



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center**  
**Newark, NJ 07102**  
**[www.nj.gov/bpu/](http://www.nj.gov/bpu/)**

ENERGY

IN THE MATTER OF THE VERIFIED PETITION OF	)	ORDER ADOPTING
JERSEY CENTRAL POWER & LIGHT COMPANY	)	STIPULATION
CONCERNING A PROPOSAL FOR FOUR SMALL	)	
SCALE/PILOT DEMAND RESPONSE PROGRAMS	)	BPU DOCKET NOs.
FOR THE PERIOD BEGINNING JUNE 1, 2009	)	EO08050326 & EO08080542

(SERVICE LIST ATTACHED)

BY THE BOARD:

On June 4, 2009, Jersey Central Power & Light ("JCP&L" or "Company"), the Department of the Public Advocate, Division of Rate Counsel ("Rate Counsel") and the Staff of the Board of Public Utilities ("BPU" or "the Board") (collectively, the "Parties") entered into an agreement ("Stipulation") adopting a revised procedural schedule for consideration of the Company's proposed expansion of its Integrated Distributed Energy Resource Pilot ("IDER Expansion"), attached hereto as Appendix A. In so doing, JCP&L has agreed to waive the 180-day review period provided by N.J.S.A. 48:3-98(b)<sup>1</sup>, solely in connection with the IDER Pilot Expansion proposal included in the Company's August 1, 2008 Demand Response ("DR") Filing.

By this Order the Board considers the Stipulation extending the time frame for review of JCP&L's IDER Expansion Pilot.

Background and Procedural History

By Order dated July 1, 2008 ("July 1 Order"), the Board, pursuant to N.J.S.A. 48:3-98.1(a)(3) directed the State's four electric distribution companies ("EDCs"), including JCP&L, to submit

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<sup>1</sup> *In The Matter of Electric Public Utilities And Gas Public Utilities Offering Energy Efficiency And Conservation Programs, Investing In Class I Renewable Energy Resources, And Offering Class I Renewable Energy Programs In Their Respective Service Territories On A Regulated Basis Pursuant To N.J.S.A. 48:3-98.1, BPU Docket No. EO08030164 (May 12, 2008).*

proposals to the Board by August 1, 2008 for DR programs to be implemented for the period beginning June 1, 2009.<sup>2</sup>

By Order dated July 25, 2008, the Board had approved a stipulation among JCP&L, Rate Counsel, and Board Staff, providing for the implementation by the Company of a new IDER Pilot designed to deliver approximately 8 megawatts ("MW") of new DR by June 1, 2009.<sup>3</sup>

On August 1, 2008, JCP&L filed its petition ("August 1 DR Filing") pursuant to the July 1 Order proposing four separate small scale/pilot DR programs aggregating 83 MW of DR, which, together with the 8 MW from the IDER pilot and 2 MW from certain Basic Generation Service rate design changes, were planned to achieve the JCP&L goal of 93 MW beginning June 1, 2009, as set forth in the July 1 Order. One of the four proposed programs in the August 1 DR Filing was the IDER Pilot Expansion proposal that, according to the petition, would produce an additional 15 MW of DR by June 1, 2009. By letter dated August 29, 2008 (inadvertently bearing a 2009 date), JCP&L was notified of specific deficiencies in the August 1 DR Filing that had been identified by Board Staff ("Deficiency Letter").

By Order dated September 22, 2008<sup>4</sup>, the Board suspended the procedural schedules relating to the EDCs' August 1, 2008 DR filings, including JCP&L's August 1 DR Filing, and directed Board Staff to meet with each of the EDCs and with Rate Counsel to reach agreement on those programs which could be sufficiently reviewed in time for June 2009 implementation and those programs which would require extended review due to complexity and other factors. Based on those individual discussions, by letter dated September 26, 2008, Board Staff memorialized the agreement among JCP&L, Rate Counsel, and Board Staff that only the Company's proposed IDER Expansion proposal should be considered for implementation by June 2009. This agreement was subsequently reflected in the March 12, 2009 Board Order<sup>5</sup> which also designated Commissioner Joseph L. Fiordaliso as the presiding officer for this case.

Afternoon and evening public hearings with respect to the Company's August 1 Filing, including the IDER Expansion proposal, were held in Morristown, New Jersey on October 30, 2008. No member of the public commented specifically on the IDER Expansion proposal at the public hearings.

On January 27, 2009, the Company provided additional information in response to the Deficiency Letter. By letter dated February 26, 2009, the BPU notified JCP&L that the August 1 DR Filing was deemed administratively complete with respect to the proposed IDER Expansion proposal only ("Completeness Letter").

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<sup>2</sup> *In The Matter of Demand Response Programs for the Period Beginning June 1, 2009-Electric Distribution Company Programs*, BPU Docket No. EO08050326.

<sup>3</sup> *In The Matter of the New Jersey Direct Load Control Program Proposal-Jersey Central Power and Light*, BPU Docket No. ER07060375, Order Adopting Stipulation of Settlement.

<sup>4</sup> *In The Matter of Demand Response Programs for the Period Beginning June 1, 2009-Electric Distribution Company Programs*, BPU Docket Nos. EO08050326, EO08080541, EO08080542, EO08080543, EO08080544.

<sup>5</sup> *In The Matter of Demand Response Programs for the Period Beginning June 1, 2009-Electric Distribution Company Programs*, BPU Docket Nos. EO08050326, EO08080541, EO08080542, EO07110881, EO08080543, EO08080544.

A petition to intervene was filed by Enerwise Global Technologies ("Enerwise") in the generic docket used in connection with the July 1 Order. Commissioner Fiordaliso, granted the motion after notice to all parties. Enerwise takes no position on the Stipulation.

#### Terms of the Stipulation of Settlement

The Stipulation, attached hereto in its entirety, contains two provisions that move forward consideration of JCP&L's IDER Expansion proposal, initially included in the Company's August 1 DR Filing:

1. A procedural schedule (appended as "Appendix A") sets the timeline for the Parties to address the IDER Expansion proposal, anticipating Board consideration of the IDER Expansion proposal at the agenda meeting currently scheduled for September 16, 2009.
2. JCP&L waives the 180-day review period provision of N.J.S.A. 48:3-98.1 (b) solely in connection with the IDER Expansion proposal included in the August 1 DR Filing.

#### Discussion of the Issues

In its September 22, 2008 Order, the Board suspended the procedural schedule for the EDCs' August 1, 2008 DR filings, including JCP&L's August 1 Filing. The temporary suspension was enacted to allow additional time for Staff and Rate Counsel to analyze the costs versus the benefits associated with the newer technologies and more complex proposals in the EDCs' petitions, and to evaluate ratepayer risk from the companies' proposals. To avoid unnecessary delay in the review of the less complicated DR programs, the Board directed Staff to meet with the parties to identify which programs could be reviewed in time for near-term implementation and which proposed programs needed additional review time to address outstanding issues. Rate Counsel, JCP&L and Board Staff agreed that the IDER Expansion proposal could be separated from the Company's other project proposals in the August 1 DR Filing for near-term consideration. At this time, the Parties agree on the proposed procedural schedule set forth in Appendix A for consideration of the IDER Expansion.


The Board recognizes that the procedural schedule in Appendix A does not meet the 180-day review period of N.J.S.A. 48:98.1 (b). N.J.S.A. 48:2-21.3 allows any public utility to file with the Board a written stipulation subject to the Board's approval waiving the effective date of any tariff or rate. In this case, to make a decision within the statutory time frame, the Board would have to consider the expansion of the IDER Pilot before receiving any results from the IDER Pilot's implementation. The Board believes such premature consideration could unnecessarily subject ratepayers to risk while the timeline described in the revised procedural schedule provides time for sufficient analysis of the reported results from the IDER Pilot's implementation prior to a decision on the possible expansion of the project. No parties oppose the Stipulation and resulting extension of the review period for the IDER Expansion proposal.

For the foregoing reasons, the Board HEREBY APPROVES the attached Stipulation and the procedural schedule in Appendix A.

DATED: 7/1/09

BOARD OF PUBLIC UTILITIES  
BY:

  
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PRESIDENT

  
FREDERICK F. BUTLER  
COMMISSIONER

  
JOSEPH L. FIORDALISO  
COMMISSIONER

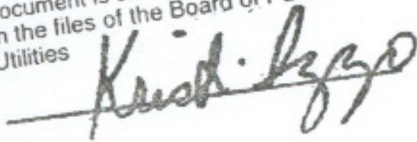
  
NICHOLAS ASSELTA  
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COMMISSIONER

ATTEST:

  
KRISTI IZZO  
SECRETARY

I HEREBY CERTIFY that the within  
document is a true copy of the original  
in the files of the Board of Public  
Utilities



Service List

I/M/O the Verified Petition of Jersey Central Power & Light Company Concerning A  
Proposal For Four Small Scale/Pilot Demand Response Programs For The Period  
Beginning June 1, 2009

Docket Nos. EO08050326; EO0808542

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I/M/O the Verified Petition of Jersey Central Power & Light Company Concerning A Proposal For Four Small Scale/Pilot Demand Response Programs For The Period Beginning June 1, 2009

Docket Nos. EO08050326; EO0808542

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**STATE OF NEW JERSEY  
BOARD OF PUBLIC UTILITIES**

In the Matter of the Verified Petition of  
**Jersey Central Power & Light Company**  
Concerning a Proposal for Four Small  
Scale/Pilot Demand Response Programs for  
the Period Beginning June 1, 2009

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**STIPULATION  
OF  
SETTLEMENT**

**BPU DOCKET NOS. EO08050326  
EO08080542**

**TO THE HONORABLE BOARD OF PUBLIC UTILITIES:**

This Stipulation of Settlement ("Stipulation") is hereby made and executed as of the 4<sup>th</sup> day of June, 2009, by and among Jersey Central Power & Light Company ("JCP&L" or the "Company"), the Staff of the Board of Public Utilities ("Staff") and the New Jersey Department of the Public Advocate, Division of Rate Counsel ("Rate Counsel") (collectively, the "Parties"), in settlement of the elements of the above-captioned proceedings addressed in this Stipulation.

The Parties do hereby join in recommending that the Board of Public Utilities ("Board") issue an Order approving this Stipulation, based upon the following stipulations:

**Background**

By Order dated July 25, 2008<sup>1</sup>, the Board of Public Utilities ("BPU" or the "Board") approved a Stipulation of Settlement ("IDER Pilot Stipulation") among the Company, Staff and Rate Counsel, providing for, among other things, the implementation by JCP&L of a new Integrated Distributed Energy Resource ("IDER") pilot program designed to deliver approximately 8 MW of new Demand Response ("DR") by June 1, 2009, 5 MW of which was to

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<sup>1</sup> *In the Matter of the New Jersey Direct Load Control Program Proposal – Jersey Central Power and Light*, BPU Docket No. ER07060375, Order Adopting Stipulation of Settlement (July 25, 2008).

be derived from residential customers and 3 MW of which was to be derived from small to medium commercial and industrial ("C&I") customers.

By Order dated July 1, 2008 ("July 1 Order"), the Board, pursuant to L.2007, c.340, sec.13(a) (codified as N.J.S.A. 48:3-98.1(a)(3) and sometimes referred to as "RGGI"), directed the State's four electric distribution companies ("EDCs"), including JCP&L, to submit proposals to the Board, by August 1, 2008, for DR programs to be implemented for the period beginning June 1, 2009<sup>2</sup>. On August 1, 2008, JCP&L filed its petition pursuant to the July 1 Order, along with supporting testimony and schedules (collectively, the "August 1 DR Filing"), proposing four separate small scale/pilot DR programs aggregating 83 MW of DR, which, together with the 8 MW from the IDER pilot program and 2 MW to be derived from certain Basic Generation Service ("BGS") rate design changes, were designed to achieve the JCP&L goal of 93 MW of DR beginning June 1, 2009 set forth in the July 1 Order. One of the four proposed DR programs was an expansion of the IDER pilot program ("IDER Expansion") to produce an additional 15 MW of DR by June 1, 2009.

By Order dated September 22, 2008,<sup>3</sup> the Board suspended the procedural schedule relating to the EDCs' August 1, 2008 DR filings, including JCP&L's August 1 DR Filing, and directed Board Staff to meet with each of the EDCs and with Rate Counsel to reach agreement on those programs which could be reviewed in time for June 2009 implementation and which programs would require extended review. Based on those discussions, by letter dated September 26, 2008, Board Staff memorialized the agreement among JCP&L, Rate Counsel and Staff that

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<sup>2</sup> *In The Matter of Demand Response Programs for the Period Beginning June 1, 2009 – Electric Distribution Company Programs*, BPU Docket No. EO08050326 (July 1, 2008).

<sup>3</sup> *In The Matter of Demand Response Programs for the Period Beginning June 1, 2009 – Electric Distribution Company Programs*, BPU Docket No. EO08050326, EO08080541, EO08080542, EO08080543, EO08080544 (September 22, 2008).



only the Company's proposed IDER Expansion should be considered for implementation by June 2009, which was subsequently reflected in the March 12, 2009 Order designating Commissioner Joseph L. Fiordaliso as the presiding officer for this case.

The BPU's RGGI Order<sup>4</sup> set forth certain minimum filing requirements for all RGGI filings. By letter dated August 29, 2008 (inadvertently bearing a 2009 date) ("Deficiency Letter"), the Director of the Board's Division of Energy notified JCP&L of certain alleged deficiencies in the August 1 DR Filing. On January 27, 2009, the Company provided additional information in response to the Deficiency Letter, and by letter dated February 26, 2009, Staff notified JCP&L that the August 1 DR Filing was deemed complete with respect to the proposed IDER Expansion, effective January 27, 2009.

Afternoon and evening public hearings with respect to the IDER Expansion were held in Morristown, New Jersey on October 30, 2008. One member of the public made a statement at the afternoon hearing. No members of the public made a statement at the evening hearing.

#### Stipulation

The undersigned Parties DO HEREBY STIPULATE AND AGREE as follows:

1. The Parties agree to the procedural schedule attached hereto as Appendix A for the purposes of addressing the IDER Expansion included in the August 1 DR Filing, which would have the IDER Expansion on the Board's agenda for its meeting that is currently scheduled for September 16, 2009, provided that nothing in this Stipulation shall preclude the Parties from entering into one or more stipulations prior to that date resolving some or all of the issues with respect to the IDER Expansion.

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<sup>4</sup> *In The Matter Of Electric Public Utilities And Gas Public Utilities Offering Energy Efficiency And Conservation Programs, Investing In Class I Renewable Energy Resources, And Offering Class I Renewable Energy Programs In Their Respective Service Territories On A Regulated Basis Pursuant To N.J.S.A. 48:3-98.1, BPU Docket No. EO08030164 (May 12, 2008).*

2. To the extent relevant, JCP&L agrees pursuant to N.J.S.A. 48:2-21.3, solely in connection with the IDER Expansion included in the August 1 DR Filing, that it will waive the 180-day review period provision of RGGI, and Staff and Rate Counsel acknowledge and agree that such agreement by JCP&L is strictly limited to the IDER Expansion and has no precedential authority and that JCP&L retains all rights to seek to enforce RGGI time frames in connection with any other filings to which the provisions of RGGI apply.

### Conclusion

3. The Parties agree that this Stipulation contains mutual balancing and interdependent clauses and is intended to be accepted and approved in its entirety. In the event any particular provision of this Stipulation is not accepted and approved in its entirety by the Board, or is modified by a court of competent jurisdiction, then any Party aggrieved thereby shall not be bound to proceed with this Stipulation and shall have the right, upon written notice, to be provided to all other Parties within ten (10) days after receipt of any such adverse decision, to litigate all issues addressed herein to a conclusion. More particularly, in the event this Stipulation is not adopted in its entirety by the Board in an appropriate Order, or is modified by a court of competent jurisdiction, then any Party hereto is free, upon the timely provision of such written notice, to pursue its then available legal remedies with respect to all issues addressed in this Stipulation, as though this Stipulation had not been signed.

4. The Parties agree that this Stipulation shall be binding on them for all purposes herein.

5. It is specifically understood and agreed that this Stipulation represents a negotiated agreement and, except as otherwise expressly provided for herein:

- a. By executing this Stipulation, no Party waives any rights it possesses under any prior Stipulation, except where the terms of this Stipulation supersede such prior Stipulation.
- b. The contents of this Stipulation shall not in any way be considered, cited or used by any of the undersigned Parties as an indication of any Party's position on any related or other issue litigated in any other proceeding or forum, except to enforce the terms of this Stipulation.

6. This Stipulation may be executed in any number of counterparts, each of which shall be considered one and the same agreement, and shall become effective when one or more counterparts have been signed by each of the Parties.

WHEREFORE, the Parties hereto have duly executed and do respectfully submit this Stipulation to the Board and recommend that the Board issue a Final Decision and Order adopting and approving this Stipulation in its entirety in accordance with the terms hereof.

Jersey Central Power & Light Company

By: Marc B. Lasky  
Marc B. Lasky  
Morgan, Lewis & Bockius LLP

Dated: 6/4/09

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By: Alex Mofeau  
Alex Mofeau  
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Dated: 06/04/09

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By: Diane Schulze  
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Assistant Deputy Public Advocate

Dated: 6-4-09

I/M/O the Verified Petition of Jersey Central Power & Light Company  
Concerning a Proposal for Four Small/Pilot Demand Response Programs  
For the Period Beginning June 1, 2009  
Docket Nos. EO08050326  
EO08080542

**Procedural Schedule for IDER Expansion**

JCP&L delivers report on IDER pilot	July 6, 2009
Discovery concerning report propounded	July 10, 2009
Responses to discovery received	July 16, 2009
Rate Counsel testimony	July 23, 2009
Hearings, including oral rebuttal and surrebuttal (if necessary)	July 27 and/or 28, 2009
Initial briefs	August 10, 2009
Reply briefs	August 18, 2009
Board decision	September 16, 2009

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