



STATE OF NEW JERSEY
Board of Public Utilities
 44 South Clinton Avenue, 3rd Floor, Suite 314
 Post Office Box 350
 Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

ENERGY

IN THE MATTER OF THE VERIFIED PETITION OF)	AMENDED PRE-HEARING
JERSEY CENTRAL POWER & LIGHT COMPANY)	ORDER AND NEW
("JCP&L") AND MID-ATLANTIC INTERSTATE)	PROCEDURAL SCHEDULE
TRANSMISSION, LLC ("MAIT") FOR: (1) APPROVAL)	
OF THE TRANSFER OF ITS TRANSMISSION ASSETS)	
TO MAIT PURSUANT TO <u>N.J.S.A. 48:3-7</u> ; (2))	
APPROVAL OF A LEASE OF JCP&L'S REAL)	
PROPERTY AND THE REAL PROPERTY RIGHTS)	
ASSOCIATED WITH ITS TRANSMISSION ASSETS TO)	
MAIT PURSUANT TO <u>N.J.S.A. 48:3-7</u> ; (3) APPROVAL)	
OF A MUTUAL ASSISTANCE AGREEMENT)	
PURSUANT TO <u>N.J.S.A. 48:3-7.1</u> ; AND (4) A)	DOCKET NO. EM15060733
DECLARATION THAT MAIT WILL BE DEEMED A)	
PUBLIC UTILITY FOR, <i>INTER ALIA</i> , THE PURPOSES)	
OF SITING AUTHORITY UNDER <u>N.J.S.A. 40:55D-19</u>)	
AND EMINENT DOMAIN AUTHORITY PURSUANT TO)	
<u>N.J.S.A. 48:3-17.6 ET. SEQ.</u>)	DOCKET NO. EF02030185

-AND-

IN THE MATTER OF THE VERIFIED PETITION OF
 JERSEY CENTRAL POWER AND LIGHT COMPANY
 FOR AUTHORIZATION PURSUANT TO N.J.S.A. 48:3-7.2
 FOR APPROVAL TO PARTICIPATE IN THE
 FIRSTENERGY CORP. INTRASYSTEM MONEY POOL

Parties of RECORD:

- Gregory Eisenstark, Esq.**, Jersey Central Power and Light Co. Company
- Stefanie A. Brand, Esq.**, Director, New Jersey Division of Rate Counsel
- Steven Goldenberg, Esq.**, New Jersey Large Energy Users Coalition
- Joseph Accardo, Esq.**, Public Service Electric and Gas Company
- Margaret Comes, Esq.**, Rockland Electric Company, Participant
- Colleen Foley, Esq.**, Atlantic City Electric Company, Participant

BY PRESIDENT RICHARD S. MROZ:

On June 19, 2015, Jersey Central Power and Light Company ("JCP&L") and Mid-Atlantic Interstate Transmission ("MAIT") (collectively, "Joint Petitioners") filed a petition requesting the Board issue a decision and order:

- (1) approving the transfer of JCP&L's transmission assets to MAIT;
- (2) approving a ground lease between JCP&L and MAIT;
- (3) declaring that MAIT will be a New Jersey public utility subject to the Board's jurisdiction for certain, limited purposes and enjoying the rights and privileges of a public utility and approving MAIT's request to maintain its books and records out of State;
- (4) declaring that, for those transmission projects for which the Board has granted JCP&L siting approval pursuant to N.J.S.A. 40:55D-19 but which have not yet been placed in service, such authority will be transferred to MAIT;
- (5) approving the addition of MAIT to the Utility Money Pool pursuant to N.J.S.A. 48:3-7.1;
- (6) approving a Mutual Assistance Agreement between JCP&L and MAIT; and
- (7) granting such other and further relief as the Board deems just, lawful, and proper.

By Order dated August 19, 2015, the Board retained this matter for hearing, and designated me as the presiding officer with authority to establish and modify schedules, decide all motions and otherwise control the conduct of this case, subject to Board ratification. Additionally, the August 19 Order set Friday September 18, 2015 as the last day for filing motions to intervene or participate in this matter.

Pursuant to the authority granted under the August 19 Order, on October 7, 2015, I issued a Prehearing Order in this matter.

On December 7, 2015 the Division of Rate Counsel filed a motion requesting that I establish a briefing schedule on the issue of whether MAIT can be designated as a public utility

under New Jersey Law and suspend the procedural schedule pending that determination. Objections to the motion were filed by JCP&L and MAIT by letter dated December 8, 2015. On December 9, 2017 I suspended the October 7, 2015 Prehearing Order and Procedural Schedule and set a briefing schedule for this individual issue of whether MAIT can be designated as a public utility under New Jersey Law.

On February 24, 2016 the Board ordered that under the facts and circumstances presented that MAIT, holding only transmission assets, does not fall within the current statutory definition of a "public utility" under N.J.S.A. 48:2-13, nor does any other statute provide a basis to conclude that the legislature intended to convey authority for an entity, outside of N.J.S.A. 48:2-13(a), to operate as a "public utility" under the jurisdiction of the Board.

The Board additionally ordered that this matter proceed in accordance with the February 24, 2016 Order and that I continue to preside over this proceeding consistent with the Board's August 19, 2015 Order. The Board further directed the matter to proceed in accordance with an amended procedural schedule set by me.

On April 22, 2016, Joint Petitioners filed a Supplemental Petition in response to the Board's February 24, 2016 Board Order finding that, as proposed in the original petition, MAIT did not qualify as a public utility. Simultaneous with the Supplemental Petition, Joint Petitioners filed the supplemental testimony of Mark Mader, K. Jon Taylor, and Steven R. Staub. The supplemental testimony added five (5) distribution substations to the transmission assets being transferred from JCP&L to MAIT.

A prehearing conference was held at the Board's offices on June 20, 2016, and the parties were asked to submit proposed amendments to the Prehearing Order by June 27, 2016. Rate Counsel and the Joint Petitioners submitted comments on Monday June 27, 2016. After reviewing the comments, I now issue this Amended Prehearing Order.

1. **NATURE OF PROCEEDINGS AND ISSUES TO BE RESOLVED:**

- a) Whether the proposed transaction, including the transfer of transmission and distribution assets and the associated leases, as well as the proposed transfer of certain distribution assets and the provision of distribution service to certain retail customers, affects the interests of JCP&L and MAIT ratepayers, and the ability of JCP&L and MAIT to provide safe, adequate and proper utility service at just and reasonable rates;
- (b) Whether the proposed transmission and distribution assets to be transferred, and associated leases, are fairly valued and properly classified as transmission and/or distribution assets respectively;
- (c) Whether waiver of the advertising requirements in N.J.A.C. 14:1-5.6(b) is appropriate;
- (d) Whether MAIT qualifies under N.J.S.A. 48-2-13 to be deemed a public utility in New Jersey entitled to exercise certain rights reserved to public utilities;
- (e) Whether MAIT qualifies to participate in the FirstEnergy Corp. Intrasystem Utility Money Pool;
- (f) Whether the proposed transaction is in the public interest and whether it has a negative or positive impact on JCP&L's and MAIT's rates, regulation, competition, service quality, and employees;
- (g) If the transfers are approved and MAIT *is* declared a public utility, whether authorization should be granted to keep books and records out of State;
- (h) Whether it is in the public interest and consistent with applicable law for JCP&L to create a new affiliated distribution utility, within its franchise service territory, that will absorb a small number of its current distribution customers;
- (i) Whether MAIT should be permitted to adopt JCP&L's rates for its distribution customers and to utilize a combined JCP&L/MAIT distribution rate base for both JCP&L and MAIT ratemaking; and
- (j) Whether the terms of the Mutual Assistance Agreement and the Service Company

Agreement as proposed are sufficient to ensure safe, adequate and proper service to MAIT's distribution customers.

2. PARTIES AND ATTORNEY REPRESENTATIVES:

As of the date of this Order, parties to this matter include

Board Staff represented by Alex Moreau, DAG

Joint Petitioners represented by Gregory Eisenstark, Esq.

Rate Counsel represented by Stefanie Brand, Esq.

Public Service Electric & Gas ("PSE&G"), Intervenor, represented by Joseph Accardo, Esq., and Hesser G. McBride, Jr., Esq.

The New Jersey Large Energy Users Coalition ("NJLEUC"), Intervenor, represented by Steven S. Goldenberg, Esq., and Paul Forshay, Esq., admitted Pro Hac Vice.

Rockland Electric ("RECO"), Participant, represented by Margaret Comes, Esq.

Atlantic City Electric ("ACE"), Participant, represented by Colleen Foley, Esq.

3. SPECIAL LEGAL REQUIREMENTS AS TO NOTICE OF HEARING:

Initial public hearings were held in the Company's service territory after publication of notice in newspapers of general circulation in the service territory. The public hearings were held in the Morris County Administration & Records Building, 10 Court Street, 5th Floor, Morristown, N.J. on October 26, 2015, and in the Freehold Township Municipal Building, One Municipal Plaza (Schanck Road at Stillwells Corner Road), Freehold, N.J. on October 28, 2015 at 6:00 P.M. Additional public hearings will be held in late July and/or early August, 2016 in Morristown and Freehold, after publication and notice in newspapers of general circulation in the service territory.

4. SCHEDULE OF HEARING DATES, TIME AND PLACE:

Evidentiary hearings shall be held on **October 25, 26 and November 1, 3, 4, 7, 9, 10 2016** in Trenton, New Jersey. Five exact dates to be determined in conformance with my schedule, as presiding officer.

5. STIPULATIONS:

No other stipulations are pending at this time.

6. SETTLEMENTS:

A settlement conference is scheduled for August 16, 2016. Additional settlement conferences among the parties are encouraged, and may be convened at the convenience of the parties on notice to all parties without my prior approval.

7. AMENDMENTS TO PLEADINGS:

On August 6, 2015, JCP&L filed Supplemental Direct Testimony of Mark A. Mader. On April 22, 2016, Joint Petitioners filed a Supplemental Petition, and supplemental testimony of Mark Mader, K. Jon Taylor, and Steven R. Staub.

8. DISCOVERY AND DATES FOR COMPLETION:

Discovery shall be conducted in accordance with N.J.A.C. 1:1-10.4 unless otherwise provided in the procedural schedule marked as Exhibit A. Exhibit A, previously e-mailed to the service list on September 18, 2015, and previously revised in accordance with a letter request received from Rate Counsel September 22, 2015, has been revised again as discussed at the status conference on June 20, 2016.

9. ORDER OF PROOFS:

The Joint Petitioners have the burden of proof. The hearings will be conducted by topic (**see** point 12, below) unless otherwise agreed by the parties. Within each topic, witnesses shall be presented and cross examination will be conducted in the following order (depending on the identity of the witness), pending a determination on any additional parties:

Joint Petitioners

Rate Counsel

Intervenors
Board Staff

10. EXHIBITS MARKED FOR IDENTIFICATION:

None at this time.

11. EXHIBITS MARKED IN EVIDENCE:

None at this time.

12. ESTIMATED NUMBER OF FACT AND EXPERT WITNESSES:

Joint Petitioners will present the following witnesses:

Mark A. Mader
Jeffrey J. Mackauer
K. Jon Taylor
Steven R. Staub

Rate Counsel will present the following witnesses:

Kevin O'Donnell
Matthew Kahal
Scott Hempling
Dave Peterson
Gregory Booth

All parties shall notify the Commissioner and all other parties of the proposed order of witnesses based on topics to be covered no later than 5 days prior to the first day of hearings.

At this time, Staff does not anticipate having any witnesses. Intervenor witnesses shall be added based on the filing of testimony.

13. MOTIONS CONTEMPLATED, PENDING OR GRANTED:

None at this time.

14. OTHER SPECIAL MATTERS:

Joint Petitioners have filed and will be filing several related proceedings.

All parties acknowledge the simultaneous related petitions filed by FirstEnergy East Operating Companies, MAIT, and FirstEnergy Transmission, LLC ("FET") at the Federal Energy

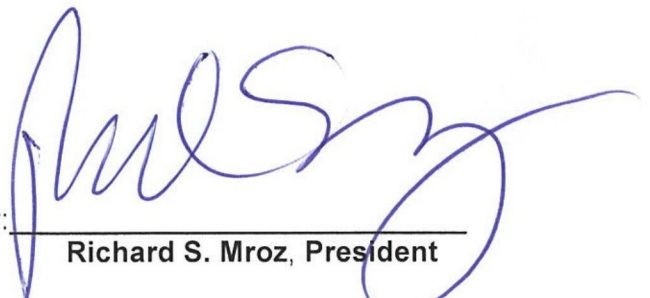
Regulatory Commission ("FERC") seeking authorization for the contribution of the transmission assets owned by the FirstEnergy East Operating Companies to MAIT; and at the Pennsylvania Public Utility Commission ("PA PUC") seeking similar relief as that requested of the BPU. Joint Petitioners have also indicated that they will make other related filings at FERC, including, but not limited to, Section 204 and Section 205 filings under the Federal Power Act as well as a Petition for Declaratory Order recognizing the classification of assets.

Resolution of the related proceedings does not prejudice the Board's independent authority under Title 48 to conduct a thorough and complete review of the facts and issues presented in this proceeding and render a final decision. However, the relationship among these proceedings to the pending transaction cannot be overlooked. Therefore, Joint Petitioners should file quarterly reports in this docket updating the Board on the status of the related proceedings, and whenever the status of the related proceedings changes. The updates in the quarterly reports shall include, but not be limited to, discussion of the procedural posture of the filed cases, including anticipated date of resolution of the proceedings, as well as the anticipated timing of pending applications. The quarterly reports should also discuss the relationship of the issues to be addressed in the related proceedings to the issues arising in the instant proceeding.

I **DIRECT** Staff to post this Prehearing Order on the Board's website and distribute this Order electronically to the e-service list.

This provisional ruling is subject to ratification or other alteration by the Board as it deems appropriate during the proceedings in this matter.

DATED: July 16, 2016

By: 
Richard S. Mroz, President

AMENDED Procedural Schedule (July 2016)

Exhibit A

July 8, 2016: Deadline for second round discovery requests

July 20, 2016: Second round responses due

July 22, 2016: Deadline for filing Motions to Intervene or Participate

Late July – August 2016: Public Hearings in Morristown, NJ and Freehold, NJ at 6:00 PM

July 16, 2016: Discovery Conference

August 12, 2016: Rate Counsel and Intervenors file direct testimony

August 16, 2016: Settlement Conference

August 19, 2016: Discovery on Rate Counsel and Intervenor testimony

September 9, 2106: Responses to discovery on Rate Counsel and Intervenor

September 16, 2016: Rebuttal testimony by Company and Intervenors

September 23, 2016: Discovery on rebuttal testimony due

September 30, 2016: Responses to discovery on rebuttal testimony due

October 25, 26 and November 1, 3, 4, 7, 9, 10, 2016: Evidentiary Hearings- with live surrebuttal- 5 days TBD due to availability of President Mroz

Briefs – TBD

Discovery shall proceed on a rolling basis subject to the end dates in this schedule.

In the Matter of the Verified Petition of Jersey Central Power & Light Company ("JCP&L") and Mid-Atlantic Interstate Transmission, LLC ("MAIT") for (1) Approval of the Transfer of JCP&L's Transmission Assets to MAIT Pursuant to N.J.S.A. 48:3-7;... -and- In the Matter of the Verified Petition of Jersey Central Power and Light Company for Authorization Pursuant to N.J.S.A. 48:3-7.2 for Approval to Participate in the Firstenergy Corp. Intrasystem Money Pool Docket No.s: EM15060733 & EF02030185

SERVICE LIST

BPU:

Paul Flanagan, Executive Director
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, New Jersey 08625-0350
paul.flanagan@bpu.nj.gov

Jerome May, Director
Division of Energy
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, New Jersey 08625-0350
jerome.may@bpu.nj.gov

Mark Beyer, Economist
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, New Jersey 08625-0350
mark.beyer@bpu.state.nj.us

John Masiello
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, New Jersey 08635-0350
john.masiello@bpu.nj.gov

Cynthia Covie, Chief Counsel
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, New Jersey 08635-0350
cynthia.covie@bpu.nj.gov

JCP&L:

Michael Connolly
Windels Marx
One Giralda Farms
Madison, NJ 07940
mconnolly@windelsmarx.com

Gregory Eisenstark
Windels Marx
120 Albany Street Plaza
New Brunswick, NJ 08901
geisenstark@windelsmarx.com

Lauren Lepkoski
First Energy Corp.
2800 Pottsville Pike
Reading, PA 19612
llepkoski@firstenergycorp.com

Bradley A. Bingaman
FirstEnergy Corp.
76 South Main Street
Akron, Ohio 44308
bbingaman@firstenergycorp.com

Mark Mader
Jersey Central Power & Light Company
300 Madison Avenue
Morristown, NJ 07962
mamader@firstenergycorp.com

Rate Counsel:

Stefanie A. Brand, Esq., Director
Division of Rate Counsel
140 East Front Street, 4th Floor
Post Office Box 003
Trenton, NJ 08625-0003
sbrand@rpa.state.nj.us

Bethany Rocque-Romaine, Legal Specialist
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, New Jersey 08635-0350
Bethany.rocque-romaine@bpu.nj.gov

Maureen Wagner, Legal Specialist
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, New Jersey 08635-0350
Maureen.wagner@bpu.nj.gov

DAsG:

Geoffrey Gersten, DAG
Department of Law & Public Safety
Division of Law
124 Halsey Street
Post Office Box 45029
Newark, NJ 07101-45029
geoffrey.gersten@dol.lps.state.nj.us

Alex Moreau, DAG
Department of Law & Public Safety
Division of Law
124 Halsey Street
Post Office Box 45029
Newark, NJ 07101-45029
alex.moreau@dol.lps.state.nj.us

Carolyn McIntosh, Esq.
Division of Law
124 Halsey Street
Post Office Box 45029
Newark, NJ 07101-45029
carolyn.mcintosh@bpu.state.nj.us

PSE&G:

Joseph Accardo, Esq.
PSE&G Services Corp.
80 Park Plaza – T5
PO Box 570
Newark, NJ 07102
Joseph.accardo@pseg.com

Ami Morita, Esq.
Deputy Public Advocate
Division of Rate Counsel
140 East Front Street, 4th Floor
Post Office Box 003
Trenton, NJ 08625-0003
amorita@rpa.state.nj.us

Diane Schulze, Esq.
Deputy Public Advocate
Division of Rate Counsel
140 East Front Street, 4th Floor
Post Office Box 003
Trenton, NJ 08625-0003
dschulze@rpa.state.nj.us

Kurt Lewandowski, Esq.
Deputy Public Advocate
Division of Rate Counsel
140 East Front Street, 4th Floor
Post Office Box 003
Trenton, NJ 08625-0003
klewando@rpa.state.nj.us

Lisa Gurkas
Division of Rate Counsel
140 East Front Street, 4th Floor
Post Office Box 003
Trenton, NJ 08625-0003
lgurkas@rpa.state.nj.us

Kevin O'Donnell
Nova Energy Consultants, Inc.
1350 SE Maryland Road, Suite 101
Cary, NC 27511
KODonnell@novaenergyconsultants.com

Scott Hempling, Esq.
417 St. Lawrence Drive
Silver Springs, MD 20901
shempling@scotthemplinglaw.com

Matthew Kahal
c/o Exeter Associates
10480 Little Patuxent Parkway
Suite 330
Columbia, MD 21044
mkahal@exeterassociates.com

Hesser McBride, Esq.
PSE&G Services Corp.
80 Park Plaza – T5
PO Box 570
Newark, NJ 07102
Hesser.mcbride@pseq.com

Alexander Stern, Esq.
PSE&G Services Corp.
80 Park Plaza – T5
PO Box 570
Newark, NJ 07102
Alexander.stern@pseq.com

Constance Lembo
PSE&G Services Corp.
80 Park Plaza – T5
PO Box 570
Newark, NJ 07102
constance.lembo@pseq.com

ACE:

Colleen Foley, Esq.
Saul Ewing
One Riverfront Plaza, 15th Floor
Newark, NJ
Cfoley@saul.com

Wendy E. Stark, Esq.
Deputy General Counsel
Pepco Holdings- EP1132
701 9th Street, NW
Washington, DC 200168
westark@pepcoholdings.com

Phillip J. Passanante, Esq.
Associate General Counsel
Pepco Holdings Inc./
Atlantic City Electric Company
Internal Mail Stop: 92DC42
PO Box 6066
Newark, DE 19714-6066
Phillip.passanante@pepcoholdings.com

Gregory Booth
PowerServices, Inc.
1616 E. Millbrook Road, Suite 210
Raleigh, NC 27609
GBooth@powerservices.com

David Peterson
Chesapeake Regulatory Consultants Inc.
10351 Southern Maryland Blvd.
Suite 202
Dunkirk, MD 20754-9500
davep@chesapeake.net

NJLEUC:

Steven S. Goldenberg, Esq.
Fox Rothschild LLP
997 Lenox Drive, Bldg. 3
Lawrenceville, NJ 08648
sgoldenberg@foxrothschild.com

Paul F. Forshay, Esq.
Sutherland, Asbill & Brennan, LLP
700 Sixth Street, NW., Suite 700
Washington, D.C. 20001-3980
Paul.forshay@sutherland.com

RECO:

Margaret Comes, Esq.
Associate Counsel
Rockland Electric Company
4 Irving Place, Suite 1815-S
New York, NY 10003
comesm@coned.com

John L. Carley, Esq.
Assistant General Counsel
Consolidated Edison Company of NY, Inc.
Law Department
4 Irving Place, Room 1815-S
New York, NY 10003
carleyj@coned.com

James C. Meyer, Esq.
Ricker, Danzig, Scherer, Hyland & Perretti LLP
Headquarters Plaza
One Speedwell Avenue
Morristown, NJ 07962
jmeyer@ryker.com