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July 17, 2024

Via Electronic Mail

Hon. Sherri Golden, Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625
board.secretary@bpu.nj.gov

**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. 11 to the Petition)
BPU Docket No. EF02030185**

Dear Secretary Golden:

The Division of Rate Counsel (“Rate Counsel”) is replying to the Jersey Central Power & Light Company (“JCP&L” or the “Company”) petition filed on November 17, 2023 (“Petition”), in the above-referenced matter. JCP&L stated in its petition that it was submitting Amendment No. 11 to the current authorization for Company as a FirstEnergy Corp. (“FirstEnergy”) subsidiary to participate in the FirstEnergy Intrasystem Utility Money Pool (“Money Pool”). The participants in the Money Pool are various FirstEnergy public utility subsidiaries. The subsidiaries invest available cash in the Money Pool, which then can be loaned to other FirstEnergy subsidiaries to meet their short-term cash needs.

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JCP&L MONEY POOL AUTHORIZATION REQUEST

On November 17, 2023, (“JCP&L” or “the Company”) submitted a petition for authorization, pursuant to N.J.S.A. 48:3-7.2, for approval to participate in the FirstEnergy Intrasystem Money Pool.¹ The Company has been part of the subject Money Pool since July 24, 2002, when the New Jersey Board of Public Utilities (“Board” or “BPU”) first authorized JCP&L’s Money Pool participation in an Order issued on that date.² The Board has authorized the Company’s continued participation in the Money Pool in subsequent Orders issued between April 11, 2003, and December 21, 2022. The Company is currently authorized to participate in the Money Pool through December 31, 2025.³ JCP&L does not seek an extension of that date or a modification to the \$500 million maximum it can borrow from the Money Pool.⁴ The current Petition is Amendment No. 11 to the original petition.

According to JCP&L, the Money Pool is operated for the benefit of various FirstEnergy utility subsidiaries. The subsidiaries can place surplus funds in the Money Pool, where they can be loaned to other participating FirstEnergy subsidiaries.⁵ JCP&L alleges the lending subsidiaries receive a higher interest rate from their Money Pool loans as compared to depositing funds at a commercial bank.⁶ Conversely, JCP&L claims the Money Pool is a lower cost source

¹ Petition, at 1.

² 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, Order of Approval, BPU Dkt. No. EF02030155, Order dated July 24, 2002.

³ 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 Corporation Intra System Money Pool Amendment No. 10 to the Petition, BPU Dkt. No. EF02030185, Order dated Dec. 21, 2022, at 4.

⁴ Petition, at 2-3.

⁵ Petition, at Section 1.03 of Exhibit 2.

⁶ Request for Waiver of Certain Provisions of N.J.A.C. 14:4-4.7 and Corresponding Provisions of the Board of Public Utilities’ Order Authorizing Jersey Central Power & Light Company’s Participation in the FirstEnergy Corp. Intrasystem Money Pool, BPU Dkt. No. EF02030185, dated March 25, 2021, at 6. Hereinafter “JCP&L’s March 2021 Letter Request.”

of funds than the alternative of draws under credit facilities.⁷ JCP&L contends full participation in the Money Pool helps facilitate a subsidiary's ability to borrow funds from the Money Pool when needed.⁸

In its Petition currently before the Board, JCP&L requests modifications to how the Money Pool operates. The modifications are presented in a proposed revised agreement, which is entitled "Third Revised and Restated Utility Money Pool Agreement" ("Revised Agreement").⁹ The impetus for the modifications to the Existing Agreement¹⁰ is structural and corporate reorganization of certain FirstEnergy operating utilities.¹¹

JCP&L is one of more than a dozen FirstEnergy subsidiaries that are currently signatories to the Existing Agreement. In addition, FirstEnergy is a party to the agreement, but only as a lender. FirstEnergy Service Company, another subsidiary, is a signatory to the Existing Agreement, but only as the Money Pool administrator.¹²

FirstEnergy is undertaking the placement of transmission-only utilities under its first-tier subsidiary FirstEnergy Transmission, LLC ("FET"). Meanwhile, FirstEnergy is restructuring certain of its Pennsylvania utilities through a series of mergers and consolidations. When the restructuring is complete, several of the operating subsidiaries will be merged into the new entity

⁷ Ibid.

⁸ Ibid.

⁹ Petition, at Exhibit 2.

¹⁰ Id., at Exhibit 1.

¹¹ Id., at 3.

¹² Ibid.

FirstEnergy Pennsylvania Electric Company (“FE PA”). These entities will cease to be parties to the Revised Agreement. Other entities created by the restructuring will be added as signatories.¹³

In conjunction with the reorganization, FirstEnergy is proposing to operate the Money Pool as two sub-pools. Under Section 1.09 of the Revised Agreement, one would be the Distribution Sub-Pool, in which JCP&L would take part, while the other would be the Transmission Sub-Pool. FirstEnergy’s lending activity would be limited to the Distribution Sub-Pool. FET’s lending activity would be limited to the Transmission Sub-Pool. Parties such as JCP&L participating in a given pool would only lend and borrow within that sub-pool.¹⁴ The restructuring of FirstEnergy’s transmission subsidiaries is behind the creation of a separate Transmission Sub-Pool.¹⁵

The proposed revised Money Pool will comply with existing Board rules applicable to money pools. Rules of particular interest include 1) that only FirstEnergy subsidiaries classified as public utilities under the laws of their home states can participate, 2) FirstEnergy subsidiaries that are not public utilities may not borrow from the Money Pool, and 3) borrowers are required to have, at minimum, investment-grade credit ratings from all nationally recognized statistical rating organizations (i.e., Standard & Poor’s, Moody’s, and Fitch).¹⁶

A condition of further interest to New Jersey is that if a borrower from the Money Pool has a senior unsecured credit rating fall below investment-grade, then JCP&L shall demand repayment of any outstanding loans by such a subsidiary within three business days. No new

¹³ Id., at 3-5.

¹⁴ Id., at 5.

¹⁵ Id., at 6.

¹⁶ Id., at 6.

loans may be made to such a participant in the Money Pool until further notice of the Board or until the borrower's credit rating is restored to investment grade.¹⁷ Therefore, the Company bears the responsibility to monitor credit-rating activity within the Money Pool participants. If the Company does not demand immediate repayment of loans to the Money Pool from borrowers with non-investment-grade credit ratings, JCP&L will not be in compliance with Board rules. The Company designates certain JCP&L officials and representatives to be notified of such non-investment-grade bond ratings, with the inference that they shall take steps to demand repayment to the Money Pool by such parties.¹⁸

RATE COUNSEL COMMENTS AND RECOMMENDATIONS

Rate Counsel recommends approval of JCP&L's Money Pool participation Petition, subject to the following conditions. All BPU rules cited in the Petition applying to money pools¹⁹ shall apply to JCP&L's participation in the FirstEnergy Distribution Sub-Pool. The Company agrees that responsibility for JCP&L being in compliance with the provision that money pool participants that drop to below investment-grade credit ratings from the cited agencies immediately be required to pay all loans to the Money Pool rests with the Company and its designated representatives. The Order approving JCP&L's participation in the Distribution Sub-Pool shall include the fifteen provisions included as part of the previous Order²⁰ approving the Company's participation, except for modifications requested as part of the Company's current Petition. Further, use of the Sub-Pools should be re-examined by the Board at the

¹⁷ Id., at 7-8.

¹⁸ Id., at 8.

¹⁹ Id., para. 1-13, at 6-7.

²⁰ 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 Corporation Intra System Money Pool Amendment No. 10 to the Petition, BPU Dkt. No EF02030185, Order dated Dec. 21, 2022.

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Company's next base rate case to ensure that JCP&L is receiving the most advantageous borrowing rates available through the Money Pool.

Rate Counsel notes that the Board has not issued sanctions for the Money Pool Agreement violations which occurred from November 23, 2020 to March 21, 2021, nor has it issued an order or any response regarding JCP&L's March 2021 Letter Request. Rate Counsel reiterates its concerns regarding this unresolved issue and recommends that any order issued in this matter again include Condition number 15 from the previous Order in this docket.²¹ Condition number 15 as amended by the parties states: "The appropriateness of any sanctions for JCP&L's violation of N.J.A.C. 14:4-4.7(f)(4) and N.J.A.C. 14:4-4.7(h) between November 23, 2020 and March 21, 2021 has not been determined by the Board and may be considered at a future date as part of this or another appropriate proceeding."²² Rate Counsel reserves all rights with regard to this issue and recommends that the Board leave this docket open to resolve this issue before additional Money Pool filings are made by the Company.

Respectfully submitted,

BRIAN O. LIPMAN
DIRECTOR, DIVISION OF RATE COUNSEL

By: /s/ Robert Glover
Robert Glover
Assistant Deputy Rate Counsel

c: Service list (via electronic mail)

²¹ Ibid. This Order extended the Money Pool Agreement to Dec. 31, 2025.

²² JCP&L letter to the Board Secretary dated Dec. 2, 2022 in BPU Dkt. No. EF02030185.