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March 2, 2018

VIA ELECTRONIC MAIL & HAND DELIVERY

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BOARD OF PUBLIC UTILITIES
TRENTON, NJ

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BOARD OF PUBLIC UTILITIES
TRENTON, NJ

Office of the Secretary
Board of Public Utilities
44 South Clinton Ave.
3rd Floor, Suite 314
P.O. Box 350
Trenton, New Jersey 08625-0350

Attn: Aida Camacho-Welch, Acting Secretary

Re: **In the Matter of the New Jersey Board of Public Utilities' Consideration of the Tax Cuts and Jobs Act of 2017**
Docket No. AX18010001
ER18030226

Dear Acting-Sectary Camacho-Welch:

On behalf of the Petitioner, Jersey Central Power & Light Company ("JCP&L" or the "Company"), enclosed herewith for filing with the Board of Public Utilities (the "Board") are the original and ten (10) copies of JCP&L's Verified Petition and supporting Schedules and Attachments in the above-captioned matter relating to the federal Tax Cuts and Jobs Act of 2017.

I hereby confirm that copies of this letter and the enclosed Verified Petition and supporting Attachments are this day being duly served by hand delivery or overnight express delivery upon the Director, Division of Rate Counsel, and upon the Department of Law & Public Safety, Division of Law. Copies of all such documents are also being transmitted by hand delivery, overnight express delivery or regular United States mail to the balance of the persons named in the attached Service List for this proceeding.

CMS
Legal
B. Romaine
DAG

RPA
T. WALKER
S. Peterson
ENERGY(5) TOC

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Kindly stamp the enclosed additional copy of this filing letter with the date and time of receipt by your office and with the docket number assigned thereto, and return to the undersigned in the self-addressed postage paid return envelope provided.

Your anticipated courtesies and cooperation are deeply appreciated.

Respectfully submitted,

WINDELS MARX LANE & MITTENDORF, LLP
Attorneys for Jersey Central Power & Light Company

By: Greg Eisenstark
Gregory Eisenstark

Encl.
cc: Service List (w/enclosure – by Hand Delivery or email as indicated)

STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES

In the Matter of the New Jersey Board of Public Utilities' Consideration of the Tax Cuts and Jobs Act of 2017	:	BPU Docket No. AX18010001 **VERIFIED PETITION**

TO THE HONORABLE BOARD OF PUBLIC UTILITIES:

Jersey Central Power & Light Company (the "Petitioner," the "Company" or "JCP&L"), an electric public utility company of the State of New Jersey subject to the regulatory jurisdiction of the Board of Public Utilities (the "Board"), and maintaining offices at 300 Madison Avenue, Morristown, New Jersey 07962-1911, in support of its above-captioned Verified Petition, respectfully shows:

1. JCP&L is a New Jersey electric public utility primarily engaged in the purchase, transmission, distribution and sale of electric energy and related utility services to more than 1,000,000 residential, commercial and industrial customers located within 13 counties and 236 municipalities of the State of New Jersey.

2. Copies of all correspondence and other communications relating to this proceeding should be addressed to:

Gregory Eisenstark, Esq.
Windels, Marx, Lane & Mittendorf, LLP
120 Albany Street Plaza, 6th Floor
New Brunswick, New Jersey 08901

- and -

Mark A. Mader
Sally J. Cheong
James E. O'Toole
Jersey Central Power & Light Company
300 Madison Avenue
Morristown, New Jersey 07962-1911

- and -

Lauren M. Lepkoski, Esq.
FirstEnergy Service Company
Legal Department
2800 Pottsville Pike
Reading, Pennsylvania 19612-6001

Introduction and Purpose of Filing

3. On December 22, 2017, the federal Tax Cuts and Jobs Act ("2017 Act") was signed into law, with an effective date of January 1, 2018. On January 31, 2018, the Board issued an Order ("January 31 Order") commencing this proceeding. According to the January 31 Order, the purpose of this proceeding is "to examine the impact resulting from the 2017 Act on the utilities and the current rates under the Board's jurisdiction to determine the appropriate level and mechanism by which rates must be adjusted to reflect the benefits resulting from the 2017 Act as well as the interest rate calculation on the deferred account." The Board directed each utility (with revenues in excess of $4.5 million annually) impacted by the 2017 Act to: (1) defer on its books (with interest at the utility's approved overall weighted average cost of capital) the effects of the 2017 Act on its accumulated deferred incomes taxes ("ADIT"), effective January 1, 2018; and (2) defer on its books the impact of the 2017 Act on the "gross-up" of the utility's revenue requirement (reflecting the reduction in the federal income tax rate from 35% to 21%), also effective as of January 1, 2018.

4. Similarly, the Board ordered the utilities to file a petition by March 2, 2018 that proposed revised rates (effective on an interim basis April 1, 2018) to reflect the reduction in the "gross-up" under the 2017 Act. The Board also specified that the utility petition should propose a mechanism to return the excess deferred income taxes ("EDIT") to customers, with a target effective date of July 1, 2018. *January 31 Order* at pp. 2 – 5.

5. Accordingly, the purpose of this filing is for JCP&L to comply with the directives in the January 31 Order.

Impact on JCP&L's Base Rates

6. The first element of the 2017 Act that impacts JCP&L's base rates is the reduction in the federal corporate income tax ("FIT") rate from 35% to 21% effective January 1, 2018. In calculating its base rates, JCP&L, like other regulated utilities, "grosses-up" its revenue requirement by the composite federal and state income tax rates. Prior to the effective date of the 2017 Act, the composite tax gross-up factor for JCP&L was 40.85% (an amalgam of the 35% FIT rate and the 9% New Jersey corporate business tax ("CBT") rate. Effective January 1, 2018, the new composite tax gross up factor was reduced to 28.11%.

7. JCP&L has re-calculated its base rates to incorporate the impact of the reduced FIT rate. Schedule 1 contains a summary of the impacts of the 2017 Act on JCP&L's revenue requirements. Schedule 2 contains an income statement reflecting results of JCP&L's most recent (2016) base rate case, with adjustments for the change in current taxes. Schedule 6A, Attachment 4 is JCP&L's proposed Tariff that reflects the impact of the reduction in the change in current taxes, with a proposed effective date of April 1, 2018. In sum, the impact of the reduction in the FIT rate results in a revenue reduction of $28.6 million annually for JCP&L. *See* Schedule 1. Proof of Revenues and customer bill impacts from this rate reduction are

presented in Schedule 6A, Attachments 1 to 3. JCP&L proposes to true-up the rate reduction each year to the stated amount, based on actual billed revenues, for recovery as described in Paragraph 12.

8. In accord with the January 31 Order, JCP&L has deferred on its books, with interest, the impact of the reduction in the FIT rate on its tax gross-up between January 1, 2018 and March 31, 2018. JCP&L forecasts that, as of March 31, 2018, this deferral will be $6.3 million, including interest. Interest will accrue at the interest rate applicable to the rate actually incurred on the Company's short-term debt (debt maturing in one year or less), or the rate on equivalent temporary cash investments if the Company has no short-term debt outstanding. *See* Schedule 4. For the reasons discussed in more detail below, JCP&L proposes to defer this amount as a regulatory liability until its next base rate case.

9. JCP&L has also determined the impact of the 2017 Act on its Accumulated Deferred Income Tax ("ADIT") balances. Under ratemaking precedent and practice in New Jersey, JCP&L's ADITs associated with assets for which the utility receives cost recovery are included as an offset (*i.e.*, a reduction) to rate base.

10. The ADITs that are included in JCP&L's rate base represent dollars that the Company has collected in rates for federal income tax liability, but which have not yet been paid to the federal government. The reduction in the FIT rate under the 2017 Act will therefore impact JCP&L's deferred tax liability. The portion of JCP&L's jurisdictional ADITs that are now in excess of its deferred tax liability are referred to as EDITs. JCP&L has calculated that the change in the ADIT balance respective to distribution rate base is $359,153,314 as of December 31, 2017. *See* Schedule 3. The $359,153,314 of rate base-related EDITs will be

amortized using the Average Rate Assumption Method ("ARAM"), in accord with the IRS normalization rules for protected EDITs.[1]

11. Unprotected EDITs are those EDITs that are not subject to IRS Normalization Rules and are otherwise not included in the balance identified as related to rate base. JCP&L's unprotected EDITs total $(90,891,333) and are generally related to riders, pension and OPEB benefits, TMI-2 and Net Operating Losses. Non-rate base (unprotected) EDITs will be amortized over a ten-year period (levelized). JCP&L is proposing a ten-year amortization to promote rate stability, consistent with ratemaking principles and gradualism. The use of an amortization period that an amortization period that differs by underlying deferred tax item should be avoided, as it could create rate volatility.

12. JCP&L is proposing a new rate clause called the Rider Tax Act Adjustment or Rider TAA, which will include the amortizations of the EDITs, both rate base-related and non-rate base-related (unprotected), including a gross-up to revenue requirement, and will also include any true-up amounts from the base rate adjustment for the change in current taxes, as outlined in paragraph 8. JCP&L is seeking a rider for the EDITs amortization because the ARAM amortization calculation must be made each year, based on actual experience, and may vary significantly from year to year. Because of the annual variability, the EDITs amortization is an appropriate rider application.

13. The unamortized rate base-related EDIT balance will remain in rate base. Accordingly, interest on the unamortized rate base-related EDIT balance will accrue at the Company's approved, overall post-tax weighted average cost of capital ("WACC"), which is

[1] Excess deferred income taxes associated with depreciation timing differences are commonly referred to as "protected" excess deferred taxes and must be depreciated in accordance with IRS Normalization Rules.

currently 7.47%. If the Company's WACC is set to a different level in another Board proceeding, the revised WACC will be applied to the unamortized rate base-related EDIT balance as of the effective date of the revised WACC. Interest on the non-rate base (unprotected) EDIT portion of the TAA unamortized balance will accrue at an interest rate equal to the rate on ten-year constant maturity Treasuries plus 60 basis points, as shown in the Federal Reserve Statistical Release on or closest to January 1 of each year and will be compounded annually in January. The ten-year Treasury rate (plus 60 basis points) is appropriate because the unprotected EDITs will be amortized over a ten-year period.

14. Rider TAA will become effective for service rendered on and after July 1, 2018. *See* Schedule 6B, Attachment 4, for the proposed tariff effective July 1, 2018. As a result of the implementation of Rider TAA, JCP&L's annual revenues will be reduced by an additional $1.3 million annually, effective July 1, 2018. *See* Schedule 6B, Attachments 1 to 3, for the proposed Rider TAA credit derivation, proof of revenues and customer bill impacts.

15. In addition, because Rider TAA will not become effective until July 1, 2018, there will be a deferred regulatory liability associated with excess deferred taxes for the period of January 1, 2018 through June 30, 2018. *See* Schedule 4. In order to promote rate stability by providing a future offset to base rate increases and to mitigate the potential for any impacts on JCP&L's credit metrics, JCP&L proposes to continue to defer the total $6.83 million regulatory liability associated with the impact of the 2017 Act on current tax expense and the deferred tax balance until the Company's next base rate case. The rate base-related excess deferred taxes in the regulatory liability that accrue between January 1 and June 30, 2018 will remain as an offset to rate base until they are returned to customers.

16. In the first ordering paragraph, the BPU characterizes the rates submitted to be effective on July 1, 2018 as "final rates." JCP&L wishes to point out that other regulatory agencies recognize that the excess deferred tax balances on the Company's books are subject to further adjustment. The Securities and Exchange Commission has provided discretion for further adjustments during calendar year 2018 under the SEC Staff Accounting Bulletin 118 ("SAB 118"). JCP&L's 2017 federal income tax return is not due until October 2018 and adjustments to these balances may occur during the preparation of its federal tax filing. The amounts under consideration during this proceeding are considerable, and given the recent enactment of the 2017 Act, much has had to be done to account for these changes in a relatively short period of time. JCP&L suggests that the BPU provide for reasonable adjustments where appropriate.

Impact on JCP&L's Rate Clauses

17. Effective January 1, 2018, JCP&L reduced the federal tax rate for accruals on deferrals for its rate clauses to 21%, so there is no deferred accounting necessary for that aspect of the tax rate change.[2] Schedule 5 provides a summary of the impacts of the 2017 Act on JCP&L's rate clauses. Schedule 5A illustrates the impact of the FIT rate change on the monthly calculation of rate clause carrying cost (*i.e.*, the "over/under" calculation).

18. In addition, there is no tax "gross-up" for rate clause recovery, so no deferral of tax expense is required for the period of January 1, 2018 through March 31, 2018 or thereafter, with two exceptions for the components of JCP&L's Non-utility Generation Charge ("NGC") related to Yards Creek and the MTC-Tax.

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[2] Similarly, JCP&L reduced the federal tax rate applied to contributions in aid of construction to 21% effective January 1, 2018.

19. With respect to Yard's Creek, recovery includes a return on its rate base, which is computed using a revenue requirement (gross-up) that is impacted by the lower FIT rate. The Company calculates the revenue requirement for Yard's Creek as the basis of its monthly entry, and has reflected the change in the FIT rate beginning January 1, 2018. With respect to the MTC-Tax, JCP&L was authorized in Docket No. ER03020133 to recover income tax expenses associated with the recovery of $182.4 million of BGS Deferred Transition Costs, through June 2021. JCP&L has re-measured the deferred tax asset to reflect the change in federal income tax liability, and has reflected this change in the monthly tax amortization of the MTC-Tax. JCP&L has reflected these changes in its monthly entries beginning January 1, 2018, such that the effects of these changes are captured in the deferred balances. JCP&L will update its pending 2016 Rider NGC case (Docket No. ER17030306) to adjust the Yards Creek and MTC-Tax components; therefore, no change to the Rider NGC composite rate is being proposed as part of this Petition. Instead, those components will be reset at the conclusion of JCP&L's pending 2016 Rider NGC case. Schedules 5B and 5C provide sample illustrations of the impact of the FIT rate change on the Yards Creek and MTC-Tax components of the NGC.

20. There are EDITs associated with certain of JCP&L's rate clause deferred balances. *See* Schedule 3. As discussed above, the EDITs associated with rate clauses will be amortized and returned to customers via the new Rider TAA. Accordingly, JCP&L is not proposing changes to any clause rates in this Petition.

21. JCP&L is working to assess the impacts of other aspects of the 2017 Act. To date, the Company has determined that there will be no impact from the change in the deductibility of interest expense, as utilities have been exempted from that change. With respect to the treatment of Federal Net Operating Loss ("NOLs") carryforward amounts, NOLs currently

on JCP&L's books remain eligible for the 2-year carryback and 20-year carryforward provision, as well as full utilization against Federal Taxable Income. The 2017 Act repeals the 50% bonus depreciation of qualified property acquired and placed into service after September 27, 2017, for all taxpayers and instead provides for 100% expensing for taxpayers other than regulated utilities. As a result, JCP&L will need to evaluate the contractual terms of its capital expenditures to determine if capital additions are still eligible for 50% bonus depreciation under the prior tax law. JCP&L will continue to assess other potential impacts, as they may be relevant, during the course of this proceeding.

Schedules and Attachments

22. Attached hereto and made a part of this Verified Petition are the following Schedules and Attachments:

- Schedule 1 – Impacts to Revenue Requirement for 2017 Tax Cuts and Jobs Act
- Schedule 2 – Pro Forma Statements of Net Utility Operating Income Resulting from JCP&L's 2016 Base Rate Case (Test-Year Ending June 30, 2016)
- Schedule 3 – Excess Deferred Income Tax Regulatory Liability and Year 1 Amortization
- Schedule 3A – Determination of Interest Applicable to Unamortized EDITs
- Schedule 3B – Summary of EDITs by Account and Calculation of the Regulatory Liability
- Schedule 4 – Calculation of Deferrals and Interest From January 1, 2018 through June 30, 2018
- Schedule 5 – Table of JCP&L riders and a description of the impact of tax reform on each
- Schedule 5A – Sample illustrating impact from change in net of tax calculation
- Schedule 5B – Revised calculation of Yards Creek revenue requirement as included in the NGC
- Schedule 5C – Revised amortization schedule for the MTC Tax associated with the Market Transition Securitization Bonds recovered through the NGC
- Schedule 6A – Base rates reduction effective 4-1-2018 (Attachments 1 to 4 – Interclass allocation, proof of revenues/rate design, customer impact analysis and proposed tariff, respectively)

- Schedule 6B – Proposed new Rider Tax Act Adjustment ("TAA") effective 7-1-2018 (Attachments 1 to 4 – TAA credit derivation, proof of revenues/rate design, customer impact analysis and proposed tariff, respectively)

Reservation of Rights

23. While JCP&L is filing the instant petition in compliance with the Board's directives, the Company reserves its right to challenge several aspects of the January 31 Order. First, the requirement that utilities defer the impacts of the 2017 Act, for ratemaking purposes as of January 1, 2018, constitutes retroactive ratemaking. JCP&L is cognizant of the Board's efforts to "capture" the benefits of the lower federal tax rate. However, retroactive ratemaking is not permitted in New Jersey. *I/M/O the Petition of Elizabethtown Water Co.*, 107 N.J. 440 (1987).

In addition, the January 31 Order is at odds with the due process requirements of *N.J.S.A.* 48:2-21(b), which provides, *inter alia*, that notice and a hearing are required before the Board may adjust a utility's rates. By effectively making each utility's rates interim and subject to refund as of January 1, 2018, prior to and without holding any type of hearing, the January 31 Order does not comply with the requirements of *N.J.S.A.* 48:2-21(b).

Finally, by focusing solely on the impact of the 2017 Act, the January 31 Order constitutes "single-issue" ratemaking. The Board's longstanding policy and practice favors consideration of all of a utility's costs within the context of a base rate case rather than through single-issue ratemaking. *See In re Public Service Coordinated Transport*, 5 N.J. 196, 216 (1950). Proper ratemaking necessitates a review of the entirety of a utility's expenses, revenues, and rate base, among other things, rather than focusing on a single expense such as federal income taxes.

Accordingly, while JCP&L does not question whether customers should receive the benefit of a lower federal tax rate, the process to incorporate such benefits into a utility's rates should comport with the law of this State and long-standing ratemaking practices.

Public Notice and Service

24. Because JCP&L is not proposing a rate increase in this filing, the Company does not believe that any public notices need be published or served pursuant to N.J.A.C. 14:1-5.12(b)1&3, (c) and (d), nor is there any requirement for any public hearings in the Company's service area.

Service of Petition

25. Copies of this Verified Petition and of all supporting Attachments thereto have been or will be duly served either by messenger or overnight express delivery at the time of the filing hereof upon the Director, Division of Rate Counsel, 140 East Front Street, 4th Floor, P.O. Box 003, Trenton, New Jersey 08625, and upon the Department of Law & Public Safety, Division of Law, 124 Halsey Street, 5th Floor, P.O. Box 45029, Newark, New Jersey 07101.

CONCLUSION

WHEREFORE, the Petitioner, Jersey Central Power & Light Company, respectfully requests that the Board issue an order:

(1) approving the Company's proposed methodology and quantifications of the impact of the 2017 Act as set forth herein;

(2) approving the Rider TAA, including the carrying charge rates on the deferred balances, as set forth herein;

(3) accepting the proposed tariff filed herewith as Schedule 6A, Attachment 4, for service effective April 1, 2018;

(4) approving the proposed tariff filed herewith as Schedule 6B, Attachment 4, for service effective July 1, 2018, or on

such date thereafter that the Board may determine; and

(5) granting such other and further relief as the Board shall deem just, lawful and proper.

Respectfully submitted,

Dated: March 2, 2018

WINDELS, MARX, LANE & MITTENDORF, LLP
Attorneys for Petitioner,
Jersey Central Power & Light Company

By: ___________________________

Gregory Eisenstark
120 Albany Street Plaza
New Brunswick, New Jersey 08901
(732) 448-2537

AFFIDAVIT
OF
VERIFICATION

Mark A. Mader, being duly sworn upon his oath, deposes and says:

1. I am Director of Rates and Regulatory Affairs – New Jersey for Jersey Central Power & Light Company ("JCP&L"), the Petitioner named in the foregoing Verified Petition, and I am duly authorized to make this Affidavit of Verification on its behalf.

2. I have read the contents of the foregoing Verified Petition by JCP&L constituting its filing with respect to the federal Tax Cuts and Jobs Act of 2017, and I hereby verify that the statements of fact and other information contained therein are true and correct to the best of my knowledge, information and belief.

Mark A. Mader

Sworn to and subscribed before me
this 2nd day of March, 2018.

(Notary Public)

FLEUR-DE-LIS DAUPHINE
Commission # 2208312
NOTARY PUBLIC
STATE OF NEW JERSEY
My Commission Expires Dec. 18, 2022