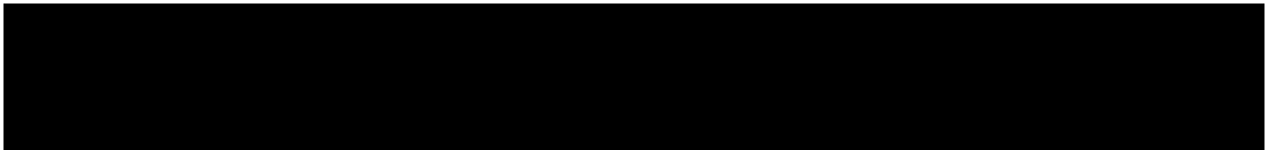
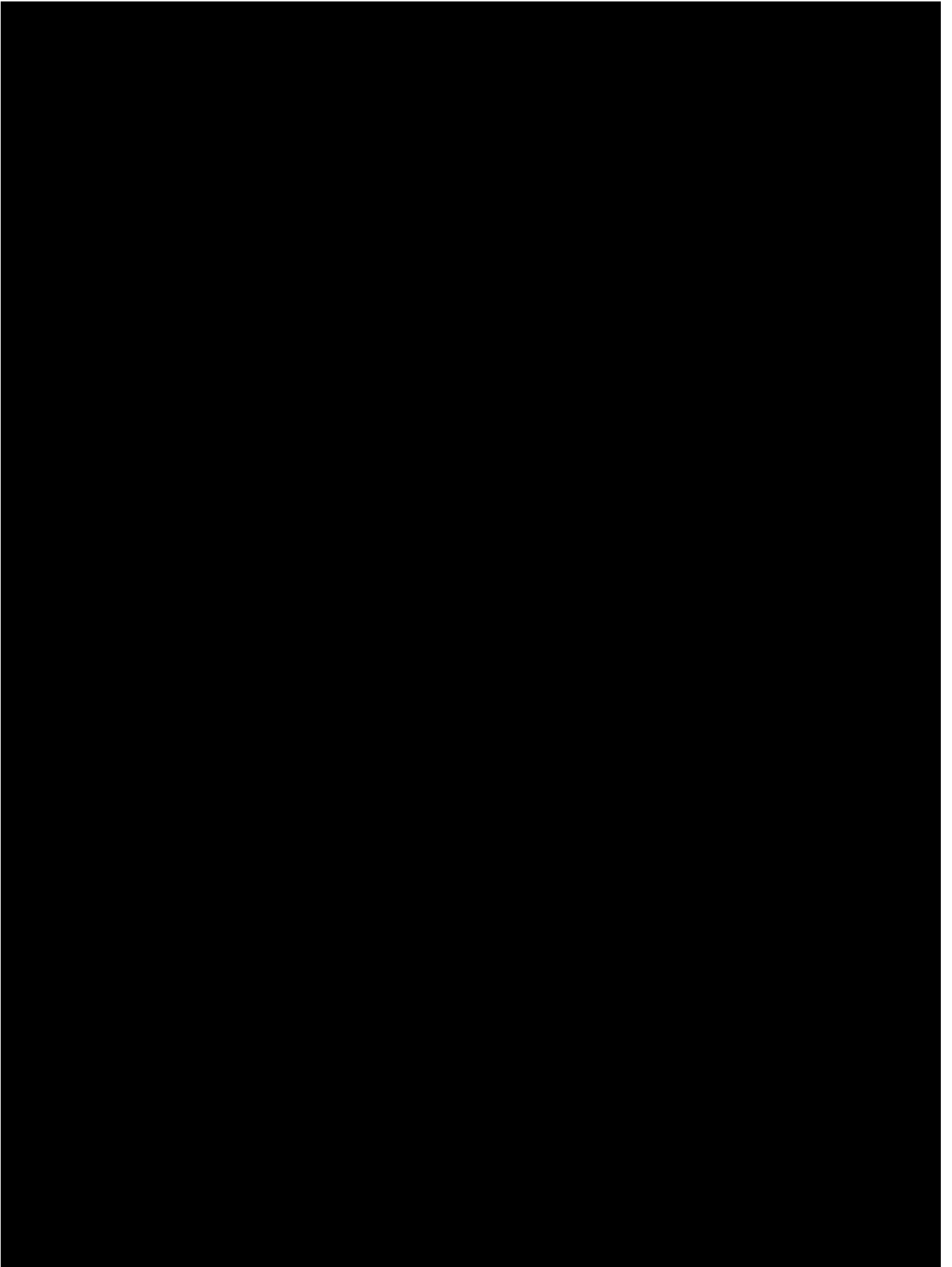
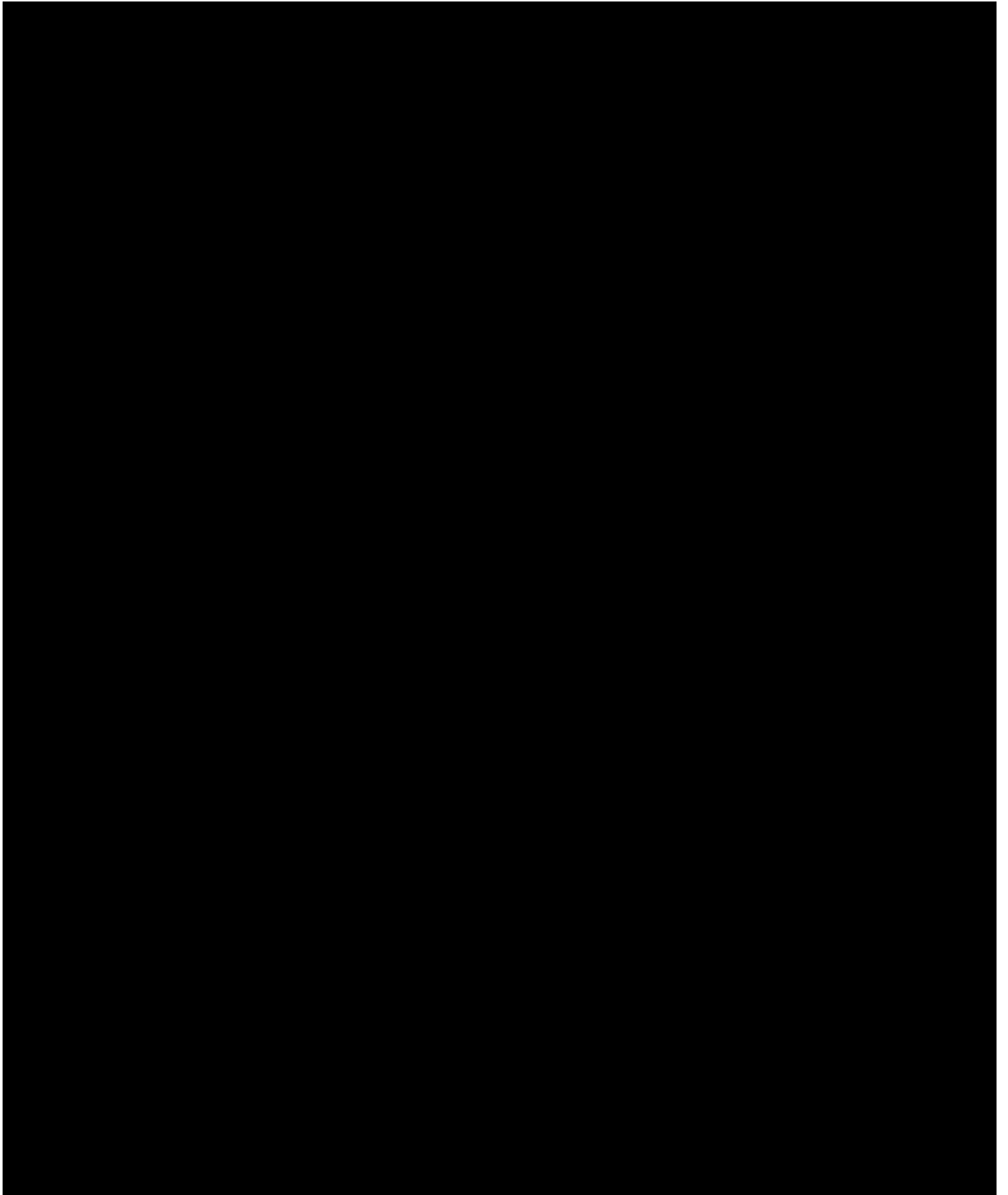
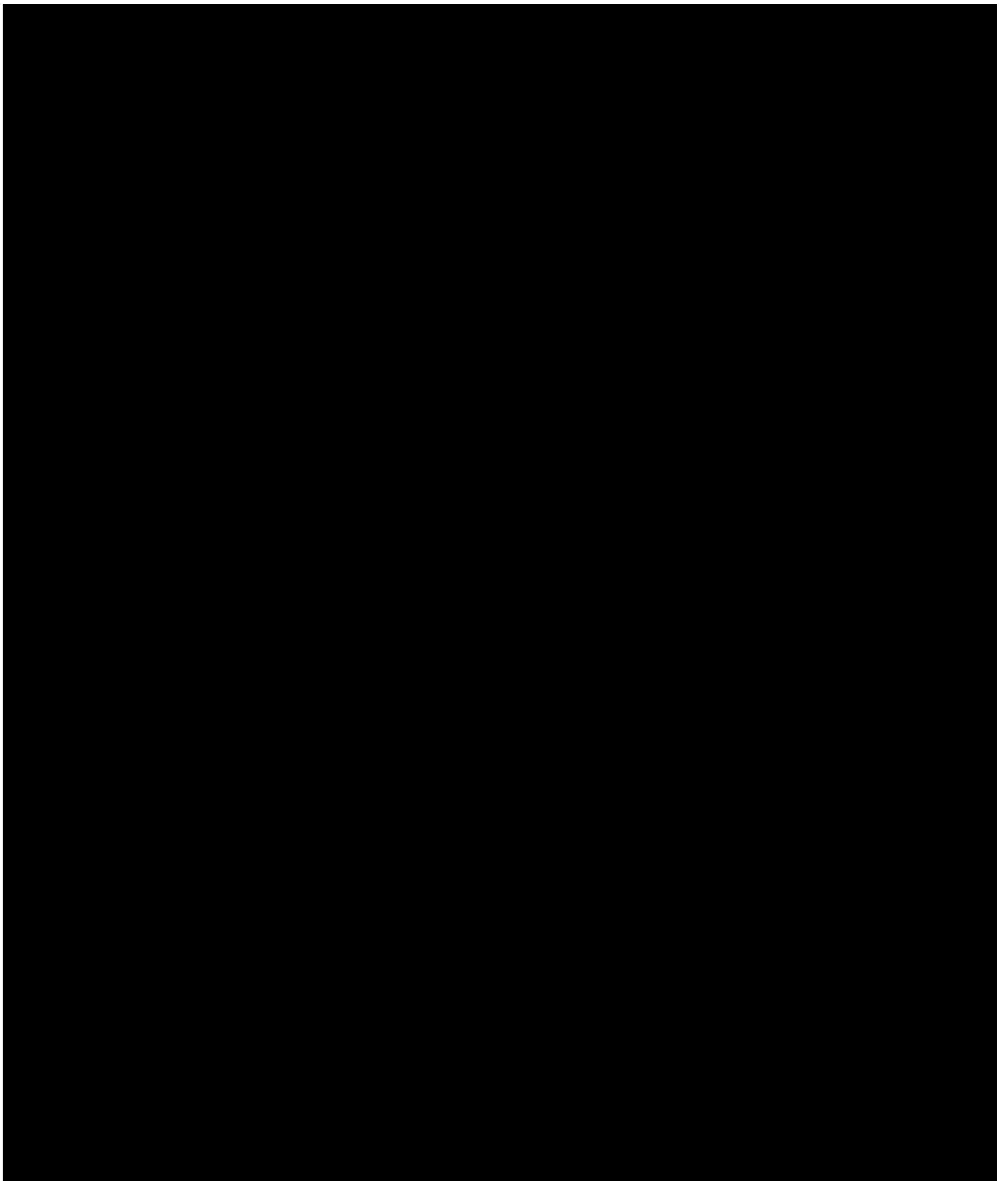
POINT VI

(CONFIDENTIAL)









POINT VII

DEPRECIATION

On November 30, 2012, the Company filed the instant petition with the Board. On January 10, 2013, Rate Counsel submitted a Notice of Motion to Compel a New Depreciation Study because JCP&L had failed to include one with its Board Ordered base rate case and, after discussions with Rate Counsel, had refused to perform one voluntarily., The Board directed JCP&L to file a new depreciation study as part of its base rate case.[59] As a result of being required to perform a depreciation study, the Company revised its initial request and proposed to *decrease* the depreciation expense by $5.8 million based on 2012 plant balances. *RC–166,* p. 5, l. 3-4*,* Attachment 1. Thus the Company, following the Board Ordered depreciation study, was forced to recognize that its originally proposed depreciation expense was excessive.

Rate Counsel, however, believes that the Company requested depreciation expense is still excessive. The Company's own statistical data supports longer service lives of depreciable property and therefore lower depreciation rates. The difference between the correct depreciation rates, which are much lower than the Company's existing rates, demonstrates that the existing rates collect excessive and unneeded free cash flow from the ratepayer.

Rate Counsel is also proposing $13.9 million of annual negative amortization of JCP&L's depreciation reserve excess. *RC–166,* p. 5, l. 5-6, Exhibit MJM-6. JCP&L has a $662 million depreciation reserve excess which includes a portion of a $147 million

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[59] I/M/O the Verified Petition of Jersey Central Power & Light Company for Review and Approval of Increases in and Other Adjustments to Its Rates and charges for Electric Service, and for Approval of Other Proposed Tariff Revisions in Connection Therewith; and for Approval of an Accelerated Reliability Enhancement Program ("2012 Base Rate Filing"), BPU Docket No. ER12111052, OAL Docket No. PUC-16310-2012N, Order Compelling JCP&L to File a New Depreciation Study (March 20, 2013).

excess that the Company collected in the past for future salvage (removal) costs. The Company proposes to move the portions of the $147 million excess relating to its distribution general plant to account 256-Other regulatory liabilities and refund them as negative amortization. The Company proposes that the regulatory liability not be deducted from rate base.

Rate Counsel objects to the Company's proposal since the $147 million excess is already a rate base deduction since it is already included in accumulated depreciation. The $147 million excess is ratepayer provided capital, just like accumulated deferred taxes and thus the regulatory liability should continue to be treated as a rate base deduction. Rate Counsel proposes whole life depreciation rates and separate remaining life amortization of the entire $662 million reserve excess relating to the distribution and general functions. The entire excess should be reclassified out of accumulated depreciation and into account 356-Other regulatory liabilities and continue to be a rate base deduction until fully amortized. *RC – 166,* p. 6.

A. History

JCP&L's current depreciation rates enjoy a lengthy history. JCP&L filed a petition in March, 1995 requesting changes in depreciation rates applicable to certain categories of utility plant.[60] As summarized by Rate Counsel's witness Mr. Michael Majoros, the Company's depreciation rates changed in accordance with the Orders, Stipulations and Addendums that grew out of that Petition. *RC–166,* Exhibit MJM 2. Paragraph 17 of the June 27, 1996 Stipulation of Final Settlement states, "the Parties further agree that, effective January 1, 2000, JCP&L shall change its method of

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[60] I/M/O JCP&L, BPU Docket No. EO95030098 et. al., Summary Order, (March, 24, 1997).

depreciation to remaining life depreciation, updated annually and booked in accordance with such annual updates commencing January 1, 2000."[61] In the Company's previous base rate case, it proposed a $2.4 million increase to depreciation expense. Rate Counsel recommended a $35.9 million decrease. Rate Counsel in that matter recommended that net salvage be removed from the depreciation rate calculations and be replaced with a 5-year rolling average expense. The Board agreed with Rate Counsel that including net salvage in depreciation rates was inappropriate. *RC–166,* p. 10-11.

B. Retirement Rate Actuarial Method

Excessive depreciation is of concern in ratemaking because, as an expense item, depreciation is the return of a company's capital investment over the service or useful life of the capitalized property. Excessive depreciation expense or over-recovery was explained in Lindheimer v. Illinois Bell Telephone Company, 292 U.S. 151, 168-170, 54 S.Ct. 658, 665-666 (1934), "[I]f the amounts charged to operating expenses and credited to the account for depreciation reserve are excessive, to that extent subscribers for the telephone service are required to provide, in effect, capital contributions…Confiscation being the issue, the company has the burden of making a convincing showing that the amounts it has charged to operating expenses for depreciation have not been excessive."

Ratepayers pay for excessive depreciation rates when the excessive depreciation expense is inlcuded in revenue requirements charged to ratepayers. The burden of proof is on the Company to demonstrate that the depreciation rates it proposes are accurate for the purpose of return of capital and do not over-recover as charges from the ratepayer. The Company must demonstrate that the service lives analysis is accurate for purposes of

[61] Stipulation of Final Settlement, BPU Docket No. EO95030098, June 27, 1996, para. 17.

determining depreciation rates. That is because an understated service life produces an excessive depreciation rate.

Life analysis is the process of estimating how long plant has lived in the past. Life estimation is the process of estimating how long the existing and new plant will live in the future. Accurately estimating service lives is important to avoid excessive depreciation rates. The Company used the retirement-rate actuarial method to study most plant lives. This is the ideal statistical method for studying plant lives, much like the actuarial techniques used in the insurance industry to study human lives. It is used to determine the life expectancy, necessary to accurately reflect the financial value of the assets, for purposes of determining an accurate rate of return. Unfortunately, in many instances, the Company's witness did not rely on his own results. The Company also proposes arbitrary amortization periods for the remaining general plant accounts. *RC–166*, p. 25–26.

The retirement rate method is the most sophisticated and reliable of the statistical life analysis methods in that it relies on the most refined level of data. Aged retirements and exposures data from a company's records are used to construct observed life tables ("OLT"). These are then smoothed and extended by fitting, using least-squares analysis, to a family of 31 predefined retirement patterns ("Iowa Curves") using varying life assumptions. The process continues until a best fit life is found for each curve. Numerous interactive calculations are required for a retirement rate analysis. In this manner one can determine to a reasonable degree of certainty the experienced life of an asset. Iowa Curves are a set of predefined retirement patterns which are used to study plant lives. Iowa Curves were developed at Iowa State University. They are designated

as "R" right, "S" symmetrical, "L" left and "O" origin. These designations identify the modal (maximum) frequency of retirements relative to the average service life of a group of assets. *R –166,* p. 26-27.

As noted above, in many instances the Company did not rely on its own results in determining the service lives of assets. Rate Counsel asked the Company's witness, Mr. John J. Spanos, why and the response was:

> Mr. Spanos does not conduct strictly statistical life analyses and, as a consequence, the depreciation life or depreciation curve shape is not based solely on a regression analysis for any account. As explained on page II-24 of the Depreciation Study, the service life estimates developed in that study are based on judgment, which is informed by, and considers, several factors, including statistical analyses, Company policies and outlook, survivor curve estimates from previous studies for JCP&L and estimates of other electric companies.[62]

Additional responses from the Company as to why it would deviate from the statistical analysis are summarized in Exhibit MJM 4. *RC–166*. Rate Counsel urges Your Honor and the Board not to adopt Mr. Spanos' rejection of the statistical life studies. Mr. Spanos, on cross-examination, admitted that the difference between his depreciation curves and those of Rate Counsel witness, Mr. Majoros, is his judgment alone, "That's where he stops, I continue on by using judgment to come up with my estimates." *T49:L4-7*.

Relying on the statistical analysis, Rate Counsel proposes a $15,611,070 reduction in depreciation expense as opposed to Mr. Spanos's proposed $5,752,294 reduction. *RC–166,* Exhibit MJM-6.

C. Cash Flow

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[62] Response to RCR-DEP-72

Free cash flow is the cash left over after a Company has paid all of its expenses, including interest and all of its capital expenditures. Excessive depreciation expense is a major contributor to free cash flow. Rate Counsel believes that JCP&L's free cash flow has been substantial and positive since its last base rate case. It already recovers more than it needs to finance any accelerated construction program. Its free cash flow was $2.1 billion after it paid cash for the $1.9 billion it added to plant since 2001 according to Rate Counsel witness Mr. Majoros. *RC–166,* MJM 7. Rate Counsel believes that the Board should not allow utilities to collect this much free cash flow from ratepayers. The Board must not be swayed by claims that the Company needs higher depreciation expense to support its construction program. Rate Counsel's depreciation adjustments should be adopted.

POINT VIII

The Proposed Accelerated Reliability Enhancement Program Should Be Rejected. Investments In Reliability Projects Should Be Treated No Differently From Other Investment That Is Necessary To Provide Safe And Adequate Utility Service, And Should Be Recovered Only Through A General Base Rate Case

A. **Background**:

In this proceeding, JCP&L is seeking Board approval for an Accelerated Reliability Enhancement Program ("AREP"). *JC-2,* p. 17. The Company has proposed no specific projects to include in this program, nor has the Company even suggested a budget for this program. The only thing for sure is that cost recovery will be in what the Company views as "a timely manner." *Id.*

In addition to no specific budget, JCP&L has not identified any specific programs that would be included in the AREP. Rather, JCP&L proposes to work "collaboratively" with BPU staff to develop the "specific projects and time frame for the AREP" and lists "the type of work the Company will consider for the AREP." The listed "type of work" includes "projects JCP&L would not undertake as part of JCP&L's planned course of capital investment." *Id*. at 18.

The only specifics provided by the Company deal with cost recovery. In that area, the Company is very specific. The Company proposed that the AREP Rider would go into effect on January 1, 2014. Initial AREP Rider charges would be based on projected revenue requirements for the calendar year 2014. The proposed revenue requirement would include a return on investment, net of accumulated depreciation and accumulated deferred income taxes; depreciation expense associated with the AREP projects; and cost of removal expenses, as applicable. Each March the AREP Rider would be trued up to

reconcile the previous year's over- or under- recovery and to set a new rate based on projected annual revenue requirement for the forthcoming year. The Company proposes to apply the Weighted Average Cost of Capital ("WACC") granted in this base rate case to its AREP investment. In addition, JCP&L proposes to use the WACC as the applicable interest rate for over/under recoveries in the true up process.

B. Accelerated Reliability

The regulatory compact provides that in exchange for being granted a monopoly franchise area, a utility will provide safe and reliable utility service at reasonable rates. The promise to provide safe and reliable service imposes upon the utility the obligation to make necessary investments in utility plant to ensure ratepayers receive the service they are paying for. JCP&L's proposal is inconsistent with the regulatory compact and would dilute the Company's responsibility for managing its reliability projects.

JCP&L's proposal should also be rejected because there are no specific projects proposed. JCP&L proposes to work "in collaborate with" Board Staff to determine which plant investments should be included in the AREP program and the associated annual budget for the AREP. This does not sufficiently define the programs scope and purpose and inappropriately interjects Staff into a management role for reliability concerns.

The Company has claimed the listed "types of projects" will only be implemented if the Board approves the AREP. The Company claims that it will "not undertake" the listed "types of projects" if the AREP is not approved.Yet, JCP&L has repeatedly contradicted this claim. In its filed testimony, the Company includes "costs associated with implementing the Board's directives arising from the recommendations of the EPP

[Emergency Preparedness Partnership] Report" as one of those "types of projects" it will "not undertake" unless the Board approves the AREP. The Company subsequently conceded that it "will cooperatively and efficiently execute all Board directives." *RC-13*, p. 29.

Also in its filing the Company claims "technology deployments . . . to improve storm response" would be considered only if the Board approves the AREP. JCP&L later admits that "it has implemented many technology deployment projects over the past five years." *RC-13, p. 28*. Similarly, the Company includes "concentrated right-of-way improvements" as another type of project that it will only undertake if the Board approves the AREP. But JCP&L "has implemented a corridor widening initiative in an attempt to widen traditional trimming corridors for the Company's distribution circuits where practical and to remove overhang on selected circuits." In fact, the Company is seeking recovery for "corridor widening" costs in this base rate case. Thus, "types of projects" proposed for implementation through the AREP are no different from the "types of projects" traditionally and appropriately reviewed for recovery in base rates through a base rate case proceeding. JCP&L should not be permitted to move those costs to the AREP contrary to the regulatory compact.

In fact, Board approval of the AREP could reduce the Company's incentive to undertake reliability projects based on identified need, and instead provide an incentive to implement pre-approved projects and to spend up to a pre-approved, arbitrary allowance, knowing that shareholders will earn a return on any such expenditures and that recovery of such expenditures is guaranteed. Company witness Mader tells us "FirstEnergy's capital resources are not unlimited." *JC-2 Rebuttal*, p. 11. Therefore, the Company must

make choices about how much to spend and how to spend it. If certain projects receive advance recovery, JCP&L will have much less incentive to prioritize capital investment based on actual need and more incentive to undertake specific AREP projects, which are subject to accelerated cost recovery.

Finally, the Company has proposed no method to evaluate the AREP if the Board approves this accelerated recovery mechanism. The Company admits that because there are no specific projects slated for implementation through the AREP, results cannot yet be quantified. *RC-13,* p. 34. Thus, it is impossible to quantify any possible benefits of the AREP program to either JCP&L ratepayers or the New Jersey economy in general.

C. Accelerated Recovery

The main focus of the AREP is not "accelerated reliability" but rather "accelerated recovery." As pointed out by Rate Counsel witness Andrea Crane, the Company's proposal is not a commitment to undertake a specific level of investment to accelerate programs previously identified as necessary for the provision of safe and adequate electric service. The Company has not proposed the AREP to address necessary capital improvements that could not be undertaken in the absence of a new cost recovery mechanism. Rather, the AREP is simply an alternative cost recovery mechanism, one that will require ratepayers to pay for certain costs earlier than they would under traditional ratemaking. The Company has not provided any evidence that the AREP will accelerate reliability projects, or allow it to undertake critical projects that would otherwise not be completed. The AREP will, however, significantly accelerate the recovery of reliability investment for shareholders.

Not only does the proposed AREP accelerate recovery of costs that would not otherwise recoverable until the Company filed a base rate case, but the Company's proposal further accelerates recovery by requiring ratepayers to pay for not only actual expenditures, but projected expenditures as well. With the implementation of the AREP, ratepayers would be required to begin to pay for plant that was not yet in-service and which will not be in-service for several years in the future, if at all.

Moreover, the Company has not demonstrated that its financial condition warrants an accelerated recovery mechanism. Rate Counsel witness Robert Henkes has filed testimony in this proceeding demonstrating that the Company is significantly over-earning. The Company has not claimed in this proceeding any difficulty in attracting the capital necessary to invest in reliability projects. There is no evidence that either operational issues or financial issues necessitate implementation of a new accelerated recovery mechanism for distribution reliability projects.

D. Impact on Stakeholders

The proposed surcharge would increase shareholder return while significantly reducing risk. Shareholder return is directly proportional to the amount of investment made by the utility. Since shareholders will benefit from every investment dollar that is spent by the utility, the proposed AREP will increase overall return to shareholders.

In addition, the AREP will accelerate shareholder recovery. Shareholders will no longer have to wait for a base rate case to receive a return on their investment. Nor will shareholders have to wait for a base rate case to begin recovery of depreciation associated with this investment. Furthermore, with the proposed true-up mechanism, recovery of and on this investment is guaranteed. Under traditional ratemaking shareholders are

awarded a risk-adjusted return on equity and given the opportunity, but not a guarantee to earn this return. Under the true-up mechanism, shareholders are guaranteed to recover both the return on this investment as well as the return of this investment. This guarantee results from the fact that any shortfalls would be charged to ratepayers in a subsequent period. This mechanism effectively eliminates all shareholder risk involving recovery of projects funded through the AREP.

In spite of this reduction in risk, the Company has not proposed any reduction to the cost of equity to be paid by ratepayers. JCP&L has proposed that the return authorized in this proceeding for its rate base investment be used to calculate the AREP rate. However, since this return will be accelerated, the impact on shareholders is an increase in the earned return on equity between base rate cases even though there is virtually no risk of cost recovery. Thus, the AREP provides exactly the wrong movement in return on equity that one would expect.

JCP&L is not asking shareholders for money to build the electric system. They are asking ratepayers for this money, sooner. The Company is proposing that each year, the AREP Rider would be established based on projected costs for the upcoming year. Thus, the Company is asking ratepayers, not shareholders, to pay for plant that is not yet in service and to pay shareholders a return of those capital expenditures.

In addition, the AREP Rider results in rate uncertainty for ratepayers. Annual rate increases will make it difficult for customers to anticipate their charges for electric service or to assess the accuracy of their bills. Also, permitting these costs to be recovered between base rate cases will reduce the Company's incentive to control and manage these costs. If the Company is required to file a base rate case to recover these

costs, it is likely to work hard to keep down costs between base rate cases by investing in the most efficient projects and by managing construction of such projects effectively.

E. Single Issue Ratemaking

Single issue ratemaking violates the regulatory principle that all components of a utility's ratemaking equation be considered when new rates are being set. In this way, cost savings are captured as well as cost increases, so that the overall rate increase is mitigated to the extent possible. The Company's AREP proposal clearly constitutes single-issue ratemaking as it proposes to increase rates for one component of the ratemaking equation without consideration of the overall revenue requirement or revenue levels being earned by JCP&L. The AREP rider would permit the Company to impose increases each year on captive customers without regard for other ratemaking components. For this reason as well, the AREP should be rejected.

F. Conclusion

Ensuring reliability is a basic responsibility of any electric company pursuant to its obligation to provide safe and reliability utility service. While JCP&L will undoubtedly be required to undertake electric reliability projects over the next few years, such projects are a normal and integral part of proper electric utility service. This investment should be handled like any other investment that is required to provide safe and reliable utility service, recovered through a base rate proceeding. Between base rate cases, the risk of recovery is on shareholders, who are given a premium return on equity for taking this risk. Requiring the company to recover these costs in a base rate case provides a better forum for Rate Counsel, Staff, and other intervenors to review these costs and to determine whether the costs are just and reasonable. Customers are entitled

to reliable service, they shouldn't have to pay a premium in the form of an accelerated recovery mechanism in order to keep the lights on.

Accordingly, Rate Counsel recommends that Your Honor and the Board reject the Company's proposal to accelerate recovery of costs associated with reliability projects. The AREP results in single-issue ratemaking, provides a disincentive for utility management to control costs, and shifts risks from shareholders to ratepayers. The AREP will put a further (and unnecessary) financial burden on ratepayers and should be rejected.

POINT IX

RATE COUNSEL'S PROPOSED SPREAD OF ITS RECOMMENDED RATE REDUCTION AMONG RATE CLASSES IS FAIR AND REASONABLE.

Rate Counsel is in general agreement with the way in which JCP&L proposed to spread its requested revenue increase among the various rate classes, as fully set forth in its witness David E. Peterson's direct testimony. *RC-152*. However, Rate Counsel is proposing a different allocation of the reduction to each rate class based upon the overall revenue reduction that Rate Counsel recommends. Rate Counsel and the Company agree that gradually moving each class to its cost of service is desirable. Rate Counsel recommends maintaining the present monthly service charges within the currently effective rate schedules. Class revenue targets should be achieved by reducing existing kWh and KW rates by a uniform percentage within each rate class. Rate Counsel objects to one, accepts one, and modifies two of JCP&L's miscellaneous service charge rate proposals. Rate Counsel also rejects JCP&L's proposal to "automatically" adjust rates "if" the Board expands CIEP eligibility in the future. Rate Counsel also opposes the positions of Consolidated Edison and Gerdau with respect to cost allocations.

Meghan C. Moreland sponsored the Company's embedded class cost of service study. *JC-7.* A class cost study allocates the Company's cost to the various classes of service. As applied to the Company's filed case, Ms. Moreland's cost study results indicate the Residential Service ("RS"), General Service – Secondary Time of Day ("GST") and Lighting customers are being subsidized by customers in other rate classes. Sally J. Cheong sponsored the Company's proposed distribution of the increase proposed in the petition among the classes and proposed rate design. *JC-8.* Based on the results of

Ms. Moreland's study, Ms. Cheong proposed to increase revenues in the RS, Residential Time-of Day ("RT"), GST, and Lighting classes by a slightly higher percentage than the Company's proposed system-wide percentage revenue increase.

Moreland used the "peak and average demand" method for allocation, which has been approved by the Board for class allocation. See, I/M/O The Petition of Jersey Central Power & Light Company for Approval of an Amendment to its Tariff to Provide for an Increase in Rates and Charges for Electric Service, BPU Docket No. ER89110912J, Order Adopting and Modifying Decision Concerning Rate Design Issues, (April 9, 1992) ("JCP&L 1992 Board Order"). However, Moreland did not apply the Board approved peak and average method to all of the Company's distribution plant, but modified the allocation procedures with respect to Account No. 368 – Line Transformers. Using a "minimum grid study," Moreland allocated 26.20 percent of the line transformer investment to the various classes using a customer allocation factor. Moreland's only support for this was her statement; "Generally speaking, as the number of customers increase, the number of line transformers installed also must increase to avoid excessive voltage drop." *JC-7,* p. 6. Rate Counsel objects to the minimum grid study approach as it does not accurately reflect actual system design, construction and operation. In this instance, the minimum grid study does not have a significant impact on the Company's proposed allocation, but Rate Counsel will object to expanding the use of a minimum grid study to other distribution accounts in future rate proceedings.

Cheong proposes to also increase monthly customer charges in the RS, RT, RGT (Residential Geothermal & Heat Pump Service), GS (General Service Secondary), and GST (General Service Time-of-Day) classes by $1.00. For the energy (kWh) and

demand (kW) charges, where applicable, Ms. Cheong proposes to increase current charges by an equal percentage within each rate class. *JC–8,* p. 8. Since Rate Counsel is proposing a reduction in the Company's existing revenues, it is not appropriate to increase any individual element of existing rates at this time.

Allocation of cost to various customer classes assists in assigning revenue responsibility. A class cost study is used to examine each class's earned rate of return relative to the system-wide earned rate of return. The unitized rate of return measures the relative performance of each rate class to the system –wide rate of return. A unitized rate of return of less than 1.0 for any class indicates that the class return is less than the system-wide average. The implication of a unitized rate of return of less than 1.0 is that such class or classes are being subsidized by another rate class or classes. *RC–152,* p. 19.

Rate Counsel recommends that the same principles be used to allocate Rate Counsel's recommended revenue reduction among the rate classes as the Company's claimed revenue increase. The following table contains Rate Counsel's recommendation.

Rate Counsel's Proposed Spread of the Revenue Reduction

Class	Revenue Increase	Percent Change
RS	$(98,196,424)	-34.59%
RT	$ (3,313,765)	-35.36%
GS	$ (64,830,387)	-34.59%
GST	$ (5,697,481)	-34.59%
GP	$ (13,184,150)	-38.52%
GT	$ (10,122,061)	-38.52%
LTG	$ (6,616,211)	-34.59%
Total Company	$(201,960,479)	-35.01%

Because Rate Counsel is reflecting an overall reduction in revenues, the percentage reduction to the RS, GS, and LTG classes are less than average because the unitized rates

of return in those classes are less than 1.0. Because the unitized rates of return in the GP and GT classes are significantly above 1.0, Rate Counsel is proposing a 10 percent larger-than-average revenue reduction these classes. Rate Counsel's proposed revenue spread should achieve the same goals that are reflected in the Company's proposed revenue allocation: i.e., make a gradual movement for each class closer to a unitized rate of return of 1.0. *RC-152,* p. 27.

A. Service Charges

Kevin F. Connelly testified on behalf of the Company in support of increases to certain miscellaneous service charges. *JC–9,* p. 3. For some of those service charges, the cost analysis presented by the Company did not justify the increases requested. In one instance, while the cost analysis did support an increase, the amount proposed by the Company would result in "rate shock" and Rate Counsel believes only moderate increases should be permitted. The Company's proposed changes to miscellaneous service charges are summarized in the following chart:

Jersey Central Power & Light Company
Company Proposed Changes to Miscellaneous Service Charges

Service	Current Charge	Proposed Charge
Returned payment	$10	$15
Field collection	$20	$25
Reconnection for non-payment at the meter	$22	$45
Convenience fee for payment by phone	$0	$1

The evidence provided by the Company, *JC–9*, Schedule KC–2, demonstrates that the cost associated with a returned payment is estimated at $12.04. However, the

Company proposes to impose a $15.00 charge for a returned payment. There is no sound economic justification for pricing service above cost. In a similar manner, the Company is proposing to increase the reconnection charge at the meter for non-payment from $22 to $45. While the cost analysis by the Company may justify this increase, it represents a 104 percent increase from the present charge and Rate Counsel believes a more moderate 35 percent increase to $30 is more appropriate. The Company also advocates for a $1 charge for making a payment by phone through a customer service representative. The Company characterizes this is as "convenience fee." It is inappropriate to impose a "convenience fee" on customers who are attempting to settle their accounts by phone through existing customer service representatives whose costs are already reflected in rates.

B. Interval Metering "Automatic" Cost Recovery

The Company is "seeking approval to adjust rates 'automatically' to recover" the costs associated with interval meters for 511 customers within the 300 to 500 kW range should the Board lower the BGS-Commercial and Industrial Price ("CIEP") threshold to 300 kW in the future. *JC–9,* p. 18. When the Board lowered the threshold from 750kW to 500kW, it ordered the cost to install interval meters to be recovered within the next base rate proceeding.[63] The Company now seeks authority to automatically recover its costs if the threshold is reduced further, even though the Board recently declined to take that action.[64] Rate Counsel objects to the Company's proposal to include "automatically" any cost related to potential future action by the Board. To include a provision for

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[63] In the Matter of the Review of the Basic Generation Service Procurement Process, BPU Docket No. ER12020150, BGS Review Order, June 18, 2012.
[64] In the Matter of the Provision of Basic Generation Service for the Period Beginning June 1, 2013, BPU Docket No. ER12060485, Decision and Oder, (November 20, 2012).

unknown events that may or may not come to pass is inappropriate and best addressed by the Board if or when it makes a decision on lowering the CIEP threshold. The "automatic" $177,846 increase in revenue requirement proposed by the Company for these costs should be denied.

C. Response to Consolidated Edison Development, Inc.

Consolidated Edison argues that the JCP&L tariff should be modified to relieve large solar electricity production customers, such as Consolidated Edison, from paying "non cost-based On-Peak Demand charges" which are "imposed on customers to compensate JCP&L for upgrades to its transmission and distribution system infrastructure necessary to serve customers during periods of peak electricity usage. i.e., On-Peak Hours." *CED–4,* p. 2. Consolidated Edison argues that the current tariff for General Service Primary ("GP") and General Services Transmission ("GT") rate classes impose a demand charge to a customer's maximum usage during the twelve hour On-Peak period, regardless of the customer's actual demand. Consolidated Edison contends that it "only require[s] power from JCP&L during Off-Peak Hours and the fringes of On-Peak Hours" and that Consolidated Edison "Solar Projects do not put any strain on the transmission and distribution system." *CED–4,* p. 5-7. Consolidated Edison concludes that JCP&L's tariff should be modified to eliminate on-peak demand charges for "facilities" that have no usage coincident with JCP&L's system peak and in particular, for all grid-supply solar projects. Consolidated Edison contends that the current JCP&L tariff rates are unfair because they will generate revenues in excess of the costs imposed by solar generating companies on JCP&L's transmission and distribution system. Rate Counsel urges that

this argument be rejected because solar facilities are a part of and impact the distribution system and they should therefore contribute to the recovery of its costs.

Consolidate Edison's arguments are simply incorrect as electric transmission and distribution systems are designed, built and maintained to operate at all times. The Board has, definitively rejected in a prior matter a demand-only cost allocation approach because of the dual nature (i.e., demand and energy) of service provided by the Company's facilities. In its Order approving an allocation method that recognized both peak demand and annual usage for JCP&L's transmission and distribution facilities, the Board stated:

> The record in this proceeding contains two distinct approaches to the classification and allocation of non-production transmission, subtransmission and distribution (hereafter "T&D") costs. The DOD/FEA approach classifies plant costs functionalized in accounts 360-368 on an exclusive demand basis, allocating them based upon voltage specific non-coincident peaks. The other approach is a voltage level specific average and excess method advocated by Rate Counsel and included in the MSPM studies advanced by the Staff and the Company.
>
> Accordingly, we CONCUR with the Initial Decision that the voltage specific average and excess method is the appropriate basis for the classification and allocation of T&D costs and ORDER that it be employed in this and future JCP&L proceedings until such time that a more precise methodology is developed. We REJECT the exclusive demand approach advanced by the DOD/FEA based upon its failure to reflect the aforementioned dual demand/energy dimension of the T&D planning process.[65]

Electric Distribution Companies must operate and maintain its system in order to be able to serve all loads at all times, not just the loads online during the system peak. Consolidated Edison's own witness admits that solar projects use electric power during

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[65] I/M/O the Petition of Jersey Central Power & Light Company for Approval of Increased Base Tariff Rates and Charges for Electric Service and Other Tariff Revisions, BRC Docket No. ER91121820J, Final Decision and Order, page 16 (June 15, 1993).

On-Peak Hours. *CED–4,* p. 6. Consolidated Edison is suggesting demand charges only be applied to those customers whose electricity demands are coincident with JCP&L's system peak, or coincident peak demand charges. This assumes that loads placed on the system at times other than the coincident peak have no cost consequences on the system. Transmission and distribution systems are designed, built, operated and maintained to deliver power and energy at all times, on-peak and off-peak. *RC–153,* p. 2. The rate design suggested by Consolidated Edison fails to recognize that JCP&L must operate and maintain its system in order to be able to serve all loads at all times.

D. Response to Gerdau

Gerdau argues that JCP&L's allocation method results in an excessive amount of administrative and general ("A&G") costs being allocated to the SC-GT (General Service Transmission) rate class. Rate Counsel recognizes that there is some evidence to support Gerdau's argument but disagrees with the cost allocation advocated by Gerdau as it attempts to solve the problem too quickly which Rate Counsel believes will result in "rate shock" for other customer rate classes. In its table above, "Rate Counsel's Proposed Spread of the Revenue Reduction," Rate Counsel proposes a 10 percent larger-than-average revenue reduction for the GP and GT rate classes in order to recognize that class unitized rates of return for those two classes are significantly greater that 1.0. *RC–153,* p. 5. This change is consistent with Rate Counsel's position that a measured, gradual step toward cost-based rates for all classes is appropriate.

POINT X

JCP&L HAS NOT COMMITTED SUFFICIENT RESOURCES TO ADDRESS ITS INADEQUATE STORM COMMUNICATIONS NOR ITS POOR CUSTOMER SERVICE PROCESSES THAT EXACERBATE ITS CREDIT AND COLLECTION PROBLEM.

A. Identifying the Causes of Problems, and Planning and Devoting Sufficient Resources to Address Them, Can Improve Customer Service.

New Jersey law requires that a public utility provide safe, adequate and proper service to its customers. N.J.S.A. 48:2-23; N.J.A.C. 14:3-3.1(a). Courts have long held that public utility companies must exercise good management, honest stewardship and diligence. In re Valley Road Sewerage Co., 285 N.J. Super. 202, 210 (App. Div. 1995), aff'd, 154 N.J. 224 (1998) (quoting In re Board's Investigation of Tel. Cos., 66 N.J. 476, 495 (1975)). Public utility companies also must comply with Board regulations governing customer service. E.g., N.J.A.C. 14:3-3.3(c); N.J.A.C. 14:3-7.7(b)(1); N.J.A.C. 14:3-7.2(e)(1). A public utility's duties, however, are not limited to the standards enumerated in Board regulations.

The Board has recognized that "the ancient link between good service and rates is not as clear as it should be to all segments of the regulated community." I/M/O Verified Petition of JCP&L Co., Dkt. Nos. ER02080506-07, et al., 2004 N.J. PUC LEXIS 192 at *85 (N.J. BPU May 17, 2004) (citing I/M/O Valley Road Sewerage Co., 154 N.J. 224 (1998). The Board may reduce a regulated utility company's allowed return on equity to incentivize it to improve its performance. See id. Doing so can be "the most direct and powerful signal" the Board can send to the company. Id. at *87 - *88. Indeed, the Board was forced to exercise this sanction in JCP&L's most recent base rate case. Id.

Despite reducing its return on equity, JCP&L's performance failures continued. See *RC-65*. The Board has already found that the Company's customer service deteriorated over the past few years, with particularly bad service during the storm events of 2011 and 2012. *RC-72*, p. 6, line 17 to p. 7, line 8, citing *RC-62* & *RC-64*. In separate proceedings on those storms, the Board ordered certain service improvements by all electric utilities and others specific to JCP&L. See *RC-62*; *RC-61*; *RC-64*; *RC-63*; & *JC-30*.

The Board concluded, "it is clear that communications is an area where much improvement is still needed," *RC-63*, at 2. That Order explained that "[B]y being better prepared for major events and providing more accurate and timely communications about restoration efforts, the EDCs will provide customers with the tools needed to deal with events of this magnitude." *RC-63*, p. 43; e.g. *id.*, p. 53 (JCP&L must develop major event staffing contingency plans that are less dependent on FirstEnergy).

JCP&L's customer service, before and during the 2011 and 2012 storms, was abysmal. *T141:L3-25* (Sept. 23, 2013). The Company's limited improvements do not address all these problems, and the Company resists taking any actions beyond those expressly ordered by the Board.

Rate Counsel's witness Mr. Roger Colton testified regarding JCP&L's customer service problems as well as management initiatives that can effectively address them. *RC-72*. Mr. Colton's recommendations are similar to those in *RC*-65, but go beyond those limited recommendations. Using the Company's own data, he explained the inadequacy of its customer service in: 1) storm event communications, and 2) practices that worsen its increasing credit and collections problem.

1. JCP&L's planning for and performance of storm event communications is inadequate.

Regulated utilities must provide adequate communication during storm events. N.J.A.C. 14:3-3.3(c); see *RC-72*, p. 5, lines 15-20. Mr. Colton identified ways in which the Company can improve its storm-related public communications, *RC-72*, p. 4, lines 19-21, and tailored his recommendations to avoid duplication of any Board directives. *RC-72*, p. 5, lines 8-11; *T127:L18-23* (Sept. 23, 2013). He also explained that *RC-63* & *JC-30* directed preliminary measures, but contemplated additional improvements. *T127:L18-23*. (Sept. 23, 2013). Mr. Colton assessed five problem areas with JCP&L's storm communications:

a. The Company's communications with local government officials proved inadequate during recent storm events.

The accuracy of electric utilities' communications affects the ability of local governments to inform and serve their residents. *RC-63*, pp. 15-16. JCP&L's communications with local government officials suffered serious breakdowns during recent storm events. *RC-62*; *RC-64*; *RC-63; RC-72*, p. 6, line 19 to p. 7, line 5. "A recurring complaint by elected officials was an inability to communicate with JCP&L." *RC-64*, p. 221. See also *RC-72*, p. 6, line 23 to p. 7, line 3.

The Company's difficulties should not have been a surprise, since it "did not have a well-developed, well-documented protocol for communicating with local officials during storm events prior to late 2011." *RC-72*, p. 7, lines 10-12 citing *RC-34*[66] & *RC-36*; see *RC-56*. The Company implemented a new plan at an unspecified date in late 2011. *RC-36*. JCP&L's parent corporation developed a different plan effective as of

[66] *RC-34,* provided by the Company, is undated and partially redacted, but appears to have been unavailable for the 2011 storms, since its Appendix includes press releases that had been issued during those storms.

August 10, 2012, revised in October 2012, *RC-84*, and revised again in May 2013. *RC-85*.

The "late 2011" plan was not available for Hurricane Irene in August 2011. See *RC-36*.[67] FirstEnergy's plan (*RC-84* & *85)* was not available for either of the 2011 storms, and the ink was barely dry on that plan when Hurricane Sandy struck.[68] Mr. Colton testified that JCP&L's late 2011 version of its plan was inadequate to address communications with local government officials before, during and after a storm event. *RC-72*, p. 7, lines 10-12, citing *RC-34* & *RC-36*.

It is generally recognized that ongoing communications in a non-crisis situation will improve communications during a storm event. *RC-72*, p.12, lines 3-6. JCP&L, however, has not done so. In discovery, the Company could list only a few between-storm communications with local officials. Asked to provide all of its joint training courses or exercises with local officials during 2012, JCP&L listed only four such sessions with first responders in Morris County. *RC-72*, p. 12, lines 7-11, citing *RC-40*. In fact, during calendar year 2012, all of JCP&L's communications to emergency management agencies revolved solely around impending storms. *RC-72*, p. 12, lines 1-3, citing *RC-47*. JCP&L's late 2011 Plan does not even discuss communication with local officials outside the context of a specific storm. *RC-72*, p. 12, lines 11-14, citing *RC-36*.

Rate Counsel recommends the following actions to improve storm-related communications with local government officials:

a) identify the local officials with whom it expects to directly exchange storm-related communications, and keep those contacts up-to-date;

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[67] This plan was implemented during the October 2011 snow storm. *RC-36*.

[68] In fact, *RC-85* was not available until the night before Mr. Colton testified in this case.

b) develop uniform communication templates for exchanging storm-related information with local officials;

c) execute a written communications agreement with interested local governments; and

d) expand and enhance its storm preparedness planning and training with local officials outside the context of an impending storm event.

RC-72, pp. 8 to 13.

b. The Company's communication of Estimated Times of Restoration and actual service restoration is inadequate.

One of the most critical communications tasks for an electric utility during a storm-related outage is to advise customers when they can expect to have their service restored and when it has in fact been restored. *RC-72*, p.14, lines 8-14. Unfortunately, JCP&L does not operate its communication system to do either.

The Company's phone system can advise about service restoration, but only for customers who call and request a call back, *RC-72*, p. 14, lines 16-22, citing *RC-39*, or for limited groups such as Critical Care and Well Water customers. *RC-45*; *RC-33*; also see *RC-41*. JCP&L does not typically generate estimated times of restoration ("ETRs") for specific customers or neighborhoods, *RC-46*, and generates ETRs for a municipality limited to the number of customers it expects to restore each day. *RC-72*, p. 14, line 16 to p. 15, line 23, citing *RC-46*. Moreover, JCP&L usually communicates storm-related outages to customers on their home land line numbers. This is ineffective. *RC-72*, p. 17, line 1 to p. 18, line 2.

Rate Counsel recommends the Company improve its communication of ETRs by:

a) actively communicating accurate ETRs to *all* residential customers;

b) automatically calling customers as service is restored to their area;

c) generating and communicating municipality-wide ETRs when an entire community has lost service;

d) improving the language of its automated ETR calls to ensure they are clear for the widest range of demographics;

e) securing secondary contact information such as mobile phone numbers, for use where the customer is unlikely to be at a residential land-line telephone; and

f) promoting a customer pre-registration process on a website, that also offers easy access to outage information during emergency events,

RC-72, pp. 14 to 18.

c. The Company's planning and follow-up on storm-related communications is inadequate.

The communications and service restoration plans provided by the Company does not include an evaluation of its storm-related communications. *RC-26*, *RC-38, RC-84, RC-85*. The Company thereby falls short of sound planning and management principles. The Company should develop performance metrics that rate the effectiveness of its communications. *RC-72*, p. 18, line 4 to p. 19, line 2.

d. The Company's communications with its vulnerable residential customer populations is inadequate.

Board regulations require certain basic notices to utility customers before discontinuing their service, e.g. N.J.A.C. 14:3-3A.3, as well as special disconnect notice provisions, N.J.A.C. 14:3-3A.4. Board regulations also prohibit discontinuing service for up to 60 days when the customer has an identified "medical emergency." N.J.A.C. 14:3-3A.2(e)(4), -3A.2(i). This last group of customers may not use medically-necessary life-sustaining equipment; however, they have critical medical needs. *RC-72*, p. 22, lines 7-8. Traditional storm-related communications, however, may be inadequate for vulnerable residential populations. *RC-72*, p. 19, lines 4-13.

JCP&L has a "Critical Care Program" pursuant to which it provides to County

and Municipal Offices of Emergency Management a list of customers who notify it that they have electrically-operated life-support equipment. This is the Company's only program for medically vulnerable customers. *RC-43*; *RC-42*.

The Company calls its list of "Critical Care" customers when it anticipates they may be without electric service for more than 24 hours. *RC-42*, attachment 3; *RC-72*, p. 19, line 15 to p. 20, line 11. JCP&L does not provide special notice to any other vulnerable customers of extended power outages. *RC-42*. JCP&L does not inform its Critical Care customers about the location of emergency shelters, *RC-44*, or whether their service has been restored, Id. *RC-72*, p. 20, lines 13-19. Moreover, at no time does the Company inform these customers that their status does not equate to a prioritization in service restoration. *RC-44*; *RC-72*, p. 20, lines 21 to p. 21, line 3.

JCP&L does not report the names and contact information of its identified vulnerable customers to local emergency or social service officials, such as the local Red Cross. JCP&L asserts that it is prohibited by statute, N.J.S.A. 48:3-85.b(1), from doing so. *RC-43*. In fact, that statute provides that the Company may transfer such information to a third party upon "the consent of the customer." The Company could seek that consent during enrollment. This would involve simple changes to JCP&L's processes. *RC-72*, p. 23, line 25 to p. 24, line 11.

Recommended Improvements

Rate Counsel recommends JCP&L improve its storm-related communications with its special needs customers by:

a) automatically providing such communications to at least the vulnerable populations it already identifies;

b) providing messages that reflect the cycle of a storm event, through

confirmation of service restoration; and

c) providing such customers' contact information, upon consent, during storm emergencies to local emergency or social service providers.

RC-72, pp. 20 to 24.

e. The Company does not adequately control its storm-related messaging.

The Company's various emergency communication plans, *RC-36*, *RC-84*, *RC-85*, do not consider efforts needed to control the content of the messages it delivers to the public during a storm event. There are reasonable actions the Company can take to ensure that the contents of its messages are delivered. *RC-72*, p. 24, lines 14-23.

Mr. Colton testified that the Company can ensure delivery of its information to the public during a storm event only when it controls the delivery mechanism, i.e., through posting information on the Company's web site; direct delivery via e-mails, text messages, and "social media" (such as Twitter), conversations with customers and automated (auto-dialer) messages, without subjecting it to an intermediary's filtering process. The use of public media (e.g., television, radio, print) risks "interpretation" of the information, rather than simple delivery of it. The Company's outage and restoration information may be merely one component of total storm-related coverage by public media, thus diluting the utility's message to its customers. *RC-72*, p. 25, line 2 to p. 26, line 2. Direct communications with the public will be useful only if they are constantly updated with accurate information before, during and after the emergency event.

Mr. Colton's recommendations supplement those in *RC-62*, *RC-64*, *RC-63*, as well as *RC-38*, and such actions have been consistently recognized in utility storm preparedness reviews. *RC-72*, p. 26, line 4 to p. 27, line 2.

2. JCP&L has a growing credit and collection problem and has not taken sufficient measures to address it.

Certain of the Company's customer service practices contribute to its growing credit and collection problem, especially its oldest arrears. *RC-72*, p. 3, lines 18-19 and p. 27, lines 4-10. *RC-65* reported that a deteriorating "write-off experience" by the Company "was paralleled by a deterioration in accounts receivable aging as well." *RC-65*, p. 425. That Audit documented that arrears from 61 to 90 days, 91 to 120 days, and more than 120 days in age all increased significantly from 2006 to 2009. *RC-65*, Exhibit X-34, at 426; *RC-72*, p. 27, lines 12-21.

JCP&L's collection performance has continued to deteriorate since 2011. While the amount of the "youngest" arrears (31 to 60 days) has decreased from 2009 to 2012, the arrears have increased in each of its older aging "buckets." In that time, arrears 61 to 90 days old have increased over $4.2 million; arrears 91 to 120 days old have increased over $2.3 million; and arrears more than 120 days old have increased over $8 million. *RC-50*, attachment 2; *RC-72*, lines 1-8.

The over $8 million increase in arrears more than 120 days old is particularly problematic, as older arrearages are less likely to be collected. While in 2009, only 25% of JCP&L's arrears were more than 120 days old, by 2012 it had increased to 34%, or more than one-third of JCP&L's total arrears. *RC-72*, lines 10-15. As explained below, Mr. Colton opined that JCP&L's failure to take three actions contributes to this problem. *RC-72*, p. 28, lines 17-22.

a. The Company does not offer reasonable Deferred Payment Agreements.

Board regulation establishes certain protections in Deferred Payment Agreements ("DPAs"). <u>N.J.A.C.</u> 14:3-7.7. JCP&L's DPA process fails to comply with that rule and

generates substantial customer dissatisfaction. Since October 2009, the Company has responded to 2,432 collection related complaints "Most of these cases were related to payment arrangements and the negotiation of a down payment." *RC-30*.

First, the Company fails to "provide the customer with an opportunity to enter into a fair and reasonable deferred payment agreement(s), <u>which takes into consideration the customer's financial circumstances</u>." <u>N.J.A.C.</u> 14:3-7.7(a) (emphasis added). The Company admits that "[i]n the non-winter, the requirements for the down payment and number of installment plans with payback lengths are . . . <u>not based upon financial information gathered from the customer</u>." *RC-14* (emphasis added).

Second, a down payment may not exceed 25% of the "<u>total outstanding bill</u>." <u>N.J.A.C.</u> 14:3-7.7(b)(1) (emphasis added). In contrast, the Company's procedures provide that "only the electric amounts can be deferred; deposits and other charges, such as return check charges or reconnection fees, cannot be included in the total amount deferred." *RC-14*, Attachment 4, at 5-3. These "non-electric amounts" can be required "up front" or can be added to the first installment payment. Board rules do not provide for excluding specific elements of a customer's bill. *RC*-72, p. 31, lines 3-14.

Third, under Board rules a <u>maximum</u> DPA down payment may not exceed 25% of the total outstanding bill; the Company, however, requires a <u>minimum</u> down payment of 25%. *RC-14*; *RC-72*, p. 29, line 1 to p. 30, line 7.

These practices do not result in customers successfully entering into DPAs. "Indeed, in 2012, there were *more* defaults than there were new plans, with 52,420 new plans and 53,337 defaults." *RC-72*, p. 31, line 23 to p. 32, line 1, citing *RC-31*. The Company is to "provide the customer with an opportunity to enter into a fair and

reasonable deferred payment agreement(s). . ." N.J.A.C. 14:3-7.7(a). When JCP&L's plans result in as many defaults as new plans, it cannot be found to have provided the customer with an opportunity to enter into a "fair and reasonable" DPA. See *RC-72*, p. 31, line 23 to p. 32, line 5.

Serious consequences result from defaulting on a DPA, for the customer and the Company. For the customer, a defaulted DPA often leads to disconnected utility service, and the consequences that follow. When a customer defaults on a DPA, "the likelihood that that customer will face collection activity in the future increases. . . . [This] also has an impact on the Company and all other ratepayers. The Company's working capital needs increase. Bad debt increases. Lost sales occur." *RC-72*, p. 32, lines 7-17.

Based upon the above, Mr. Colton concludes that "the Company delivers unreasonable customer service with respect to the offer of [DPAs]." *RC-72*, p. 32, line 19 to p. 33, line 9.

b. The Company does not provide clear and believable notices warning of the disconnection of service.

Board rules require notice to the customer before a utility discontinues service for nonpayment. A shutoff notice is to provide a clear and believable warning of the impending disconnection of service due to nonpayment. See N.J.A.C. 14:3-3A.3. "JCP&L fails to provide clear and believable disconnect notices when it repeatedly issues disconnect notices when it has no intention of following up those notices with the actual disconnection of service." *RC-72*, pp. 33, lines 16-18.

In 2011, over 98.8% of Company-issued shutoff notices did *not* result in a subsequent shutoff, whether a customer paid his or her bill or not. The Company issued 880,539 residential disconnect notices and actually disconnected service to 10,414

accounts (1.2% of the time). *RC-17*. The numbers were similar in 2012. *RC-72*, p. 34, lines 7-13. The Company issues its computer-generated shutoff notices automatically, *RC-16*, without any intention of following up with an actual disconnection of service. *RC-72*, p. 34, line 15 to p. 35, line 4. JCP&L provided no data to indicate that the high number of disconnection notices leads to customers paying their bills in full prior to the next month. *RC-19*; *RC-21*; *RC-20*; *RC-27*; *RC-29*; *RC-72*, p. 35, lines 6-19.

Sending multiple notices that falsely "warn" of an impending service disconnection causes three harms to the Company. First, disconnect notices that are not clear and believable convey the message that customers may ignore them without any adverse result. Second, creating the false impression of a "drop-dead" shutoff date unless the customer pays in full discourages partial payments. Third, placing customers in the position where they face an immediate "drop-dead" date to pay in full discourages them from taking longer-term constructive actions in response to their bill nonpayment (such as usage reduction strategies and partial payments). Each results in a greater collection problem accompanied by higher costs to all remaining ratepayers. In the long run, providing more believable disconnection notices and inviting partial payment should result in the collection of more revenue. *RC-72*, p. 36, line 1 to p. 37, line 11.

Mr. Colton recommended that JCP&L should provide a shutoff notice in a meaningful time and manner by giving a clear and believable warning that service termination is imminent. To do so, the Company should align when it issues a nonpayment disconnect notice with when it will actually pursue a disconnection of service for nonpayment. *RC-72*, p. 37, lines 13-20.

c. JCP&L provides inadequate service to customers seeking to contact the Company, thereby hindering efforts to timely resolve payment disputes.

JCP&L fails to provide adequate service to customers who seek to contact it. For customers seeking to contact the Company to resolve payment troubles, their inability to make timely contact contributes to their future payment troubles. In addition, the inability to receive a correct bill contributes to their payment troubles. In these ways, JCP&L contributes to its own collection problems. These issues are not limited to payment-troubled customers. *RC-72*, p. 38, lines 1-16.

JCP&L's shortcomings providing access to its personnel and accurate bills were identified in *RC-65*, which found "The regulatory customer service standards reported to the BPU . . . have all deteriorated in recent years." *RC-65*, Finding X-5, pp. 411 & 412. The Company's performance has declined even further since that time. *RC-48*, Attachment 1; *RC-72*, p. 38, line 14 to p. 39, line 14.

The Company's call center and meter reading services also are poor. The Company's own data shows that the performance of its call center for New Jersey is not only FirstEnergy's worst call center, but that its performance is deteriorating. *T144:L13-20* (Sept. 23, 2013); see *RC-28*. JCP&L's rate of meters not read has nearly tripled from its "relatively high" 9.7% in 2009, *RC-65*, Finding X-12, at 419, to 27.9% in 2013 (YTD March). *RC-49*, attachment 1; *RC-72*, p. 39, line 16 to p. 40, line 2. This failure to read meters violates the Board rule requiring regular meter readings. N.J.A.C. 14:3-7.2(e)(1).

These chronic problems raise concerns about continued performance deterioration on two main customer service criteria. *RC-72*, p. 38, line 14 to p. 40, line 2. JCP&L should take those actions necessary to: a) resolve customers' ongoing difficulty in contacting it; and b) ensure that it reads customers' meters and issues accurate bills in the

first instance.

CONCLUSION

As discussed above and as demonstrated in the testimony, Rate Counsel respectfully requests that Your Honor and the Board deny JCP&L's request for an increase of $10,958,000 in its distribution rates. Rate Counsel recommends Your Honor and the Board adopt Rate Counsel's recommended rate decrease of $214,868,497. Specifically Rate Counsel requests the following relief:

I. Reliability

JCP&L should be required to meet a modified minimum reliability benchmark by using more recent, SAIFI and CAIDI data, and additional benchmarks utilizing other measures such as CEMI[69] to address pockets of poorly performing areas that may be too small to be captured by SAIFI and CAIDI. Rate Counsel respectfully request that Your Honor and the Board acknowledge JCP&L's poor performance and specifically order the Company to establish an improvement plan with specific deadlines and consequences, such as a reduction of its Return or Equity, if reliability does not improve.

JCP&L should be required to include in its annual system reliability report the Company's CAIDI and SAIFI both including and excluding major events. In addition, the Board should better define "major events" so that the definition cannot be modified to skew the Company's performance results.

[69] Customers experiencing multiple interruptions ("CEMI").

JCP&L should be ordered to maintain an increased level of vegetation management spending and require reporting and sanctions if its vegetation management practices and spending are not maintained at a sufficient level.

II. Ring Fencing

JCP&L should be required to conduct a ring fencing study within 90 days of the Order resolving the instant case.

III. ROE and Capital Structure

Rate Counsel's proposed Return on Equity of 9.25% and proposed capital structure of 50% common equity should be adopted, resulting in an overall rate of return of 7.76%.

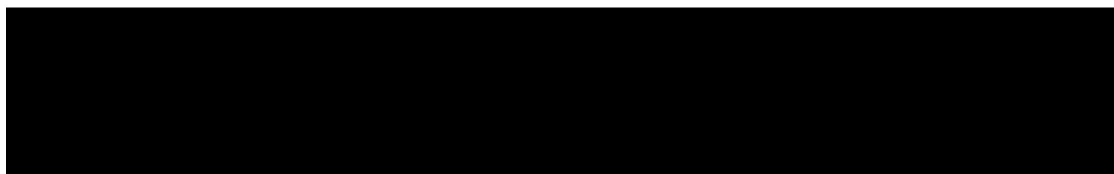
IV. Rate Base

Rate Counsel's recommended rate base of $1,247,783,394 should be adopted.

V. Operating Income

The appropriate pro forma operating income amounts to $223,860,850 which is $56,125,932 more than JCP&L's proposed updated and revised pro forma operating income of $167,734,919 should be adopted.

VII. Pension



VI. Depreciation

Rate Counsel's recommended overall $15,503,635 reduction in depreciation expense should be adopted. This $15,503,635 adjustment consists of a $1,606,919 decrease in depreciation expense as well as an annual negative amortization of the Company's reserve excess of $13,896,716.

VII. AREP

JCP&L's proposed Accelerated Reliability Enhancement Program ("AREP") should be rejected.

IX. Rate Design

Rate Counsel's recommendation to the Company's service charges more appropriately reflects just and reasonable charges for those services and should be adopted. The Company's attempt to "automatically" recover potential future costs for interval meters that may or may not be required depending on future Board decisions should be rejected.

Consolidated Edison's request for special treatment and tariff relief from on peak demand charges should be rejected.

Rate Counsel recognizes that the allocation of costs to the SC-GT rate class may be disproportionately large, therefore recommends that a 10 percent larger-than-average revenue reduction for the GP and GT rate classes should be adopted. This reflects a measured, gradual step toward a unitized rate, avoiding the potential for "rate shock" among the other rate classes.

X. Customer Service

JCP&L should be required to: a) identify the local officials with whom it expects to directly exchange storm-related communications, and keep those contacts up-to-date; b) develop uniform communication templates for exchanging storm-related information with local officials; c) execute a written communications agreement with interested local governments; and d) expand and enhance its storm preparedness planning and training with local officials outside the context of an impending storm event to improve its storm-related communications with local government officials.

JCP&L should be required to: a) actively communicate accurate estimated times of restoration (ETRs) to *all* residential customers; b) automatically call customers as service is restored to their area; c) generate and communicate municipality-wide ETRs when an entire community has lost service; d) improve the language of its automated ETR calls to ensure they are clear for the widest range of demographics; e) secure secondary contact information such as mobile phone numbers, for use where the customer is unlikely to be at a residential land-line

telephone; and f) promote a customer pre-registration process on a website, that also offers easy access to outage information during emergency events to improve its communication of estimated and actual service restoration times.

JCP&L should be required to develop performance metrics that rate the effectiveness of its communications to improve its communications planning and follow-up.

JCP&L should be required to: a) automatically provide such communications to at least the vulnerable populations it already identifies; b) provide messages that reflect the cycle of a storm event, through confirmation of service restoration; and c) provide such customers' contact information, upon consent, during storm emergencies to local emergency or social service providers to improve its communications with vulnerable customer populations,.

JCP&L should be required to: a) offer reasonable deferred payment agreements; b) provide clear and believable disconnection notices; and c) promptly and effectively resolve customer payment disputes to improve its credit and collection problem.

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BUSINESS

Pension Drag on Earnings May Reverse

Companies Using Mark-to-Market Pension Accounting Could See 2013 Benefit

By MICHAEL RAPOPORT
Jan. 8, 2014 7:38 p.m. ET

Tough Transition

Companies that changed accounting methods for their pension plans in 2011 or earlier have taken big hits to net income in the past couple of years.

Fourth-quarter charges by some companies that changed accounting methods for their pension plans

Company	2012	2011
Reynolds American	-$289M	-$145M
Kellogg	-$401M	-$664M
FirstEnergy†	-$609M	-$507M
Honeywell	-$957M	-$1.8B
UPS	-$4.8B	-$827M
Verizon*	-$7.2B	-$5.6B
AT&T	-$10B	-$6.3B

Source: the companies †Figures are after taxes *Figures also include severance and other items The Wall Street Journal

Rising rates and a banner year for stocks could lift earnings at some large companies that have made an arcane but significant change to the way their pension plans are valued.

Companies including AT&T Inc. and Verizon Communications Inc. could show stronger results than some expect when they report fourth-quarter earnings in coming weeks. They and about 30 other companies in the past few years switched to "mark-to-market" pension accounting to make it easier for investors to gauge plan performance.

With the switch, pension gains and losses flow into earnings sooner than under the old rules, which are still in effect and allow companies to smooth out the impact over several years. Companies that switch to valuing assets at up-to-date market prices may incur more volatility in their earnings, but it offers a more current picture of a pension plan's health and its contribution to the bottom line.

MoneyBeat
Pension Boost Could Bring Dilemma

In 2011 and 2012, that change hurt the companies' earnings, largely because interest rates were falling at the time. But for 2013, it may be a big help to them, accounting experts said, a factor of the year's surge in interest rates and strong stock-market performance.

"It's going to account for a huge rise in operating earnings" at the affected companies, said Dan Mahoney, director of research at accounting-research firm CFRA.

Wall Street analysts tend not to include pension results in their earnings estimates, focusing instead on a company's underlying businesses. That makes it hard for investors to know what the impact of the change will be. Some companies may not see a big impact at all, because of variations from company to company in how they've applied mark-to-market changes.

Gains for 2013 would be a reversal from 2011 and 2012. In 2012, AT&T took a $10 billion hit to operating profit because of the accounting switch. As interest rates fell in those years, the value of future obligations rose,increasing the current value of pension plans' future obligations to retirees, and impacting the plans' expenses.

But interest rates were higher at the end of 2013, reducing the obligations' current value, and potentially reducing expenses. Last year's stock market rally, the biggest for the Dow Jones Industrial Average in 18 years, swelled the value of some of the assets used to fund pension payments. Most companies build asset returns of between 7% and 8% into their models.

Some mark-to-market companies with fiscal years ended in September have reported pension gains. Chemical maker Ashland Inc. had a $498 million pretax mark-to-market pension gain in its September-end fourth quarter, versus a $493 million pension loss in its fiscal 2012 fourth quarter. That made up about 40% of the Covington, Ky., company's $1.24 billion in operating income for fiscal 2013.

AT&T and Verizon, which report fourth-quarter and full-year earnings this month, haven't said whether they expect such gains. They do say their new accounting is more transparent and benefits investors. "We believe this gives investors a clearer view of AT&T's operational performance," said a spokesman for the company, whose pension fund had more than $45 billion in assets as of the end of 2012. But FirstEnergy Corp. has already indicated it expects a fourth-quarter, after-tax mark-to-market pension gain of up to $150 million.

Most companies don't use mark-to-market pension accounting. Instead, they filter pension gains and losses into earnings gradually, and compute pension performance using an estimated rate of return, not the actual return.

That system is still acceptable under generally accepted accounting principles, or GAAP, but it has been widely criticized as confusing. U.S. accounting rule-makers recently indicated they may consider revisions.

A small number of companies—37 since 2010, according to Jack Ciesielski, president of accounting-research firm R.G. Associates—have switched on their own. Those companies now count big pension gains and losses in the same year they are incurred, and many of them account for the switch through an earnings adjustment in each year's fourth quarter.

For 2011 and 2012, that adjustment led to a significant charge, as rates declined and the resulting losses had to be recognized up front instead of being smoothed in. AT&T's fourth-quarter 2012 charge contributed to a $6 billion operating loss for the quarter. Verizon's 2012 charge including non-mark-to-market items was $7.2 billion.

That trend should reverse itself, though the companies aren't disclosing details. AT&T said it expects a fourth-quarter mark-to-market adjustment for 2013 but wouldn't provide specifics; Verizon declined to comment.

Not all mark-to-market companies will see gains. Some such companies record adjustments only if their pension gains or losses exceed a minimum "corridor." As a result, Honeywell International Inc. says it doesn't foresee a significant mark-to-market adjustment for 2013, and United Parcel Service Inc. has made similar comments in the past.

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