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BOARD OF PUBLIC UTILITIES
MAIL ROOM

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June 19, 2015

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VIA HAND DELIVERY

Irene K. Asbury, Secretary
New Jersey Board of Public Utilities
44 South Clinton Ave, 9th Floor
Trenton, New Jersey 08625-0350

EM15070855

RE: Merrill Creek Reservoir Project - JCP&L Sublease of a Portion of its Water Storage and Release Entitlements to Granite Water supply Company

Dear Secretary Asbury:

In accordance with the decision and order of the New Jersey Board of Public Utilities (the "**Board**" or "**BPU**") dated December 30, 1992 in **BPU Docket No. EF92111065** (the "**December 1992 Order**")¹ please accept for filing the original and eleven copies of this letter together with exhibits, including the proposed form of Amended and Restated Sublease Agreement (the "**Renewal Sublease**"), which is a renewal of an existing sublease agreement dated as of May 1, 1993 (the "**Original Sublease**") approved by the Board in the December 1992 Order. Please date and time-stamp one of the enclosed copies and kindly return it to me in the enclosed self-addressed, postage pre-paid, envelope.

The Renewal Sublease is being entered into as of June 10, 2015, by and between Jersey Central Power & Light Company ("**JCP&L**" or the "**Company**") and Granite Water Supply Company, Inc. ("**Granite**") with a Commencement Date of July 31, 2015. Under the Renewal Sublease, Granite will lease a portion of JCP&L's storage capacity rights in the Merrill Creek Reservoir Project in Harmony Township, Warren County, New Jersey ("**Merrill Creek**"). As

¹ A copy of the December 1992 Order is attached hereto as Exhibit No. 1.

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indicated above, the Renewal Sublease is a renewal of the Original Sublease, which is scheduled to expire on July 30, 2015. The Original Sublease was entered into following approval of the Company's request under N.J.S.A. 48:3-7 and N.J.A.C. 14:1-5.6 by the Board in the December 1992 Order, in which, among other things, the Board directed JCP&L to "file with the board a copy of any new agreements or amendments at least ten days prior to their proposed effective date." December 1992 Order at p.4. This filing is intended to comply with the requirements of the Board's December 1992 Order as it applies to the Renewal Sublease as a form of new agreement or amendment.

Background

In the mid-1980's, JCP&L and six other electric utilities (the "*Co-Owners*") developed and constructed the Merrill Creek project to provide compensation releases ("*Make-Up Water*") to the Delaware River, pursuant to the requirements of the Delaware River Basin Commission, to compensate for Delaware River Basin water consumed during times of drought by present and future electric generating stations in the Delaware River Basin. The Merrill Creek water storage and release operations are made possible by a dam, dikes, a pumphouse, pumps, a pipeline, water intake/outlet facilities and related works and appurtenant equipment and facilities. JCP&L currently holds an 8.37% leasehold interest in the reservoir area of Merrill Creek, along with related water storage and release entitlements of approximately 4,000 acre-feet of storage

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capacity (the "*Lease*").²

In the early 1990's, JCP&L determined that its entitlements to Merrill Creek Reservoir Make-up Water releases were substantially in excess of its current and projected requirements over the course of the ensuing 20 years. Consequently, JCP&L subleased a portion of its excess water storage capacity to Granite through the Original Sublease, as approved by the Board in the December 1992 Order. As indicated above, the term of the Original Sublease commenced on July 30, 1995 and expires on July 30, 2015 ("*Original Term*"). With the continuation of the developments and trends perceived in the early 1990s, including restructuring of the electric markets in New Jersey under the Electric Discount and Energy Competition Act ("*EDECA*"), N.J.S.A. 48:3-49 et seq., JCP&L continued, and continues, to project that its entitlement to Merrill Creek Make-up Water releases is, and will continue to be, in excess of its current and projected requirements. Therefore, since entering into the Original Sublease, JCP&L has also

² In 1988, the Board authorized JCP&L to sell and lease back its 8.37% interest in Merrill Creek. See the Board's Order dated June 2, 1988 in BPU Docket No. EM88040588 and hereinafter referred to as the "*1988 Order*." JCP&L's Lease under the Board's 1988 Order will expire on December 31, 2032, subject to certain renewal and repurchase options exercisable by JCP&L.

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entered into additional subleases with parties ("*Other Sublessees*") other than Granite.³

The Original Sublease⁴

As approved by the Board in the December 1992 Order, under the Original Sublease, JCP&L subleased to Granite 135 acre-feet of storage capacity ("*Committed Capacity*") to provide Make-Up Water to the Delaware River, to be utilized by an affiliate of Granite with respect to a cogeneration project then to be constructed in Logan Township by Keystone Energy Service Company, an affiliate of Granite (the "*Logan Generating Facilities*"). In the event the cumulative volume of releases of Make-Up Water allocated to Granite exceeded the Committed Capacity in any calendar year of the Term, Granite is also obligated to sublease an additional 135 acre-feet ("*Standby Capacity*"), regardless of the amount that the allocation exceeds the Committed Capacity. In fact, the releases of Make-Up Water allocated to Granite have never

³ For instance, JCP&L subleased an additional portion of its excess water storage capacity to Northampton Water Supply, Inc., or its affiliate(s) ("*Northampton*") pursuant to a sublease agreement ("*Northampton Sublease*") with terms similar to the Granite Sublease, which was approved by the Board in its Order dated December 6, 1993 in BPU Docket No. EM93090386. In 1999, when JCP&L sold essentially all of its non-nuclear generation assets, including its ownership interest in the Gilbert Station ("*Gilbert*"), to Sithe Energies, Inc. ("*Sithe*"), JCP&L also sublet 251 acre-feet of water storage capacity to Sithe for the operation of Gilbert and also made available to Sithe the option to sublease additional water storage capacity from time to time. I/M/O the Verified Petition of [JCP&L] seeking (a) Approval of the Sale of its Non-Nuclear Generation Assets and Certain Additional Real and Personal Property, and the Sublease of Other Certain Interests, Pursuant to N.J.S.A. 48:3-7, ... and (c) a Waiver of the Advertising Requirements of N.J.A.C. 14:1-5.6(b), BPU Docket No. EM99020067 (November 4, 1999). Subsequently, in 2001 the Board also authorized JCP&L to enter into an Entitlement Agreement under which it would sublease for a period of thirty years 620 acre-feet of Make-Up Water to Florida Power & Light Company ("*FPL*") together with such amount of additional capacity not being used by the Company, if required by FPL for Make-Up Water purposes. See In re GPU Energy (Assignment of Lease Interest to Marcus Hook, L.P.), Decision and Order, BPU Docket No. EF01030142 (the "*November 8, 2001 Order*").

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exceeded the Committed Capacity during any year of the Original Term, so the Standby Capacity provisions have never been invoked under the Original Sublease.

The rent payments under the Original Sublease are set forth in a schedule, with annual rental amounts for the Committed Capacity having commenced at \$122,000 beginning in 1996, and reaching a maximum of \$296,000 in 2014 (with a final rental payment of \$154,000 for the partial sublease year of 2015).

The Renewal Sublease⁵

The Renewal Sublease provides for a new term commencing on the Commencement Date, which is anticipated to be July 31, 2015, and terminating on December 31, 2024 (“*New Term*”). Besides the New Term, the most significant change between the Original Sublease and the Renewal Sublease is the rent and other consideration to be paid by Granite. Under the Renewal Sublease, the rent will be at a flat rate of \$150,000 per year for Committed Capacity throughout the New Term, plus an additional \$1,500 per acre-foot of Additional Capacity (the defined term in the Renewal Sublease corresponding to “Standby Capacity” under the Original Sublease) for any year in which Granite requests and is granted available Additional Capacity from JCP&L. In addition to the annual rental for Committed Capacity and the potential for payments in consideration of any Additional Capacity, Granite will also pay, semi-annually, on a pass-through basis a fee (the “*Renewal Sublease Fee*”) covering (i) a *pro rata* portion of JCP&L’s actual operating and maintenance expenses and taxes associated with its leasehold

⁴ An executed copy of the Original Sublease as filed with the Board following the December 1992 Order, is attached hereto as Exhibit No. 2.

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interest in Merrill Creek, and (ii) the actual pumping expenses incurred for any Make-Up Water releases directly allocated to consumption by the Logan Generating Facilities.

The rental amounts for Committed Capacity and, if applicable for Additional Capacity, together with the Renewal Sublease Fee under the proposed Renewal Sublease were the result of arms-length negotiations between JCP&L and Granite, which other than for the Original Sublease have no other relationship to, with, or between, each other. In JCP&L's view, the Renewal Sublease reflects current and projected market circumstances, including Granite's understanding of its actual Make-Up Water needs at the Logan Generating Facilities. For instance, the release of Make-Up Water from Merrill Creek continues to be less than was expected when the Merrill Creek project was designed, due at least in part to softer-than-expected load demand in the region and the evolution of energy markets in New Jersey and the surrounding region since EDECA's enactment. Furthermore, JCP&L is not aware of other electricity generators seeking additional Make-Up Water for release into the Delaware River Basin, clearly indicating the state of market demand for Merrill Creek storage capacity.⁶

Accounting

Historically, the Board recognized the costs associated with JCP&L's remaining leasehold interest in Merrill Creek under the Lease as being included in the Company's

⁵ The proposed form of the Renewal Sublease is attached hereto as Exhibit No. 3.

⁶ As the Board recognized in its order approving the Entitlement Agreement with FPL, the Renewal Sublease is also subject to a right of first-refusal (the "*ROFR*") by the Co-Owners. As of the date of this filing, all of the Co-Owners have already provided notice that they do not intend to exercise the ROFR.

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previously bundled rates. See the Board's Final Decision and Order ("*Final Order*"), dated March 7, 2001, in the Company's Rate Unbundling, Stranded Costs and Restructuring Proceedings (BPU Docket Nos. E097070458, E097070459 and E097070460). The Final Order authorized continued recovery by JCP&L of its Merrill Creek Lease-related costs as a regulatory asset via the Company's unbundled distribution rates (Final Order at 114) that was offset by JCP&L's liability under the Lease (less the annual rental and other payments under the Original Sublease, and from the Other Sublessees under the Northampton Sublease and the Sithe sublease). In addition, the net present value ("*NPV*") of the Lease was recorded in a regulatory asset account (#182616) as a stranded cost and JCP&L was recovering this amount (over the life of the Lease) as part of its base rate amortization as approved by the Final Order.

Independent of the 2002 Base Rate Case, which was underway at the time, on November 8, 2001 the Company also received approval for an additional sublease - the FPL Entitlement Agreement - as a result of which, the Company recalculated the NPV of the Lease to include the effect of the FPL Entitlement Agreement, thereby reducing the Final Order amount in the same Company's regulatory asset account (#182616).

In the subsequent BPU Order dated May 17, 2004 in JCP&L's 2002 Base Rate Case, BPU Docket No. ER02080506 et al, the BPU accepted the Company's approach to reflect the net impact of certain subleases (*i.e.*, the Original Sublease, the Northampton Sublease, and the Sithe sublease) upon the total estimated Lease cost and to amortize the estimated net cost of the Merrill Creek Lease over the remaining life of the facility. The combination of the 2002 Base Rate Case amortization and the effect of the FPL Entitlement Agreement led to full recovery of the

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regulatory asset (in account #182616) through base rates prior to the end of 2006. Accordingly, the regulatory asset was not included in JCP&L's 2012 base rate case filing.

With the establishment of new base rates on April 1, 2015 pursuant to the Board's Order dated March 26, 2015 in BPU Docket No. ER12111052, JCP&L's base rates reflect approximately \$302,000 for annual operations and maintenance expenses and taxes associated with the Company's leasehold interest under the Merrill Creek Lease. Therefore, the annual rental amounts under the Renewal Sublease for Committed Capacity and, if applicable for Additional Capacity, together with the Renewal Sublease Fee will be applied so as to reduce JCP&L's Merrill Creek Lease expenses going forward. More specifically, JCP&L intends to continue to apply the routine payments for Committed Capacity and any Additional Capacity under the Renewal Sublease to its rental obligations under the Lease, while applying the newly negotiated Renewal Sublease Fee to cover a pro-rata share of JCP&L's actual operating and maintenance expenses and taxes associated with its leasehold interest in Merrill Creek, and the actual pumping expenses incurred for any Make-Up Water releases directly allocated to consumption by Granite consistent with the other sublease arrangements which contain a separate O&M recovery provision.

The December 1992 Order Specifically Requires At Least Ten Days' Notice Prior to the Effectiveness of the Renewal Sublease

In the December 1992 Order, the BPU directed JCP&L to "file with the [B]oard a copy of any new agreements or amendments at least ten days prior to their proposed effective date." JCP&L believes that the specific ten-day notice provision in the December 1992 Order reflected

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the Board's clear intention that its approval of the Original Sublease also encompassed any new agreements or amendments between the parties such as the Renewal Sublease, about which the Board required only a brief pre-effectiveness notification. Therefore, by this specific direction, the Board did not require JCP&L to file a petition under N.J.A.C. 14:14:1-5.6(a) with respect to subsequent new agreements and amendments with Granite. Indeed, the December 1992 Order reflected the BPU's determination that the Original Lease transaction did not "adversely affect the utility's ability to furnish safe and adequate service or otherwise jeopardize the public interest." (December 1992 Order at p.2, citing In re Elizabethtown Water Co., BRC Docket No. 652-76 (April 7, 1965). The Board's 10-day notice requirement with respect to subsequent new agreements or amendments between the parties for the same essential purposes indicated the Board's view that such notice was not only necessary but would also be sufficient for making the Board aware of developments related to the Board's December 1992 Order. The Company believes that, under all the circumstances, the Renewal Sublease, as hereby filed consistent with the directive of the December 1992 Order, reasonably continues the relationship between JCP&L and Granite for the same purposes and on similar, albeit modified, terms that are not, in any respect, contrary to the Board's earlier determination that then proposed transaction did not adversely affect, JCP&L's ability to furnish safe and adequate service or otherwise jeopardize the public interest. Therefore, JCP&L also believes that the Board should approve the Renewal Lease on the basis of this filing.

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Relief Requested

Relief Requested

In view of the foregoing, the Company respectfully requests that the Board inform the Company by Board Order or Secretarial letter as soon as reasonably practical after the expiration of 10-days (and not later than July 31, 2015) that this filing of the Renewal Sublease has been accepted and authorized consistent with the December 1992 Order. In the event that the Board cannot provide confirmation of the authorization of the Renewal Sublease, or an order separately approving the Renewal Sublease, prior to July 31, 2015, the Company and Granite propose to extend the Original Sublease on a month-to-month basis (subject to the mutual consent of the parties thereto) pending the Board's approval of the Renewal Sublease.

If, notwithstanding the December 1992 Order, the Board should require the filing of a petition under N.J.A.C. 14:1-5.6 (a), the Company respectfully requests that, in view of the history and facts and circumstances set forth herein, this letter be considered to be the Company's petition in lieu of a more formal petition, and that: (i) the Board conduct and conclude its review of this matter, and (ii) the Board approve the Renewal Sublease, prior to the July 30, 2015 expiration of the Original Lease and the anticipated July 31, 2015 commencement of the Renewal Sublease. In the event of an inability to provide such approval by July 31, 2015, the Company respectfully requests the Board authorize the extension of the Original Sublease on a month-to-month basis (subject to the mutual consent of the parties thereto) pending the Board's completion of its review and approval of the Renewal Sublease.

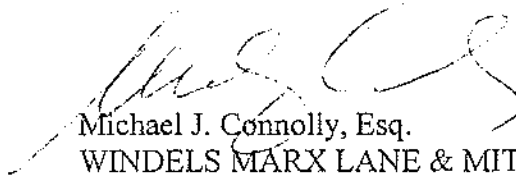
The Company further respectfully requests that the Board provide JCP&L with a waiver under N.J.A.C. 14:1-5.6(i), of the advertising requirement set forth in N.J.A.C. 14:1-5.6(b).

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Waiver of the advertising requirement is consistent with the Board's prior determinations with respect to Merrill Creek subleases due to, inter alia, the "extremely limited" market for such rights. See, e.g., In re GPU Energy (Assignment of Lease Interest to Marcus Hook, L.P., Decision and Order, Docket No. EF01030142 (November 8, 2001) at p.4. Moreover, under such circumstances as described herein, the waiving of advertising requirements will not adversely affect the public interest.

The Company thanks the Board for its consideration of the foregoing.

Very truly yours,



Michael J. Connolly, Esq.
WINDELS MARX LANE & MITTENDORF, LLP
Attorneys for Jersey Central Power & Light
Company

MJC:km
Enclosures

cc: M. A. Mader, Director, New Jersey Rates, FirstEnergy Service Company
K. F. Connelly, Staff Analyst, Rates & Regulatory Affairs, NJ,
M. Espinoza, JCP&L
L. Lepkoski, Esq. FirstEnergy Service Company
Stephanie Brand, Esq., New Jersey Division of Rate Counsel
Cynthia Covie, Chief Counsel, BPU
Jerome May, Director, Division of Energy
Caroline Vachier, DAG, Division of Law, Public Utilities
Edward Beslow, Counsel's Office, BPU

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Exhibit 1



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Agenda Date: 12/9/92

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J.C.P. & L. CO.

State of New Jersey
Board of Regulatory Commissioners
CN 350
Trenton, NJ 08625-0350

JUN 22 2015

BOARD OF PUBLIC UTILITIES
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ELECTRIC

IN THE MATTER OF JERSEY CENTRAL)
POWER & LIGHT COMPANY TO SUBLEASE)
A PORTION OF ITS WATER STORAGE)
AND RELEASE ENTITLEMENTS TO)
KEYSTONE ENERGY SERVICE COMPANY)

DECISION AND ORDER

DOCKET NO. EF92111065

Scott L. Guibord, Esq., Morristown, New Jersey,
Attorney for Petitioner, Jersey Central Power
& Light Company

Robert Chilton, Director, Division of Electric, on
behalf of the Staff of the Board of Regulatory
Commissioners

BY THE BOARD:

Jersey Central Power and Light Company ("JCP&L", "the Company") is a co-owner with six other electric utilities of the Merrill Creek Reservoir Project (Merrill Creek). Merrill Creek was built in the mid-1980's by the utilities to supply make-up water to the Delaware River to compensate for the Delaware River Basin water used by electric generating stations in times of drought.

The Board, by Order dated June 2, 1988, in docket number EM88040588, authorized JCP&L to sell and lease back its 8.37% undivided interest in the Merrill Creek Project. Board approval for this transaction was required pursuant to N.J.S.A. 48:3-7 and 48:3-9 and N.J.A.C. 14:1-6.10. JCP&L's initial lease agreement expires in 2032, but contains renewal and repurchase options which can be exercised by JCP&L at the time of expiration.

Through this lease arrangement, JCP&L is entitled to 4000 acre-feet of usable water storage in the Merrill Creek Reservoir which provides make-up water for JCP&L's Gilbert Generating Station located in Hunterdon County.

When JCP&L entered into the Merrill Creek Reservoir Project with the other co-owners, JCP&L had planned to construct approximately 800 megawatts of additional baseload capacity in the Delaware River Basin. JCP&L has since revised its plans to build baseload capacity in the area, because the expected load growth did not materialize and the Company has utilized alternative capacity sources. JCP&L, by its agreement with the other co-owners, still retains its existing entitlement in the Merrill Creek project.

By letter dated April 16, 1992, JCP&L advised the Board that its Merrill Creek lease entitlements are substantially in excess of its current and projected needs throughout the next 20 years. Accordingly, JCP&L advised the Board of its intent, beginning July 1995, to sublease to Keystone Energy Service Company or its affiliate(s) (Keystone) a portion of the utility's water storage capacity and release entitlements in the Merrill Creek Reservoir for an initial 20 year period. According to a proposed term sheet submitted by JCP&L, the sublease could be renewed, subject to certain conditions, at prices to be negotiated upon expiration of the sublease.

JCP&L intends to sublease to Keystone 135 acre-feet of Merrill Creek water storage capacity annually and to make available to Keystone an additional 135 acre-feet of storage capacity and any additional share of JCP&L's make-up water not being used by the utility which Keystone may request. The proposed sublease payments by Keystone contained in the term sheet are in excess of the lease payments made by JCP&L over the twenty year term. In addition, Keystone will compensate JCP&L for all pumping costs incurred as a result of the sublease between JCP&L and Keystone. Keystone seeks the sublease of these entitlements to service a cogeneration facility that it is constructing in the Delaware River Basin. The cogeneration facility will sell electric energy and capacity to Atlantic Electric Company.

JCP&L's lease agreement in the Merrill Creek Project together with the related water storage and release entitlements clearly constitute property, privileges or right covered under N.J.S.A. 48:3-7. It is a utility's statutory obligation, pursuant to N.J.S.A. 48:3-7, to acquire the Board's approval before leasing its property. In re Central Railroad Company of New Jersey, 38 PUR 3d 196 (January 27, 1961); In re Central Railroad Company of New Jersey, 39 PUR 3d 111 (May 25, 1961). The primary purpose of the requirement to submit such lease agreements to the Board for review is to prevent the making of leases which are inimical to the state's interest or omitting provisions requisite for the protection of such interest. West Jersey & S.R. Co. v. Board of Public Utility Commissioners, 87 N.J.L. 170, 94 A. 57 (1915). A public utility is not permitted to acquire and use basic equipment for the provision of utility service under a lease agreement without prior approval of the Board since to do so otherwise could result in the utility being in a position where it might have overextended itself with respect to its financial commitment and incurred improper limitations on the use of the equipment and thus impair its ability to render service to the public. In re Atlantic Electric Company, BRC Dkt No. 724-398 (June 8, 1972). Conversely, agreements by utilities to lease or sublease utility property to others must be reviewed to assure that the lease or sublease will not adversely affect the utility's ability to furnish safe and adequate service or otherwise prejudice the public interest. In re Elizabethtown Water Company, BRC Docket No. 652-76 (April 7, 1965).

N.J.S.A. 48:3-7 contains an exemption from the requirement of Board approval for leases of utility property "in the ordinary course of business." The Board's rule, N.J.A.C. 14:1-5.6, discusses certain types of limited and routine transactions that can be construed as "in the ordinary course of business" and for which neither notice to the Board nor a petition for approval is required. However, the Board in the past has taken the position that public utilities which lease their property to others without prior approval of the Board do so at their peril, and the determination as to whether such transaction is in the ordinary course of business of the public utility must be made by the Board and not the utility. Steigler v. Erie Lackawanna R. Co., BRC Dkt. No. 6011-843 (April 10, 1961).

The proposed transaction involves a long term commitment by JCP&L to lease to a third party the utility's entitlement to certain water resources which at one time were believed to be necessary for the provision of safe, adequate and proper service by JCP&L to its customers. While it may well be that circumstances have changed and this water source is no longer required by the utility, that is a determination which should properly be made by the Board and not unilaterally by JCP&L. Accordingly, based upon the above, as well as a review of the filing and subsequent back-up information, the Board HEREBY FINDS that this type of transaction is not a transaction in the ordinary course of business, either under N.J.S.A. 48:3-7 or N.J.A.C. 14:1-5.6, and hence the transaction requires Board approval.

The Board, having reviewed the information submitted by JCP&L, HEREBY APPROVES, subject to the terms and conditions below, JCP&L's request to sublease to Keystone or its affiliate(s), 135 acre-feet of Merrill Creek Water storage capacity and JCP&L's intent to make available to Keystone an additional 135 acre-feet of water storage capacity, as well as any additional share of JCP&L's make-up water not being used by the utility which Keystone requests.

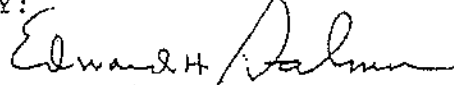
This Order of Approval is subject to the following provisions:

1. The terms or conditions of the sublease between JCP&L and Keystone or its affiliate(s) shall not change substantively from the draft sublease currently on file with the Board without further Board approval.
2. This Order shall not be constructed as directly or indirectly fixing for any purpose whatsoever any value of the tangible or intangible assets now owned or hereafter to be owned by Petitioner.
3. This Order shall not affect or in any way limit the exercise of the authority of this Board, or of the State, in any future petition or in any proceeding with respect to rates, franchise, services, financing, accounting, capitalization, depreciation, or in any other matters affecting the Petitioner.

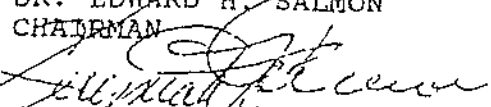
The Board HEREBY DIRECTS JCP&L to file with the Board for administrative review a signed copy of the final executed agreement between JCP&L and Keystone within ten days of the agreement's execution date. JCP&L is further directed to file with the Board a copy of any new agreements or amendments at least ten days prior to their proposed effective date.

DATED: December 30, 1992

BOARD OF REGULATORY COMMISSIONERS
BY:



DR. EDWARD H. SALMON
CHAIRMAN



JEREMIAH F. O'CONNOR
COMMISSIONER



CARMEN J. ARMENTI
COMMISSIONER

ATTEST:



IRENE JOHNSON
SECRETARY
I HEREBY CERTIFY that this document
is a true copy of the original in the files of the
Board of Regulatory Commissioners.



Irene Johnson
Secretary

Exhibit 2

FINAL EXECUTED CONTRACT

EXECUTION COPY

PREPARED BY AND WHEN RECORDED
RETURN TO:

Berlack, Israels & Liberman
120 West 45th Street
New York, New York 10036

By: _____

SUBLEASE AGREEMENT

dated as of

May 1, 1993

between

JERSEY CENTRAL POWER & LIGHT COMPANY,
as Sublessor

and

GRANITE WATER SUPPLY COMPANY, INC.
as Sublessee

Relating to the Lease Agreement,
dated as of June 1, 1988,
recorded in Vol. ___ at Page ___

This Sublease has been executed in ___ original counterparts of
which this is original counterpart number ___.

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SUBLEASE

Sublease Agreement, dated as of May 1, 1993, between JERSEY CENTRAL POWER & LIGHT COMPANY, a New Jersey corporation (the "Sublessor"), and GRANITE WATER SUPPLY COMPANY, INC., a Delaware limited partnership (the "Sublessee").

W I T N E S S E T H:

WHEREAS, the Sublessor is a party to that certain Lease Agreement, dated as of June 1, 1988 (the "Lease"), between Sublessor, as lessee, and United Jersey Bank, solely in its capacity as owner trustee, as lessor (the "Lessor");

WHEREAS, pursuant to the Lease, Sublessor has leased an undivided 8.37% ownership interest in the Merrill Creek Reservoir ("Merrill Creek"), which, together with Sublessor's rights under the Ownership Agreement (as defined in the Lease), entitle Sublessor to the use of Merrill Creek to provide compensation releases ("Make-Up Water") to the Delaware River pursuant to requirements of the Delaware River Basin Commission (the use of Make-Up Water for such purposes being referred to herein as "Make-Up Purposes") for certain of the Sublessor's electric generating units; and

WHEREAS, on the terms and conditions set forth herein, Sublessee desires to sublease from Sublessor, and Sublessor desires to sublease to Sublessee, certain storage in Merrill Creek to provide Make-Up Water for the cogeneration project (the "Keystone Project") to be constructed in Logan Township, New Jersey by

Keystone Energy Service Company, L.P. ("Keystone"), an affiliate of Sublessee.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

Section 1. Definitions. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to them in the Lease.

Section 2. Sublease of Capacity; Term.

(a) The term of this Sublease (the "Term") shall commence on July 30, 1995 and end on July 30, 2015 (the "Expiration Date") unless extended, renewed or earlier terminated as hereinafter provided.

(b) On the terms and conditions set forth herein, Sublessor agrees to sublease to Sublessee, and Sublessee hereby subleases from Sublessor, 135 acre-feet of storage in Merrill Creek (the "Committed Capacity") during the Term hereof. Sublessee shall be deemed to have subleased the entire Committed Capacity in each calendar year of the Term regardless of the actual cumulative volume of releases of Make-Up Water allocated to Sublessee in such year.

(c) (i) If the cumulative volume of releases of Make-Up Water allocated to Sublessee exceeds the Committed Capacity in any calendar year of the Term, Sublessee shall also sublease from Sublessor, and Sublessor shall also sublease to Sublessee, on

the terms and conditions set forth herein, an additional 135 acre-feet of storage in Merrill Creek (the "Standby Capacity") in such year regardless of the actual amount that such allocation exceeds the Committed Capacity.

(ii) If the cumulative volume of releases of Make-Up Water in Merrill Creek to be allocated to Sublessee in any calendar year of the Term will exceed the aggregate of the Committed Capacity and the Standby Capacity in such calendar year (an "Extra Capacity Year"), Sublessee shall have the right to sublease from Sublessor, and Sublessor shall, upon exercise of such right, sublease to Sublessee, in such year, on the terms and conditions set forth herein, an amount of storage in Merrill Creek equal to such excess (the "Additional Capacity"; together with the Committed Capacity and the Standby Capacity, the "Capacity"); provided, however, that the right of Sublessee to sublease Additional Capacity shall be expressly subject to such Additional Capacity being "Available" Capacity. Sublessee may sublease the Additional Capacity in any Extra Capacity Year by providing Sublessor with Information Reports (as defined below) as to its requirements for said Additional Capacity. As used herein, Additional Capacity is "Available" only if and to the extent that, (A) pursuant to the Lease or otherwise, Sublessor is entitled to storage in Merrill Creek for Make-Up Purposes with respect to such Additional Capacity, (B) neither Sublessor nor any of its Affiliates requires or may require such Additional Capacity based on existing or projected needs and (C) the right to use such

Additional Capacity has not been Transferred (as defined in Section 8(a)) by Sublessor.

(d) (i) It is the intention of the parties that, for purposes of scheduling and accounting for releases of Make-Up Water from Merrill Creek, the Keystone Project shall be considered a generating facility of Sublessor. Accordingly, Sublessee shall provide Sublessor with such information ("Information Reports") regarding the operation of the Keystone Project as will enable Sublessor to supply the Merrill Creek Project Director (the "Project Director") with sufficient information to enable the Project Director to release Make-Up Water for the Keystone Project in accordance with Merrill Creek operational procedures and guidelines. The Information Reports shall be provided to Sublessor by Sublessee on a daily or such other basis as may be agreed to from time to time by the parties, and in such form as the parties shall agree to from time to time and which is sufficient to enable Sublessor to report to the Project Director as described above. Sublessor hereby agrees to instruct the Project Director to release Make-Up Water for the Keystone Project as if the Keystone Project were a generating facility of Sublessor within the meaning of Section 1.01 of the Ownership Agreement; provided, however, that (A) Make-Up Water shall not be released for the Keystone Project in any calendar year of the Term if the cumulative volume of releases of Make-Up Water to be allocated to Sublessee in such year would exceed the Committed Capacity and Standby Capacity unless (x) Sublessee has elected to sublease such excess capacity as

Additional Capacity pursuant to paragraph (c)(ii) above and (y) such Additional Capacity is Available and (B) in no event shall Make-Up Water be released for the Keystone Project on any day that Make-Up Water releases are not otherwise being made for a generating facility of a Merrill Creek Owner.

(ii) Sublessee shall be required to sublease the Committed Capacity and, if necessary, the Standby Capacity, in each calendar year, and Sublessee shall have the right, subject to the limitations described herein, to sublease the Additional Capacity in each Extra Capacity Year. Sublessee agrees not to sublease, purchase or otherwise utilize Merrill Creek Make-Up Water capacity for the Keystone Project from any Merrill Creek Owner (other than Sublessor) whether or not during an Extra Capacity Year.

Section 3. Rentals.

(a) Sublessee shall pay to Sublessor rent for the Committed Capacity in semi-annual installments in the amounts and on the dates set forth in Exhibit A hereof.

(b) If Sublessee has subleased the Standby Capacity in any year, Sublessee shall also pay to Sublessor, in addition to the rent payable for the Committed Capacity, semi-annual installments of rent on the dates and in the amounts set forth in Exhibit B hereof in the year following the sublease of the Standby Capacity; provided, however, that if in such year Sublessee has also subleased any Additional Capacity, the aforesaid rent payments for the Standby Capacity shall be increased in accordance with the formula set forth in Exhibit C hereof. Rent payable under this

paragraph (b), together with rent payable under paragraph (a) above, is referred to herein as the "Basic Rent".

(c) Sublessee shall pay to Sublessor any and all Supplemental Rent (as hereinafter defined) promptly as the same shall become due and payable. Basic Rent and Supplemental Rent are collectively referred to herein as "Rent".

(d) All Rent payable hereunder shall be paid by Sublessee to such account at such institution as Sublessor shall specify in writing from time to time at least five Business Days prior to the applicable payment dates. Each payment of Rent shall be made by Sublessee in Federal funds, on or before 12:00 Noon, New York City time, on the scheduled date on which such payment shall be due, unless such scheduled date shall not be a Business Day, in which case such payment shall be due and payable on the next succeeding Business Day. Rent shall be deemed paid when received in such account at such institution.

(e) If any Basic Rent shall not be paid on the date and at or prior to the time when due (without taking into account applicable grace and notice periods), Sublessee shall pay to Sublessor, as Supplemental Rent, interest on such overdue amount at the rate of ten percent (10%) per annum (or, if such rate shall at any time exceed the maximum amount permitted by law, then at such lesser rate that shall be equal to the maximum rate permitted by law) from and including the due date thereof to but excluding the date of payment thereof. Such interest constituting Supplemental Rent shall be payable in the same manner as Basic Rent within five

(5) Business Days after demand by Sublessor. If any Supplemental Rent shall not be paid on the date and at or prior to the time when due (without taking into account applicable grace and notice periods), Sublessee shall pay to Sublessor as Supplemental Rent interest on such overdue Supplemental Rent at the rate of ten percent (10%) per annum (or, if such rate shall at any time exceed the maximum rate permitted by law, then at such lesser rate that shall be equal to the maximum rate permitted by law) from and including the date thereof to but excluding the date of payment thereof. If any Rent shall be paid on the date when due, but after 12:00 Noon, New York City time, at the place of payment, interest shall be payable as aforesaid for one day.

Section 4. Renewal.

(a) This Sublease may be renewed at the end of the Term only as provided in this Section 4.

(b) If Sublessee desires to renew this Sublease, Sublessee shall provide notice of the same, specifying the renewal term ("Renewal Term") proposed by Sublessee, to Sublessor not less than twelve (12) months and not more than twenty-four (24) months prior to the Expiration Date. Sublessor shall have 60 days from the receipt of said notice to advise Sublessee whether any Capacity for such proposed Renewal Term is Available. If Sublessor advises Sublessee by such 60th day that Capacity is so Available, the parties hereto shall thereupon negotiate in good faith with respect to the Renewal Term, rentals and other provisions to be included in the renewal of this Sublease to the extent of the Available

Capacity. If no Capacity is Available, or if the parties, following good faith negotiations, fail to agree on any of the renewal terms by the Expiration Date, then this Sublease shall terminate on the Expiration Date without liability on any party except for the Surviving Obligations (as defined in Section 10(a) hereof).

(c) Any renewal or extension of the Term shall be subject to receipt by Sublessor of all necessary regulatory authorizations and the provisions of the Ownership Agreement.

Section 5. Representations and Warranties.

(a) Sublessor represents and warrants to the Sublessee as follows:

(i) Due Incorporation, etc. Sublessor is a corporation duly incorporated and validly existing in good standing under the laws of the State of New Jersey and has the corporate power and authority to carry on its business, to own or lease its property, to sublease the Capacity, and to enter into and perform its obligations under this Sublease.

(ii) Authorization. The execution, delivery and performance by Sublessor of this Sublease has been duly authorized by all necessary corporate action on the part of Sublessor.

(iii) Enforceability. This Sublease has been duly executed and delivered by Sublessor and, assuming the due authorization, execution and delivery hereof by Sublessee, is a legal, valid and binding obligation of Sublessor,

enforceable against Sublessor in accordance with its terms, except as such enforceability may be limited by (A) applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the rights of creditors generally and (B) general equitable principles (regardless of whether such enforceability is considered in a proceeding at law or in equity).

(iv) Approvals. No consents, authorizations or approvals of any agency, regulatory or other governmental body, or any other person, are required for the execution, delivery and performance by Sublessor of this Sublease, except for appropriate orders of the Securities and Exchange Commission under the Public Utility Holding Company Act of 1935 and the New Jersey Board of Regulatory Commissioners under the New Jersey Public Utilities Law which have been duly obtained and are in full force and effect.

(v) Litigation. There is no action, suit, investigation or proceeding pending or, to the knowledge of Sublessor, threatened against Sublessor or its properties before any court, arbitrator or administrative or governmental body which, individually or in the aggregate (so far as Sublessor now can reasonably foresee), will materially and adversely affect the ability of Sublessor to perform its obligations hereunder.

(vi) No Violation or Default. The execution, delivery and performance by Sublessor of this Sublease do not

contravene or violate any applicable law or regulation or the articles of incorporation or by-laws of Sublessor or constitute a violation of or default under any agreement, including, but not limited to, the Ownership Agreement (subject to the right of first refusal of the Merrill Creek Owners thereunder), the Lease or any Operative Document, or any judgment, injunction, order, decree or other instrument binding upon Sublessor, which contravention, violation or default, in the case of any of the foregoing (other than the articles of incorporation or by-laws of Sublessor), could materially impair its ability to perform hereunder.

(vii) No Lease Event of Default; No Basis for Termination. There is no Lease Event of Default which has occurred and is continuing and, to the best knowledge of Sublessee, no event has occurred or circumstances exist, which with the giving of notice or the passage of time would constitute a Lease Event of Default. To the best knowledge of Sublessor, there are no circumstances now existing which would provide a basis for early termination of this Sublease pursuant to Section 10 hereof.

(b) Sublessee represents and warrants to the Sublessor as follows:

(i) Due Organization, etc. Sublessee is a corporation duly incorporated and validly existing in good standing under the laws of the State of Delaware and has the corporate power and authority to carry on its business, to own

or lease its property, and to enter into and perform its obligations under this Sublease. Sublessee has not failed to qualify to do business in any jurisdiction where the failure so to qualify would materially and adversely affect the properties, business or financial condition of Sublessee or could affect its ability to perform any of its obligations under this Sublease.

(ii) Authorization. The execution, delivery and performance by Sublessee of this Sublease has been duly authorized by all necessary action on the part of Sublessee.

(iii) Enforceability. This Sublease has been duly executed and delivered by Sublessee and, assuming the due authorization, execution and delivery hereof by Sublessor, is a legal, valid and binding obligation of Sublessee, enforceable against Sublessee in accordance with its terms, except as such enforceability may be limited by (A) applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the rights of creditors generally and (B) general equitable principles (regardless of whether such enforceability is considered in a proceeding at law or in equity).

(iv) Governmental Actions. No consents, authorizations or approvals of any agency, regulatory or other governmental body, or any other person, are required for the execution, delivery and performance by Sublessee of this Agreement.

(v) Project. Sublessee will utilize the Capacity solely to provide Make-Up Water to the Delaware River for Make-Up Purposes for the Keystone Project.

(vi) Litigation. There is no action, suit, investigation or proceeding pending or, to the knowledge of Sublessee, threatened against Sublessee or its properties before any court, arbitrator or administrative or governmental body which, individually or in the aggregate (so far as Sublessee now can reasonably foresee), will have a material adverse effect on the properties, business or financial condition of Sublessee or (so far as Sublessee now can reasonably foresee) will materially and adversely affect the ability of Sublessee to perform its obligations hereunder.

(vii) No Violation or Default. The execution, delivery and performance by Sublessee of this Sublease does not contravene or violate any applicable law or regulation or the certificate of incorporation or by-laws of Sublessee or constitute a violation of or default under any agreement, or any judgment, injunction, order, decree or other instrument binding upon Sublessee, which contravention, violation or default, in the case of any of the foregoing (other than the certificate of incorporation or by-laws of Sublessee) could materially impair its ability to perform hereunder.

Section 6. Subject to; Disclaimer of Warranties.

(a) This Sublease is expressly subject and subordinate to the provisions of the Lease and the other Operative Documents, and all other agreements to which the Lease is subject, including the rights of Lessor to enforce remedies under Section 17 of the Lease if a Lease Event of Default shall have occurred and be continuing.

(b) SUBLESSOR SUBLEASES, AND SUBLESSEE TAKES, THE CAPACITY AS IS, AND SUBLESSOR SHALL NOT BE DEEMED TO HAVE MADE, AND SUBLESSOR HEREBY DISCLAIMS, ANY REPRESENTATION OR WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER (EXCEPT AS EXPRESSLY PROVIDED HEREIN), INCLUDING WITHOUT LIMITATION, THE DESIGN OR CONDITION OF THE PROJECT OR THE CAPACITY OR ANY PART THEREOF, THE MERCHANTABILITY THEREOF OR THE FITNESS THEREOF FOR ANY PARTICULAR PURPOSE, TITLE TO THE INTEREST, THE QUALITY OF PROJECT MATERIALS OR WORKMANSHIP OR CONFORMITY THEREOF TO PLANS OR SPECIFICATIONS, OR THE PRESENCE OR ABSENCE OF ANY LATENT OR OTHER DEFECTS, WHETHER OR NOT DISCOVERABLE, NOR SHALL SUBLESSOR BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING LIABILITY IN TORT, STRICT OR OTHERWISE), IT BEING AGREED THAT ALL SUCH RISKS, AS BETWEEN SUBLESSOR AND SUBLESSEE, ARE TO BE BORNE BY SUBLESSEE. THE PROVISIONS OF THIS PARAGRAPH (b) HAVE BEEN NEGOTIATED, AND ARE INTENDED TO BE A COMPLETE EXCLUSION AND NEGATION OF ANY REPRESENTATION OR WARRANTY BY SUBLESSOR, EXPRESS OR IMPLIED (EXCEPT AS EXPRESSLY PROVIDED HEREIN), WITH RESPECT TO THE PROJECT, THIS SUBLEASE, THE CAPACITY OR ANY PART THEREOF THAT MAY ARISE PURSUANT

TO ANY LAW NOW OR HEREAFTER IN EFFECT OR OTHERWISE. NOTHING CONTAINED IN THIS PARAGRAPH (b) SHALL BE CONSTRUED AS A WAIVER OF ANY WARRANTY OR OTHER CLAIM AGAINST ANY MANUFACTURER, SUPPLIER OR INSTALLER.

(c) Sublessee hereby acknowledges and agrees that Sublessee's obligations hereunder, including (without limitation) the obligation to pay Rent, shall not be affected by the failure of Merrill Creek to effect releases of Make-Up Water for Make-Up Purposes for any reason, or by any of the following circumstances: (i) any defect in or failure of the title, merchantability, condition, design, compliance with specifications, operation, quality or fitness for use of the Project, the Capacity or any part thereof; (ii) any damage to, removal, abandonment, theft, dismantlement, shutdown, breakdown, failure, salvage, loss, scrapping or destruction of or any requisition or taking of the Project, the Capacity, the Site, any Component or Alteration, or any part thereof or any interference, interruption or cessation in the use or possession of the Interest, the Project, the Site or any Component or Alteration by Lessee or any other Person for any reason whatsoever or of whatever duration; (iii) any restriction, prevention or curtailment of or interference with any use of the Capacity, Interest, the Project, the Site, any Component or Alteration, or any part thereof; (iv) any defect in, or any Lien on, title to the Interest, the Project, the Site, any Component or Alteration, or any part thereof; (v) any change, waiver, extension, indulgence or other action or omission in respect of any obligation

or liability of Lessor; (vi) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other like proceeding relating to Sublessee, Sublessor, Indenture Trustee, Lessor, Owner Participant, any Holder, or any other Person, or any action taken with respect to this Sublease or the Lease by any trustee or receiver of any Person mentioned above, or by any court; (vii) any claim that Sublessee has or might have against any Person, including without limitation, Indenture Trustee, Owner Participant or any Holder (but shall not constitute a waiver of any such claim); (viii) any breach or failure of any representation or warranty made in, or any failure on the part of any Person (including, without limitation, Lessor, Indenture Trustee, Owner Participant and the Holders) to perform or comply with any of the terms of, any Operative Document or any other agreement; (ix) any failure of any Other Owner to perform its obligations under the Ownership Agreement; (x) any doctrine of force majeure, impossibility, frustration of purpose, failure of consideration, or any similar legal or equitable doctrine; (xi) any amendment of or other change to, or any assignment of rights under, any waiver, action or omission to act under or in respect of, or any exercise or non-exercise of any right or remedy under, the Lease, any other Operative Document or any other agreement; or (xii) any other occurrence similar to the foregoing, whether or not Sublessee shall have notice or knowledge of any of the foregoing.

(d) It is understood and agreed that Sublessee has no rights whatsoever under the Ownership Agreement, Lease or any

other Operative Documents, and that Sublessor may, in its sole discretion, take any and all actions, including agreeing to any amendments, modifications or waivers with respect thereto, without the consent of or notice to Sublessee.

Section 7. Sublease Defaults.

(a) Any of the following events shall constitute a Sublessee Default:

(i) Sublessee shall fail to pay (A) any installment of Basic Rent within five (5) Business Days after written notice of such failure from Sublessor; or (B) any Supplemental Rent (or other amount due hereunder) within 30 days after written notice of such failure from Sublessor; or

(ii) Sublessee shall fail to perform or observe any other covenant or agreement to be performed or observed by it under this Sublease and such failure shall continue for a period of 30 days after there shall have been given notice of said failure to Sublessee by Sublessor, stating it is a "Notice of Default" and requiring it to be remedied, provided, however, that if the failure stated in any such Notice of Default cannot be corrected within the applicable period, it shall not constitute the basis of a Sublessee Default hereunder if (1) corrective action capable of remedying such failure is instituted by Sublessee within the applicable period and is diligently pursued until the failure is corrected; (2) the Sublessee shall have certified to Sublessor prior to the end of the applicable period that

said failure is such that it can be corrected but not within the applicable period, that corrective action capable of remedying such failure has been instituted and is being diligently pursued and that such corrective action will be diligently pursued until said failure is corrected; and (3) such default does not impair in any material respect the rights of the Sublessor hereunder or under any Operative Document, or the rights of Owner Trustee, Owner Participant or Indenture Trustee in the Interest, the Trust Estate, the Indenture Estate, or title thereto or any interest therein; or

(iii) any representation or warranty made by Sublessee hereunder shall prove to have been incorrect in any material respect and shall remain uncured for a period of 30 days after notice of said inaccuracy to Sublessee by Sublessor stating it is a "Notice of Default" and requiring it to be remedied; or

(iv) (A) Sublessee shall commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency, receivership or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, or shall consent to any such relief or to the appointment or taking possession by any such official or agency in an involuntary case or other proceeding commenced against it, or

shall make a general assignment for the benefit of creditors, or shall take any corporate action to authorize any of the foregoing; or (B) an involuntary case or other proceeding shall be commenced against Sublessee seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency, receivership or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official or agency of it or a substantial part of its property, and such involuntary case or other proceeding shall remain undismissed or unstayed for a period of 90 days.

(b) Upon the occurrence of any Sublessee Default and so long as the same shall be continuing, Sublessor, at its option, may declare this Sublease to be in default by notice to such effect given to Sublessee (except in the case of any Sublessee Default specified in paragraph (a)(iv), in which case no notice shall be required), and at any time thereafter Sublessor may, to the extent permitted by applicable law, exercise one or more of the following remedies, as Sublessor in its sole discretion shall elect:

(i) Sublessor, by notice to Sublessee (except in the case of any Sublessee Default specified in paragraph (a)(iv), in which case no notice shall be required), may terminate this Sublease; and

(ii) Sublessor may sell all or an undivided partial interest in the Capacity, at public or private sale,

as Sublessor may determine, free and clear of any rights of Sublessee in the Capacity and without any duty to account to Sublessee with respect to such action or inaction or any proceeds with respect thereto; and

(iii) Sublessor, by notice to Sublessee (except in the case of any Sublessee Default specified in paragraph (a)(iv), in which case no notice shall be required), may accelerate all of the Basic Rent under this Sublease, in which case all Basic Rent payable until the Expiration Date shall be immediately due and payable; and

(iv) Sublessor may exercise any other right or remedy that may be available to it under applicable law or proceed by appropriate court action to enforce the terms hereof or to recover damages for the breach hereof.

(c) No termination of this Sublease in whole or in part or exercise of any remedy under paragraph (b) shall relieve Sublessee of any of its liabilities hereunder. In addition, Sublessee shall be liable for any and all unpaid Rent due hereunder before, after or during the exercise of any of the foregoing remedies. Sublessee shall also pay all reasonable legal fees and other costs and expenses incurred by Sublessor by reason of the occurrence of any Sublessee Default or the exercise of Sublessor's remedies with respect thereto.

(d) To the extent permitted by applicable law, no remedy under this Section 7 is intended to be exclusive, but each shall be cumulative and in addition to any other remedy provided

under this Section 7 hereof or otherwise available to Sublessor at law or in equity or otherwise. No express or implied waiver by Sublessor of any Sublessee Default hereunder shall in any way be, or be construed to be, a waiver of any future or subsequent Sublessee Default. The failure or delay of Sublessor in exercising any rights granted it hereunder upon any occurrence of any Sublessee Default shall not constitute a waiver of any such right upon the continuation or recurrence of any such default and any single or partial exercise of any particular right by Sublessor shall not exhaust the same or constitute a waiver of any other right provided herein. To the extent permitted by applicable law, Sublessee hereby waives any rights now or hereafter conferred by statute or otherwise which may require Sublessor to sell, lease or otherwise use the Capacity in mitigation of Sublessee's damages as set forth in this Section 7 hereof or which may otherwise limit or modify any of Sublessor's rights and remedies provided herein. Notwithstanding the provisions set forth in the immediately preceding sentence, if Sublessor is, pursuant to Section 7(b)(ii) or otherwise, able to sell, resublease or otherwise dispose of Sublessee's interest in the Capacity (it being understood that the same shall not have been deemed to occur until after Sublessor shall have disposed of all of its Merrill Creek capacity except for 135 acre-feet), then the consideration received by Sublessor in exchange for such sale, resublease or other disposition of the Capacity shall be credited against Sublessee's obligation to pay

Rent pursuant to this Sublease; provided, that, in no event will Sublessee be entitled to any surplus.

Section 8. Rights to Assign or Sublease.

(a) Sublessee may not assign, sublease or otherwise transfer (each, a "Transfer") any of its rights hereunder, or create or suffer to exist any Liens on or with respect to the Capacity or the Rent.

(b) Sublessor shall be free to Transfer any of its Merrill Creek entitlement from time to time without restriction or limitation and free and clear of any interest of Sublessee therein; provided, however, that Sublessor shall not effect any Transfer (i) if such Transfer would cause Sublessor to be unable to provide the Committed Capacity to Sublessee as provided herein, unless the transferee agrees to be bound by the terms hereof and has the power and authority to perform the obligations of the Sublessor hereunder, or (ii) if such Transfer would cause Sublessor to be unable to provide the Standby Capacity as provided herein unless Sublessor has first complied with paragraph (c) below.

(c) If Sublessor shall desire to effect any Transfer of its Merrill Creek entitlement as described in paragraph (b)(ii) above, Sublessor shall not do so unless it shall have, subject to the terms of the Ownership Agreement, first offered to Sublessee in writing an opportunity to acquire such entitlement (up to 135 acre-feet) upon terms no less advantageous than those of the proposed Transfer. If Sublessee shall not have notified Sublessor that it accepts such offer in writing within 30 days of receipt of

such offer, the offer shall be considered rejected, and Sublessee's right hereunder to sublease the Standby Capacity to which such entitlement-relates shall terminate. If Sublessee shall have accepted such offer, then the transfer of the entitlement shall be made to Sublessee on the terms and conditions set forth in the offer, and Sublessee's right hereunder to sublease the Standby Capacity to which such entitlement relates shall terminate.

Section 9. Payment of Certain Costs, etc.

(a) Sublessee shall pay to Sublessor, within five Business Days of demand by Sublessor, Sublessee's pro rata share (based on the volume of Make-Up Water releases allocated to Sublessee) of Sublessor's costs, as specified in clauses (a) and (b) of the second sentence of Section 7.05 of the Ownership Agreement, to replenish depleted storage utilized to provide Make-Up Water for the Keystone Project. The amounts owing by Sublessee as aforesaid shall be considered Supplemental Rent and shall be determined based on billing by the Merrill Creek Project office to Sublessor.

(b) Upon execution and delivery hereof, Sublessee shall pay to Sublessor, as Supplemental Rent, all transaction costs of Sublessor, including legal fees and expenses, associated with the execution and delivery of this Sublease, up to a maximum of \$20,000. Upon request, Sublessor shall provide Sublessee with invoices for such costs in reasonable detail.

Section 10. Early Termination.

(a) Pursuant to Section 15.1(a)(iv)(B) of the Lease, Sublessor may not enter into this Sublease if, in the reasonable opinion of Owner Participant, this Sublease results in adverse tax consequences to Owner Participant as therein provided. Notwithstanding anything in this Agreement to the contrary, the parties hereto agree that if, in the reasonable opinion of Owner Participant, this Sublease does result in such adverse tax consequences, this Sublease shall immediately terminate, without obligation or liability on either party except (i) for Rent accrued and unpaid to the date of such termination and (ii) arising from a breach or default hereunder that occurred prior to the date of such termination (clauses (i) and (ii) being collectively referred to as the "Surviving Obligations").

(b) Notwithstanding anything in this Agreement to the contrary, this Sublease shall also terminate, without liability on either party except for the Surviving Obligations, if any regulatory authority having jurisdiction over Sublessor or any of its Affiliates shall have issued an order requiring that the Capacity be made available for use by Sublessor or any such Affiliate.

(c) Unless a Sublessee Default shall have occurred and be continuing, Sublessee may at any time elect to terminate this Sublease under this Section 10(c) by delivering to Sublessor an irrevocable written notice designating a termination date ("Termination Date"), which Termination Date shall be not earlier

than the first Basic Rent payment date following the second anniversary of the receipt of such written notice. On such Termination Date, Sublessee shall pay to Sublessor an early termination fee of \$100,000. Except for such fee and the Surviving Obligations, such termination shall be without obligation or liability on either party.

Section 11. Miscellaneous.

(a) Amendments, Etc. Neither this Sublease nor any of the terms hereof may be amended, supplemented, waived or modified orally, but only by an instrument in writing signed by the parties hereto.

(b) Survival of Agreements. The representations, warranties and obligations of the parties provided for herein shall survive the execution and delivery of this Sublease and the consummation of the transactions contemplated hereunder and thereunder and the expiration or termination of this Sublease.

(c) Governing Law. This Sublease shall be governed by and construed in accordance with the laws of the State of New Jersey applicable to contracts made and to be performed entirely within such State.

(d) Headings, Etc. The headings of the various sections of this Sublease are for convenience of reference only and shall not modify, define, expand or limit any of terms or provisions hereof.

(e) Counterparts. This Sublease may be executed by the parties hereto in separate counterparts, each of which when so

executed and delivered shall be an original, but all such counterparts together shall constitute but one and the same instrument.

(f) Successors. The terms of this Sublease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

(g) Further Assurances. Each party hereto will promptly and duly execute and deliver to the other such documents and assurances and take such further action as the other may from time to time reasonably request in order to carry out more effectively the intent and purpose of this Sublease.

(h) Notices. All notices and other communications under this Sublease shall be in writing and shall be deemed effective five days after mailing by first-class registered or certified mail return receipt requested, postage prepaid, or when received by personal delivery, overnight courier services or facsimile transmission (confirmed in writing), addressed as follows:

(1) if to Sublessor, to

GPU Service Corporation
100 Interpace Parkway
Parsippany, New Jersey 07054
Attn: Don W. Myers
Vice President and Treasurer

with a copy to

Jersey Central Power & Light Company
300 Madison Avenue
Morristown, New Jersey 07962
Attn: Vice President of Generation

and to

Douglas E. Davidson, Esq.
Berlack, Israels & Liberman
120 West 45th Street
New York, New York 10036

(2) If to Sublessee, to

Granite Water Supply Company, Inc.
7475 Wisconsin Avenue, Suite 1000
Bethesda, Maryland 20814-3422

with a copy to

William M. Russell, Esq.
Sills Cummins Zuckerman Radin
Lipton & Gross
Bank Plaza
New Jersey 07102-5400

or, in each case
it may have
writing.

prior understandings
or oral (including
which are hereby

made or at such other address as
the other parties hereto in

agreement shall
release supersedes any and all
of the parties, whether written
dated March 12, 1992) all of
the agreement.

IN WITNESS WHEREOF, the parties hereto have caused this
Sublease to be duly executed as of the date first above written.

JERSEY CENTRAL POWER & LIGHT COMPANY,
Sublessor

(SEAL)

Attest:

By: _____
Name:
Title:

Assistant Secretary

GRANITE WATER SUPPLY COMPANY, INC.,
Sublessee

(SEAL)

Attest:

By: *E. K. Hauger*
Name: E. K. Hauger
Title: President

P. Chismandibe
~~Assistant Secretary~~

ACKNOWLEDGEMENT

STATE OF MARYLAND)
COUNTY OF MONTGOMERY) ss.:

I CERTIFY that on May 28, 1993, in the County and State aforesaid, E.K. Haver personally came before me, the subscriber, a Notary Public of the State of MARYLAND, authorized to take acknowledgements and proofs in said county and state, and acknowledged under oath, to my satisfaction that:

(a) he is the Assistant Secretary of GRANITE WATER SUPPLY COMPANY, INC., the corporation named as Sublessee in the attached Sublease Agreement;

(b) he is the attesting witness to the signing of this Sublease Agreement by the corporate officer who is the President of said corporation;

(c) the Sublease Agreement was signed and delivered by said corporation as its voluntary act duly authorized by a proper resolution of its Board of Directors;

(d) he knows the proper seal of said corporation which was affixed to the Sublease Agreement; and

(e) he signed this proof to attest to the truth of these facts.

Signed and sworn to before me,
a Notary Public in and for the
County of Montgomery and State
of Maryland, on
May 28, 1993.

(Attesting Witness)

NOTARY PUBLIC, State of Maryland
No. _____
Qualified in _____ County
Commission Expires

Judith A. D'Ancelet
Name:

July 23, 1994

JUDITH A. D'ANDELET
NOTARY PUBLIC
PRINCE GEORGES CO., MD
MY COMMISSION EXPIRES JULY 23, 1994

(SEAL)

COMMITTED CAPACITY PAYMENTS
(S000)

	<u>January 30</u>	<u>July 30</u>	<u>Total</u>
1995	\$ 0	\$ 59	\$ 59
1996	61	61	122
1997	64	64	128
1998	68	68	136
1999	71	71	142
2000	74	74	148
2001	79	79	158
2002	84	84	166
2003	86	86	172
2004	91	91	182
2005	96	96	192
2006	100	100	200
2007	105	105	210
2008	110	110	220
2009	116	116	232
2010	122	122	244
2011	127	127	254
2012	134	134	268
2013	141	141	282
2014	148	148	296
2015	154	0	154

STANDBY CAPACITY PAYMENTS
(\$000)

<u>Year of Excess Water Use</u>	<u>Year of Standby Capacity Payments</u>	<u>January 30</u>	<u>July 30</u>	<u>Total</u>
1995	1996	\$ 0	\$ 59	\$ 59
1996	1997	61	61	122
1997	1998	64	64	128
1998	1999	68	68	136
1999	2000	71	71	142
2000	2001	74	74	148
2001	2002	79	79	158
2002	2003	84	84	166
2003	2004	86	86	172
2004	2005	91	91	182
2005	2006	96	96	192
2006	2007	100	100	200
2007	2008	105	105	210
2008	2009	110	110	220
2009	2010	116	116	232
2010	2011	122	122	244
2011	2012	127	127	254
2012	2013	134	134	268
2013	2014	141	141	282
2014	2015	148	148	296
2015	2016	154	0	154

Increase in Standby Capacity Payment If Additional Capacity
Subleased

$$\begin{array}{l} \text{Amount of Increase} = \text{(actual calendar year} \\ \text{volume of releases of} \\ \text{Make-Up Water allo-} \\ \text{cated to Sublessee} \\ \text{in acre feet* - 135)} \\ \text{[(} \frac{\quad\quad\quad}{135} \text{) - 1] x Standby Rent} \\ \text{Payment} \end{array}$$

* i.e., 270 plus the amount of Additional Capacity allocated in the calendar year.

Exhibit 3

EXECUTION COPY

AMENDED AND RESTATED SUBLEASE AGREEMENT

This AMENDED AND RESTATED SUBLEASE AGREEMENT ("*Agreement*") is made and entered into as of June 10, 2015, by and between JERSEY CENTRAL POWER & LIGHT COMPANY, c/o FirstEnergy Service Company, 76 South Main Street, Akron OH ("*Sublessor*") and GRANITE WATER SUPPLY COMPANY, INC. ("*Sublessee*").

WHEREAS, pursuant to the Amended and Restated Owners Agreement dated June 1, 1988, as amended and restated by the First Amended and Restated Owners Agreement, effective January 1, 2013 ("*Owners Agreement*"), among certain electric utilities named therein ("*Owners*"), the Owners, as tenants in common without right of partition, undertook the design and construction of the Merrill Creek Reservoir Project located in Warren County, New Jersey ("*Project*");

WHEREAS, Sublessor is the lessee of an 8.37% undivided ownership interest in the Project pursuant to the Lease Agreement dated as of June 1, 1988 between United Jersey Bank, solely in its capacity as owner trustee and Sublessor ("*Lease*");

WHEREAS, the Owners are participants in the Delaware River Basin Commission ("*DRBC*") proceeding at Docket No. D-77-110-CP ("*Docket*") and pursuant to a DRBC Order dated October 24, 1984 in the Docket, the owners of electric generating stations drawing water from the Delaware River during and under certain specific times and conditions are required to return water to the Delaware River;

WHEREAS, Sublessee is an affiliate of Logan Generating Company, L.P. ("*Logan*") and is party to that certain Water Supply Agreement, dated as of May 1, 1993, between Sublessee and Logan;

WHEREAS, Sublessee may meet the obligations of DRBC Docket No. D-90-48 by drawing water from the Project to which Sublessor is entitled under the Owners Agreement ("*Make-Up Water*");

WHEREAS, Sublessor is entitled to sublease Make-Up Water from the Project in excess of Sublessor's current needs or requirements;

WHEREAS, the Sublessor and Sublessee are parties to that certain Sublease Agreement, dated as of May 1, 1993 (the "*Existing Agreement*") with the term ending on July 30, 2015, which the New Jersey Board of Public Utilities ("*Board*" or "*BPU*") approved Sublessor's engaging in the transactions contemplated by, and authorized Sublessor to enter into, that certain Sublease Agreement by and under the Board's Order dated December 30, 1992 in BPU Dkt. No. EF92111065;

WHEREAS, the Board has approved Sublessor's engaging in the transactions contemplated by the terms and conditions of this Agreement, and the Eligible Owners (as defined in the Owners Agreement) have not exercised their right of first refusal (as contemplated by Section 9.07 of the Owners Agreement);

WHEREAS, Sublessee desires to sublease from Sublessor, and Sublessor desires to sublease to Sublessee, certain storage in Merrill Creek to provide Make-Up Water for Logan and Sublessee and Sublessor wish to amend and restate the terms of the Existing Agreement on the terms and conditions set forth herein;

WHEREAS, in return for certain consideration more specifically described herein, Sublessor is willing to provide lease services to Sublessee as set forth in Article I hereof ("*Sublease Services*").

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

TERMS & CONDITIONS

ARTICLE 1 SUBLEASE SERVICES

- A. "*Committed Capacity*" means the 135 acre-feet of storage of Make-Up Water in the Project during the term of this Agreement.
- B. "*Additional Capacity*" means additional acre-feet of Make-Up Water in the Project that is available for sublease in any Contract Year (as defined in Article 3 below) in the amount requested by the Sublessee and agreed to by the Sublessor for such Contract Year.
- C. "*Capacity*" means, for purposes of this Agreement, the combination of Committed Capacity and Additional Capacity.
- D. Capacity shall be used solely to provide Make-Up Water to the Delaware River as required by the DRBC in connection with the operation of the Logan generating facilities (the use of Make-Up Water for such purposes being herein referred to as "*Make-Up Purposes*").
- E. Sublease.
 - i. On the terms and conditions set forth herein, Sublessor agrees to sublease to Sublessee, and Sublessee hereby subleases from Sublessor, the Committed Capacity during the Term (as defined in Article 3 below) hereof. Sublessee shall be deemed to have subleased the entire Committed Capacity in each Contract Year (as defined in Article 3 below) of the Term regardless of the actual cumulative volume of releases of Make-Up Water allocated to Sublessee in such Contract Year.

- ii. If Additional Capacity exists in any Contract Year (as defined in Article 3 below) of the Term, Sublessee may request, upon a 30-day notice to Sublessor, that Sublessor sublease such Additional Capacity to Sublessee; provided, however, that if Sublessor grants Sublessee's request for such Contract Year, Sublessee will be obligated to sublease the Additional Capacity for the entire Contract Year.
- iii. Sublessee shall be required to sublease (i) the Committed Capacity in each Contract Year (as defined in Article 3 below) of the Term and (ii) the Additional Capacity in each Contract Year for which such Additional Capacity was requested by the Sublessee.
- iv. Sublessee agrees not to sublease, purchase or otherwise utilize Make-Up Water capacity for Logan from any other Owners (other than Sublessor); provided, however, that if the Sublessee requests Additional Capacity from the Sublessor in any Contract Year and such Additional Capacity is not available, the Sublessee may sublease additional acre-feet of Make-up Water in the Project from any of the other Owners.
- v. Sublessor shall cause water to be released: (a) to the extent required under orders of the DRBC; or (b) as may be requested from time to time by Sublessee up to a maximum of 135 acre-feet per year (plus any Additional Capacity that is subleased); provided, however, that such releases shall not be inconsistent with or precluded by the orders of the DRBC or the terms of the Owners Agreement.
- vi. Sublessor shall also provide all administrative services related to providing invoices in accordance with Article 2 hereof.
- vii. For purposes hereof, Sublessor shall not discriminate between the Sublessee's Capacity and Sublessor's own water capacity and shall treat water releases for Logan as though they were for generating facilities owned by Sublessor (within the meaning of Section 1.01 of the Owners Agreement).

ARTICLE 2 COMPENSATION AND PAYMENT

Sublessee shall compensate Sublessor for all Sublease Services and other obligations provided for under this Agreement, in accordance with the following:

- A. Capacity Fee.
 - i. For the Sublessor's allocation of the Committed Capacity to Sublessee during a Contract Year (as defined in Article 3 below), Sublessee shall pay to Sublessor \$150,000 ("*Committed Capacity Fee*"), payable in annual installments on each January 30, or if any such date is not a business day, on the next succeeding business day (each a "*Payment Date*") in advance in consideration for Sublessor's allocation of Committed Capacity during the next succeeding Contract Year; provided, however, that the Committed Capacity Fee for the first Contract Year

shall be payable on August 31, 2015, or thirty days following the Commencement Date if the Commencement Date does not occur on July 31, 2015, and shall be prorated based on the actual number of days elapsed from the "Commencement Date" up to and including December 31, 2015. Sublessee shall be deemed to have been allocated the Committed Capacity during each Contract Year of the Sublease term, regardless of the actual cumulative volume of Make-Up Water released during such Contract Year in respect of Logan operations.

- ii. For the Sublessor's allocation of the Additional Capacity to Sublessee during a Contract Year (as defined in Article 3 below), Sublessee shall pay to Sublessor \$1,500 per acre-feet of the Additional Capacity for such Contract Year ("*Additional Capacity Fee*," and together with the Committed Capacity Fee referred to herein as "*Capacity Fee*"), payable within 15 calendar days after Sublessor notifies Sublessee that Sublessee's request for the Additional Capacity for such Contract Year has been granted.
- iii. Each payment shall be made by Sublessee by wire transfer of immediately available funds to a bank specified by Sublessor, on or before 12:00 noon, New York City time, on the Payment Date on which such payment shall be due.

B. Sublease Fee.

- i. In addition to the Capacity Fee, on an annual basis throughout the Term, Sublessor shall invoice Sublessee for the following fees (together a "*Sublease Fee*") as applicable:
 - (a) Operation & Maintenance ("*O&M*") Expense: consisting of a pass-through, without markup, of the pro-rated portion of actual O&M expenses and taxes incurred by Sublessor, which pro-rated portion shall be determined by dividing Sublessee's Committed Capacity and Additional Capacity, if any, by Sublessor's total capacity as provided in the Owners Agreement. The resulting percentage shall then be applied to the total O&M expenses actually incurred by Sublessor for Sublessor's leasehold interest in the Project under the Owner's Agreement.
 - (b) Pumping Expense: consisting of a pass-through, without markup, of the actual pumping expense incurred by Sublessor for Make-Up Water releases that are directly allocated to consumptive water usage by the Logan generating facilities.
- ii. Sublessor shall submit invoices for the Sublease Fee to Sublessee annually. Sublessor shall submit the first invoice to Sublessee for the Sublease Fee after the close of the first Contract Year in which the Commencement Date (as defined in Article 3 below) occurs. If the Commencement Date does not coincide with the beginning of a new Contract Year, the first Sublease Fee shall be prorated for that portion of the annual period from the Commencement Date to the end of the

Contract Year. Thereafter, Invoices shall be submitted annually during each Contract Year.

- iii. The Sublease Fee shall be due and payable within thirty (30) days after Sublessee's receipt of the invoice.

ARTICLE 3 TERM

A. Agreement.

- i. The term of this amendment and restatement shall commence on the Commencement Date (as hereafter defined) and shall terminate on December 31, 2024 ("*Term*"), unless otherwise terminated due to a default or as otherwise provided in Article 3B below or elsewhere in this Agreement.
- ii. As of July 31, 2015, or upon the receipt by Sublessor of the order from BPU approving this Agreement, whichever is later ("*Commencement Date*"), this Agreement amends and restates the provisions of the Existing Agreement and, except as expressly modified herein, all of the terms and provisions of the Existing Agreement shall continue to apply for the period prior to July 31, 2015. As to all periods occurring on or after the Commencement Date, the terms and conditions set forth in the Existing Agreement shall be of no further force and effect, and all obligations of the parties hereto under the Existing Agreement shall be governed by this Agreement, which shall be deemed to be a continuation of, and not a novation of, the Existing Agreement from and after the Commencement Date.
- iii. "*Contract Year*" shall mean a twelve (12) month calendar year (commencing January 1, and ending December 31), provided, however, that the first Contract Year shall mean the period from the Commencement Date to and including December 31, 2015.
- iv. The Sublease shall continue in effect from the Commencement Date until (a) the expiration on December 31, 2024 ("*Expiration Date*"), (b) the earlier termination of the Lease, or (c) earlier terminated due to a default or as otherwise provided in Article 3B below or elsewhere in this Agreement.

B. Termination.

- i. Pursuant to Section 15.1(a)(iv)(B) of the Lease, Sublessor may not enter into this Agreement if, in the reasonable opinion of Owner Participant (as defined in the Lease), this Agreement results in adverse tax consequences to Owner Participant as therein provided. Notwithstanding anything in this Agreement to the contrary, the parties hereto agree that if, in the reasonable opinion of Owner Participant, this Agreement does result in such adverse tax consequences, this Agreement shall immediately terminate.

- ii. Sublessee may terminate this Agreement in the event of a Force Majeure under the conditions provided in Article 10 hereof.
- iii. Notwithstanding anything in this Agreement to the contrary, this Agreement shall also terminate, without liability to either party if any federal or state regulatory authority having jurisdiction over Sublessor or any of its Affiliates shall have issued an order requiring that the Capacity be made available for use by Sublessor or any such Affiliate.
- iv. Any termination pursuant to this Article 3B shall be without obligation or liability of either party except for (a) all amounts due and unpaid to the date of such termination, and (b) damages arising from a default (as set forth in Article 5 hereof) occurring prior to, and including, the date of such termination.

C. Renewal.

- i. This Agreement may be renewed at the end of the Term only as provided in this Section 3C.
- ii. If Sublessee desires to renew this Agreement, Sublessee shall provide notice of its desire to renew to Sublessor not less than twelve (12) months and not more than twenty-four (24) months prior to the Expiration Date specifying the renewal term (which may not extend beyond December 31, 2032) ("*Renewal Term*") proposed by Sublessee.
- iii. Sublessor shall have 60 days from the receipt of said notice to advise Sublessee whether any Capacity for such proposed Renewal Term is available.
- iv. If by such 60th day, Sublessor advises Sublessee that Capacity is so available, the parties hereto shall thereupon negotiate in good faith with respect to the Renewal Term, rentals and other provisions to be included in the renewal of this Agreement to the extent of the available Capacity. If no Capacity is available, or if the parties, following good faith negotiations, fail to agree on the renewal terms by the Expiration Date, then this Agreement shall terminate on the Expiration Date without liability to any party except for the surviving obligations specified in Article 3 B(iv) hereof.

ARTICLE 4 FEDERAL INCOME TAX STATUS

Sublessee and Sublessor understand and agree that this Agreement does not constitute a "service contract" under Section 7701(e) of the Internal Revenue Code of 1986, as amended. It is intended and understood by Sublessee and Sublessor that for Federal income tax purposes, this Agreement constitutes a lease.

ARTICLE 5 DEFAULTS

- A. A party shall be in default of its obligations hereunder if;
- i. it shall fail to make any payment required by this Agreement when due, provided, however, that such failure has not been corrected within ten (10) business days after receiving written notice of such failure; or
 - ii. it fails to perform any other covenant, agreement or obligation or breaches any representation or warranty made hereunder and such failure or breach is not cured within thirty (30) days following receipt of written notice thereof from the other party hereto; or
 - iii. (a) such party commences a voluntary proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any federal or state bankruptcy, insolvency, receivership or other similar law or seeks the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, or consents to any such relief or to the appointment or taking possession by any such official or agency in an involuntary case or other proceeding commenced against it, or makes a general assignment for the benefit of creditors, or takes any corporate action to authorize any of the foregoing; or (b) an involuntary proceeding is commenced against such party seeking liquidation, reorganization or other relief with respect to it or its debts under any federal or state bankruptcy, insolvency, receivership or other similar law or seeks the appointment of a trustee, receiver, liquidator, custodian or other similar official or agency of it or a substantial part of its property, and such involuntary case or other proceeding remains undismissed or unstayed for a period of ninety (90) days.
- B. Upon the occurrence of any such default, the non-defaulting party may declare this Agreement to be in default by written notice to the defaulting party (except in the case of any default specified in paragraph 5A iii above, in which case no notice shall be required), and at any time thereafter as long as the default shall be continuing the non-defaulting party may, in its sole discretion and to the extent permitted by applicable law:
- i. terminate this Agreement upon written notice to the defaulting party; and
 - ii. exercise any other right or remedy that may be available to it under applicable law or proceed by appropriate court action to enforce the terms hereof or to recover damages for the breach hereof.
- C. No exercise of any remedy hereunder (including the termination of this Agreement for a default) shall relieve a defaulting party of any of its liabilities hereunder which arise prior to the termination or, if not terminated, prior to the date of default, including such defaulting party's liabilities for damages for breach of this Agreement.

ARTICLE 6 REPRESENTATIONS AND WARRANTIES

- A. Sublessor represents and warrants to Sublessee that it is the Lessor under the Lease of the Capacity and it has the right to sublease the Capacity to Sublessee for the term of the Sublease.
- B. Sublessor further represents and warrants to Sublessee that: (1) the execution, delivery and performance of this Agreement by Sublessor has been duly authorized by all necessary corporate action; (2) this Agreement has been duly executed and delivered and, assuming the due authorization, execution and delivery hereof by Sublessee, is a legal, valid and binding obligation of Sublessor enforceable against it in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the rights of creditors generally and general equitable principles (regardless of whether such enforceability is considered in a proceeding at law or in equity); (3) no consents, authorizations or approvals of any governmental agency, regulatory or other governmental body, or any other person, are required to be obtained for the execution, delivery and performance of this Agreement, other than such consents, authorizations or approvals as have already been obtained; (4) there is no action, suit, investigation or proceeding pending or, to the best knowledge of Sublessor, threatened against Sublessor or its properties before any court, arbitrator or administrative or governmental body which, individually or in the aggregate, could have a material adverse effect on the ability of Sublessor to perform its obligations hereunder; and (5) the execution, delivery and performance of this Agreement does not contravene or violate any applicable law or regulation or the certificate of incorporation or by-laws of Sublessor or constitute a violation or default under any agreement, or any judgment, injunction, order, decree or other instrument binding upon Sublessor, which contravention, violation or default, in the case of any of the foregoing, could materially impair its ability to perform its obligations hereunder.
- C. Sublessee represents and warrants to Sublessor that (1) the execution, delivery and performance of this Agreement by Sublessee has been duly authorized by all necessary organizational action; (2) this Agreement has been duly executed and delivered and, assuming the due authorization, execution and delivery hereof by Sublessor, is a legal, valid and binding obligation of Sublessee enforceable against it in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the rights of creditors generally and general equitable principles (regardless of whether such enforceability is considered in a proceeding at law or in equity); (3) no consents, authorizations or approvals of any governmental agency, regulatory or other governmental body, or any other person, are required to be obtained by Sublessee for its execution, delivery or performance of this Agreement, other than such consents, authorizations or approvals as have already been obtained; (4) there is no action, suit, investigation or proceeding pending or, to the best knowledge of Sublessee, threatened against Sublessee or its properties before any court, arbitrator or administrative or governmental body, which, individually or in the aggregate, could have a material adverse effect on the ability of Sublessee to perform its obligations hereunder; and (5) the execution, delivery and performance of this Agreement does not contravene or violate any applicable law or

regulation or the certificate of formation or operating agreement of Sublessee or constitute a violation or default under any agreement, or any judgment, injunction, order, decree or other instrument binding upon Sublessee, which contravention, violation or default, in the case of any of the foregoing, could materially impair its ability to perform its obligations hereunder.

ARTICLE 7 DISCLAIMER OF WARRANTIES/ACKNOWLEDGMENTS OF SUBLESSEE

- A. This Agreement is expressly subject and subordinate to the provisions of the Lease and all other agreements to which the Lease is subject, including the rights of Lessor under the Lease to enforce remedies under Section 17 of the Lease if a Lease Event of Default (as defined in the Lease) shall have occurred and be continuing.
- B. SUBLESSOR SUBLEASES, AND SUBLESSEE TAKES, THE CAPACITY AS IS, AND EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, SUBLESSOR SHALL NOT BE DEEMED TO HAVE MADE, AND SUBLESSOR HEREBY DISCLAIMS, ANY REPRESENTATION OR WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING WITHOUT LIMITATION, THE DESIGN OR CONDITION OF THE PROJECT OR THE CAPACITY OR ANY PART THEREOF, THE MERCHANTABILITY THEREOF OR THE FITNESS THEREOF FOR ANY PARTICULAR PURPOSE, TITLE TO THE INTEREST, THE QUALITY OF PROJECT MATERIALS OR WORKMANSHIP OR CONFORMITY THEREOF TO PLANS OR SPECIFICATIONS, OR THE PRESENCE OR ABSENCE OF ANY LATENT OR OTHER DEFECTS, WHETHER OR NOT DISCOVERABLE, NOR SHALL EITHER PARTY BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING TORT, CONTRACT STRICT LIABILITY OR OTHERWISE), IT BEING AGREED THAT ALL SUCH RISKS, AS BETWEEN SUBLESSOR AND SUBLESSEE, ARE TO BE BORNE BY SUBLESSEE. THE PROVISIONS OF THIS PARAGRAPH 7B HAVE BEEN NEGOTIATED, AND ARE INTENDED TO BE A COMPLETE EXCLUSION AND NEGATION OF ANY REPRESENTATION OR WARRANTY BY SUBLESSOR, EXPRESS OR IMPLIED (EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN ARTICLE 6 HEREOF), WITH RESPECT TO THE PROJECT, THIS AGREEMENT, THE CAPACITY OR ANY PART THEREOF, OR THAT MAY ARISE PURSUANT TO ANY LAW NOW OR HEREAFTER IN EFFECT OR OTHERWISE. NOTWITHSTANDING THE FOREGOING, NOTHING CONTAINED IN THIS PARAGRAPH 7B SHALL BE CONSTRUED AS A WAIVER OF ANY WARRANTY OR OTHER CLAIM AGAINST ANY MANUFACTURER, SUPPLIER OR INSTALLER.
- C. Sublessee hereby acknowledges and agrees that Sublessee's obligations hereunder, including without limitation the obligation to pay the Capacity Fee, shall not be affected by (a) the failure of the Project to effect releases of Make-Up Water for Make-Up Purposes under any circumstances whatsoever that would be in violation of Sublessor's obligations under the Lease, or (b) any claim that Sublessee has or might have against

any person.

- D. It is understood and agreed that Sublessee has no rights whatsoever under the Owners Agreement, Lease or any agreements to which the Lease is subject, and that Sublessor may, in its sole discretion, take any and all actions, including agreeing to any amendments, modifications or waivers with respect thereto, without the consent of or notice to Sublessee; provided, however, that without Sublessee's consent Sublessor shall not take any such action which has a material adverse effect on Sublessee's rights hereunder.

ARTICLE 8 CONDITION TO EFFECTIVENESS.

The effectiveness of this amendment and restatement is expressly conditioned upon the approval of the BPU of this Agreement without material conditions as to Sublessor or any of its affiliates, and the determination that such condition has been satisfied shall be at the sole discretion of Sublessor.

ARTICLE 9 ASSIGNMENT

- A. Sublessee may not assign, sublease or otherwise transfer (each, a "*Transfer*") any of its rights hereunder without approval of Sublessor, which approval (subject to any other required third party consents under the Lease and/or Owners Agreement and /or regulatory consents) shall not be unreasonably withheld, or create or suffer to exist any Liens (as defined in the Lease) on or with respect to the Capacity, the Capacity Fee or the Sublessee Fee.
- B. Sublessor shall be free to Transfer any of its Project entitlements under the Owners Agreement from time to time without restriction or limitation and free and clear of any interest of Sublessee therein; provided, however, that Sublessor shall not effect any Transfer if such Transfer would cause Sublessor to be unable to provide the Capacity to Sublessee as provided herein, unless the transferee agrees to be bound by the terms hereof and has the power and authority to perform the obligations of the Sublessor hereunder.

ARTICLE 10 FORCE MAJEURE

For purposes hereof, the term Force Majeure shall mean any act of God (including but not limited to earthquakes, lightning or floods); warlike acts of any kind such as riot, rebellion or revolution; acts or omissions of any government or agency thereof, court orders or judgments; strikes or labor disputes; fire, explosion or other casualty, or any other cause beyond the reasonable control and without the fault or negligence of the party claiming the benefit of a Force Majeure, whether foreseeable or not, which affects Logan's operation of its generating facilities or the Project.

Whenever either party become aware of any event of Force Majeure which delays or threatens to delay the timely performance of its obligations under this Agreement, that party shall promptly give written notice thereof, including all relevant information with respect thereto, to the other party. Neither party to this Agreement shall be liable for a delay or failure to perform

pursuant to the terms of this Agreement (provided that in no event shall a party's payment obligations hereunder be excused or delayed due to a Force Majeure) if and to the extent such delay and/or failure to perform is due to any event of Force Majeure, provided that:

- A. Neither party may claim the benefit of a Force Majeure unless the delay and/or failure to perform are due to causes beyond its reasonable control and without its fault or negligence.
- B. Any delay and/or failure to perform by a supplier, contractor or subcontractor at any tier of either party shall not be excusable unless such delay and/or failure to perform arises out of causes beyond the reasonable control of the party claiming the benefit of a Force Majeure, and the supplies or services to be furnished by that party's supplier, contractor or subcontractor are not obtainable from other sources at comparable costs in sufficient time to permit its obligations to be met pursuant to this Agreement.
- C. Any party claiming the benefit of a Force Majeure shall use all reasonable diligence to remove the cause of delay and/or failure to perform as promptly as practicable but shall not be required to settle strikes or other labor difficulties against its best judgment.
- D. In all cases, the time extension permitted to a party to perform as a result of a Force Majeure shall be held to a minimum but under no circumstances shall it exceed the actual time lost due to a Force Majeure event.

This Agreement may be terminated by Sublessee upon the occurrence of an event of Force Majeure which renders Sublessor unable for 90 consecutive days to provide Sublessee with Make-Up Water pursuant to this Agreement.

ARTICLE 11 GOVERNING LAW

This Agreement shall be governed by and interpreted in accordance with the laws of the State of New Jersey applicable to contracts made and to be performed in that State but without giving effect to the application of any choice of law principles thereof.

ARTICLE 12 NOTICES

All notices and other communications under this Agreement shall be in writing and shall be deemed effective and received five (5) days after mailing by first-class registered or certified mail return receipt requested, postage prepaid, or when received by personal delivery, overnight courier services or facsimile or electronic transmission, addressed as follows:

if to the Sublessor, to:

FirstEnergy Service Company
76 South Main Street
Akron, Ohio 44308

Attention: Business Development Department

with a copy to:

FirstEnergy Service Company
76 South Main Street
Akron, Ohio 44308
Attention: Vice President and General Counsel

if to the Sublessee, to:

Granite Water Supply Company, Inc.
c/o Power Plant Management Services, LLC
10710 Sikes Place, Suite 300
Charlotte, NC 28227

with a copy to:

Attn: Joseph A. Fernandez, Esq.
Moore & Van Allen PLLC
100 North Tryon Street
Suite 4700
Charlotte, NC 28202-4003

or, in each case, to such person or at such address as either party may have most recently advised the other party hereto in writing.

ARTICLE 13 AMENDMENT

This Agreement may be amended only by a written instrument signed by both parties hereto.

ARTICLE 14 ENTIRE AGREEMENT

This Agreement contains the entire understanding and agreement between the parties with respect to the subject matter hereof and supersedes any prior understandings and agreements between them with respect thereto.

ARTICLE 15 NEGOTIATED AGREEMENT

This Agreement shall be considered for all purposes as prepared through the joint efforts of the parties and shall not be construed against either party as a result of the preparation, substitution or other event or negotiation, drafting or execution hereof.

ARTICLE 16 COUNTERPARTS

This Agreement may be executed by the parties hereto in several counterparts, each of which when so executed and delivered shall be an original, but all of which taken together shall be one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as set forth below.

JERSEY CENTRAL POWER & LIGHT
COMPANY

By: _____

Name: _____

Title: _____

GRANITE WATER SUPPLY COMPANY,
INC.

By: _____

Name: _____

Title: _____