

September 25, 2020

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**VIA ELECTRONIC MAIL**

Aida Camacho-Welch, Secretary  
Board of Public Utilities  
44 South Clinton Avenue,  
9<sup>th</sup> Floor  
Trenton, New Jersey 08625-0350

**Re: In The Matter of the Verified Petition of Jersey Central Power & Light Company Seeking (a) Approval of the Sale of its Ownership Interest in the Yards Creek Generating Station Pursuant to N.J.S.A. 48:3-7, (b) Waiver of the Advertising Requirement on N.J.A.C. 14:1-5.6(b), (c) a Specific Determination Allowing the Yards Creek Generating Station to Be an Eligible Facility Pursuant to Section 32 of the Public Utility Holding Act of 1935 Under the Public Utility Holding Company Act of 2005. (d) to the extent necessary, a Determination of Compliance with, or the Non-applicability or Waiver of, the Auction Standards under the Board's 1998 Order Adopting Auction Standards under N.J.S.A. 48:3-59(b), and (e) Other related relief. BPU Docket. No. EM20050343**

Dear Secretary Camacho-Welch:

On behalf of Jersey Central Power & Light Company ("**JCP&L**" or the "**Company**"), please accept for filing JCP&L's reply to the Division of Rate Counsel ("**Rate Counsel**") comment letter ("**Comment Letter**") submitted to the New Jersey Board of Public Utilities (the "**Board**" or "**BPU**") on September 23, 2020 in this proceeding. This reply letter is being filed with the Board Secretary, with copies to the service list sent, electronically only, consistent with the Board's Order dated March 19, 2020 (Docket No. EO20030254) directing that all submissions to the Board or Rate Counsel, of any kind, be submitted

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electronically. No paper copies will follow and we would appreciate if the Board Secretary's office would please acknowledge receipt of this reply letter.

The Rate Counsel Comment Letter concerns JCP&L's May 6, 2020 petition for approval (the "**Petition**") of the sale (the "**Sale**") of its 50% undivided interest in the Yards Creek Generating Station ("**Yards Creek Property**") to an unaffiliated and unregulated entity, Yards Creek Energy, LLC ("**YCE**" or the "**Buyer**") for a "base" purchase price of One Hundred Fifty-Five Million Dollars (\$155,000,000.00) ("**Purchase Price**"), subject to potential adjustments at closing, pursuant to and under the terms and conditions of the confidential asset purchase agreement (the "**APA**") provided as Confidential Appendix A to the Petition.

The Company appreciates that the Rate Counsel Comment Letter does not object to the proposed sale of the Yards Creek Property as set forth in the Company's Petition and as supplemented by the Company's responses to extensive discovery. The Company further appreciates Rate Counsel's specific statements of non-objection to: 1) JCP&L's request for waiver of (a) the advertising requirement pursuant to N.J.A.C. 14:1-5(b) and (b) the Board's 1998 Auction Standards (as set forth in the Board's Order, dated June 16, 1998 in BPU Docket No. EX 94120585Y, EO97070457, EO97070460 EO97070463, EO97070466) (the "**1998 Auction Standards**"); and 2) JCP&L's request that the plant be deemed an Eligible Facility. In addition, JCP&L is also pleased that Rate Counsel agrees that the Yards Creek Property Purchase Price represents the market price (Comment Letter at p.6), which is reasonable (Id. at p. 14), and does not object to "utilizing the net proceeds of this transaction to offset the storm-related regulatory balance

and recommends that the disposition of the proceeds be addressed in the JCP&L Base Rate Case currently before the Board in Docket No. ER20020146.” Id.

JCP&L notes that Rate Counsel has requested that “the Board permit Rate Counsel and Staff to review the final accounting of the sale and the calculation of the net proceeds in order to ensure that the fees, net plant and costs netted from the sales price are reasonably managed. This review will include but not limited to review of transactions costs, any adjustments for income taxes, adjustments to price at closing.” Id. Understanding the time frame for the true-up of trade accounts as set forth in the APA (as described in the Petition (Confidential Version at ¶134.e.)), and as explained in the Company’s confidential response to RCR-34, the Company does not object to Rate Counsel’s request.

Accordingly, with thanks to Rate Counsel for its thoughtful Comment Letter, JCP&L respectfully urges the Board to (i) approve its sale of the Yards Creek Property to YCE for the Purchase Price, subject to the terms and conditions of the APA; (ii) grant a waiver of the Board’s advertising requirement under N.J.A.C. 14:1-5(b); (iii) grant a waiver of the Board’s 1998 Auction Standards; (iv) find that the Yards Creek Generating Station will be an “eligible facility” under the Public Utility Holding Company Act of 2005; and (v) approve the termination of the original 1964 joint ownership agreement between the Company and PSEG Fossil, LLC (as successor to Public Service Electric & Gas Company).

Finally, for purposes of clarity, the Company also asks the Board to consider Attachment A to the Company’s response to RCR-17, as supplemented by the

Company's response to RCR-26, which are attached hereto (as Attachment 1 hereto), as the filed *pro-forma* journal entries referred to as Appendix E in the Petition.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Michael J. Connolly".

COZEN O'CONNOR

By: Michael J. Connolly

MJC/lg

c: (w/enc.: Service List as indicated)

**In the Matter of the Verified Petition of Jersey Central Power & Light Company Seeking (a) Approval of the Sale of its Ownership Interest in the Yards Creek Generating Station Pursuant to N.J.S.A. 48:3-7, (b) Waiver of the Advertising Requirement of N.J.A.C. 14:1-5.6(b), (c) a Specific Determination Allowing the Yards Creek Generating Station to Be an Eligible Facility Pursuant to Section 32 of the Public Utility Holding Company Act of 1935 under the Public Utility Holding Company Act of 2005, (d) to the extent necessary, a Determination of Compliance with, or the Non-applicability or Waiver of, the Auction Standards Under N.J.S.A. 48:3-59 b, and (e) Other Related Relief.**

**BPU Docket No. EM20050343**

**RESPONSE TO DISCOVERY REQUEST**

**RCR-17** At paragraph 53 of the Petition, JCP&L states that it expects that the sale of Yards Creek to YCE will provide net proceeds available to benefit customers of about \$111 million. Please provide a workpaper showing that calculation, including each cost item that must be deducted from the gross sales proceeds.

**Response:** See RCR-17, Attachment A, which provides the requested work paper, which indicates net proceeds of \$109.4 million, as of March 31, 2020. See, also, the Company's response to RCR-11.

**Sale of Yards Creek Pumped Storage Station**  
**Balances as of March 31, 2020**

<b>Purchase Price</b>	\$ 155,000,000
Working capital true up <sup>1</sup>	-
Scheduled ongoing work adjustment <sup>1</sup>	-
Base Residual Auction Adjustment <sup>2</sup>	-
Cost to sell (Not to Exceed)	<u>(1,500,000)</u>
<b>Net Purchase Price</b>	153,500,000
<b>Carrying Value</b>	
101 - Electric Plant In Service	34,714,025
105 - Electric Plant Held for Future Use	58,624
106 - Completed Construction Not Classified	13,634,821
107 - Construction Work In Progress - Electric	22,325,438
108 - Acc. Provision for Depreciation	(24,933,073)
111 - Acc. Provision for Amort. Of Electric Utility Plant	(1,665,211)
230 - Asset Retirement Obligations	<u>(45,137)</u>
<b>Carrying Value</b>	44,089,487
<b>Gain on Disposition of Property</b>	109,410,513
<b>Reduction of Deferred Storm-Related Regulatory Asset</b>	<u>(109,410,513)</u>
<b>Net Book Gain</b>	<u><u>\$ -</u></u>
<b>Income Taxes</b>	
<b>Current Taxes - Yards Creek</b>	
Income Taxes - Federal	\$ 24,566,451
Income Taxes - Other	<u>10,553,402</u>
Current income taxes payable on Yards Creek sale	35,119,853
<b>Deferred - Yards Creek</b>	
Provision for Deferred Income Taxes	161,897
Provision for Deferred Income Taxes - Credit	<u>(4,230,265)</u>
Deferred income tax credit on Yards Creek sale	(4,068,368)
<b>Deferred - Reduction of Storm-Related Regulatory Asset</b>	
Provision for Deferred Income Taxes	2,067,859
Provision for Deferred Income Taxes - Credit	<u>(32,823,154)</u>
Deferred income tax credit - Storm Regulatory Asset	(30,755,295)
<b>Total Book Income Tax Expense</b>	<u><u>\$ 296,190</u></u>

1 - Per Section 2.06 (b) of the Asset Purchase Agreement, adjustments will be determined after the transaction closes.

2 - Per Section 2.06 (a) of the Asset Purchase Agreement. At this time, JCP&L does not expect to incur a Base Residual Auction Adjustment.

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**BPU Docket No. EM20050343**

**RESPONSE TO DISCOVERY REQUEST**

**RCR-26** The response to RCR-17 (Attachment A) provides an analysis of the net sales proceeds under the assumption that the net proceeds are applied against the storm damage regulatory asset. Does this show that the Company's proposal will produce a net income tax obligation of \$0.3 million? If so, will this be recovered from customers? Please explain.

**Response:** The Company's response to RCR-17 and Attachment A thereto provided the work paper to support the Company's estimate in ¶53 of the Petition of net proceeds of about \$111 million. Based on preliminary data as of March 31, 2020, RCR-17, Attachment A showed, among other things, an estimated gain of \$109.4 million, and an, as-of-then, unapplied estimated net income tax obligation of approximately \$0.3 million, which would result from the Company's proposal to apply the net proceeds against the storm damage regulatory asset.

The Company proposes to add the \$0.3 million net income tax obligation to the amounts to be deducted from the net purchase price, which, as of March 31, 2020, would yield net proceeds of \$109.1 million, consistent with the Company's response to RCR-11 and the definition of net proceeds discussed in ¶48 of the Petition.

## Jersey Central Power and Light Company

*In the Matter of the Verified Petition of Jersey Central Power & Light Company Seeking (a) Approval of the Sale of its Ownership Interest in the Yards Creek Generating Station Pursuant to N.J.S.A. 48:3-7, (b) Waiver of the Advertising Requirement of N.J.A.C. 14:1-5.6(b), (c) a Specific Determination Allowing the Yards Creek Generating Station to Be an Eligible Facility Pursuant to Section 32 of the Public Utility Holding Company Act of 1935 under the Public Utility Holding Company Act of 2005, (d) to the extent necessary, a Determination of Compliance with, or the Non-applicability or Waiver of, the Auction Standards under the Board's 1998 Order Adopting Auction Standards under N.J.S.A. 48:3-59 b., and (e) Other related relief.*

**BPU Docket No. EM20050343**

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