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October 23, 2017

**Via Overnight and Electronic Mail**

Honorable Gail M. Cookson  
Office of Administrative Law  
33 Washington Street  
Newark, NJ 07102

**Re: In the Matter of the Petition of Jersey Central Power & Light Company  
Pursuant to N.J.S.A. 40:55D-19 for a Determination that the  
Monmouth County Reliability Project is Reasonably Necessary  
for the Service, Convenience or Welfare of the Public  
BPU Docket No. EO16080750  
OAL Docket No.: PUC 12098-16**

Dear Judge Cookson:

Enclosed please find an original and two (2) copies of the Division of Rate Counsel's Initial Brief in connection with the above referenced matter. Copies of the brief are being provided to the parties by electronic mail and hard copies are being sent by US regular mail to all parties on the attached service list.

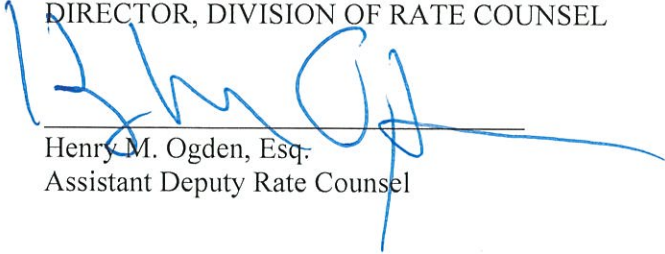
We are enclosing on additional copy of the brief. Please stamp and date the extra copy as "filed" and return it in the enclosed self-addressed stamped envelope.

Thank you for your consideration and assistance.

Respectfully submitted,

STEFANIE A. BRAND, ESQ.  
DIRECTOR, DIVISION OF RATE COUNSEL

By:



Henry M. Ogden, Esq.  
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HMO  
Enclosure

c: Service List (via Electronic and US Regular Mail)

STATE OF NEW JERSEY  
BOARD OF PUBLIC UTILITIES  
BEFORE HONORABLE GAIL M. COOKSON, A.L.J.

I/M/O Jersey Central Power & Light )  
Company Pursuant to N.J.S.A. 40:55D-19 )  
for a Determination that the Monmouth ) OAL Docket No.: 12098-16  
County Reliability Project is Reasonably ) BPU Docket No.: EO16080750  
Necessary for the Service, Convenience or )  
Welfare of the Public )

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**INITIAL BRIEF ON BEHALF OF THE  
NEW JERSEY DIVISION OF RATE COUNSEL**

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Dated: October 23, 2017

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## STATEMENT OF FACTS

This case concerns Jersey Central Power & Light's ("JCP&L" or "the Company") petition pursuant to N.J.S.A. 40:55D-19 seeking the Board of Public Utilities' ("BPU" or "Board") approval to site the Monmouth County Reliability Project ("MCRP" or the "Project"). The MCRP proposes the construction of a new 230 kV transmission line between JCP&L's 230 kV line serving New Jersey Transit's ("NJT") Aberdeen substation and JCP&L's 230 kV line serving the NJT Red Bank substation, along with associated upgrades to the JCP&L Freneau substation, the JCP&L Red Bank substation, and the JCP&L Taylor Lane substation. N.J.S.A. 40:55D-19 provides the Board, under appropriate circumstances, the authority to override municipal land use rules to site public utility infrastructure, such as the transmission line at issue in this matter.

JCP&L asserts that PJM Interconnection, L.L.C. ("PJM") required JCP&L to construct the transmission lines in order to maintain reliability. PJM is the regional transmission organization ("RTO") responsible for transmission in thirteen states and the District of Columbia, which includes JCP&L's service territory. As an RTO, PJM is responsible for the planning, operation and reliability of the interstate electric transmission system. To fulfill its planning responsibilities, PJM prepares a Regional Transmission Expansion Plan ("RTEP") each year in an effort to ensure a reliable supply to meet the electricity needs of the customers in the PJM region. The Federal Energy Regulatory Commission ("FERC") has designated the North American Electric Reliability Corporation ("NERC") as the "Electric Reliability Organization" that proposes various Reliability Standards that are ultimately approved by the FERC. Through the RTEP process, PJM plans and operates the reliability of the transmission system to the

FERC-approved NERC Reliability Standards. The RTEP planning process is conducted using five-year and fifteen-year planning horizons to assess potential or anticipated NERC reliability criteria violations.

In its 2011 RTEP, PJM identified a potential local voltage collapse that could occur in the year 2016 in the Red Bank area. This determination was based upon the projected (or estimated) peak loads used in that 2011 planning process for 2016. Specifically, the 2011 RTEP indicated a potential local voltage collapse on the JCP&L 34.5kV system for the loss of the Atlantic-Red Bank S1033 & T2020 230 kV lines. The potential NERC Reliability Standard violation on the JCP&L 34.5 kV system near Red Bank was forecasted to occur in 2016. This Reliability Standard violation is described as a Common Mode Outage, also as a “P-7 Violation”. (Exhibit JC-9, p. 4-18.) The 2011 summer peak load forecast for the year 2016 (when the NERC violation was identified to potentially occur) was 6,942 Megawatts (“MW”). (Exhibit JC-8, p. 16, l. 5.) The load level of 6,942 MW, identified in the 2011 RTEP study as causing a local voltage collapse, has not been reached and is not projected to be reached by JCP&L in any of the 15 years through 2031 reflected in the 2016 load forecast. (Exhibit RC-2, p.8, l. 12-14, and Exhibit PJJ-5.) In fact, the need for the Project, based on peak load, has diminished in every year since 2011, and thus the purported need for the Project has diminished as well.

PJM RTEP planning rules have changed since the potential voltage collapse was identified in the 2011 RTEP. The current PJM RTEP planning rule changes have reduced project cancellations due to changing conditions, such as the diminished peak loads observed and projected by PJM. As a consequence of the PJM RTEP planning rule changes, once a project is determined to be needed, the assumptions underlying the identified potential NERC violation giving rise to the “need” are not re-visited, regardless of changes in circumstances. The old PJM

test, in which the project's need was revisited, was changed by PJM because it believed the 'bright line' test encouraged what it called 'the whipsaw effect of taking projects in and out of the RTEP due to changing conditions.' (Exhibit RC-2, p.10, l. 6-7.)<sup>1</sup> The effect of the changed policy was to, in theory, allow stable long range transmission planning. However, it also means that projects that are no longer needed to meet peak load, like the MCRP, may continue to be pursued by the utilities once approved by PJM.

There are a number of technical approaches to improve reliability and address any voltage issues that the Company has failed to consider as an alternative to the siting and expense associated with the MCRP. The Company could have considered installation of a static var compensator ("SVC") or a STATCOM (static compensator).<sup>2</sup> In addition, the Company could explore increased distributed generation, smart invertors or smart grid technologies that could avoid or mitigate the potential NERC violation identified in 2011. (Exhibit RC-2, p. 3, l. 18-21.) None of these alternatives have been fully considered for the potential to reduce ratepayer impact and costs. (T. 4/5/2017, p. 37, l. 19-22. Exhibit RC-1.)

The estimated cost to ratepayers for the MCRP during the 2011 RTEP was \$22 million. (Exhibit S-10) The most recent estimate provided by the Company (as of July, 2016) is at least \$111 million, excluding significant as yet unaccounted for costs. (Exhibit S-10) The most troubling aspect of the unaccounted for costs is the right of way ("ROW") access that has yet to be granted by NJT. The specific NJT route has not been firmly established which may require additional unanticipated land acquisition costs and fees to NJT for use of its valuable right of

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<sup>1</sup> <http://www.pjm.com/media/documents/etariff/FercOrders/478/20120430185034-ER12-1178-000.pdf>. Order, Conditionally Accepting Tariff Revisions Subject to Compliance, Federal Energy Regulatory Commission, (April 30, 2012).

<sup>2</sup> A static VAR compensator is a set of electrical devices for providing fast-acting reactive power on high-voltage electricity transmission networks. The STATCOM basically performs the same function as the static VAR compensators but with some additional advantages. (RC-2, p. 15.)



way. (T, 4/6/2017, p. 169, l. 3-6.) The Company has not provided an update of its 2016 estimate of these significantly increased costs. However, the overall costs will most certainly exceed \$111 million, more than five times the original cost estimate.

No alternatives have been fully developed by the Company in terms of costs, impact or effectiveness in addressing the identified potential NERC violation. (T. 4/6/2017, p. 167-168, l. 14-6; T. 4/11/2017, p. 51, l. 16-10.) The Court should consider the additional costs flowing from a transmission-based solution contrasted with other effective and less costly ratepayer impacts, especially in light of the fact that the final costs for the Project are not known—other than that they will be in excess of \$111 million.

Moreover, the Court should consider the motivations behind the Project. It would appear that the Company has a major incentive to inflate its transmission costs. Indeed, in a credit metrics report filed on June 30, 2017 as part of the Company's last base rate case, the Company stated:

Improvements to Net Income and Cash Flow from Transmission Investments: New transmission rates will be in effect in June 2017 when JCP&L implements a formula transmission rate for Network Integrated Transmission Service (NITS). Upon implementation, **JCP&L expects improvements to net income and cash flows from the transmission segment, including planned investments to complete necessary Regional Transmission Expansion Projects (RTEP), as required by PJM.** (Exhibit RC-5, p. 3, emphasis supplied).

The “formula transmission rate” referred to in the credit metric report is a rate filing pending with the FERC dated October, 28, 2016 (Exhibit RC-5A) which seeks an 11% return on equity on invested transmission assets, which would include the MCRP if built. That is in contrast to the Board approved return on equity for the Company in its most recent base rate case, 9.6%.<sup>3</sup>

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<sup>3</sup> Order Adopting Stipulation Approving a Base Rate Increase and Approving Tariff Sheets for New Service Classification LED Light Emitting Diode Street Lighting Service, IMO the Verified Petition of Jersey Central

Certainly, an 11% return is a major incentive to pursue this Project and ignore potentially lower cost solutions.

As explained more fully below, the facts in this matter do not support the Company's petition. The change in load forecasts puts the need for the Project into question. The Company did not consider alternatives to determine if the Project is in fact the lowest cost solution to the voltage violations caused by the now outdated and overstated 2011 load forecast. Its effort to go forward with this lucrative but unnecessary line should be denied.

### STANDARD OF REVIEW

The standard of review to be applied in this matter is set forth in N.J.S.A. 40:55D-19. A public utility may petition the Board for land use approval when proposing a multiple-municipality project. Following public notice and hearings, there must be a finding that "[the] proposed use by the public utility...of the land described in the petition is necessary for the service, convenience or welfare of the public...and that no alternative site or sites are reasonably available to achieve an equivalent public benefit..."

The broad public interest is to be considered, rather than parochial or local interests with respect to siting and municipal land use concerns. See, In Re Public Service Electric and Gas Company, 35 N.J. 358, 377 (1961); In Re: Monmouth Consolidated Water Co., 47 N.J. 251 (1966); and, In Re Application of Hackensack Water Co., 41 N.J. Super. 408 (App. Div. 1956). The legal principles that must be applied under the statute were established by In Re Public Service, *supra*, at 376:

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*Power & Light Company for Review and Approval of Increases in and Other Adjustments to its Rates and Charges for Electric Service, and for Approval of Other Proposed Tariff Revisions in Connection Therewith ("2016 BASE RATE FILING") and IMO the Verified Petition of Jersey Central Power and Light Company for Approval of its Tariff Sheets for New Service Classification LED-Light Emitting Diode Street Lighting Service, BPU Dkt. No. ER16040383, OAL Dkt No. PUC 10560-2016N and BPU Dkt. No.ET14101270 OAL Dkt. No. PUC 13158-16 (2016).*

- 1) The phrase "for the service, convenience and welfare of the public" refers to the whole public served by the utility and not the limited group that benefits from the local zoning ordinance;
- 2) The proposed use must be reasonably, not absolutely or indispensably, necessary for the service, convenience and welfare of the public;
- 3) The particular site or location must be found to "reasonably necessary" and so the Board must consider the Community zoning plan, the physical characteristics of the site and the surrounding neighborhood;
- 4) Alternative sites and their comparative advantages and disadvantages, including cost, must be considered in determining reasonable necessity; and
- 5) The Board must weigh all interests and factors in light of all the facts, giving the utility preference if the balance is equal, because the legislative intent is clear that the broad public interest is greater than local considerations.

In applying the legal principles set forth above, the court must not simply defer to the utility's judgment. "The requirement of findings is far from a technicality and is a matter of substance." N.J. Bell Tel. Co. v. Commc'ns Workers of Am., 5 N.J. 354, 375, 75 A.2d 721(1950).

In construing the findings required to support a decision to approve the sale of utility property the Appellate Court stated:

The BPU review is not a mere formality prior to consummation of the sale, but a searching inquiry into the options facing the utility. The BPU majority failed to engage in an economic analysis of whether developers' offer was superior to DEP's offer. The majority's deferral to ACE's "business judgment" because ACE had "the most financial stake" in the matter and an interest in "maximiz[ing] [the] financial benefit" from the sale, ignored the Legislature's delegation of authority to the BPU in N.J.S.A. 48:3-7(a). The BPU was required to engage in the *Erie-Lackawanna* analysis and make explicit findings of fact to support their decision. (at p. 36.)

Those findings must be "sufficiently specific under the circumstances of the particular case to enable the reviewing court to intelligently review an administrative decision and ascertain if the facts upon which the order is based afford a reasonable basis for such order." *Ibid.* (quoting N.J. Bell Tel., supra, 5 N.J. at 377).

"We cannot accept without question an agency's conclusory statements, even when they represent an exercise in agency expertise." Balagun v. N.J. Dep't of Corr., 361 N.J. Super. 199, 202-03, 824 A.2d 1109 (App. Div. 2003). An "administrative agency must set forth basic findings of fact supported by the evidence and supporting the ultimate conclusions and final determination so that the parties and any reviewing tribunal will know the basis on which the final decision was reached." Riverside Gen. Hosp. v. N.J. Hosp. Rate Setting Comm'n., 98 N.J. 458, 468, 487 A.2d 714 (1985). (at p. 37.)

In re Atl. City Elec. Co., 2013 N.J. Super. Unpub. LEXIS 1775 (App. Div. 2013).

While that case addressed the review of the sale of utility property, the same due process standards apply to any petition before the Board. As set forth above, due process requires the Board to make an independent decision upon the facts, not simply defer to the judgment of the utility. Accordingly, while deference may be given to a particular proposed route, the Board is not relieved from making an independent judgment upon specific facts.

Comparable to the analysis required to review competing bids in the sale of property, this case requires an analysis of competing options to address a potential NERC violation, which was identified with outdated projections that have not happened. The decision here must be based on explicit findings of fact. The issue is not the preference of the utility but balancing the competing benefits and costs of the proposed route, any alternate route or potential solution, and the likelihood that the violation will occur.

## ARGUMENT

### I. THE COMPANY HAS FAILED TO DEMONSTRATE THE NEED FOR THE PROJECT

N.J.S.A. 40:55D-19 requires first a finding that “[the] proposed use by the public utility...of the land described in the petition is necessary for the service, convenience or welfare of the public.” The Company has failed to demonstrate the need for the MCRP under any definition of “necessary” as intended by N.J.S.A. 40:55D-19. To grant the Company’s petition, the Board must reach “a finding...that the present or proposed use of the land is *necessary to maintain reliable electric or natural gas supply service for the general public and that no alternative site or sites are reasonably available to achieve an equivalent public benefit...*”

N.J.S.A. 40:55D-19. In order for a utility’s costs to be eligible for rate recovery, such costs must be reasonably and prudently incurred. See, Public Service Coordinated Trans. v. State, 5 N.J. 196, 222 (1950). The legal requirement of reasonableness or need is similar to a prudence analysis of anticipated costs in a base rate case. As the Board set forth in a previous transmission line siting case: “...That the findings contained within this Order are a result of the thorough and complete review of the record in this proceeding are limited to the facts and circumstances of this particular Project along this particular route...and that such determination will be made by this Board on a case by case basis giving due regard to the evidence presented within such application.”<sup>4</sup> With this guidance, the Board has traditionally engaged in a fact based analysis to determine the reasonableness and need for a project.

In this case, the Company has failed to make this showing. The project’s purported need is based on outdated load forecasts and the projected NERC violation has not occurred and is no

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<sup>4</sup> IMO the Petition of Public Service Electric & Gas Company for a Determination pursuant to the Provisions of N.J.S.A. 40:55D, BPU Docket No.: EM09010035, paragraph 21 (April 21, 2010).

longer projected to occur within the planning period. The Company's petition should therefore be rejected.

A. **Actual Peak Load Has Failed To Reach Projected Peak Load So No NERC Violation Will Occur During The Planning Period.**

The Company's Petition for siting approval of the MCRP is based on a potential NERC violation identified by a single study performed in 2011 with projected peak loads that have never been and are not now projected to be reached. As demonstrated by the evidence, the actual peak load has never approached the 2011 projected peak load, obviating the need for the proposed solution, much less the particular alternative proposed. The Company has therefore not established that this line is needed to maintain reliable electric service.

NERC is the entity charged with developing and enforcing Reliability Standards by FERC. (Exhibit RC-2, p. 6, l. 4-12.) NERC mandates planning for various contingencies which is accomplished through studies conducted by PJM that examine whether system facilities are overloaded upon specific contingencies and whether system facilities are at an acceptable range of voltages before or after those specific contingencies. (Exhibit RC-2, p. 6, l. 13-20.) PJM in its 2011 RTEP identified a potential local voltage collapse expected to occur in the year 2016, based upon the projected peak loads used in that year's (2011) planning process. The 2011 summer peak load forecast for the year 2016 (when the potential NERC violation was to occur) was 6,942MW. (Exhibit JC-8, p. 16, l. 5.) That load level has not been reached and is not projected to be reached by JCP&L in any of the 15 years through 2031 as reflected in the 2016 load forecast. (Exhibit RC-2, p.8, l. 12-14, and Exhibit PJJ-5.)

As stated by Rate Counsel witness Mr. Peter Lanzalotta: "All else equal, I would expect the probability of a voltage collapse from the common mode contingency to decrease as the

Company's projected peak load decreases." (Exhibit RC-2, p. 7-8, l. 19-1.) "This decreasing forecast of peak load growth reflects increasingly efficient use of electricity, increases in self-generation, changes in demand response resources, and changes to the load forecast model." (Exhibit RC-2, p. 8, l. 7-9; citing the PJM Load Forecast Report, January, 2016.)

The Company offered rebuttal testimony of Mr. Hozempa who stated that, "The only impact is that the reduced load forecast in JCP&L will result in less load loss if there is an outage due to the contingency the Project will address." (Exhibit JC-8 Rebuttal, p. 7, l. 4-6.) Similarly, Mr. Sims (Manager, Transmission Planning Department, PJM)<sup>5</sup> flatly stated in his rebuttal testimony, filed in 2017, to Mr. Lanzalotta's analysis, "Studies conducted in 2016 continue to show that voltage collapse would still occur in 2016, indicating that the Project continues to be needed immediately." (Exhibit JC-9 Rebuttal, p.7, l. 6-8.)

However, neither Mr. Hozempa nor Mr. Sims offered evidence in support of their conclusory rebuttal testimony. Mr. Hozempa offered no studies, reports or analyses to support his statements. Mr. Sims referred to studies allegedly supporting his rebuttal testimony, but that study did not alter Mr. Lanzalotta's conclusions. In response to discovery filed by Rate Counsel seeking the studies relied upon,<sup>6</sup> Mr. Sims produced a PJM "computer readable SAV power flow case." Under cross examination by the Company, Mr. Lanzalotta stated that he had "reviewed [the] load flow study from PJM that purports to demonstrate the voltage collapse," and that it did not cause him to alter or amend his conclusions. (T. 4/6/2017, p. 20, l. 4-6.) Under further cross-examination by counsel for the Joint Municipal Group ("JMG")<sup>7</sup>, Mr. Lanzalotta testified that based on the information provided he could determine a peak load of 5862.9 MW. Thus, Mr.

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<sup>5</sup> Mr. Sims testified at the request of the Company in support of its Petition.

<sup>6</sup> Exhibit RC-3, RCR-ENG-16, part d.

<sup>7</sup> The JMG were granted Intervenor status by Order dated September 21, 2016 and consists of Middletown Township, Hazlet Township and Holmdel Township.

Lanzalotta testified that the information did not change his pre-filed direct testimony that “[T]he load level from the 2011 PJM load forecast at which the voltage collapse was modelled to occur, i.e., 6,696 MW in 2016, is never reached by JCP&L in any of the 15 years, through 2031....” (Exhibit RC-2, p.8, l. 12-14, and Exhibit PJJ-5.) Mr. Sims, under cross-examination by the JMG, admitted that the P7 violation could be eliminated by a lower load, stating: “But at some point, yes, if you lower the load far enough the problem is likely to go away.” (T. 4/5/2017, p. 92, l. 18-20.)

Over Rate Counsel’s objections, the Company introduced its “Rejoinder Report re: Monmouth County Reliability Project” (“Rejoinder Report”). The Company states in the Rejoinder Report: “When the Company simulated the NERC Category P7 contingency event, the load in the JCP&L Area 228 in the power flow model, was 5862.9 MW,” confirming Mr. Lanzalotta’s number. (Exhibit JC-53, Section 3.1, p.4; RC-3, RCR-ENG-16.) To further support Mr. Lanzalotta’s testimony, an email between Mr. Hozempa and Mr. Sims dated July 15, 2016 (a year prior to this hearing) was produced where Mr. Hozempa was able to “resolve” the steady state power flow model at a 5918 MW. (Exhibit JMG-17). Thus, the testimony supports a finding that current load estimates demonstrate that the projected violation has not and will not occur during the planning period.

Accordingly, JCP&L has failed to demonstrate that the peak load assumption driving the potential NERC violation has occurred or, based on PJM’s current projections, will occur in the foreseeable future. The Company has failed to demonstrate the need for the project and therefore the Company’s request for approval of the MCRP should be denied.



**B. When Actual Peak Load Voltage Results Are Used, No Violation Occurs**

Once a potential NERC violation has been identified in a PJM RTEP, the process of developing a solution to the potential violation begins. If the underlying assumptions leading to the potential NERC violation change, PJM is generally reluctant to revisit the initial decision. This was not always PJM's policy, which changed in response to a concern regarding frequent changes in the results of the planning process.<sup>8</sup> Now, once PJM establishes a threshold where action must be taken, it no longer reviews later developed evidence regarding potential violations. If the RTEP were to be applied under the Operating Agreement that existed in 2011 rather than the planning criteria used today, it would indicate that there is no need for the MCRP.

The Company relies on PJM's 2011 identification of a reliability criteria violation of NERC Category P7 contingency and the subsequent RTEP process as evidence for the need to complete the MCRP as proposed. As noted above, the actual current peak load results never reach the 2011 projected peak loads used to determine the NERC P7 violation. However, the actual results from subsequent years were not used by PJM or the Company to re-examine the need for the MCRP.

Each year, PJM prepares a RTEP in an effort to analyze the electrical needs and identify potential problems across its system. The RTEP process performed by PJM projects electricity needs on a five-year and 15-year basis in an effort to ensure the reliability of the system. These projections are conducted by modelling expected future system conditions. The need for the MCRP was identified as part of the 2011 RTEP. (Exhibit J C-9, T. 4/5/2017, p. 25, l. 20-21.) The Company, as a transmission owner, works with PJM in the planning process. As stated by Mr. Hozempa, "we help with the assumptions that go into building the model, including our

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<sup>8</sup> See footnote #10, *infra*.

work with the load analysis subcommittee and determining what the load forecast would be.” (T. 4/5/2017, p. 37, l. 8-22.)

PJM, in 2011, “used a “bright-line” test to determine which transmission projects should be included in the RTEP.” (Exhibit JC-9, p. 10, l. 4-6.)

Under its bright-line test, PJM used strict reliability metrics and assumptions to test compliance with all NERC Reliability Standards and transmission owner criteria. When a facility was found to reach 100 percent of the applicable limit under specified test conditions, PJM was required to develop a solution to address the potential violation. If a facility remained at or below 99.9 percent, there was no violation; therefore, no transmission solution was required.

PJM used a bright line test for the segments of the Project [the MCRP] that were first put into the RTEP in 2007. (JC-9, p. 10, l. 6-13.)

In February 2012, PJM revised its Operating Agreement<sup>9</sup> to address what PJM called the “whipsaw” effect of taking projects in and out of the RTEP due to changing conditions. Mr. Sims specifically mentions the PATH and MAPP<sup>10</sup> transmission projects that were initiated and later cancelled due to changed conditions as an example of the problem for PJM and its member companies. (Exhibit JC-9, p. 10, l. 17-23.) As noted by Mr. Lanzalotta:

[T]he current approach ... allows for flexible transmission planning criteria which expand PJM’s analyses beyond a strict application of the reliability criteria. This approach permits PJM to go beyond the current NERC reliability criteria: (i) using sensitivity analyses; (ii) changing the modeling assumptions; (iii) changing the planning scenarios; (iv) taking public policy objectives into consideration; and (v) taking potential changes in expected future conditions into consideration, as well as including other considerations. (Exhibit RC-2, p.10, l. 11-17.)

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<sup>9</sup> The Operating Agreement is an agreement defining the respective rights and obligations of all PJM members and entities with respect to the coordinated operation of their electric supply systems and the interchange of electric capacity and energy among their systems.

<sup>10</sup> <https://www.pjm.com/~media/committees-groups/committees/teac/20120913/20120913-srh-letter-to-teac-re-mapp-and-path.ashx> Transmission projects cancelled by PJM because “reliability drivers no longer exist for the project throughout the 15-year planning cycle.”

The effect of the change is the situation we have here where PJM and the Company are moving forward with a project that is no longer needed to resolve a NERC violation. As Mr. Lanzalotta testified, “While PJM may have virtually unlimited flexibility to keep a transmission project alive once it has been approved by the PJM Board, as discussed above, the information in the Company’s testimony indicates that this need is currently past 2031, well into the future.” (Exhibit RC-2, p. 11, l. 3-5.) Mr. Lanzalotta’s testimony in this regard was unchallenged.

The assumptions underlying the P7 violation giving rise to the need for the MCRP in 2011 have not and will not be met, according to PJM’s own projections, until past 2031. (Exhibit RC-2, Exhibit PJL-5.) Accordingly, JCP&L has failed to demonstrate the need exists for the MCRP.

**II. THE COMPANY HAS FAILED TO ESTABLISH THAT NO ALTERNATIVES EXIST THAT WOULD ACHIEVE AN EQUIVALENT PUBLIC BENEFIT**

N.J.S.A. 40:55D-19 not only requires a showing of need, it requires that the company demonstrate that “*no alternative site or sites are reasonably available to achieve an equivalent public benefit...*” N.J.S.A. 40:55D-19. Here, the Company has failed to meet this requirement. It has not established what the true projected cost of the line will be, which is necessary to provide a cost comparison as part of the analysis of alternatives. In addition, the record demonstrates that, even with what we do know about the costs of this project, there are feasible alternatives that provide an equivalent public benefit at a lower cost and with less disruption. For these reasons, the Company has failed to meet its burden and its application should be denied.

**A. The Company Has Failed To Establish The Ultimate Cost Of The Project To Allow Cost Comparison Of The Alternatives**

Central to any consideration in granting the relief sought by the Company is determining whether the Project is ‘reasonably necessary for the service, convenience or welfare of the public’ under N.J.S.A. 40:55D-19. “[T]he Board must consider the cost that New Jersey electricity customers will bear in connection with the Project.”<sup>11</sup> In stating its responsibilities, the Board relied upon the New Jersey Supreme Court decision in In re Public Service Electric & Gas Co., 35 N.J. 358, 377 (1961), which stated: “Alternative sites or methods and their comparative advantages and disadvantages to all interests involved, including cost, must be considered in determining such reasonable necessity.”

As noted above, the initial cost when the project was first identified was estimated to be \$22 million. (T. 4/4/2017, p. 98, l. 12-15, S-10.) The Company’s current estimate provided in discovery was determined to be \$111 million in 2016. (T. 4/4/2017, p. 96, l. 17-19, S-MCRP-10.) That amount did not include many costs yet to be determined, most significantly including the NJT ROW costs, including any terms and conditions that may apply. For this Court to accurately assess the total costs to ratepayers and consider the alternatives as required by the Supreme Court, it must be able to make an “apples to apples” comparison or be sufficiently informed as to the comparative advantages and disadvantages, including cost, to determine “reasonable necessity.”

Mr. Lanzalotta identified four specific transmission alternatives among the several offered by the Company that would remedy the potential NERC violation identified in the 2011 RTEP. (Exhibit RC- 2, p. 11, l. 11-22.) Mr. Lanzalotta concluded that “None of these

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<sup>11</sup> Order, IMO the Petition of Public Service Electric and Gas Company for a Determination Pursuant to the Provisions of N.J.S.A. 40:55D-19 (Susquehanna – Roseland Transmission Line), BPU Dkt. No.: EM09010035 (2010).

alternatives were deemed to be as robust as the Project, and each was judged as being less reliable than the Project in some way. However, all of these alternatives would fix the [identified] voltage collapse.” (Exhibit RC-2, p. 12, l. 3-5.)

With respect to the costs associated with the MCRP compared with the cost of the alternatives that Mr. Lanzalotta identified as solutions to the potential violation, Mr. Lanzalotta stated:

The Company did not develop cost estimates for these alternatives, so it is difficult to say how much the Company would spend for the additional benefits the Company attributes to the Project. Since the terms and conditions under which NJT may grant the Company access to its ROW are as yet unknown, the development of information about these alternatives would be needed to compare these alternatives based on cost...While there may be additional reliability benefits associated with the Project compared to the alternatives, we should be able to consider how much these benefits are going to cost. The Board should require the Company to prepare cost estimates for these alternatives. (Exhibit RC-2, p. 13, l. 11-19.)

In response to Mr. Lanzalotta’s testimony, the Company offered the testimony of Ms. Tracey J. Janis. (T. 4/6/2017, p. 163, l. 13-25.) In support of her testimony, Ms. Janis relied upon and quoted only a portion of N.J.S.A. 40:55D-19. (T. 4/6/2017, p. 164, l. 12-23.) Ms. Janis then admitted, under cross-examination that she did not read the entire statute. (T.4/6/2017, p. 164-165, l. 24-1.) Ms. Janis further stated under cross examination regarding project costs:

As compared - - the terms and conditions being taken into consideration compared with alternate routes was that - - [Mr. Lanzalotta] is saying that those terms and conditions must be compared to the alternate routes, but we don’t have the terms and conditions for which those alternative routes would be conditions, the terms and condition of the use of the alternate route either. So to do an apples – to – apples comparison is - - without fully developing those alternate routes and making a determination of what those terms and conditions for that use, would be - - is not - - is not...what my intent was to say that without completely and fully developing every possible alternate route, that potentially

could achieve, you know, the need for the project or the project itself or accomplish to some extent the goals of this project, it's not an apples – to – apples comparison.

Q. If you wouldn't know the total amount of costs, you wouldn't be able to compare the costs?

A. Correct. And so not having the terms and conditions of NJT at this time really is irrelevant because we don't have the costs and terms and conditions that would be associated with other routes. (T. 4/6/2017, p. 166-168, l. 17-4; 17-6.)

Thus, Ms. Janis did not rebut Mr. Lanzalotta's testimony regarding the cost to ratepayers, and acknowledged that the Company has not analyzed "alternative sites or methods and their comparative advantages and disadvantages to all interests involved, including cost..." In re Public Service, supra. The Company has therefore not demonstrated the full cost of the MCRP for the Board to consider, or that there are no less costly alternatives that will address the NERC violation and provide an equivalent public benefit.

The Company also did not consider any non-transmission alternatives since it concluded that "it was apparent that a third line into Red Bank would be required to effectively address this violation." (Exhibit JC- 8, p. 18, l. 15-19.) As a consequence of that conclusion, the Company did not consider any alternatives, or their cost, other than that of the MCRP. As noted by Mr. Lanzalotta, "While it may be apparent that a new transmission line into Red Bank would address the violation, it is not apparent that a new transmission line would be required in order to do so, or that a new transmission line is the only reasonable alternative." (Exhibit RC-2, p. 14, l. 9-12.)

The Company has only offered a single solution for the potential NERC violation identified in the 2011 RTEP, and, has therefore failed to meet its burden of proof. Accordingly, the Company's petition should be denied.

## **B. There Are Alternatives To The Company's Preferred Project**

As explained in the testimony of Mr. Lanzalotta, there are alternatives that would remedy the NERC violation, *i.e.*, the voltage collapse. (Exhibit RC-2, p. 11, l. 18-21). These transmission alternatives include:

- “(i) extending a 230 kV tap off the Atlantic-Raritan River 230 kV line;
- (ii) constructing a third 230 kV line from Atlantic substation;
- (iii) extending a 230 kV line from Oceanview substation; or
- (iv) tapping the Freneau-NJT Aberdeen 230 kV line.” (p.11, l. 12-17).

While the Company presented these transmission alternatives without the necessary analysis, they were judged, in part, by how well they addressed other reliability needs since each of them would remedy the NERC violation. (Exhibit RC-2, p. 11, l.18-22). The Company determined that a project tapping an existing 230 kV transmission line for a new 230 kV feed into Red Bank wouldn't be as reliable because it would increase the length of the line exposed to potential faults. Of course, the Company's preferred Project also creates about 10 miles of new line vulnerable to potential faults. (Exhibit RC-2, p.12, l. 6-13).

Another reliability shortcoming claimed by the Company to each of the transmission alternatives is that they did not provide a second supply line to some substations that only have a single supply transmission line. However, the Company does not represent that a single supply transmission line, or “radial feed” reflects a NERC violation. (Exhibit RC-2, p. 12, l. 14-20).

The Company rejected transmission alternative (ii) above, building a third 230 kV transmission line from Atlantic substation to Red Bank, because by adding a new transmission line to an existing transmission ROW, it would increase the exposure of the electric system to

events affecting that ROW. While the Company opines that reliability is compromised when more transmission facilities share the same ROW or transmission structures, it does not state that this is a NERC violation, nor does the Company explain why this is of greater concern than sharing a ROW with an active train line. (Exhibit RC-2, p. 13, l. 1-8).

As the Company did not develop cost estimates for any of these alternative transmission projects (as admitted above), it is impossible to determine how much it would spend for the additional benefits attributed to the preferred Project. Proper evaluation of the transmission alternatives would require cost estimates for each, including how much the NJ Transit ROW will cost for the MCRP. Since the Company did not consider any non-transmission alternatives or respective costs, there is no basis for the Company's unfounded assertion that only a new transmission line would effectively address the NERC violation. (Exhibit RC-2, p. 14, l. 1-12).

Mr. Lanzalotta also explained approaches other than building a new transmission line that would help control system voltage and provide a fast response to system voltage changes. (Exhibit RC-2, p. 14, l. 13 to p. 15, l. 18). He recommended a static var compensator ("SVC", Exhibit PJJ-3) or STATCOM (static compensator, a class of SVC, described in PJJ-10, attached to Exhibit RC-2).

Mr. Lanzalotta also noted that the Company did not consider using distributed generation, smart inverters or smart grid technologies to solve the problem. He explained that PJM does not currently allow market-driven responses to solve a potential NERC violation, so there should be an effort to try to integrate these technologies into the Company's operations. He also stated that the Board should require an evaluation by the Company of the ability of those and other technologies to enable the system to survive the potential NERC voltage collapse driving the



Project. (Exhibit RC-2, p. 16, l. 9 to p. 17, l. 18).<sup>12</sup> Accordingly, the Company has failed to meet its burden of proof that the MCRP is necessary, or, the best solution for any NERC P17 violation at this time.

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<sup>12</sup> It is quite telling that the Company did not consider any non-transmission alternatives. Transmission project costs can be recovered under an annual formula rate process at the FERC and JCP&L has filed for such approval of a formula rate of 11% return on equity. This request is more profitable than the 9.6% allowed for projects under their BPU-approved rate determined in their last base rate case.

## CONCLUSION

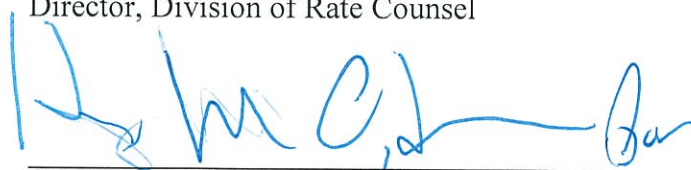
The Company has not shown that the proposed Project is reasonably necessary for the convenience and welfare of the public. It hasn't shown that it is necessary because the change in load forecasts and continuing decline in electricity demand demonstrates that the Project will not be needed in the 15 year planning horizon. In addition, less costly non-transmission solutions have not been fully analyzed. The Company failed to consider alternative routes and did not provide adequate cost estimates for comparison, so there is no way to know if the Project is the lowest cost solution to the potential voltage violations.

The Company should not be rewarded with approval of a \$111 million Project – more than five times the original cost estimate and doesn't include ROW access from NJT – by presenting only one possible very expensive solution. As JCP&L has not demonstrated that the line is needed or that it is the best alternative if the violation were to occur, the required showing under N.J.S.A. 40:55D-19 has not been made. For all these reasons, the Petition should be denied.

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I/M/O Jersey Central Power & Light  
Company Pursuant to N.J.S.A. 40:55D-19 for  
a Determination that the Monmouth County  
Reliability Project is Reasonably Necessary  
for the Service, Convenience or  
Welfare of the Public  
BPU Docket No. EO16080750  
OAL Docket No. PUC-12098-16

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