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October 30, 2019

Via Electronic and UPS Overnight Mail

Ms. Aida Camacho-Welch, Secretary
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625

Re: In the Matter of the Verified Petition of Jersey Central Power & Light Company for Authorization Pursuant to N.J.S.A. 48:3-7.2 for Approval to Participate in the FirstEnergy Corp. Intra System Money Pool (Amendment No. 9 to the Petition) BPU Docket No. EF02030185

Dear Secretary Camacho-Welch:

Please accept for filing an original and ten (10) copies of these comments filed on behalf of the Division of Rate Counsel ("Rate Counsel") regarding the above-referenced Petition. Enclosed is one additional copy. Please date stamp the copy as "filed" and return it to our courier. Thank you for your consideration and attention to this matter.

A. Background on Petition

On June 26, 2019, Jersey Central Power & Light Company ("JCP&L" or "the Company") submitted a Petition to the Board of Public Utilities ("BPU" or "the Board") requesting authority to extend its participation in the FirstEnergy Corp. Intra-System Utility

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Money Pool (referred to as the "Utility Money Pool") through December 31, 2022, a three-year extension of its current authority which expires at December 31, 2019.[1] As part of this extension Petition, the Company requests a continuation of its current maximum Utility Money Pool borrowing authority of $500 million, pursuant to the Board Order in this docket dated January 25, 2017, at page 5. *Petition Exhibit 17* . That authority had been increased several years ago on a temporary basis to $850 million due to the sudden and very substantial storm restoration costs caused by Hurricane Sandy. The Petition provides no explanation for requesting the $500 million in borrowing authority from the Money Pool other than noting that this is the same borrowing level currently authorized by the Federal Energy Regulatory Commission ("FERC") (which authority expires at the end of 2019). (Letter authorization of December 6, 2017 in FERC Docket Nos. ES17-60-000 et. al., attached to the Petition as Exhibit 18). *Petition, page 2.* It should be noted that this $500 million maximum Utility Money Pool borrowing level is consistent with JCP&L's sublimit under the FirstEnergy Corporation's $2.5 billion Revolving Credit Facility agreement. *RCR-15 and OE-20.*

Since 2002, JCP&L has been authorized by the Board to participate in the Money Pool, both as an economical source of short-term debt and as a mechanism for investing on a temporary basis its surplus cash. Since the Board's initial approval was issued on July 24, 2002, the Company has requested and received Board approval for eight amendments, the most recent being on January 25, 2017. In most instances, the main purpose of these amendments was to extend the period of authorized participation and in some instances to modify the borrowing cap. In 2011, the Money Pool authorization was modified to permit participation by the utility

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[1] It is important to note that FirstEnergy maintains a completely separate Money Pool for its unregulated subsidiaries since they are ineligible to participate in the Utility Money Pool. *RCR-5.*

subsidiaries of Allegheny Energy, Inc., which was acquired by FirstEnergy Corporation in a merger.

In each case, the Board has approved the Company's Utility Money Pool participation subject to certain conditions. The Board's twelve required approval conditions are listed on page 5 of its January 25, 2017 Order approving Amendment No. 8. Among these enumerated conditions and the Utility Money Pool provisions, the current authorization restricts the Company from lending through the Utility Money Pool to any utility affiliate that is not rated investment grade by all national rating agencies, limits its maximum level of borrowing to $500 million and only permits borrowing from the Money Pool if that is JCP&L's lowest cost source of short-term borrowing. In addition, the Board's January 25, 2017 Order approving Amendment 8 adopted two additional conditions recommended by Rate Counsel in that proceeding, namely that (a) the Company must file its next extension request at least 120 days prior to the expiration date of the Board-approved borrowing authority; and (b) the Company should investigate and submit information regarding the potential benefit of a commercial paper program as a supplement to the Utility Money Pool. *Board Order at page 5.*

As noted above, in addition to the Utility Money Pool, JCP&L also has the ability to access short-term funds under the FirstEnergy Corp. Revolving Credit Facility, with the Company's borrowing sublimit being $500 million. The Company's response to RCR-3 indicates that it has been able to borrow funds from the Money Pool during January 2017 through July 2019 at interest rates ranging from 0.81 to 2.65 percent. The Company contends that that the Utility Money Pool provides savings relative to borrowing from commercial bank lines of credit (which may include the FirstEnergy Corp. Revolving Credit Facility), with the savings at this time being on the order of 170 basis points. *Petition, at page 3.* The response to RCR-8 shows that the cost premium for the Revolving Credit Facility relative to the Utility Money Pool varies from month to month, but it appears to be about 100 to 150 basis points during 2018 and 2019. Importantly, the Revolving Credit Facility appears to be JCP&L's only other realistic option at this time to the Utility Money Pool because unlike most other large utilities, it does not utilize a commercial paper program as a source of economical short-term funds. Many other utilities use commercial paper as a low-cost source of short-term borrowing, with a revolving credit facility agreement serving as a backstop to the issuance of commercial paper.

During the past three years, the Company's liquidity needs and therefore its Utility Money Pool transactions have fluctuated considerably ranging from maximum monthly borrowings of $307 million to a surplus position of $76 million. *RCR-3.* During January 2017 through July 2019, the Company has relied almost entirely upon the Utility Money Pool as its source of short-term debt, with the Revolving Credit Facility being the source of funds in only one month during that nearly three-year time period. Our review finds that the FirstEnergy Utility Money Pool is vast in size with thirteen participating utilities, three of which are FERC-regulated transmission utilities. During the past two years, it appears that utilities operating in Ohio have been substantial net lenders to the Pool (presumably due to their surplus cash flow), with JCP&L being one of the major net borrowers from the Pool. *OE-1.* There is no way to know whether this pattern of large cash surpluses contributed to the Utility Money Pool will continue in the future.

B. <u>Rate Counsel's Position</u>

In this Petition, the Company again seeks a three-year extension for its Utility Money Pool participation authorization and a continuation of its current $500 million limit of borrowing authority. Rate Counsel finds that the Utility Money Pool, with the Agreement's own restrictions and the Board's approval conditions from the January 25, 2017 Order and previous orders, provides an efficient and economical source of short-term funds for JCP&L. We also note that the Utility Money Pool interest rate is generally significantly less than taking draws under the FirstEnergy Corporation Revolving Credit Facility. Consequently, Rate Counsel does not object to the Company's extension and borrowing limit requests, subject to the limitations enumerated in the Company's Petition, the Board's twelve enumerated conditions (as updated by this Petition to extend through 2022) set forth in its January 25, 2017 Order in this docket (issued in response to Amendment No. 8). These twelve conditions largely reflect Rate Counsel's reservation of rights, as discussed below. In addition, the Board's approval Order for Amendment 8 adopted two additional Rate Counsel recommendations – submitting the next extension filing at least 120 days prior to the end of the authorization period (in this case a filing by September 1, 2022), and a consideration at the appropriate time of a commercial paper program. These two recommendations should be incorporated into the Board's approval order for Amendment 9. Notably, in response to RCR-4, the Company expressed acceptance of the Board requirements in the January 25, 2017 Order for this docket.

The first of these two recommendations is straightforward. In 2016, the Company filed its extension petition on November 21, 2016 which was less than six weeks prior to the date the Utility Money Pool authorization was due to expire. This was simply not sufficient time for Rate Counsel and Board Staff's Office of the Economist to conduct their reviews of that petition. In response to Rate Counsel's concern agreed to filing its next petition at least 120 days prior to the expiration date. By filing on June 26, 2019, the Company has more than complied with this requirement for the instant Petition. Rate Counsel appreciates the Company's cooperation in timely filing its Petition. The minimum 120 day filing requirement in the previous Order should continue for all future JCP&L Utility Money Pool extension petitions.

The second issue is the Company's requirement to consider the potential establishment of a commercial paper program to provide another potentially attractive source of short-term debt. The Company's Petition at page 5 discusses this issue indicating that it investigated the establishment of a commercial paper program, but did not find the savings sufficient to justify the administrative expense. No specific data or information supporting this conclusion was provided in the Petition but merely a statement that this was based on consultation with various banks. However, the Company did provide in discovery more detailed information, which it deems confidential, in response to RCR-16. That response notes that there are material administrative costs associated with a commercial paper program from such items as legal charges and credit rating agency fees that might offset the interest rate savings as compared with the expected Utility Money Pool interest rate. The answer depends in part on how much short-term borrowing JCP&L will undertake in future years. However, as noted earlier, the Revolving Credit Facility interest rate is far higher, and therefore it seems very likely that a commercial paper program, even with its material fixed administrative fees, would provide a large net cost savings relative to the Revolving Credit Facility borrowings. Thus, the decision to establish a commercial paper program depends on whether the Company can continue to rely on the very low-cost surplus funds of its utility affiliates through the Utility Money Pool to meet most of its short-term borrowing needs. If it can, then the Company's finding that a commercial paper program is not needed at this time is probably valid. However, if such surplus funds from utility affiliates are not as available in the future to meet JCP&L's borrowing needs, then the Company will likely to be forced to rely heavily on the more expensive Revolving Credit Facility borrowings, either directly from the Facility or indirectly through the Utility Money Pool.[2] Thus, even if it is true that a commercial paper program is not needed today, it very well may be needed in the future to avoid excessive reliance, directly or indirectly, on the relatively expensive Revolving Credit Facility. Thus, while Rate Counsel does not dispute the analysis provided in response to (confidential) RCR-16, the assumptions in that analysis could change to a substantial degree in the future. Borrowings through the issuance of commercial paper are clearly much less expensive than borrowings from the Revolving Credit Facility if a large amount of such borrowing were to occur.

In light of this concern, Rate Counsel accepts the Company's finding that it need not proceed with expenditures on a commercial paper program at this time, but it should continue to monitor this option. If a pattern begins to emerge of increasingly expensive Utility Money Pool interest rate spreads and/or increased borrowings from the Revolving Credit Facility, then the

[2] If sufficient surplus funds from utility affiliates are not available through the Utility Money Pool to meet borrowing needs, then FirstEnergy parent can supply those funds by lending to the Utility Money Pool as needed. However, in doing so FirstEnergy may have to draw upon funds from its $2.5 billion Revolving Credit Facility, and that cost will be passed along to the Utility Money Pool borrower – JCP&L in this case.

Company should consider proceeding with a commercial paper program. We agree with the Company's observation that this is already implicitly required under the prior Order, paragraph 3, which states that the Company should not borrow from the Utility Money Pool if the Company is "able to obtain funds at lower costs" through the "issuances of commercial paper".

Subject to the above recommendations and the Board's current protective conditions (as updated for the current Petition) from the Board's January 25, 2017 Order, Rate Counsel recommends approval of the proposed Amendment No. 9. Notwithstanding the Board's twelve protective conditions (as agreed to by the Company) and the two additional Rate Counsel recommendations, Rate Counsel reserves all rights to take appropriate positions in future JCP&L dockets, including rate proceedings.

These provisions, as properly recognized in the Board's 2017 Utility Money Pool Order, as updated for Amendment No. 9, will address Rate Counsel's concerns that the Company's retail customers are not harmed by the requested authority and that the Board's approval is limited to the transaction(s) as herein described, does not indicate authorization to include any specific assets or amounts in rate base, does not indicate any authorization for any ratemaking treatment, and does not establish any precedent with regard to approval of future financing petitions. Rate Counsel also requests that the Board accept Rate Counsel's recommendations to require the next Petition for extension be filed no later than September 1, 2022 and for the Company at appropriate time intervals to review the need for and merits of a commercial paper program as a supplement to or (on occasion) substitute for Utility Money Pool borrowings based on the availability and cost of those borrowings.

Respectfully submitted,

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