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BOARD OF PUBLIC UTILITIES  
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June 16, 2016

**VIA NEW JERSEY LAWYERS SERVICE / E-MAIL**

The Honorable Leland McGee, ALJ  
Office of Administrative Law  
33 Washington Street  
Newark, NJ 07102

***Re: In the Matter of the Petition of Jersey Central Power & Light Company pursuant to N.J.S.A. 40:55D- 19 for a Determination that the Montville-Whippany 230kV Transmission Project is Reasonably Necessary for the Service, or Welfare of the Public  
OAL Docket No. PUC-08235-15  
BPU Docket No. EO-15030383***

Dear Judge McGee:

This firm represents Wildlife Preserves, Inc., a New Jersey Non-Profit Land Conservation Corporation (“**Wildlife Preserves**”) and a participant in this matter. Please accept this letter brief in opposition to Jersey Central Power and Light’s (“**JCP&L**”) Verified Petition with supporting testimony and exhibits (“**Petition**”) filed with the New Jersey Board of Public Utilities (“**BPU**”) seeking approval of JCP&L’s Montville-Whippany 230kV Transmission Project (“**Project**”).

**I. Introduction**

Wildlife Preserves is the primary owner of Troy Meadows where more than 2 miles of the Project is proposed to be constructed. Wildlife Preserves is the single most impacted property owner amongst the entire length of the Project. Wildlife Preserves does not object to JCP&L expanding its service capacity. However, Wildlife Preserves opposes the plan to

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Hon. Leland McGee, ALJ

June 17, 2016

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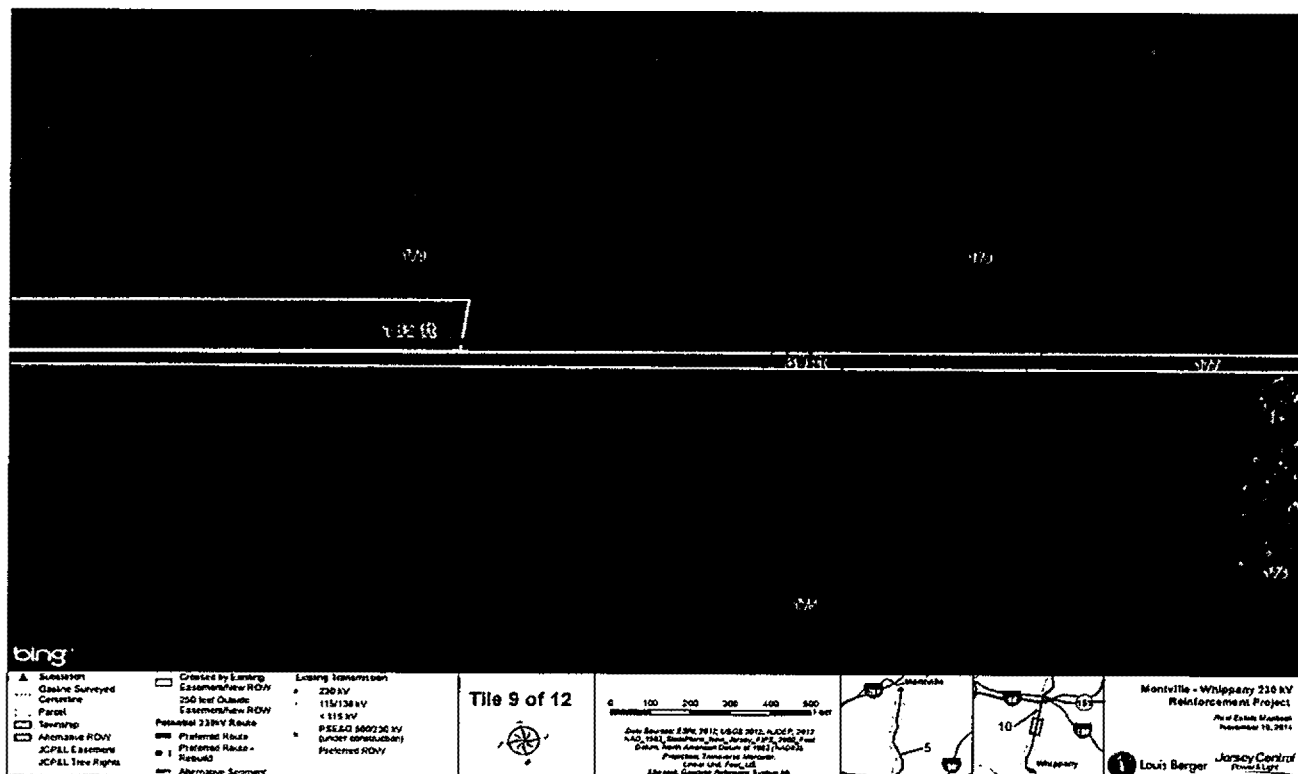
construct a parallel right-of-way of powerlines and towers next to and outside of the existing rights-of-way where existing power lines and towers are already located in Troy Meadows. Constructing another two-mile long corridor next to the existing easement will create disruption and unnecessary environmental impacts to 29-acres of the natural areas, open spaces, wildlife and wildlife habitats being preserved by Wildlife Preserves, which is its fundamental corporate mission to protect. In addition, Wildlife Preserves has spent several years and hundreds of thousands of dollars creating a wetlands mitigation bank at Troy Meadows, enhancing the wetlands there, parts of which will be destroyed as a result of JCP&L constructing its proposed transmission line outside of its existing right-of-way in Troy Meadows. The solution to this is an uncomplicated one, and one which JCP&L intends to utilize amongst other segments of the Project – instead of running parallel transmission lines that require the expansion of easements within Troy Meadows, JCP&L should run one single monopole along the already existing right-of-way.

The factors to consider in making a determination as to whether or not a proposed transmission line is “reasonably necessary for the service, convenience or welfare of the public” include whether the construction and routing of the line is in compliance with N.J.A.C. 14:5-6 and whether the proposed route will result in less of an environmental impact than any of the available alternatives. See Matter of Application of Jersey Cent. Power & Light Co., 92 N.J.A.R.2d (BRC) 43 (N.J. Adm. Nov. 7, 1991). Since JCP&L’s Petition does not comply with N.J.A.C. 14:5-6 and because the expansion of the existing right-of-way will result in a *greater* environmental impact than the construction of a single monopole along the existing right-of-way

then the Project fails to meet the standard of N.J.S.A. 40:55D-19 and the Petition must be denied.

## II. Argument

This court is required to determine whether JCP&L's proposed transmission line is "reasonably necessary for the service, convenience or welfare of the public," including whether the construction and routing of the proposed line will result in less of an environmental impact than any of the available alternatives. See Matter of Application of Jersey Cent. Power & Light Co., 92 N.J.A.R.2d (BRC) 43 (N.J. Adm. Nov. 7, 1991). As part of its routing plan, JCP&L is also required to "make use of available railroad or other rights-of-way whenever practicable, feasible and with safety, subject to agreement with the owners." N.J.A.C. 14:5-7.1. However, despite those requirements, JCP&L has not utilized its existing right-of-way through Troy Meadows and JCP&L has failed to provide any explanation for why it cannot do so. JCP&L states in its Petition at page 9 that "the Preferred Route can be constructed largely within existing



right-of-way, and thereby is in accord with N.J.A.C. 14:5-7.1(a)(1)". Yet, JCP&L fails to explain why it cannot construct its project through the existing rights-of-way in Troy Meadows.

For example, Tile 9 of 12 above shows an example of how the Preferred Route (black line) is proposed outside of the existing right-of-way in Troy Meadows. Moreover, according to existing filed easements, the width of the existing right-of-way throughout Troy Meadows is 30 feet (white line) despite the misprint on JCP&L's map suggesting a section of the width is 185 feet and would not require an extension of the right-of-way.

At the December 8, 2015 public hearing, a representative of Wildlife Preserves, Len Fariello, commented that JCP&L could stay within the existing right of way by constructing one right-of-way of steel monopoles carrying the new 230kV circuit as well as the K-115 kV, O-93 and 34.5kV circuits. If JCP&L ran a single line of towers instead of two separate parallel sets of towers, there would be no need to expand the existing rights-of-way through twenty-nine acres of irreplaceable wetlands and twenty-nine acres of wetlands and wildlife habitats would remain preserved. That is the amount of destruction planned for Troy Meadows. JCP&L provides no explanation why the existing rights-of-way are insufficient through Troy Meadows even though existing rights-of-way appear sufficient for most of the balance of the Project.

Wildlife Preserves' suggestion to use a monopole construction within the existing rights-of-way to avoid unnecessary expansion and destruction of preserved wetlands is not a novel one. In fact, JCP&L intends to remove and replace the existing structures in Segment Nos. 1, 2 and 9 carrying the K-115 kV, O-93 and 34.5kV circuits with one steel monopole carrying the new 230kV circuit as well as the existing K-115 kV, O-93 and 34.5kV circuits. (See Petition at Pages

4-8.)

Moreover, PSE&G recently utilized a monopole construction design along its Susquehanna-Roseland Transmission Project that also ran through Wildlife Preserves' Troy Meadows property. PSE&G utilized dual circuits of 230kV and 500kV lines attached to a single right-of-way of steel monopoles to minimize the disruption to wetlands within Troy Meadows. (See PSE&G Traverses New Jersey Wetland, Transmission and Distribution World Magazine, John Ribardo and Steve Davidow, July 28, 2014 attached hereto as "**Exhibit A**").

Despite Wildlife Preserve's demands that JCP&L explain why two parallel lines are proposed within Troy Meadows instead of a monopole utilizing the existing right-of-way, to date, JCP&L has refused to explain why the use of the existing right-of-way is not practicable or feasible. N.J.A.C. 14:5-7.1; (see also June 10, 2016 Response from JCP&L to Wildlife Preserves' request to re-open hearings for additional evidence on the issue of expansion attached hereto as "**Exhibit B**").

The Petition refers to Tracey J. Janis's testimony regarding the need for additional rights-of-way. (See Petition at Page 5). However, Ms. Janis provided no explanation as to why the expansion of the rights-of-way in Troy Meadows is necessary. Somewhat tellingly, Ms. Janis testifies that the purpose of her testimony is to "describe any necessary property-related rights, including additional rights-of-way." Yet the entirety of Ms. Janis' testimony fails to address why the expansion of the rights-of-way is necessary and why it is not feasible or practicable for JCP&L to make use of available rights-of-way. (See Petition – Exhibit 8, Page 2).

Mr. Peter Sparhawk opines that constructing a single line of monopoles would be

“challenging;” “more expensive;” “require taller transmission structures;” create “the potential to increase the length of outages if a single pole fails;” is unnecessary because in most areas JCP&L has enough room in its existing rights-of-way to accommodate a parallel line; and that the “two short segments of the route that will be rebuilt are in areas that pose little risk of pole/car accidents.” None of these statements explain why JCP&L is not building its Project within its existing right-of-way in Troy Meadows as PSE&G did.

N.J.A.C. 14:5-7 requires the use of existing rights-of-way as a touchstone for promoting Project practicability and feasibility. PSE&G interpreted that regulation to mean it must install its upgraded power lines and towers within its existing Troy Meadows easements, which is exactly what it did. Why would JCP&L be entitled to ignore this fundamental concept and to crash through an additional 29 acres of Troy Meadows’ wildlife habitat and wetlands without even so much as an explanation as to why it is compelled to do so? It is unlikely that a car will crash into a monopole in Troy Meadows since there are no roads in Troy Meadows.

Wildlife Preserves recognizes that BPU regulations strive to promote harmony between the need to provide electricity to service areas and the avoidance of unnecessary impacts to persons, property and the environment. Wildlife Preserves does not challenge JCP&L’s conclusion that additional electricity service is required for the area. Wildlife Preserves recognizes that JCP&L has an existing utility corridor through Troy Meadows. However, Wildlife Preserves is challenging the unexplained and apparently unnecessary need to crash through 29 acres of Troy Meadows property when JCP&L could use its existing rights-of-way. JCP&L’s failure to explain itself on this point is a fundamental failure in its Petition and the


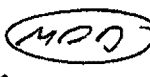
court's refusal to allow Wildlife Preserves an opportunity to cross-examine JCP&L witnesses on this point is a fundamental flaw to these proceedings.

Wildlife Preserves respectfully submits that JCP&L's purported explanation for an expanded easement and a parallel set of towers does not justify the adverse impact to wetlands particularly where the alternative of monopole towers within the existing right-of-way can adequately serve the public need without unnecessarily disturbing a 2,000 acre wetland wildlife sanctuary.

### **III. Conclusion**

Wildlife Preserves respectfully submits that – for the reasons set forth herein – (1) JCP&L's Petition should be denied or (2) in the alternative this court should reconsider Wildlife Preserves' application for intervenor status and grant Wildlife Preserves the right to intervene for the limited purpose of reopening the hearings to allow Wildlife Preserves to present testimony and evidence with regard to the impact of the Petition on Troy Meadows and to cross-examine Tracy Janis and Peter Sparhawk with regard to the necessity, if any, for JCP&L to construct a parallel utility corridor in Troy Meadows next to its existing right-of-way.

Respectfully submitted,  
**MEYNER AND LANDIS LLP**

   
Albert I. Telsey

cc: Service List

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PURSUANT TO N.J.S.A. 40:55D-19 FOR A DETERMINATION THAT THE MONTVILLE-  
WHIPPANY 230 KV TRANSMISSION PROJECT IS REASONABLY NECESSARY FOR THE  
SERVICE, CONVENIENCE OR WELFARE OF THE PUBLIC  
BPU DOCKET NO. ER15030383  
OAL DOCKET NO. PUC 08235-2015N**

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