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BOARD OF PUBLIC UTILITIES
TRENTON, NJ

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PHIL MURPHY
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BOARD OF PUBLIC UTILITIES
TRENTON, NJ

STEFANIE A. BRAND
Director

July 15, 2019

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BOARD OF PUBLIC UTILITIES
TRENTON, NJ

VIA HAND DELIVERY

Ms. Aida Camacho-Welch, Secretary
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Trenton, New Jersey 08625-0350

**Re: In the Matter of the Verified Petition of Jersey Central Power & Light Company For Approval of the Sale and Conveyance of Certain Portions of its Property in South Brunswick Township, Middlesex County, New Jersey and the Transfer of a Certain License in Connection Therewith Pursuant to N.J.S.A. 48:3-7 and N.J.A.C. 14:1-5.6
BPU Docket No. EM19030357**

Dear Secretary Camacho-Welch:

Please accept this letter (original and ten copies) to the Board of Public Utilities (“Board” or “BPU”) transmitting the comments of the Division of Rate Counsel (“Rate Counsel”) in the above-referenced matter. Please stamp and date the extra copy as “filed” and return to the courier.

On March 19, 2019 Jersey Central Power & Light Company (“JCP&L” or “Company”) filed a Petition with the Board requesting approval for the sale of a certain property located in Middlesex County, New Jersey. Through said petition, the Company seeks approval for the sale and conveyance of certain portions of property in South Brunswick Township, Middlesex County, New Jersey to BH of South Brunswick, LLC for a purchase price of \$7,500,018.00 plus the broker service fee of \$375,000.90 for a total real estate sales price of \$7,875,018.90. Based on the records provided by the Company, JCP&L acquired the Property, consisting of 15.24 acres of land, on September 19, 1973 for \$240,000.00 for the purpose of constructing and operating a 500kV transmission line on a portion thereof.¹

¹ Petition, p. 3

CMS
S. Peterson

The sale of the Property is subject to the reservation of certain easements for the transmission and distribution of electricity and energy-related services, including communication facilities for utility use. The sale is likewise subject to a license agreement for general farming and nursery purposes. The latter agreement, however, terminates upon the earlier of (1) six months from the April 15, 2019 effective date of the extension, or (2) the closing of the sale of the property. The licensee is expected to vacate the property upon termination date.²

The Company undertook marketing and advertising arrangements to carry out the sale of the Property. It engaged the services of an online real estate marketing firm and the sale was advertised in newspapers published or circulated in the county where the Property is situated. The sale price for the Property was determined by a sealed bid process. Several sealed bids were received and the Company accepted the highest bid made by the buyer herein and the Company dispensed with an online auction which would have been held had there been a failure in the sealed bid process.

Income from the property since acquisition was derived from the tree farm and nursery license agreement and an arrangement for use of space for billboard purposes for \$17,700 and \$348,054.00, respectively.³ The income was credited to general account #454126 which according to the Company, is a credit to distribution revenues.⁴

The property is claimed to be a Federal Energy Regulatory Commission ("FERC")-jurisdictional transmission-related property and was recorded in FERC Account 107 (Construction work in in progress – Electric) when originally acquired in 1973 and was subsequently transferred to FERC Account 101 (Electric Plant-in Service in 1981, when the transmission line was placed into service.⁵

The total gain from the said sale is \$6,729,558.20 and it is the Company's intention not to share any of the gain with the ratepayers. In response to inquiry made on this, the Company states that the gains are to be recorded in Account 421.1 (Gain on Distribution of Property) and

² Response to RCR-9

³ Response to RCR-8, Attachment 1

⁴ Responses to RCR-8 (b) and S-ENG-1(c)

⁵ Responses to RCR-13 and RCR-14

avers that the gains are assignable to shareholders, not ratepayers. Further inquiries were made by Rate Counsel as to the recording of the journal entries in connection with the said sale as well as the recording of tax payments and other expenses on the property. In RCR-17 and RCR 18, the Company confirmed that all transactions have been and are to be recorded under FERC accounts.

The Company asserts that the Property is part of the transmission rate base. Despite the classification of the said asset as such, Rate Counsel is not convinced that the same is sufficient justification to permanently deny ratepayers entitlement to share in the gains. Simply including the Property in Account 421.1 is not sufficient to absolutely bar ratepayers from receiving a share of the sale's proceeds. The Company has not asserted or proven that ratepayers did not originally fund the transmission assets in question as part of rate base. Nonetheless, rate treatment of the sale's proceeds will be determined by FERC. Rate Counsel recognizes that JCP&L utilizes a 'stated rate' proceeding to recover transmission costs and accounting for FERC-jurisdictional assets. In order to properly reserve this issue for final review at FERC, Rate Counsel respectfully requests that as a condition of its approval of the sale of the Property, the Board order JCP&L to treat the gains from the sale of the property as a regulatory liability that can be addressed in the next stated rate case before FERC. Rate Counsel reserves its rights in proceedings before FERC concerning the rate treatment of the sale proceeds.

Rate Counsel also wanted to ensure that the terms of the easement will not compromise the ability of the Company to render safe, adequate and proper service to its customers. Given the extensive Transmission Right-of-Way restrictions⁶ and other documents⁷ provided by the Company, Rate Counsel is satisfied that service to the Company customers is not in danger of being compromised.

⁶ Response to RCR-10, Attachment 2

⁷ Response to RCR-3

CONCLUSION

Subject to the request above for a regulatory liability, Rate Counsel finds the sale to be in accordance with the requirements of BPU regulations and reserves its rights in future FERC proceedings.

Respectfully Submitted.

STEFANIE A. BRAND, ESQ.
DIRECTOR
NEW JERSEY DIVISION OF RATE COUNSEL

By:


Brian O. Lipman, Esq.
Litigation Manager

BL/dl
c: Service List

**I/M/O the Verified Petition of Jersey
Central Power & Light Company
For approval of the sale and conveyance of
certain portions of its property in so.
Brunswick, NJ and the transfer of a
certain license in connection therewith
BPU Docket No. EM19030357**

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