively, the "Parties").

WITNESSETH:

WHEREAS, Seller and Buyer entered that certain Real Estate Sales Agreement dated November 7, 2017 (the "Original Agreement"), for the purchase and sale of that certain property located at 520-523 Main Street and 312-324 Hume Street, Borough of Allenhurst, County of Monmouth, State of New Jersey, more formally known as Block 18, Lot 1 and Block 21, Lots 5, 6 and 7 on the Tax Map of the Borough of Allenhurst (the "Property"); and

WHEREAS, the Inspection Period under the Original Agreement was set to expire on January 6, 2018; and

WHEREAS, Pursuant to correspondence dated as of January 5, 2018, Seller granted an extension of the Inspection Period through and including February 16, 2018 at 5:00PM; and

WHEREAS, by way of correspondence dated February 13, 2018, Seller granted an extension of the Inspection Period through and including February 23, 2018 at 11:00AM; and

WHEREAS, Buyer raised certain issues relating to the [REDACTED] condition of the Property that Buyer desired Seller to address before Buyer was willing to waive Buyer's right to terminate and receive a refund of the Earnest Money and otherwise proceed with the purchase as provided in the Original Agreement ("Buyer's [REDACTED] Issues"); and

WHEREAS, as a result of discussions between Buyer and Seller on February 22, 2018 the Parties have agreed upon a framework for addressing Buyer's [REDACTED] Issues; and

WHEREAS, Seller was unwilling to further extend the Inspection Period due to the pending filing of an application before the Board of Public Utilities seeking approval for the sale of the Property; and

WHEREAS, in order to carry out the Parties intent, it will be necessary to draft additional transactional documents, including without limitation a post-closing escrow agreement, amendment to the Purchase Agreement and/or other related agreements (cumulatively, the "Amended Agreements"); and

WHEREAS, given the short timeframe preceding the expiration of the Inspection Period, there is insufficient time for the Parties to fully draft and negotiate mutually agreeable Amended Agreements; and

WHEREAS, in lieu of fully negotiating the Amended Agreements, the Parties have elected to enter into this MOA as an expression of their intent to negotiate and execute such Amended Agreements as the Parties deem necessary and appropriate to carry out their intent as set forth in this MOA.

NOW, THEREFORE, in consideration of the covenants and agreements hereinafter contained and for other good and valuable consideration, the receipt and sufficiency of which the Parties acknowledge, the Parties hereby agree as follows:

1. **Incorporation of Preamble and Recitals.** The preamble and recitals to this MOA are incorporated herein by reference and made a part of this MOA.

2. **Definitions.** All capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the Original Agreement.

3. **Escrow Agreement.** The Parties agree to cooperate in good faith to draft and execute a mutually agreeable post-closing escrow agreement ("Escrow Agreement") establishing a post-closing [REDACTED] escrow (the "Escrow") from the proceeds of the sale of the Property in the amount of Four Hundred Thousand Dollars (\$400,000) which shall be available to Buyer after closing to fund any and all costs or expenses related to or arising out of the [REDACTED] at the Property, including without limitation the [REDACTED] with respect to the Property. The Parties shall utilize the form of escrow agreement attached hereto as **Exhibit A** as a basis for their negotiations, subject to the mutually agreeable modification thereof to address the specifics of the Property and such other commercially customary terms and conditions as the Parties may agree. Upon execution of the this Memorandum of Understanding, the Buyer's Earnest Money shall become non-refundable.

4. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

5. .

6. **Inconsistent Agreements.**

5. Continued Force and Effect. Except as amended by this MOU or as contemplated in this MOU, all other terms and conditions of the Original Agreement remain as written, are legally binding, and are incorporated herein by reference.

6. Counterparts. This MOU may be executed in one or more counterparts, (a) each of which shall constitute an original and all of which taken together shall constitute a single MOU; (b) the exchange of executed copies of this Amendment

by facsimile or Portable Document Format (PDF) transmission shall constitute effective execution and delivery of this MOU as to the Parties for all purposes; and (c) this MOU may be executed by one or more Parties using an electronic signature, which the Parties agree shall be binding for all purposes and shall constitute an original signature.

[Remainder of page left intentionally blank; signatures follow on next page]

IN WITNESS WHEREOF, the Parties have executed this MOU as of the date first above written.

BUYER:

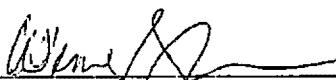
Power Station at Allenhurst, LLC

By: 

Name: Michael Abboud
Title: Manager

SELLER:

Jersey Central Power & Light Company

By: 

Name: Wendy Schwingel
Title: Director of Real Estate and Facilities
For FirstEnergy Service Company on behalf
Of Jersey Central Power & Light Company

EXHIBIT A

Form of Past-Closing Escrow Agreement

ESCROW AGREEMENT

THIS [REDACTED] **ESCROW AGREEMENT** (this "Escrow Agreement") is made as of _____, 2018 (the "Effective Date") by and among **Power Station at Allenhurst, LLC**, a New Jersey limited liability company, with its principal place of business at 520-523 Main Street and 312-324 Hume Street, Allenhurst, New Jersey 07711 ("Buyer"), and **Jersey Central Power & Light Company**, a New Jersey corporation, with its principal place of business at 76 South Main Street, Akron, Ohio 44308 ("Seller") and _____ ("Escrow Agent").

WITNESSETH:

A. **WHEREAS**, pursuant to an Agreement of Sale dated as of November 7, 2017, as amended (collectively, the "Agreement of Sale"), a copy of which is attached hereto as Exhibit 1, between the Seller and Buyer, the Seller agreed to sell, and Buyer agreed to purchase, certain real property and improvements commonly known as _____, all on the terms and conditions set forth in the Agreement of Sale;

B. **WHEREAS**, the Agreement of Sale requires, *inter alia*, Seller to deposit \$400,000 of the Purchase Price in escrow for the purposes described herein; and

C. **WHEREAS**, subject to the terms and provisions of this Escrow Agreement, Seller and Purchaser desire to appoint Escrow Agent as the escrow agent hereunder in accordance with the terms of this Escrow Agreement.

NOW, THEREFORE, in consideration of the mutual undertakings set forth herein, it is agreed as follows:

1. **Definitions.** Capitalized terms used herein that are defined in the Agreement of Sale shall, unless defined herein, have the meanings ascribed to them in the Agreement of Sale. In addition to the terms defined elsewhere herein, the following terms shall have the following meanings when used herein:

"Escrow Account" shall have the meaning set forth in Section 1(c) of this Escrow Agreement.

"Escrow Funds" shall mean the amount actually deposited with Escrow Agent pursuant to Section 1(b) of this Escrow Agreement.

"Joint Written Direction" shall mean a written direction executed by the Representatives and directing Escrow Agent to disburse all or a portion of the Escrow Funds or to take or refrain from taking an action pursuant to this Escrow Agreement.

"Purchaser Representative" shall mean the persons so designated on Schedule A hereto or any other person designated in a writing signed by Purchaser and delivered to Escrow Agent and the Seller Representative in accordance with the notice provisions of this Escrow Agreement, to act as its representative under this Escrow Agreement.

"Representatives" shall mean the Seller Representative and the Purchaser Representative.

"Seller Representative" shall mean the person so designated on Schedule A hereto or any other person designated in a writing signed by Seller and delivered to Escrow Agent and the Purchaser Representative in accordance with the notice provisions of this Escrow Agreement, to act as its representative under this Escrow Agreement.

2. Escrow Funds and Escrow Agent.

(a) **Appointment of and Acceptance by Escrow Agent.** Purchaser and Seller hereby appoint Escrow Agent to serve as escrow agent hereunder. Escrow Agent hereby accepts such appointment and, upon receipt by wire transfer of the Escrow Funds in accordance with Section 1(b) below, agrees to hold and disburse the Escrow Funds in accordance with this Escrow Agreement.

(b) **Creation of Escrow.** At the Closing, Seller shall cause Purchaser's title insurance company to deposit with Escrow Agent the amount of \$400,000 in immediately available funds pursuant to the wire instructions set forth on Schedule A hereto.

(c) **Escrow Account.** Upon receipt of the Escrow Funds, Escrow Agent agrees to hold the funds in a non-interest bearing attorney trust account (the "Escrow Account").

(d) **Use of Escrow Funds.** Purchaser shall be entitled to withdraw funds from the Escrow Account to fund Buyer's _____ ("Costs") in accordance with the procedures set forth in Section 1(e)(i) hereof.

(e) Release from Escrow Funds.

(i) For Purchaser to withdraw funds from the Escrow Account, Purchaser may, from time to time, but not more frequently than on a monthly basis, deliver to Escrow Agent and Seller evidence of _____ Costs incurred by Purchaser in the form of an invoice prepared by Purchaser's _____ (a "Purchaser Withdrawal Request"). By no later than 5:00 p.m., New York City time, on the tenth (10th) Business Day following receipt by Seller and Escrow Agent of a Purchaser Withdrawal Request (as to such ten (10) Business Day period, the "Purchaser Withdrawal Request Period"), Seller may notify Escrow Agent and Purchaser in writing, in accordance with Section 3 hereof, of any objection by Seller to the Purchaser Withdrawal Request, which notice shall state with specificity the grounds for such objection and the amounts disputed

(a "Withdrawal Counternotice"). In the event Seller does not object within the Purchaser Withdrawal Request Period, Seller shall be deemed to have waived Seller's right to contest the Purchaser Withdrawal Request, whereupon within three (3) Business Days after the expiration of the Purchaser Withdrawal Request Period, Escrow Agent shall (a) disburse at the direction of Purchaser by the method specified in the Purchaser Withdrawal Request, out of the Escrow Funds, the dollar amount claimed in the Purchaser Withdrawal Request (or, if the amount of the Purchaser Withdrawal Request exceeds the amount of the Escrow Funds, the amount of the Escrow Funds), and (b) deliver written confirmation to Seller and Purchaser that such disbursement(s) has or have been made.

(ii) Except as otherwise provided in this Section 1(e), the Escrow Funds shall be retained by Escrow Agent until such time as [REDACTED]

[REDACTED] If Escrow Funds remain in the Escrow Account, Purchaser shall deliver a copy of such [REDACTED] to Seller and Escrow Agent which shall be deemed a Seller request for the balance of the Escrow Funds. Escrow Agent shall (1) disburse the balance of the Escrow Funds, if any, to Seller, and (2) deliver written confirmation to Seller and Purchaser that such disbursement(s) has or have been made.

(iii) If a Withdrawal Counternotice is properly given within a Purchaser Withdrawal Request Period, Escrow Agent shall pay any undisputed amounts requested in the Purchaser Withdrawal Request and may refuse to comply with any requests or demands with respect to the disputed amounts until Escrow Agent (a) receives a Joint Written Direction for the release of the disputed funds or (b) a final order of a court of competent jurisdiction directing disbursement of all or a part of the Escrow Funds in a specific manner, in either of which events Escrow Agent shall then disburse all or a part of the Escrow Funds in accordance with such notice or order.

(f) Resignation of Escrow Agent. Escrow Agent may resign and be discharged from the performance of its duties hereunder at any time by giving ten (10) days' prior written notice to Purchaser and Seller specifying a date when such resignation shall take effect. Such resignation shall take effect upon the earlier of (i) the appointment of a successor Escrow Agent as provided herein or (ii) thirty (30) days after delivery of such notice of resignation. Upon any such notice of resignation, Purchaser and Seller jointly shall appoint a successor Escrow Agent hereunder prior to the effective date of such resignation. The retiring Escrow Agent shall transmit all records pertaining to the Escrow Funds and shall pay all Escrow Funds and transfer all investments to the successor Escrow Agent.

(g) Liability of Escrow Agent. Escrow Agent undertakes to perform only such duties as are expressly set forth herein and no duties shall be implied or otherwise imposed upon or against Escrow Agent, and Escrow Agent shall not be liable except for the performance of such duties and obligations as are specifically set out in this Escrow Agreement. Escrow Agent shall not be liable for any action taken or omitted by it in good faith except to the extent that a court of competent jurisdiction determines that Escrow Agent's gross negligence or willful misconduct was the primary cause of any loss to Purchaser or Seller. Escrow Agent may rely upon any notice, instruction, request or other instrument, not only as to its due execution, validity and effectiveness, but also as to the truth and accuracy of any information contained therein, which Escrow Agent

shall believe to be genuine and to have been signed or presented by the person or parties purporting to sign the same. In no event shall Escrow Agent be liable for incidental, indirect, special, consequential or punitive damages (including, without limitation, lost profits).

(h) **Indemnification of Escrow Agent.** From and at all times after the Effective Date, Purchaser and Seller, jointly and severally, shall, to the fullest extent permitted by law, defend, indemnify and hold harmless Escrow Agent and each director, officer, employee, attorney, agent and affiliate of Escrow Agent (collectively, the "Indemnified Parties") against any and all actions, claims (whether or not valid), losses, damages, liabilities, costs and expenses of any kind or nature whatsoever (including, without limitation, reasonable attorneys' fees, costs and expenses) incurred by or asserted against any of the Indemnified Parties from and after the Effective Date, arising from or in connection with the performance or failure of performance of this Escrow Agreement other than actions, claims (whether or not valid), losses, damages, liabilities, costs and expenses arising from the gross negligence or willful misconduct of Escrow Agent. Each Indemnified Party shall, in its sole discretion, have the right to select and employ separate counsel with respect to any action or claim brought or asserted against it, and the reasonable fees of such counsel shall be paid upon demand by Purchaser and Seller jointly and severally. The obligations of Purchaser and Seller under this Section 1(h) shall survive the expiration or termination of this Agreement and the resignation or removal of Escrow Agent.

2. **Disputes; Prevailing Party.** In the event of a dispute between Seller and Purchaser, the non-prevailing party shall be responsible for the attorneys' fees and costs of the prevailing party.

3. **Notices.** All notices, approvals, consents, requests, and other communications hereunder shall be in writing and shall be deemed to have been given when the writing is delivered if given or delivered by hand or overnight delivery service to the address set forth on Schedule A hereto or as required pursuant to Section 1(e) above, or to such other address as each party may designate for itself by like notice or by electronic mail or facsimile (as long as the recipient of such notice confirms receipt of same).

4. **Entire Agreement; Amendments.** This Escrow Agreement and the Agreement of Sale constitute the entire agreement between Seller and Purchaser relating to the holding, investment and disbursement of the Escrow Funds, and this Escrow Agreement sets forth in their entirety the obligations and duties of Escrow Agent with respect to the Escrow Funds. This Escrow Agreement may be amended only by written instrument executed by all parties. Any condition to a party's obligations hereunder shall only be waived if made in writing by such party.

5. **Authority to Execute and Deliver.** Each signatory to this Escrow Agreement who executes this Escrow Agreement on behalf of a party is authorized to execute and deliver this document on behalf of such party.

6. **Headings.** The headings contained in this Escrow Agreement are for reference purposes only and will not affect in any way the meaning or interpretation of this Escrow Agreement.

7. **Counterparts.** This Escrow Agreement and any Joint Written Direction may be executed in identical counterparts, each of which will be deemed an original, but which together will constitute one and the same agreement or direction. The parties agree that electronic signatures in the form of handwritten signatures on a facsimile transmittal, scanned and digitized images of a handwritten signature (e.g., scanned document in .pdf format), and typed signatures on email transmissions from the party to be bound, shall have the same force and effect as original manual signatures.

8. **Governing Law.** This Escrow Agreement shall be governed by, and construed and enforced in accordance with the internal laws of the State of New Jersey, without giving effect to the conflicts of laws principles thereof.

9. **Binding Agreement.** This Escrow Agreement shall be binding on the parties hereto and their heirs, successors and permitted assigns.

10. **Waiver of Jury Trial.** Each party to this Escrow Agreement waives any right to trial by jury in any action, matter or proceeding regarding this Escrow Agreement or any provision hereof.

11. **Survival of Terms.** All sections contained herein shall survive the termination of this Escrow Agreement and the resignation of Escrow Agent except Sections 1(a) – (c).

12. **Continued Representation of a Party.** Notwithstanding that Escrow Agent is acting as an escrow agent of the Escrow Funds, and, further, notwithstanding any subsequent dispute that may arise between the parties related to this Escrow Agreement, the Agreement of Sale, the Escrow Funds or otherwise, if Escrow Agent is legal counsel to a party hereunder, each party agrees that Escrow Agent may continue to represent such party as legal counsel in connection with this Escrow Agreement, the Agreement of Sale and the transactions contemplated hereby or thereby and with respect to any dispute or litigation arising out of the Agreement of Sale or this Escrow Agreement.

13. **Suspension of Performance; Disbursement Into Court.** If, at any time, (a) Escrow Agent is unable to determine, to Escrow Agent's sole satisfaction, the proper disposition of all or any portion of the Escrow Funds or Escrow Agent's proper actions with respect to its obligations hereunder, including, without limitation, arising from adverse or conflicting claims are made to any portion of the Escrow Funds, or (b) Purchaser and Seller have not, within thirty (30) days of the furnishing by Escrow Agent of a notice of resignation pursuant to Section 1(f) of this Escrow Agreement, appointed a successor escrow agent to act hereunder, then Escrow Agent may, in its sole discretion, take either or both of the following actions:

(a) Suspend the performance of any of its obligations (including, without limitation, any disbursement obligations) under this Escrow Agreement until such dispute or uncertainty shall be resolved to the sole satisfaction of Escrow Agent or until a successor Escrow Agent shall have been appointed (as the case may be).

(b) Petition (by means of an interpleader action or any other appropriate method) any court of competent jurisdiction in any venue convenient to Escrow Agent, for

instructions with respect to such dispute or uncertainty, and to the extent required or permitted by law, pay into such court, for holding and disposition in accordance with the instructions of such court, all Escrow Funds, after deduction and payment to Escrow Agent of all fees and expenses (including court costs and attorneys' fees) payable to, incurred by, or expected to be incurred by Escrow Agent in connection with the performance of its duties and the exercise of its rights hereunder. In the event such suit is brought, Seller and Purchaser shall jointly and severally agree to pay Escrow Agent in excess of the Escrow Funds deducted or paid to Escrow Agent, all costs, expenses and attorneys' fees that it may expend or incur in such interpleader suit, the amount thereof to be fixed and a judgment therefore to be rendered by the court in such suit.

14. **Termination.** Upon the disbursement of all Escrow Funds pursuant to Section 1 or Section 133 hereof, this Escrow Agreement shall terminate and Escrow Agent shall have no further obligation or liability whatsoever with respect to this Escrow Agreement or the Escrow Funds.

[Remainder of Page Intentionally Blank]

REDACTED

RCR-39 Attachment 1

IN WITNESS WHEREOF, the parties have executed this Escrow Agreement as of the day and year first above written.

PURCHASER:

Power Station at Allenhurst, LLC

By: 
Name: Michael Abboud
Title: Manager

SELLER:

Jersey Central Power & Light Company

By: _____
Name: Wendy Schwingel
Title: Director of Real Estate and Facilities

For FirstEnergy Service Company on behalf

Of Jersey Central Power & Light Company

ESCROW AGENT

By: _____
Name: _____
Title: _____

REDACTED

Discovery Request: RCR-40 Supplemental
Page 1 of 2

**I/M/O the Verified Petition of Jersey Central Power & Light Company
For Approval of the Sale and Conveyance of Certain Portions of its Property in the
Borough of Allenhurst, Monmouth County, New Jersey and the
Granting and Transfer of Certain Easements in Connection
Therewith Pursuant to N.J.S.A. 48:3-7 and N.J.A.C. 14:1-5.6**

BPU Docket No. EM18020193

SUPPLEMENTAL REDACTED RESPONSE TO DISCOVERY REQUEST

**RCR-40
Supplemental**

To the extent not set forth in the post-closing escrow agreement, please identify the issues addressed in that agreement, the parties to it, and whether and when it was executed.

**Supplemental
Redacted
Response:**

As a matter of background, the Purchase and Sale Agreement for the Allenhurst property (the "Property") between the Company and Buyer was dated November 7, 2017 ("the "PSA").

The PSA provided for a Buyer inspection period until January 6, 2018 (the "Inspection Period"). Prior to the expiration of the Inspection Period, Buyer had a right to terminate the PSA and receive a refund of Buyer's earnest money deposit.

At Buyer's request, the Company granted Buyer (i) an extension of the Inspection Period through and including February 16, 2018 and (ii) a second extension through and including February 23, 2018 (at 11:00 AM).

Leading up to the conclusion of the second extension, Buyer raised certain issues relating to the [REDACTED] condition of the Property that Buyer desired the Company to address before Buyer was willing to waive its right to terminate. The Company was not willing to further extend the Inspection Period under the PSA and ensuing discussions between the parties on February 22, 2018 resulted in an agreed-upon framework for addressing Buyer's remaining [REDACTED] condition concerns, which the Company considered beyond the scope of the PSA insofar as it related to Buyer's intended future development of the Property.

Given the pending nature of the Buyer's right to terminate and the need to initiate the regulatory review process, the Company agreed to the framework set forth in a Memorandum of Understanding (the "MOU") dated February 23, 2018. The MOU describes a process utilizing a post-closing escrow agreement (the "Post-Closing Escrow Agreement"), the escrow agreement, related to Buyer's intended future development of the Property, will be funded at closing from the proceeds of the sale as a Company closing cost in the amount of Four Hundred Thousand Dollars (\$400,000), which will be available to the Buyer after closing to fund any and all costs or expenses related to, addressing the Buyer's concerns [REDACTED]

with respect to the Property. The MOU and Post-Closing Escrow Agreement also contemplate that the escrow funds will be retained by the escrow agent until such

REDACTED

Discovery Request: RCR-40 Supplemental
Page 2 of 2

time as the occurrence of a specific condition-related triggering event - - [REDACTED]

[REDACTED]. Any funds remaining in the escrow account at that time of the occurrence of the specific condition-related triggering event would be returned to the Company.

IMO Jersey Central Power and Light Company
Request to Approve Sale of Real Property and for
Deferred Accounting Authority of Environmental
Remediation Costs Block 18, Lot 1 and Block 21,
Lots 5, 6 and 7 Borough of Allenhurst, Monmouth
County, New Jersey

BPU Docket No.: EM18020193

Aida Camacho-Welch, Secretary
NJ Board of Public Utilities
44 South Clinton Ave., 3rd Floor
Suite 314
P.O. Box 350
Trenton, NJ 08625-0350

Paul Flanagan, Executive Director
NJ Board of Public Utilities
44 South Clinton Avenue, 3rd Floor
Suite 314
P.O. Box 350
Trenton, NJ 08625-0350

Noreen Giblin, Chief Counsel
NJ Board of Public Utilities
44 South Clinton Avenue, 3rd Floor
Suite 314
P.O. Box 350
Trenton, NJ 08625-0350

Michael J. Connolly, Esq.
Windels, Marx, Lane & Mittendorf
One Giralda Farms
Madison, NJ 07940

Bethany Rocque-Romaine, Esq.
Counsel's Office
NJ Board of Public Utilities
44 South Clinton Avenue, 3rd Floor
Suite 314
P.O. Box 350
Trenton, NJ 08625-0350

Renee Greenberg, DAG
Division of Law & Public Safety
124 Halsey Street- 5th Floor
P.O. Box 45029
Newark, NJ 07101

Caroline Vachier, DAG
Division of Law & Public Safety
124 Halsey Street- 5th Floor
P.O. Box 45029
Newark, NJ 07101

Geoffrey Gersten, DAG
Division of Law & Public Safety
124 Halsey Street- 5th Floor
P.O. Box 45029
Newark, NJ 07101

Alex Moreau, DAG
Division of Law & Public Safety
124 Halsey Street- 5th Floor
P.O. Box 45029
Newark, NJ 07101

Stefanie A. Brand, Esq., Director
Division of the Rate Counsel
140 East Front Street, 4th Fl.
P.O. Box 003
Trenton, NJ 08625

Brian O. Lipman, Esq.
Division of Rate Counsel
140 East Front Street, 4th Fl.
Trenton, NJ 08625

Ami Morita, Esq.
Division of Rate Counsel
140 East Front Street, 4th Fl.
Trenton, NJ 08625

Brian Weeks, Esq.
Division of Rate Counsel
140 East Front Street, 4th Fl.
Trenton, NJ 08625

K. F. Connelly, Staff Analyst
Jersey Central Power & Light Co.
300 Madison Avenue
Morristown, NJ 07962

Lisa Gurkas
Division of Rate Counsel
140 East Front Street, 4th Fl.
Trenton, NJ 08625

Thomas Walker, Director
Division of Energy
NJ Board of Public Utilities
44 South Clinton Ave., 9th Floor
P.O. Box 350
Trenton, NJ 08625-0350

Mark A. Mader, Director
Jersey Central Power & Light Co.
300 Madison Avenue
Morristown, NJ 07962

Grace C. Bertone, Esq.
Bertone Piccini LLP
777 Terrace Ave., Suite 201
Hasbrouck Heights, NJ 07604

Joshua E. Levin
First Energy Service Co.
76 So. Main Street
Akron, Ohio 44308

Michael Connolly, Esq.
Windels, Marx, Lane & Mittendorf
One Giralda Farms
Madison, NJ 07940

Harry A. Flannery, Esq.
Jersey Central Power & Light Co.
300 Madison Avenue
Morristown, NJ 07962

Stacy Peterson
NJ Board of Public Utilities
Division of Energy
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, NJ 08625-0350

Lauren Lepkoski, Esq.
First Energy Service Co.
Legal Department
2800 Pottsville Pike
Reading PA 19612

Celeste Clark
Division of Rate Counsel
140 East Front Street, 4th Fl.
Trenton, NJ 08625

James O'Toole
Jersey Central Power & Light Co.
300 Madison Avenue
Morristown, NJ 07962

M. Espinoza
Jersey Central Power & Light Co.
300 Madison Avenue
Morristown, NJ 07962

Timothy Oberleiton
Division of Law & Public Safety
124 Halsey Street- 5th Floor
P.O. Box 45029
Newark, NJ 07101

Megan Lupo
NJ Board of Public Utilities
44 South Clinton Ave., 9th Floor
P.O. Box 350
Trenton, NJ 08625-0350

Stacy Richardson
NJ Board of Public Utilities
44 South Clinton Ave., 3rd Floor
Suite 314
P.O. Box 350
Trenton, NJ 08625-0350

John Zarzycki
NJ Board of Public Utilities
44 South Clinton Ave., 3rd Floor
Suite 314
P.O. Box 350
Trenton, NJ 08625-0350