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ATTORNEYS AT LAW

November 9, 2020

**Via Email**

Hon. Robert Gordon, Commissioner  
Hon. Aida Camacho-Welch, Secretary  
Board of Public Utilities  
44 South Clinton Avenue  
Suite 314, 3<sup>rd</sup> Floor  
Trenton, NJ 08625-0350

Re: I/M/O the Verified Petition of Jersey Central Power & Light Company For Approval of An Advanced Metering Infrastructure (AMI) Program (JCP&L AMI) BPU Docket No. EO20080545

Dear Commissioner Gordon and Secretary Camacho-Welch:

Petitioner Jersey Central Power & Light Company (“JCP&L”) is compelled to seek leave to submit this short letter in response to the improper reply submitted by Utilidata, Inc. (“Utilidata”). First, Utilidata’s reply brief is out of time; it is eleven days late. Under the applicable procedural rules, a movant’s reply brief on a motion is due five days from receipt of the opposition brief. Since JCP&L filed and served its opposition brief on October 21, 2020, Utilidata’s brief was due on October 26. N.J.A.C. 1:1-12.2(c) (requiring filing of reply briefs “no later” than five days following receipt of opposition). Instead, without requesting leave, Utilidata afforded itself 16 days to file its late reply. This action, in its very first filing, confirms that Utilidata’s addition to the case as a party will add confusion and delay and should not be a full intervenor.

Further, Utilidata’s reply brief contains a material, dispositive omission. As noted in JCP&L’s October 21 opposition, Utilidata’s focus on “use cases” demonstrated that its primary interest lay in PSE&G’s AMI case. Yet, in its reply in the PSE&G case (attached hereto), Utilidata withdrew its request for intervenor status in the PSE&G AMI case, and instead sought *only* participant status “in order to avoid causing any confusion or delay.” Utilidata also deemed a post-hearing brief sufficient to represent its interest in PSE&G’s AMI case. Given that admission, and its submission here that it seeks to make the *same* presentations in all pending AMI cases, only participant status should be afforded here as well to avoid confusion and delay.

Pursuant to the Board’s March 19, 2020 Order regarding the COVID-19 pandemic (Docket No. EO20030254), this letter is being electronically filed by email with the Secretary and served by email upon the attached service list; no paper copies will follow.

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Kindly have the Office of the Secretary or the Office of Case Management confirm receipt by email to the undersigned.

Thank you for your courtesy and cooperation.

Respectfully submitted,

*/s/ James C. Meyer*

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cc: Attached Service List (by email)

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In the Matter of the Verified Petition of Jersey Central Power & Light Company For  
Approval of An Advanced Metering Infrastructure (AMI) Program (JCP&L AMI)  
BPU Docket No. EO20080545 --**Service List** [October 30, 2020]

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November 6, 2020

**VIA EMAIL**

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**Re: I/M/O the Petition of Public Service Electric and Gas Company For Approval of Its Clean Energy Future-Energy Cloud (“CEF-EC”) Program on a Regulated Basis**

**BPU Docket No.: EO18101115**

Dear Secretary Camacho-Welch:

This law firm represents Utilidata, Inc. (“Utilidata”) in the above-referenced matter. Kindly accept this letter reply brief, in lieu of a more formal brief on behalf of Utilidata in further support of its motion to intervene in the above listed matter pursuant to N.J.A.C. 1:1-16.1 et seq. before the Board of Public Utilities (“BPU” or the “Board”) and in response to the opposition submitted by Public Service Electric and Gas Company (“PSEG”).

PSEG has opposed both Utilidata’s participation and party intervention in this matter.<sup>1</sup> Thus, as a preliminary matter, Utilidata hereby amends its request to seek participation status only

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<sup>1</sup> Utilidata notes that the Division of Rate Counsel does not oppose participation status for Utilidata.

in order avoid causing any confusion or delay and will submit a brief after the hearings are conducted in this matter.

Contrary to the assertions set forth by PSEG, Utilidata has satisfied each of the factors required for participation as set forth at N.J.A.C. 1:1-16.1. The standard for intervention in an administrative proceeding provides that “[a]ny person or entity not initially a party, who has a statutory right to intervene or who will be substantially, specifically and directly affected by the outcome of a contested case, may on motion, seek leave to intervene. N.J.A.C. 1:1-16.1(a) (emphasis added). In this regard, the BPU is instructed to evaluate: (1) the nature and extent of the movant’s interests in the outcome of the case; (2) determination of whether the movant’s interest is sufficiently different from that of any party so as to add measurably and constructively to the scope of the case; (3) the prospect of confusion or undue delay arising from the movant’s inclusion; and, (4) any other appropriate matters. N.J.A.C. 1:1-16.3.

PSEG’s argues in its opposition that Utilidata failed to adequately explain its delay in seeking to intervene in this matter, which has been pending for over two years. However, PSEG cannot dispute that while Utilidata has been delivering grid optimization software for a decade, the field of meter-based software is new. Utilidata is a pioneer in this field, having built the first on-meter application for Itron’s new meter platform, and the core grid intelligence applications for Landis+Gyr’s new meter platform. It is only in the last few months that Utilidata has hired and built out its regulatory function in order to educate regulators and other policy stakeholders about this emerging field, and it is only recently through its involvement in other states that Utilidata became aware of the serious technical limitations of many recent AMI rollouts. Given PSEG’s proposed use cases, PSEG is likely to procure one of the next generation platforms that Utilidata built software for, and for which it alone has unique expertise about. Thus, Utilidata can assist the

Board and add measurably to this proceeding given its expertise in this emerging field, even given the lateness of the proceedings.

PSEG also argues that Utilidata's timing will unfairly influence the outcome of the proceeding. However, given the scale and duration of PSEG's proposed investment, it is in the public interest that the Board build a substantial and diverse record to any AMI approval which provides the maximum value for ratepayers. This is especially critical in lieu of the COVID-19 pandemic. Utilidata does not seek an advantageous outcome and simply seeks to provide the Board additional information currently not included in the record to close the gap between commercial conversations about advanced meter software potential and the regulatory discussion of advanced meter use cases. Utilidata believes this information will assist the Board in ensuring any approved AMI rollout has the core technical capabilities to deliver value throughout its useful life and achieve all of PSEG's proposed use cases.

PSEG wrongly contends Utilidata's interests are not unique, however this argument ignores that Utilidata has a substantial and direct interest in this case as the industry leader in building meter-based software with unapparelled experience building software applications for next generation smart meters and will assist the Board by contributing to the development of a complete record for consideration by the BPU. No other entity in this proceeding can represent Utilidata's point of view. Utilidata's perspective is unique to those provided by current market participants in the proceeding as on-meter software is a relatively new and emerging technology and no company has more experience building software applications for next generation smart meters.

It is in the Board's best interest to have as much evidence on the record as possible regarding the latest capabilities of AMI including the potential need for on-meter software to deliver full value of PSEG's proposal. Decisions regarding on-meter software require robust

evidence regarding on-meter computation and communication network capabilities to support each use case. Current testimony before the BPU does not provide not sufficient evidence to inform decisions regarding these key technical issues. In addition, “similar entities” were granted intervention status but chose not to submit testimony providing no additional evidence regarding the full capabilities of AMI or the view of market participants.

For all of the foregoing reasons, as well as those set forth in Utilidata’s moving papers, Utilidata should be granted participant status to ensure that its specific interests are appropriately represented and protected.

Respectfully submitted,

**DECOTIIS, FITZPATRICK,  
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By: Alice M. Bergen  
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AMB/md

cc: BPU Service List (*via email only*)