

STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES

In the Matter of The New Jersey Board of Public Utilities' Response to The COVID-19 Pandemic	:	COMMENTS & ANSWER
	:	OF
	:	JERSEY POWER & LIGHT COMPANY
	:	
In the Matter of	:	BPU Docket No. AO20060471
COVID-19 Related Arrearages	:	BPU Docket No. EO20100629U

Jersey Central Power & Light Company (“*JCP&L*” or “*Company*”), 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 101 Crawford Corner Rd. Building #1, Suite 1-511, Holmdel, New Jersey 07733 and at 300 Madison Avenue, Morristown, New Jersey 07962-1911, hereby files its Comments as directed by the Board in its October 28, 2020 Order (the “*October 28 Board Order*”).¹ This filing provides the Company’s comments and also incorporates the Company’s Answer to the petition of the Division of Rate Counsel (“*Rate Counsel*”) dated October 2, 2020 in BPU Docket No. EO20100629 (“*Petition*”), each as directed by the October 28 Board Order, and respectfully states as follows:

I. INTRODUCTION

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 *In The Matter of The [Board’s] Response to the COVID-19 Pandemic*, BPU Docket No. AO20060471 (the “*COVID-19 Proceeding*”).

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.
Michael J. Connolly, Esq.
Cozen O'Connor, P.C.
One Gateway Center
Suite 910
Newark, New Jersey 07102**

- and -

**Mark A. Mader
Jersey Central Power & Light Company
300 Madison Avenue
Morristown, New Jersey 07962-1911**

- and -

**Lauren Lepkoski, Esq.
FirstEnergy Service Company
2800 Pottsville Pike
P.O. Box 16001
Reading, PA 19612-6001**

3. The Board initiated the COVID-19 Proceeding with its July 2, 2020 order ((the “**July 2 Board Order**”), which authorized each of the State’s utilities to create a regulatory asset for purposes of deferring for future recovery the prudently incurred incremental costs related to addressing the COVID-19 pandemic.

4. In the October 28 Board Order, the Board continues the COVID-19 Proceeding directing that it should also:

... examine all pandemic issues by way of a generic proceeding initiated through this Order to include submission of public comments ... [in] this

proceeding which will include, but not be limited to: impacts on rate setting, rate design, and utility financial strength; low income and other utility bill assistance programs; regulatory compliance; collections and termination of service; and ensuring the continued provision of safe and adequate service at just and reasonable rates, while recognizing the ramifications from the COVID-19 pandemic. The Board shall also consider other regulatory priorities such as whether, and to what extent, if any, the current or planned clean energy programs or other utility filings or mechanisms should be modified, maintained, curtailed or accelerated.

October 28 Board Order at p. 6.

5. The October 28 Board Order:

... invites utilities and other interested parties to provide comments on any issues related to the ramifications of COVID-19 on Board adopted tariffs, regulations, policies and programs, as well as on Board regulated entities, utility ratepayers, and Board adopted programs....

Id., at p. 6.

6. Rate Counsel's Petition, which asked the Board to undertake numerous measures as a result of the COVID-19 pandemic, has also been incorporated into the COVID-19 Proceeding.

Id.

7. As summarized in the October 28 Board Order, Rate Counsel's Petition proposes measures that Rate Counsel says are necessary due to the impact of the pandemic on New Jersey citizens and businesses and their ability to pay utility bills. In addition to providing a perspective on the financial impacts of the pandemic, and on what some other states have done to address the payment troubled customer situation before and since the pandemic, Rate Counsel makes a series of twenty-one requests for the Board to investigate related to some of the same categories or areas contained within the Board's proposed scope for the COVID-19 Proceeding.²

² In this regard, Rate Counsel's requests address: (i) disconnection and restoration of utility service, (ii) data collection and reporting, (iii) rate increases, (iv) resources for repayment assistance, (v) municipal utility authorities for water service, and (vi) payment assistance funding. Petition at pp. 14-17.

8. JCP&L agrees that the COVID-19 pandemic is a highly-unusual and disruptive force that has impacted all New Jerseyans in many ways including, in some instances, the health, employment, housing, and overall economic condition of many.

9. The Company also agrees that the Board should collaborate with the utilities and other stakeholders to take appropriate measures to assist utility customers during the pandemic. In fact, as discussed herein, the Board has already done so.

10. At the urging of the Board, the State's regulated utilities put in place and, several times, extended a moratorium on disconnection of customers for non-payment of their utility bills. Most recently, on October 15, 2020, the Governor issued Executive Order No. 190 ("**EO-190**") formally extending the disconnection moratorium for residential customers until at least March 15, 2021.

11. At the same time, the State also announced it has set aside \$15 million from the Coronavirus Relief Fund so that the Department of Community Affairs ("**DCA**") can reduce utility arrearages. The DCA will use a portion of the funds to address arrearages among low income households who are current Universal Service Fund ("**USF**") participants.³

12. Moreover, there are also other customer assistance programs already in place to help customers during the pandemic, and these, including USF, would clearly benefit from additional public funding from federal and state governmental sources, and/or, if necessary,

³ See, Press Release, dated October 15, 2020, *Governor Murphy Signs Executive Order Extending Utility Shutoff Moratorium Through March 15, 2021, Announces \$15 Million with Legislative Leadership from the Coronavirus Relief Fund to Reduce Utility Arrearages for Low Income Households*, available at: <https://nj.gov/governor/news/news/562020/approved/20201015c.shtml>; and Press Release, October 20, 2020 - *DCA Launches New Online Application for the Low Income Home Energy Assistance Program*, available at: <https://www.nj.gov/dca/news/news/2020/approved/20201020.html>

ratepayer mechanisms.⁴ JCP&L supports and encourages Board and DCA collaborative efforts to secure additional sources of public funding (beyond the additional \$15 million announced in October) for these existing assistance programs. Should federal or state resources be available, or should the Board determine to increase ratepayer support for existing assistance programs, JCP&L also supports proposals for pandemic-specific relaxation of the eligibility standards and processes for such programs.

13. Given the measures that the State has taken, including the issuance of EO 190, to assist utility customers during the pandemic, it is important to recognize that a number of requests in Rate Counsel’s Petition as well as many of the categories of issues set forth in the October 28 Board Order already have been or are being addressed in a reasonable fashion.

14. Initially seeking comments on “the ramifications of COVID-19 on Board adopted tariffs, regulations, policies and programs, ... on Board regulated entities, utility ratepayers, and Board adopted programs,” (October 28 Board Order at p. 6), should better equip the Board in determining where the need for investigation truly lies. The comment process should better inform the Board as to where a sharply-focused, time-limited, further inquiry and stakeholder process can yield timely, effective and efficient ways to address those emergent COVID-19 ramifications. JCP&L supports such an approach.

15. Importantly, however, the COVID-19 pandemic is not an opportunity for, and JCP&L does not recommend or support a process that encourages debating longstanding, and sometimes differing, perspectives regarding: (i) the roles of public utilities in the distribution and allocation of societal benefits, or (ii) the need for wholesale revamping of existing systems and

⁴ In addition to USF, such programs include LIHEAP (Low Income Home Energy Assistance Program), Lifeline Credit Program (Lifeline), Fresh Start, PAGE (Payment Assistance for Gas and Electric), the New Jersey SHARES (NJ SHARES) and Weatherization assistance programs.

programs that, while not perfect, have served ratepayers and the utilities that serve them in a reasonably effective and efficient manner. Over the course of many years, and in the context of numerous traditional stakeholder processes, and rate case and rulemaking proceedings, such roles, systems and programs have evolved or have undergone refinement based on various factors, including technological developments, data-driven experience, and the dynamics of competing priorities. An emergency situation, such as the COVID-19 pandemic, calls for an approach more akin to triage, where the need for immediate intervention is quickly and expertly assessed based on the actual presenting circumstances, rather than elective surgery, where second and third opinions are well-advised and time is not a driving concern.

16. Accordingly, JCP&L encourages the Board’s efforts in the COVID-19 Proceeding to timely and precisely address emergent COVID-19 ramifications, while recognizing the impact of EO-190 and the progress already made through existing Board and utility collaboration.

II. RESPONSE TO THE RATE COUNSEL PETITION.

A. THE BOARD’S JURISDICTION IS BROAD, BUT NOT ABSOLUTE.

Recognizing that through March 15, 2021 at least, EO-190 has addressed concerns about residential customer utility service disconnections, JCP&L believes it necessary to address certain other aspects of the Rate Counsel Petition. In Section II of the Petition, Rate Counsel argues that the provisions of Title 48 of N.J.S.A. regarding discontinuation of utility service give the Board “the authority to order utilities to maintain service to customers, even if customers are unable to pay their bills during this unprecedented public health and economic crisis caused by COVID-19.” Petition at p. 5. While the issue itself may be (at least temporarily) moot because of EO-190 requiring utilities to extend the (theretofore voluntary) disconnection moratorium for residential

customers through March 15, 2021, JCP&L believes it worth noting that the specific provision of Title 48 Rate Counsel relies on (i.e., N.J.S.A. 48:2-24) does not confer upon the Board the authority to unilaterally order utilities to maintain service to non-paying customers.

N.J.S.A. 48:2-24 has two sections: the first provides that a utility may not “discontinue, curtail or abandon any service” without Board approval. Consistently, this portion of the statute has been interpreted to apply to the discontinuation or abandonment of a certain *type of service* or *service classification*, not the disconnection of a specific customer for non-payment. In fact, as Rate Counsel admits, the second portion of N.J.S.A. 48:2-24, which states in relevant part “A public utility may terminate service for a violation of the terms of its approved tariffs on file with the [Board] upon giving the customer at least 3 days’ notice of such termination unless otherwise provided for by rules, regulations or orders of the board”, governs disconnections for non-payment (or other violations of a tariff).

Similarly, *Pennsylvania R. Co. v. Public Utilities Comm’rs Bd.*, 11 N.J. 43, 51 (1952), which was cited by Rate Counsel, does not confer on the Board jurisdiction it does not have under statute. That case involved a railroad’s request to discontinue certain train routes, not the disconnection of customers for the non-payment of bills. Thus, *Pennsylvania R. Co.* is simply not relevant to the relief Rate Counsel requests in its Petition.

In sum, the Board may not unilaterally order a utility to extend a disconnection moratorium. Utility tariffs, once approved, have the force and effect of law. Utility tariffs, along with certain Board regulations, govern the utility’s right to disconnect customers for nonpayment of amounts due. Interestingly and correctly, the October 28 Board Order does not cite this provision as a source of authority in the COVID-19 Proceeding, and the Rate Counsel Petition has cited to no Board Order or case law that interprets N.J.S.A. 48:2-24 to allow the Board to prohibit utilities

from disconnection customers for non-payment. Even if the statute did confer such jurisdiction, the Board could not take such action without affording the State's utilities due process of law, including the right to be heard and to contest such action. Accordingly, it is clear that the Board may not unilaterally modify utility tariffs to compel a utility to provide a disconnection moratorium. For this reason, prior to the issuance of EO-190, which occurred after the filing of Rate Counsel's Petition, ongoing collaboration between the utilities and the BPU to reach agreement for *voluntary* action by the utilities was essential to continuing to provide customer protections from disconnection – and that collaboration was successful to accomplish the desired end, within the confines of the law. While EO-190 overrides the specific concern, the lesson of the limits of Board authority and of Board and utility voluntary collaboration should not be lost.

B. RESPONSE TO SPECIFIC RELIEF REQUESTED IN THE RATE COUNSEL PETITION.

As indicated above, the Rate Counsel Petition provides a series of specific requests for relief that touch upon many, although not all, of the proposed issues set forth in the October 28 Board Order. JCP&L believes that responding to each of those specific requests provides a logical platform for providing an answer to the Petition and further comments to the Board about the intended scope of the COVID-19 Proceeding under such Order.

Disconnection and Restoration of Utility Service

1. ***Open an investigation to determine the number of customers in arrears, the amount owed, and the scope of the COVID-19-related uncollectibles issue;***

As indicated in more detail with respect to Request 12 below, the utilities, including JCP&L, regularly provide the Board with data pertaining to such matters, and have responded to the Board's *ad hoc* requests and will continue to do so. While the October 28 Board Order provides

a forum in which to discuss the data, a Board proceeding or investigation is not necessary for the Board to obtain, compile or share such information.

2. *Extend the voluntary moratorium on utility service shutoffs through April 1, 2021 for both residential and non-residential customers;*

This request was addressed by EO-190.

3. *Reconnect all utility customers disconnected for non-payment since March 15, 2020;*

This action had already been taken on a voluntary basis and is now also required under EO-190.

4. *Order the utilities to waive any fees or interest on late payments;*

This request also has been covered by EO-190. JCP&L notes that even before the COVID-19 pandemic, residential customers are already exempt from late fees (or interest).

5. *Order the utilities to waive fees and deposits to establish or reconnect service for residential and small business customers experiencing financial hardship;*

For reconnection circumstances, please see the response to request 4. above. For commercial customers, JCP&L notes that although they are not afforded the protections of the EO-190 moratorium on service disconnections, the Company has, at the urging of the Board, voluntarily made extended-term deferred payment arrangements (“*DPAs*”) available to its commercial customers who have been impacted by the pandemic (and has agreed to do so for thirty days after the end of the public health emergency). Finally, the Company believes the establishment of new service (as opposed to reconnected and continuing service) has not been, and should not be, subject to COVID-19 protections. Such safeguards are meant to protect current customers as opposed to new customers who should be subject to pre-COVID-19 rules and requirements unless the initiation of new service can be demonstrated to stem from a COVID-19

hardship, which are circumstances best addressed on a case-by-case basis and in accordance with Board rules pertaining to applicants and security deposits.

6. *Facilitate customers' showing of financial hardship by minimizing or waiving required documentation;*

Insofar as this request related to reconnections, this request also has been covered by EO-190. Under non-pandemic circumstances, JCP&L's approach to documentation of financial circumstance is flexible and requirements are considered on a case-by-case basis, by its trained professionals. To the degree that a showing of financial hardship is necessary for eligibility to other programs or benefits, those determinations are not typically made by utilities. In general, as a matter of sound public policy, showings of financial hardship protect the integrity of the programs and benefits being sought in order to assure the distribution and allocation of limited resources to intended eligible beneficiaries. As such, decisions to relax or waive documentation requirements are often best made on a case-by-case approach as opposed to by general rule. JCP&L recognizes that this may be an important consideration when the EO-190 moratorium expires and customers who have not already (*i.e.*, during the moratorium) entered into extended DPAs, then seek to avoid disconnection.⁵ JCP&L has already advised Board Staff that it is willing to continue to offer extended-term DPAs for thirty days following the end of the public health emergency. However, it believes that post-EO-190 some level of documentation of financial hardship as a result of the pandemic should be required, and requests for relaxation or waiver of such requirements should be addressed on a case-by-case basis. Such a requirement is a matter of sound public policy that promotes fairness to customers who have responded to the State's

⁵ The State's public utilities continue to offer enhanced payment assistance programs for customers who are unable to pay their utility bill on time. For JCP&L, extended DPAs of as long as 12 months for residential and non-residential customers. Residential DPAs are renewable in additional 12-month segments if more time is needed through March 15, 2021. No down payments are required for these DPAs.

encouragement to enter into such DPAs sooner rather than later, and to protect against “gaming the system” scenarios. Thus, as part of the COVID-19 Proceeding, JCP&L recommends the Board clearly announce its intention to allow the resumption of normal utility collection activity, including disconnection of service in accordance with the Board’s regulations, following the expiration of EO-190, which will motivate customers, who have not done so, to contact the utility to seek available assistance. JCP&L also encourages the Board to support the need for post-moratorium financial hardship documentation requirements that promote these sound public policy considerations.

7. New Jersey regulated utilities have agreed to offer DPAs of at least 12 months and up to 24 months with no down payment. Continue those extended DPA terms with no down payment for 180 days after the shutoff moratorium;

See the response to request 6 above. The existing, voluntarily extended DPAs available to customers by the utilities should continue to be available for up to thirty days following the end of the public health emergency. As the Board is well aware, some of the arrearages that will have accumulated were accrued prior to the declaration of a state of emergency in March 2020, and the utility voluntary moratoriums, which effectively extended the regular 2019-2020 Winter Termination Program (under N.J.A.C. 14:3-3A.5) to October 15, 2020. Thus, with the EO-190 moratorium from October 15, 2020 to March 15, 2021, there may be customers who have not made good faith efforts to address their mounting arrearages since at least November 2019. Promoting a further extension of time in which to avoid addressing these arrearages, as Rate Counsel’s request would do, further increases the potential for increased write-offs, which then will be collected from other customers and, therefore, cannot be justified as sound public policy in the public interest.

8. *Identify the best practices for helping ratepayers afford their utility bills, including a financial relief program, and direct implementation of those practices;*

There are already substantial assistance programs in place, both in terms of long-standing assistance programs⁶ and pandemic-related additional assistance for existing programs.⁷ Continued Board efforts (with stakeholder support as necessary and useful) should be directed to leverage and increase funding for existing programs and sources of assistance and to connect customers with such resources as appropriate. Board and DCA coordination and collaboration should be encouraged in efforts to seek such additional funding.

A process for identifying best practices among New Jersey utilities for addressing the ramifications of the COVID-19 pandemic or other similar public health emergencies is, generally, not objectionable insofar as JCP&L is concerned, so long as any required implementation accounts and allows for differences in individual utility experiences, systems, territories, resources and provides for cost recovery. Proposals for normal course best practice identification on a regional and nationwide basis, particularly when not aimed to address pandemic-specific emergent issues, should not be considered at this time, especially when the time and effort to identify them will likely detract from a timely focus on pandemic-specific emergent issues in New Jersey.

9. *Consider expanding eligibility for the [USF] and other programs for low-income and fixed-income customers, which cap the customer's utility bills at a percentage of their income, and establishing funding sources for the expanded program beyond charging other ratepayers via the Societal Benefits Charge ("SBC");*

This request is not a utility matter, and may not even be a matter for BPU investigation. As mentioned above, New Jersey has announced the set-aside of \$15 million from the Coronavirus

⁶ Such as LIHEAP (Low Income Home Energy Assistance Program), Lifeline Credit Program (Lifeline), USF, PAGE (Payment Assistance for Gas and Electric), and the New Jersey SHARES (NJ SHARES). These are in addition to a process for addressing medical emergencies, and a process for medical conditions requiring the use of life-sustaining equipment.

⁷ See Footnote No. 3 above.

Relief Fund for the DCA to use to help reduce utility customer arrearages. The DCA intends to use a portion of the funds to address arrearages among low income households who are current USF participants. This is an example of a COVID-19 pandemic specific measure. While JCP&L has no objection to, and would support, the Board's and/or Rate Counsel's appeals for additional funding for LIHEAP, USF and other assistance programs in the form of state or federal funds raised via general taxes or specific legislative grants, these are legislative matters that do not require the kind of Board investigation sought by Rate Counsel in its Petition or contemplated by the October 28 Board Order. Instead, they require coordinated legislative and inter-governmental agency advocacy for funding grants and/or additional taxes.

Furthermore, any change to the USF programs, which is addressed annually by the Board (most recently, in an order issued this past September), should be considered only after a specific stakeholder process in which the utilities and all interested parties (including but not limited to DCA) can participate and have opportunity to provide input. While changes to existing funding levels can be addressed on an emergency basis by appropriate legislative and governmental agencies, programmatic changes seeking to effectively overhaul such longstanding programs should not be made *ad hoc* in a proceeding intended to address the ramifications of a specific emergency situation. Moreover, even proposals for supplemental outreach efforts to encourage customers in need to apply for available resources must consider the potential unintended consequences of removing the prospect of a loss of service from the vendor-customer relationship. These unintended consequences may take the form of contradictory incentives, moral hazards and/or goal displacement. Thus, the impact of such unintended consequences on the efficacy of additional outreach must also be considered.

10. ***Require utilities to offer to enroll customers with payment difficulties in all applicable payment assistance programs such as LIHEAP. If the customer accepts the offer of enrollment help, the utility must actually enroll the eligible customer;***

This proposal is not pandemic-specific and, while seemingly simple, is very complex and proposes to generally shift existing responsibilities from DCA to the utilities without any view as to the reasons for the current system or the implications of changing it. Moreover, the proposal presupposes: (i) expanded eligibility requirements to all customers having payment difficulties (as opposed to the existing eligibility requirements based on a percentage of the federal poverty level), (ii) the payment assistance programs have relaxed or waived their documentation requirements, which they have not, and/or (iii) that utilities have customer income information, which they do not. The proposal also overlooks the existing DCA infrastructure to provide, accept and process customer applications for LIHEAP, USF and Weatherization benefits. Proposing to make utilities enrollment agents for customers suggests, without evidence, that the current system is not working and overlooks the time, effort, and costs associated with doing so as well as the unlikelihood of such undertakings ever providing relief in the context of this pandemic.

11. ***Explore other possible programs or changes to eligibility requirements to assist customers who are unable to pay their bills or arrearages;***

As discussed above, there are already substantial assistance programs available to customers. That said, this proceeding is an appropriate forum in which to explore other possible programs to assist customers who, as a result of the COVID-19 pandemic, are unable to pay their bills or arrearages. However, a decision to pursue that inquiry should not be at the expense of efforts to increase funding for, and expand utilization of, current programs, which represent an efficient and effective path to immediately helping customers suffering financial hardship as a result of the pandemic. JCP&L cautions against entertaining more general, less focused proposals

that go beyond pandemic-related emergent issues, which should be deemed to be beyond the scope of this proceeding.

Data Collection and Reporting

12. *Require utilities to record and publicly report the aggregate level of late payments, payment arrearages and shutoffs by utility, customer service class and zip code for at least the last two full calendar years (i.e., calendar years 2018 and 2019) to present, and continuing after the moratorium ends. Data should include number of customers in arrears, number facing disconnection, total amount of arrears, distribution of arrearage amounts among customers in arrears, and distribution of customers in arrears by zip code. Record and publicly report the level of service disconnections and collections activity by utility and zip code for at least the last two full calendar years (i.e., calendar years 2018 and 2019) through present, and continuing after the moratorium ends. Data should include number of customers disconnected, and distribution of disconnections by zip code;*

Rate Counsel's request (which is not pandemic specific), does not acknowledge the level of reporting already provided to the Board, nor does it indicate any evidence that the Board or its Staff have been unable to obtain the data, which the Board has regularly requested during the pandemic and which JCP&L (and other New Jersey utilities) have provided when and as requested.⁸ Indeed, while Rate Counsel asserts that utility commissions in other states require the kind and level of data sought in this request, the support Rate Counsel offers (in footnotes 38 and

⁸ For instance, JCP&L provides monthly data to the Board regarding, among other things, aggregate arrears on the total number of overdue residential accounts, the distribution of overdue residential accounts by dollar amount, and the distribution of residential accounts by payment status. As to DPAs, JCP&L provides reporting regarding the number of new DPAs, new DPAs by USF customers, the number of broken DPAs by month. In addition, the Company monthly reports the number of Winter Termination Program budget agreements made and broken, new budget plans made, the number of actual meter readings, the number of estimated meter readings, the number of new security deposits requested, and the number and amount of deposits waived. The Company also provides a monthly report of the number of residential bills, residential service with and without heating, total residential customers, the number of non-residential bills, the number or commercial and industrial customers, total customers, number of discontinuance notices by type and total, number of third party notifications, number of senior citizen notices, number of accounts with third party designations and with third party telephone designations, termination field visits by type and total, accounts terminated by type and total, reason for termination, number of reconnections by type, gross and net charge-off amounts number of accounts eligible for termination but not terminated as a result of payment commitments from various assistance programs or other reasons.

39 of the Petition) does not actually address the subject of this request at all or the level of detail suggested by this request. JCP&L will continue to respond to Board requests for data, which it provides as available from its systems. Proposals for a more general, less focused, inquiry requiring uniform reporting of historical (i.e., 2018-2019) and prospective data (including by zip code) that requires time and resources to reconfigure, design, develop and implement, as well as the need for timely recovery of such costs through base rates, should be deemed to be beyond the scope of this COVID-19 Proceeding.

13. ***Require utilities to report data on DPAs, including: total number of customers enrolled in a DPA, number of new customers with a DPA, dollar amounts subject to a DPA, number of customers who successfully completed the DPA and number of unsuccessful DPAs;***

Please see the response to request 12 above.

14. ***Require utilities to report data on the number of their customers who participate in payment assistance programs such as LIHEAP, Universal Service Fund, Lifeline, PAGE, TRUE, NJ Shares, and Fresh Start, as well as the amount of money that the utility receives from each of these programs, for at least the last two full calendar years (i.e., calendar years 2018 and 2019) through present, and continuing after the shutoff moratorium ends;***

Please see the response to request 12 above.

15. ***Report the specific measures the utility is taking to help all customers, including non-English speaking customers, avoid disconnection for non-payment;***

The voluntary moratoria, the enhanced DPAs, EO-190 and other programs mentioned herein have been and continue to be aimed at helping *all* customers, including JCP&L's non-English speaking customers, avoid disconnection for non-payment, making this request unnecessary to include within the scope of the COVID-19 Proceeding.

Rate Increases

16. ***Suspend the filing of new base rate cases and infrastructure programs during the current public health emergency and until further order of the Board;***

The Company has observed that the utilities and the BPU have managed to go about the business of resetting rates in a very thoughtful manner throughout this pandemic. This is a credit to the BPU, Rate Counsel and the utilities for finding creative solutions that benefit both the utilities and their customers. Such a broad-brush approach as this request suggests would potentially stifle what has been successful resolution of practical business problems with practical solutions. In this regard, JCP&L refers to the experience of its most recent base rate case where the Board's and Rate Counsel's interests in delaying the effective date for a rate increase was accommodated by stipulation in a creative manner that also worked for the Company. The request for the Board to mandate such suspensions, however, conflicts with settled law to the effect that a public utility has a statutory right to file for a base rate increase pursuant to N.J.S.A. 48:2-21; the Board cannot suspend a statutory right. Moreover, a utility has a constitutional right to earn a reasonable rate of return – if prevented from doing so by such a “suspension”, there would be taking of property without just compensation. *Bluefield Water Works v. Public Service Comm'n*, 262 U.S. 679 (1923). Not only is the undertaking legally precarious, this Rate Counsel proposal would have the consequence of discouraging utility investment (at the cost of the jobs that may be associated with such investment activity) at the very time that the Governor is seeking to continue the phased-in reopening of the State. Now is not the time to discourage utility investment or the economic benefits that accompany it. Furthermore, as Rate Counsel well knows, the very filings it seeks to have suspended are, typically, lengthy proceedings that are necessary to resolve many issues. Suspension of such filings during the current emergency postpones more than the effective

date for rate implementation; it also unnecessarily postpones the work necessary to resolve the many issues that result in those rates. The Board should reject this request as counter-productive to proper utility regulation and outside the necessary and proper scope of the COVID-19 Proceeding.

17. *Analyze the impacts of any proposed rate increase on disconnection rates when a utility applies to increase any rate;*

This issue is not specifically related to the COVID-19 pandemic and, like rate design, is most appropriately raised and addressed in the specific context of any base rate case, if and when applicable. Thus, there is no need to include this request or topic, including with respect to rate design, within the scope of the COVID-19 proceeding.

Resources for Repayment Assistance

18. *Order utilities to apply LIHEAP funding received to participants' current monthly bills first, and not to retire arrearages first;*

Please see the responses to request 9 and request 11 above. Again, this proposal appears simplistic on the surface, but is very complex and proposes what would be an entirely different approach to payment-posting than exists today. Further, it is unclear as to how the manner in which LIHEAP payments are applied to arrearages on customer accounts addresses emergent COVID-19 pandemic concerns in a meaningful way. Moreover, there is no evidence that the current process of applying LIHEAP payments consistent with the Company's payment-posting processes gives rise to, or exacerbates, COVID-related emergent issues. This Rate Counsel request, whether knowingly or not, creates the need for a distinct billing and payment processing sub-system for customers who are LIHEAP recipients, one that differs from the Company's current billing and payment processing system, policies and procedures, which are intended to facilitate

eligible customers in accessing the benefit. Such an undertaking would be time-consuming and costly to design, develop, implement, operate and maintain with no significant benefit generally, or for customers suffering financial hardships due to COVID-19, specifically. As such, the request appears outside of the scope of the COVID-19 Proceeding.

Moreover, the more pressing need in the midst of the pandemic is how to connect as many eligible residential customers as possible to the available assistance to reduce the threat of disconnection as a consequence of their utility arrearage obligations. EO-190 has, for the moment, eliminated the risk of service disconnection, which can have the unintended consequence of discouraging customers from contacting the utility, even as the need for the assistance continues. The focus and effort should be on accessing the assistance using established mechanisms not on changing how assistance payments are applied. When assistance payments are received by JCP&L they are applied in the same manner as payments from, or for, *all* customers (*i.e.*, to the oldest arrears first). There is no pressing need to change that approach.

19. *Establish a debt forgiveness program for utility customers facing financial hardship and a source of funding to cover the arrearages outside of the SBC or other ratepayer funded programs;*

Funding such a program is a legislative matter, not a utility matter, and therefore is not appropriately resolved through a Board investigative proceeding. As discussed above, New Jersey already has significant customer assistance programs, including the Fresh Start program,⁹ The creation of new ones or changes to terms and conditions of existing programs should only be

⁹ “Fresh Start is a component of the USF program. It is available upon receiving USF for the first time. A household is automatically enrolled in the program if there is a balance of \$60 or more on the bill. Under this forgiveness program the arrearage is set aside when a customer is placed in the program. The previous balance will be erased if the customer pays their bill for the next 12 months in full. Fresh Start is a one[-] time only program and is only available the first time a customer is enrolled in USF.” <http://www.njcommunityresources.info/njenergy.htm>

considered with the context of separate stakeholder proceedings where all interested parties may provide input, and not in the context of a proceeding intended to address the ramifications of the COVID-19 pandemic. Moreover, any new funding sources should be state or federal funds raised via general taxes or specific new legislation providing funding grants.¹⁰

Municipal Utility Authorities for Water Service

20. *Public water systems serving 60% of all water customers in New Jersey are publicly owned by a municipal utility authority (“MUA”) rather than by private investors and, therefore, not subject to BPU regulation. While Rate Counsel concedes that municipal service falls outside the Board’s statutory jurisdiction, thousands of MUA customers are at risk of losing service following the end of the voluntary utility shutoff moratorium. The Board should engage with the Department of Community Affairs, which does oversee the budgets of municipal utilities authorities to explore solutions for those customers;*

Although this request does not appear to fit within the scope of the COVID-19 Proceeding as described in the October 28 Board Order, JCP&L takes no position on this request. Rate Counsel does not require a proceeding to encourage the Board to encourage DCA to consider these circumstances.

¹⁰ For its part, JCP&L notes that since January 2020, the Company’s foundation has made numerous charitable contributions in New Jersey totaling \$556,000, many of which directly involve COVID-related circumstances. The foundation also recently embarked on its “Investment with Purpose” initiative. This initiative is supporting those organizations that are affected by COVID and/or racial equity/social justice issues. Requests for assistance are currently coming in and will continue to do so throughout the rest of this year. The Company also coordinated the donation of leftover food and supplies from the engagement of thousands of additional personnel for Tropical Storm Isaias restoration to eight JCP&L-area foodbanks, totaling 83,817 pounds of food and paper products, equivalent to over 107,000 meals for those in need (and worth approximately \$71,000). The Company’s foundation also contributed \$115,000 to support community partners and customers in need after the storm. A total of \$65,000 was awarded to Police Chief Associations in 13 counties and \$50,000 was awarded to eight foodbanks covering the hardest hit counties in JCP&L territory.

Payment Assistance Funding

21. *Rate Counsel asks the Board to undertake measures within its jurisdiction to increase funds allocated to financial assistance programs from federal CARES Act or other federal funds.*

JCP&L takes no issue with the Board seeking increases in federal funding to provide assistance to utility customers, where appropriate. Indeed, JCP&L encourages the Board to do so and will support the Board in those efforts, whether under the *Coronavirus Aid, Relief, and Economic Security (CARES) Act*, Pub. L. 116–136, 134 Stat. 281 (2020), or other federal or state legislation including future COVID stimulus laws if and when, they are available.

III. COMMENTS ON POTENTIAL COVID-19 PROCEEDING ISSUES NOT ADDRESSED BY JCP&L’S RESPONSE TO THE RATE COUNSEL PETITION.

JCP&L notes that the October 28 Board Order also addresses some issues that are not addressed in Section II above; namely, utility financial strength; regulatory compliance; “ensuring the continued provision of safe and adequate service at just and reasonable rates, while recognizing the ramifications from the COVID-19 pandemic;” and “other regulatory priorities such as whether, and to what extent, if any, the current or planned clean energy programs or other utility filings or mechanisms should be modified, maintained, curtailed or accelerated.” October 28 Board Order at p. 6. As to these, the Company provides the following comments:

Utility Financial Strength and Continued Provision of Safe, Adequate and Proper Service

The July 2 Board Order authorized each of the State’s utilities to create a regulatory asset for purposes of deferring for future recovery the prudently incurred incremental costs related to COVID-19. This Order sets the framework for full and timely recovery of prudently incurred costs and is a significant step in addressing issues concerning utility financial strength that can or may arise as result of COVID-19 pandemic financial impacts. In turn, as a matter of principle and

consistent with the traditional regulatory compact, addressing such costs in subsequent utility rate cases, when appropriate in accordance with the Board's Order and each utility's needs, helps to assure the continuation of safe and adequate service at just and reasonable rates.

However, it must be anticipated that the increase in uncollectible expenses associated with the pandemic and the moratorium on disconnections is already significant and will become more significant with each passing month. Indeed, continuing the moratorium on disconnections beyond the current timetable anticipated by EO-190 is not a sustainable approach for utilities or their customers. The circumstances that utilities and customers will face in March 2021 does demand focused attention now in the form of efforts to increase customers' awareness of (i) the danger of disconnection beginning in March as a result of unaddressed growing arrearages, and (ii) the availability of assistance programs and reasonable extended-term DPAs. JCP&L has undertaken proactive measures to make its customers aware of the risks, assistance programs and extended-term DPAs through the Company's website, social media, emails, bill inserts, door-hangers, print, radio, television and billboard public service announcements, and customer service representative training and message scripting.

Additional and regular public service announcements and public outreach such as reflected in the recent opinion article by Lt. Governor and Commissioner of the Department of Community Affairs Sheila Oliver and BPU President Joseph Fiordaliso¹¹ are also necessary on a continued basis, and should include the use of radio and television as well as social media outlets. The utilities and the BPU should also prepare now for restoring normal collections processes, including service disconnections, after March 15, 2021 when EO-190 expires, with assurances that the full

¹¹ Available at: <https://www.nj.com/opinion/2020/11/if-you-cant-afford-to-pay-your-utility-bill-new-jersey-can-help-opinion.html>

panoply of protections already available through the Board's regulations will be fully utilized and followed to provide notice, communicate about and facilitate access to available assistance, and to manage service disconnections in a fair, balanced and appropriate manner consistent with such applicable regulations.¹² Finally, to the extent that the COVID-19 Proceeding gives rise to processes and approaches that have the likely effect of further increasing uncollectable expense, the Board should ensure that the utilities continue to receive full and timely recovery of such expenses through the SBC or other established mechanisms.

Regulatory Compliance

JCP&L is not aware of any particular regulatory compliance issues, which have arisen as a result of the pandemic that have not been resolved by the Board. For example, the Board issued an Order on March 19, 2020 at BPU Docket No. EO20030254, providing a temporary waiver of several of its regulatory requirements designed to allow utilities and other entities subject to the Board's jurisdiction to focus on providing essential services to the public, while minimizing the health threats caused by the COVID-19 pandemic, by curtailing activities not related to the imminent health and safety of the public. The Board took these actions pursuant to N.J.A.C. 14:1 et seq., which provides the Board with discretionary authority to relax its regulations in special cases and for good cause shown. The Board's regulations at N.J.A.C. 14:1-1.2, also allow, upon written application, for the waiver of compliance where full compliance would, among other

¹² Referring, in particular to those requirements found in Title 14 of the New Jersey Administrative Code, Subchapter 3A (Discontinuance and Restoration of Service), including by way of example, N.J.A.C. 14: 3-3A.1 (Basis of discontinuance of service); N.J.A.C. 14: 3-3A.2 (Discontinuance for nonpayment); N.J.A.C. 14: 3-3A.3 (Notice of discontinuance for nonpayment); N.J.A.C. 14: 3-3A.4 (Additional notice requirements for discontinuance of residential and special customers); and N.J.A.C. 14: 3-3A.9 (Basis of restoration). It is further noted, again, by way of example, that N.J.A.C. 14: 3-3A.2 includes prohibitions against discontinuance, and processes to follow during high temperature periods, and during medical emergencies.

things, “adversely affect ... the ability of the utility ... to render safe, adequate and proper service, or the interests of the general public.” This regulation already provides a process, which has proven to work effectively during the COVID-19 pandemic, for addressing compliance issues, if and when they arise.

Other Regulatory Priorities

From JCP&L’s perspective, the Board has done exemplary work in maintaining, on a remote basis, a business-as-usual approach to the exercise of the Board’s jurisdictional mandate during the pandemic. This is an approach to be encouraged and one that foreshadows an eventual return to “normal,” or to the development of a “new normal.” In this context, the Board should, to the extent feasible, continue its business-as-usual approach, which helps the New Jersey utilities in their provision of “safe, adequate and proper service and the furnishing and performance of service in a non-discriminatory manner, and in a manner that tends to conserve energy resources and preserve the quality of the environment.” N.J.A.C. 14: 3-3.1. Keeping the focus of the COVID-19 Proceeding narrowly tailored to address only emergent pandemic-related issues and ramifications, as suggested herein, is the best approach to ensure timely and impactful results, while minimizing the need to re-prioritize programs or the resources supporting them.

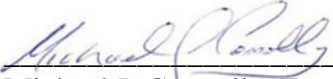
IV. CONCLUSION

As discussed herein, JCP&L believes that the issuance of EO-190 and its extension of the residential service disconnection moratorium until at least March 15, 2021, the actions already taken by the Board, along with the existing programs and regulations pertaining to collections and service disconnections, obviate the need for a widespread or far-reaching investigation regarding COVID-19 ramifications. JCP&L appreciates the opportunity provided by, and supports, the

Board's initial step in seeking comments regarding the proposed scope of the on-going COVID-19 Proceeding, including the opportunity to address the issues and requests raised by Rate Counsel's Petition. JCP&L supports the Board's efforts to timely and precisely address COVID-19 ramifications, while recognizing the impact of EO-190 and the progress already made through existing Board and utility collaboration. JCP&L also supports the seeking additional federal and state funding for existing programs and relaxation of eligibility standards, where such relaxation can be supported by the additional funding. JCP&L also supports continued, frequent and targeted communications by the utilities, the Board and the Murphy Administration regarding: (i) the risks of mounting arrearages to customers who will face restored collection and disconnection practices in the spring; and (ii) the assistance and programs available to help them now. The Company looks forward to participating in the COVID-19 Proceeding, which it anticipates will be sharply-focused and time-limited. In this regard, the Company hopes that its comments on the October 28 Board Order (containing its answer to the Rate Counsel Petition) are helpful to the Board's efforts to guide the COVID-19 proceeding to a speedy and successful conclusion.

Respectfully submitted,

JERSEY CENTRAL POWER & LIGHT COMPANY

By: 
Michael J. Connolly, Esq.
Cozen O'Connor, LLP

Dated: November 30, 2020

c: Attached Service List