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January 26, 2024

**Via Electronic Mail**

Sherri L. Golden, Secretary  
New Jersey Board of Public Utilities  
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[Board.secretary@bpu.state.nj.us](mailto:Board.secretary@bpu.state.nj.us)

**Re: In the Matter of the Verified Petition of Jersey Central Power & Light  
Company For Review and Approval of an Infrastructure Investment  
Program II – ("EnergizeNJ")  
BPU Docket No. EO23110793**

Dear Secretary Golden:

Please accept for filing this response on behalf of the Division of Rate Counsel ("Rate Counsel") to the motion to intervene dated January 16, 2024 filed by Commercial Metals Company ("CMC") in the above-referenced matter.

As directed by the Board's Order in Docket No. EO20030254, dated March 19, 2020, Rate Counsel hereby submits this filing via email to the Board Secretary and service list.

**Please acknowledge receipt of this opposition to CMC's motion.** Thank you for your consideration and attention to this matter.

On November 9, 2023, Jersey Central Power & Light Company (“JCP&L” or “Company”) filed a petition with the New Jersey Board of Public Utilities (“Board”) seeking approval of an Infrastructure Investment Program (“EnergizeNJ,” “IIP,” or “Program”) and an associated cost recovery mechanism pursuant to N.J.A.C. 14:3-2A (“Petition”). The Company proposed a five (5)-year Program beginning in June 2024 with a total investment level of approximately \$934.8 million.<sup>1</sup>

JCP&L proposed to recover costs associated with the Program through its base rates via annual and semi-annual base rate adjustment filings. JCP&L also proposed to earn a return on its investment based on the return on equity, long-term debt and capital structure approved by the Board in its most recent base rate case.

By Order dated December 20, 2023, the Board retained the matter and designated Commissioner Zenon Christodoulou as the presiding officer to rule on all motions and determine schedules and directed any motions to intervene or participate be filed on or before by January 19, 2024.

On January 16, 2024, CMC filed a motion to intervene stating CMC has a substantial, specific, and direct interest in this proceeding (“Motion”). CMC states it maintains a steel mill in Sayreville, NJ which is located in JCP&L territory and that it is JCP&L’s largest commercial customer. CMC also states that it is a transmission customer, not a distribution customer.

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<sup>1</sup> Petition, p. 2.

CMC specifically notes that the focus of this IIP is safety, reliability and resiliency of its distribution system, not JCP&L's transmission system<sup>2</sup>. CMC expressed concern that JCP&L proposes to allocate at least \$229,625 of the IIP revenue requirement to the GT rate class<sup>3</sup>. CMC states that it takes service from JCP&L under the GT-D rate class,<sup>4</sup> and therefore argues that CMC will be directly and specifically affected by JCP&L's requested rate relief.

CMC argues that since it was granted intervenor status in JCP&L's pending and previous base rate cases, it should be granted intervenor status in this matter and that the IIP is an extension of the pending base rate case.

Rate Counsel notes that this is not a base rate filing but an IIP filing. As with other issues, such as prudence and customer refunds, the Board has found it appropriate to limit rate design adjustments of the approved IIP program costs to the company's most recently approved base rate case.<sup>5</sup> The Board has consistently limited discussions of and findings related to any adjustments to base rate design in the IIP proceedings. In addition, the Board has specifically stated that should a base rate case be decided while an approved IIP is active the rate decisions will be modified to the terms of the recent that newer base rate case decision.

In JCP&L's prior IIP the Board approved the stipulation of Settlement of the parties that states:

For Service Classifications RS, RT/RGT and GS (which are residential and small commercial rate classes), the rate will be a

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<sup>2</sup> Motion, p.3, ¶ 8.

<sup>3</sup> Petition. Schedule CAP-3.

<sup>4</sup> Motion, p.2, ¶. 6.

<sup>5</sup> See 54 N.J.R. 1612(a) ("The Board believes that these issues should be addressed within a base rate case proceeding").

per kWh rate by each rate class. For Service Classifications GST, GP and GT (which are larger commercial and industrial rate classes), the rate will be a per kW rate by each rate class. For all lighting classes, the rate will be a per fixture rate. Subject to the preceding sentences of paragraph 36 of the Stipulation: (i) *the allocation of JCP&L Reliability Plus revenue requirements among rate classes for each filing period will be based on the rate design methodology used to establish the Company's base rates in its 2016 base rate case in BPU Docket No. ER16040383 and (ii) in the event an alternative rate design methodology is adopted in a future base rate case during the term of JCP&L Reliability Plus, then the rate design to be used to allocate the JCP&L Reliability Plus revenue requirements among rate classes for each subsequent rate filing period shall also be addressed and determined in that base rate case.*<sup>6</sup>

The Board has continued to use the language highlighted above in its IIP orders:

*The rate design for the rate adjustments agreed upon in the Stipulation will be structured consistent with the rate design methodology used to set rates in the Company's most recently concluded base rate case. Specifically, the Company will utilize the corresponding billing determinants, including the weather normalized billing determinants approved in the most recent base rate case.*<sup>7</sup>

The Board used this language again in a more recently decided IIP, the 2022 Rockland Electric Company (“RECO”) IIP filing stating:

*The IIP rate adjustments resulting from the annual rate filings will be calculated using the billing determinants underlying the distribution rates established in the 2021 RECO BRC Order, except if the billing determinants are revised in subsequent base rate case(s), the revised billing determinants will be used thereafter.*<sup>8</sup>

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<sup>6</sup> I/M/O the Petition of Jersey Central Power and Light Company for Approval of an Infrastructure Investment Program, (Reliability Plus), Docket No. EO18070728, Final Decision and Order Approving Stipulation, May 8, 2019, P. 11, ¶ 36 (emphasis added).

<sup>7</sup> In re the Matter of the Petition of Public Service Electric and Gas Company for Approval of the Second Energy Strong Program (Energy Strong II), BPU Docket Nos. EO18060629 and GO18060630, Order dated September 11, 2019 (“Energy Strong II Order”). p. 10, ¶ 42 (emphasis added).

<sup>8</sup> I/M/O the Verified Petition Of Rockland Electric Company For Approval Of An Infrastructure Investment Program, And Related Cost Recovery Mechanism, BPU Docket No. ER22030198, p. 13, ¶ 18 (emphasis added).

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Rate Counsel does not agree with CMC's request to intervene and receive full procedural and substantial rights as party should be granted but Rate Counsel has no objection to CMC being granted participant status in the matter.

Respectfully submitted,

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By: /s/ **Bethany Rocque-Romaine**

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**Jersey Central Power & Light  
Company IIP II Filing  
BPU Docket No. ER231100793**

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