

October 9, 2020

VIA ELECTRONIC MAIL

Aida Camacho, Secretary
New Jersey Board of Public Utilities
44 South Clinton Street
3rd Floor Suite 314
Trenton, New Jersey 08625
Board.secretary@bpu.nj.gov

**Re: IN THE MATTER OF THE VERIFIED PETITION OF JERSEY CENTRAL
POWER & LIGHT COMPANY FOR APPROVAL OF JCP&L'S ENERGY
EFFICIENCY AND CONSERVATION PLAN INCLUDING ENERGY
EFFICIENCY AND PEAK DEMAND REDUCTION PROGRAMS (JCP&L
EE&C)
BPU Docket No. EO20090620**

Dear Secretary Camacho:

Enclosed are the Jersey Central Power & Light Company's ("JCP&L") Response to Motions to Intervene and Participate in the above proceeding.

By copy of this letter, copies of the motion are being forwarded this date via electronic mail to all persons whose name appear on the attached distribution list.

Please contact me with any questions.

Very truly yours,



Lauren M. Lepkoski

kbw

Enclosures

cc: Attached Service List (via email)

**STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES**

In the Matter of the Verified Petition of Jersey Central Power & Light Company For Approval of JCP&L’s Energy Efficiency and Conservation Plan Including Energy Efficiency and Peak Demand Reduction Programs (JCP&L EE&C)	: : : : : :	BPU Docket No. EO20090620 JCP&L RESPONSE TO MOTIONS TO INTERVENE AND PARTICIPATE
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TO THE HONORABLE BOARD OF PUBLIC UTILITIES:

In accordance with N.J.A.C. 1:1-12.2, Jersey Central Power & Light Company (“JCP&L” or “Company”) submits this response to the New Jersey Board of Public Utilities (“Board”) to the following motions to intervene and participate in the above referenced proceeding:

- Motion to Participate of Atlantic City Electric Company (“ACE”)
- Motion to Participate of Building Performance Association (“BPA”)
- Motion to Participate of Google, LLC (“Google”)
- Motion to Participate of Rockland Electric Company (“RECO”)
- Motion to Participate of South Jersey Gas Company (“SJG”) and Elizabethtown Gas Company (“ETG”)
- Motion to Intervene of Energy Efficiency Alliance of New Jersey (“EEA-NJ”)
- Motion to Intervene of New Jersey Large Energy Users Coalition (“NJLEUC”)
- Motion to Intervene of New Jersey Natural Gas Company (“NJNG”)
- Motion to Intervene of Public Service Electric and Gas Company (“PSE&G”)

SUMMARY OF POSITION OF MOTIONS

JCP&L does not oppose the motions to participate of ACE, Google, BPA, RECO, SJG and ETG. JCP&L also does not oppose the motions to intervene of EEA-NJ and NJLEUC. On the other hand, JCP&L strenuously objects to the motions to intervene of NJNG and PSE&G. NJNG has its own pending proceeding in which to address its own particular interests. PSE&G does not even have a pending case; it was recently received approval of a stipulation for its own energy efficiency programs in its own case a matter where no utilities had full intervener status. Neither NJNG nor PSE&G has established the required substantial, specific and direct impact from the outcome of JCP&L's case, and their intervention will cause a host of unnecessary complications, confusion and delay. For that reason, utilities are typically denied full intervener status in other utility cases (including the recently concluded PSE&G energy efficiency case) and afforded alternative participant status. JCP&L does not object to participant status for NJNG and PSE&G. A more detailed explanation of JCP&L's positions follows.

MOTIONS TO PARTICIPATE OF ACE, BPA, RECO, SJG, ETG and GOOGLE

Each of the above utilities, associations, and businesses have asserted an interest in the outcome of energy efficiency and peak demand reduction proceedings to the extent that a determination in a proceeding may impose substantive policy or procedural requirements that could influence Board determinations in the pending proceedings of each New Jersey utility. Participant status is not objected to for the monitoring of this proceeding so that they may be made aware of relevant issues in a timely manner, without causing undue delay or complications in the pending proceeding. As discussed below, participant status is the usual status afforded by the Board when a utility seeks a role in another utility's proceeding.

Google has developed thermostats which it claims help reduce energy consumption and seeks participant status to monitor a Company proposed Efficient Products program that includes

smart thermostat rebates and a proposed Home Optimization/Peak Demand Reduction program. Granting Google participant status would properly balance its interest in following developments in its areas of interest and having a right to comment with the interests of JCP&L and the Board to move the proceeding in an expeditious manner so as to meet deadlines for program implementation.

BPA represents home performance contractors, which it claims includes working professionals in contracting services, weatherization, product manufacturing and distribution, building science, and nonprofits that are directly impacted by the successful design and implementation of energy efficiency programs. Granting BPA's participant status would properly balance its interest in following developments in its areas of interest and having a right to comment with the interests of JCP&L and the Board to move the proceeding in an expeditious manner so as to meet deadlines for program implementation.

MOTIONS TO INTERVENE OF EEA-NJ AND NJLEUC

These entities are trade associations. EEA-NJ claims to represent over 30 New Jersey businesses which manufacture, design and implement energy efficiency improvements in buildings across Pennsylvania and New Jersey on behalf of regulated utilities, the Board and ratepayers. EEA-NJ asserts that its business members have a direct and substantial financial interest in this proceeding because the continuation and growth of their business is closely tied to successful implementation of energy efficiency and peak demand reduction programs created through this proceeding and have extensive knowledge about the establishment and execution of such programs.

NJLEUC asserts that it is an association which includes large volume electric distribution service customers serviced by JCP&L and has previously been granted intervention in JCPL's

cases. NJLEUC claims it has unique perspective and insight regarding the potential impact on JCP&L's large volume customers of the JCP&L's EE&C Plan programs associated costs.

JCP&L does not contest the contentions in the motions of EEA-NJ and NJLEUC that their members will be substantially, specifically and directly affected by this proceeding, that their interests are substantially different from those of other parties, and that they should be granted intervener status under N.J.A.C. 1:1-16. JCP&L expects that these associations will constructively contribute as parties to this proceeding.

MOTIONS TO INTERVENE OF NJNG AND PSE&G

NJNG and PSE&G do not satisfy the standard for intervention. N.J.A.C. 1:1-16.1(a). They do not have a statutory right to intervene. Nor have they demonstrated that they will be “substantially, specifically and directly affected by the outcome” of JCP&L's case. *Id.* NJNG and PSE&G seek intervener status on the grounds that gas service territories of NJNG and PSE&G overlap with JCP&L's electric service territory and because the Board's decision in this proceeding could have precedential effect and impact on them and their customers.¹ While that may constitute a “significant” interest sufficient for participant status, it does not manifest a substantial, specific and direct affect” from the outcome of JCP&L's case. There is no substantial, specific and direct impact on NJNG and PSE&G from the outcome of JCP&L's case because:

- JCP&L's filing addresses *JCP&L's* proposed programs for *JCP&L's* customers, *JCP&L's* cost benefit analysis, and *JCP&L's* proposed cost recovery mechanism, in a specific *JCP&L* docket. NJNG will address its program proposals, CBA and cost recovery in its own proceeding with a unique docket number (GO20090622), where the outcome for NJNG will be determined. PSE&G does not even have a pending proceeding, since the Board on September 23, 2020 approved PSE&G's stipulation in its energy efficiency proceeding in Docket Nos. GO18101112 and EO1810113 for both gas and electric. Hence this proceeding cannot impact its Board-approved programs or cost recovery mechanism. Those companies do not need to be a full party with the ability to weigh in on every aspect

¹ PSE&G also asserts that it will be impacted because decision in this case can impact issues of cost-sharing and investment split for EE subprograms in overlapping service territories. PSE&G further claims that it has the most extensive experience in administering energy efficiency programs in New Jersey.

of JCP&L's filing. The Board directed each utility to address its proposals in its own docket; it did not establish a generic proceeding.

- Before seeking intervention in JCP&L's case, PSE&G successfully opposed NJNG's similar attempt to intervene in PSE&G's energy efficiency own proceeding in Docket Nos. GO18101112 and EO1810113. The Board agreed the standards for intervention were not satisfied. See Prehearing Order Setting Procedural Schedule and Ruling on Motions to Participate and Intervene, Docket Nos. GO18101112 and EO181113, dated January 22, 2019, at p. 14; See also Order Regarding Motions to Intervene or Participate, BPU Docket No. ER16060524, at p. 12 (denying ACE's Motion to Intervene in RECO's Advanced Meter Programming Proceeding). Although EEA-NJ and NJLEUC were granted full intervenor status (which JCP&L does not object to here), and had a role in settlement of that case, there was no such role for the other utilities. There is no basis for a different result here for either NJNG or PSE&G.
- Any concerns regarding the allocation of costs and energy savings among the utilities where gas and electric utility services overlap are already being addressed outside the individual utility docketed proceedings that will be litigated. That is, the utilities have been engaged in collaboration consistent with the directive of the June 10 Order, via joint meetings and the selection a Statewide Coordinator responsible, among other things, for developing and administering a software platform to perform independent allocations of energy savings and costs where electric and gas utility service territories overlap. (June 10 Order at 38). If the goal is coordination, those efforts are more appropriate than a contested litigation.
- Five of the six energy utilities with pending energy efficiency proceedings (ACE, RECO, SJG, Elizabethtown, and JCP&L) agree that participant status affords a sufficient basis of participation in the other utilities cases to address applicable issues, and that coordination should continue via other means outside these dockets.

Further, the approval of intervention for NJNG and/or PSE&G would sow confusion, cause delay, and introduce other problems in contravention of N.J.A.C.1:1-16.3, for several reasons:

- Adding other parties with no substantial, direct interests burdens the case, which has a short time frame, with unnecessary and voluminous discovery, motions and testimony. This issue will be exacerbated because, if NJNG and/or PSE&G are allowed into another utility's case, then the other utilities (who otherwise would accept participant status), also seek intervention in the various cases);
- The ability to reach settlement may be impaired by interjection of issues related to the other utilities that do not concern JCP&L, its programs, its customers or its cost recovery. As intervenors, PSE&G and NJNG would be a potential signatory to any JCP&L settlement in this matter, illustrating only one of the hazards and/or consequences to be introduced by entertaining such an endeavor;


- Issues will arise as to access to competitively sensitive information that JCP&L does not wish to and should not have to share with other utilities; and
- While utilities are a natural monopolies, JCP&L's parent, PSE&G and NJNG nonetheless compete for capital in the same market segment and it is wholly inappropriate for either PSE&G or NJNG, as an intervener, to have bearing on the outcome of matters involving JCP&L.

For all the foregoing reasons, NJNG and PSE&G do not meet the standards of N.J.A.C.1:1-16 for intervention in a proceeding, and thus should be limited to participant status in the instant proceeding.

CONCLUSION

For the reasons set forth above, JCP&L respectfully submits that (1) ACE, Google, RECO, BPA, SJG, ETG, NJNG and PSE&G be granted participant status, (2) EEA-NJ and NJLEUC be granted intervener status, and (3) that NJNG and PSE&G not be granted intervener status in this proceeding, and instead be granted participant status.

Respectfully submitted,

By: 
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Jersey Central Power & Light Company

Dated: October 9, 2020

BPU

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