

August 30, 2024

Via Electronic Mail

Sherri L. Golden, Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 1st Floor
Trenton, New Jersey 08625
board.secretary@bpu.nj.gov

**Re: Letter Petition of Jersey Central Power & Light Company proposing to
refund overcharged amounts due to incorrect TRA-86 gross-up applied to
Customer invoices**

Dear Secretary Golden:

Jersey Central Power & Light Company (“Company” or “JCP&L”) herewith files its petition proposing to refund overcharged amounts due to incorrect TRA-86 gross-up applied to customer invoices. The Company completed a review of its application of the Internal Revenue Code tax gross-up factor to invoices for customer requested work, including contributions in aid of construction (“CIAC”) and refundable advances, on or around May 31, 2024. Previously, in 2018, JCP&L filed a petition, as ordered¹, with the New Jersey Board of Public Utilities’ (“Board” or “BPU”) reflecting the impacts from the Federal Tax Cuts and Jobs Act of 2017 (“2017 Act”)², which set forth changes to the Federal Internal Revenue Tax Code, including a reduction to the federal income tax rates. However, JCP&L did not file notice with the BPU of its update to reflect the results of its 2020 base rate case filing, which rates were effective January 1, 2021.

In the Company’s review of this matter, it was discovered that the tax gross-up factor in effect since 2018 had been changed incorrectly. Pursuant to N.J.A.C. § 14:3-8.6(f)4, the Company is required to file the factor based on the Internal Revenue Code (IRC) Gross-up Factor Template posted on the Board’s website, which is reflective of the rate of return authorized by the Company’s latest approved base rate case. However, it was discovered that JCP&L’s tax gross-up factor calculated based on its last authorized rate of return was not being used. Instead, the Company’s tax gross-up factor has been incorrectly updated annually based on an Allowance for Funds Used During Construction rate. This method is used to calculate the tax gross-up factor in other FirstEnergy state jurisdictions; however, it was erroneously applied to JCP&L. The result is an incorrect tax gross-up factor has been applied to amounts billed to 6,179 invoices issued during the period encompassing invoices from 2018 until corrected November 2, 2023. Below are the correct tax gross-up factors that should have been used since January 1, 2018.

¹ In the Matter of the New Jersey Board of Public Utilities’ Consideration of the Tax Cuts and Jobs Act of 2017, BPU Docket No. AX18010001, Order dated January 31, 2018. See also, In the Matter of the Jersey Central Power & Light Company for Approval of Revised Rates (Effective on An Interim Basis April 1, 2018) to Reflect the Reduction Under the Tax Cuts and Jobs Act of 2017, BPU Docket No. ER18030226, Order dated May 8, 2019.

² The effective date of the 2017 Act was January 1, 2018.

2018 factor	1.1572
2019 factor	1.1572
2020 factor	1.1572
2021 factor	1.1591
2022 factor	1.1591
2023 factor	1.1591

The invoices for customer requested work (“CIAC Payments”) originate in the Company’s work management system (“CREWS”). The component information is then passed to a billing module in SAP to process billing and payment. The tax gross-up factors are also maintained in CREWS. Because of the configuration of these systems, the component information is not readily available in a user-friendly format to be queried. However, using its information technology resources, the Company has been able to produce an estimate of the over- and under-billing for income taxes related to 4,629 of the CIAC invoices during the affected period. Further, while the query used to generate this estimate produces highly accurate results, there is some, albeit small, opportunity for error. Because the SAP billing module used to generate these invoices is not interfaced with the customer billing system, these invoices are not attributed to or recorded to customer accounts, like monthly billings for electric service. However, the majority of invoices would be attributed to third parties, generally contractors, who typically pay for billable work.

The remaining 1,550 invoices issued during the affected period required manual review to identify and extract all of the billing component information, assess the proper application of the tax gross-up factors, and confirm the tax gross-up amounts.

In addition, 1,956 invoices of the original 6,179 invoices were identified as being potentially over-charged for the tax gross-up amounts. The Company hired temporary employees to manually look up the affected invoices to gather the billing information, which is summarized in the chart below.

			Original	Corrected	Under/(Over)	Under/(Over)	
Results of Invoice Review	# of Invoices	Base Amount	Tax Gross-Up	Tax Gross-Up	Payment	Payment	Median
					Tax Gross-up	Average	
Out of Scope (Billing date, duplicate, credit entry, PSE&G Tx)	482	N/A	N/A	N/A	N/A	N/A	N/A
Overcharged > \$25	1587	\$ 51,148,969.42	8,762,899.07	\$ 8,103,499.97	\$ (659,399.10)	\$ (415.50)	\$ (185.29)
Overcharged < \$25	824	2,107,250.82	336,917.74	\$ 331,378.86	\$ (5,537.67)	\$ (6.72)	\$ (2.57)
Undercharged	1452	\$ 35,680,579.96	\$ 5,414,938.33	\$ 5,621,187.52	\$ 206,250.27	\$ 142.05	\$ 37.18
Charged Correctly	1834	\$ 29,971,022.81	\$ 4,700,314.24	\$ 4,700,314.24	\$ -	\$ -	\$ -
Total Invoices (Excludes Base Amount and Gross-Up \$ from "Out of Scope")	6179	\$ 118,907,823.01	19,215,069.38	\$ 18,756,380.59	\$ (458,686.50)		

During the review, 482 invoices were identified as being out of scope for a number of reasons, including billing dates prior to 2018 in which the correct gross-up factors were applied, duplicate invoices pulled by the original IT data extract, credit entries for cancellation of jobs and the associated invoices, and invoices for transmission work billed to PSE&G (i.e., not distribution charges, so these will be processed by the Company’s transmission group to review and make any applicable corrections). The remaining invoices were then separated into four categories:

1. Overcharged Gross-up greater than \$25;
2. Overcharged Gross-up less than \$25;
3. Undercharged Gross-up; and

4. Gross-up charged correctly.

The net result of the over-charged gross-up amounts and the under-charged gross-up amounts is \$458,686.50 in tax over-charges. The gross amounts overcharged were \$659,399.10 for the 1,587 invoices that were over-charged by an amount greater than \$25 and \$5,537.67 for the remaining invoices that were over-charged by an amount less than \$25.

While conducting its review, the Company discovered a large number of the invoices identified as overcharged were for customer advances (i.e., line extensions), which amounts are refundable. Because some or all of the tax gross-up amounts associated with these advances may have already been refunded to customers, the Company will need to use a slightly different process to determine the refunds associated with these advances, as it will include additional steps. Affected invoices will need to be compared to the balances remaining in the Refundable Deposits 252 account which tracks these advances. The 252 Account will then need to be reconciled for any refunds.

The invoices that were determined to have overcharged the gross-up factor were categorized as non-refundable (Contributions) and refundable (Advances) as indicated in the chart below.

Comparison of Refundable and Non-Refundable Invoices Overcharged > \$25	# of Invoices	Base Amount	Original	Corrected	Under/(Over)	Under/(Over)	Median
			Tax Gross-Up	Tax Gross-Up	Payment	Payment	
					Tax Gross-up	Average	
Non-Refundable Invoices	796	16,270,852.40	2,780,355.74	\$ 2,578,438.06	\$ (201,917.68)	\$ (253.67)	\$ (96.71)
Refundable Invoices	791	\$ 34,878,117.02	\$ 5,982,543.33	\$ 5,525,061.91	\$ (457,481.42)	\$ (578.36)	\$ (318.10)
Total Refundable and Non-Refundable Invoices (Gross-Up \$ overcharged > \$25)	1587	51,148,969.42	8,762,899.07	8,103,499.97	(659,399.10)		

Of the 791 invoices identified as refundable during this review, 293 have been fully refunded and 498 have been either partially refunded or are awaiting refund. Reducing the total over-payment amount by these invoices that have been fully refunded reduces the total overpayment by \$123,286.48, from \$659,399.10 to \$536,112.62. The chart below shows the breakdown of the refundable amounts.

Comparison of Refundable and Non-Refundable Invoices Overcharged > \$25	# of Invoices	Capital	Original	Corrected	Under/(Over)	Under/(Over)	Median
		Base Amount	Tax Gross-Up	Tax Gross-Up	Payment	Payment	
					Tax Gross-up	Average	
Non-Refundable Invoices	796	16,270,852.40	2,780,355.74	\$ 2,578,438.06	\$ (201,917.68)	\$ (253.67)	\$ (96.71)
Refundable Invoices	791	\$ 34,878,117.02	\$ 5,982,543.33	\$ 5,525,824.27	\$ (456,719.06)	\$ (577.39)	\$ (317.03)
Fully Refunded	293	\$ 9,861,390.36	\$ 1,681,336.66	\$ 1,558,050.18	\$ (123,286.48)	\$ (420.77)	\$ (294.30)
Partially or Pending Refund	498	\$ 25,016,726.66	\$ 4,301,206.67	\$ 3,967,774.08	\$ (333,432.59)	\$ (669.54)	\$ (328.15)
Total Refundable and Non-Refundable Invoices (Gross-Up \$ overcharged > \$25)	1587	51,148,969.42	8,762,899.07	8,104,262.33	(658,636.74)		

In general, beginning one year after the first connection of a load, the Company will refund a sum equal to ten times total actual distribution revenues from all such bona fide owner(s) or responsible tenant(s) during such contract year, up to (but not more than) the refundable deposit amount. Refunds continue in subsequent years, for up to nine additional years after the first year, and will be equal to ten times the positive difference after subtracting: 1) the highest total actual distribution revenues used for calculating the refund in any previous year, from 2) the total actual distribution revenues from all such bona fide owner(s) or responsible tenant(s) during each such subsequent year, up to (but not more than) the remaining refundable deposit amount. Any funds remaining at the end of the 10-year period are forfeited to the Company.

The refunds that have been collected are in a lump sum comprised of the capital amount

and the tax gross-up. When refunds are returned, the refund amount is based on the lump sum, whereas a portion of the refund represents a piece of the capital advance, and another portion of the refund represents the associated tax gross-up. Refunds are calculated and amounts are returned almost on a daily basis. In practice, many refundable deposits are quickly returned, with some receiving their entire refund in the first year of connection of load. As a result, refunds for any of the 498 deposits depicted in the chart above that have either been partially refunded, or are awaiting refund, will need to be examined to ensure there are no excess amounts refunded when any excess tax gross-up amounts are refunded.

Currently, the Company is in a position to begin refunding the amounts associated with the 796 non-refundable invoices. The remaining partial or fully refunded invoices for refundable advances would be reviewed again to determine which amounts may have been fully refunded prior to beginning any approved refund process, as well as adjust for any amounts that have been partially refunded prior to beginning the process to refund any excess tax gross-ups.

JCP&L has been in contact with BPU Staff to determine corrective actions. The Company is proposing that the proper threshold for refunding any incorrect charges is \$25 or greater, and recommends that non-refundable invoices have credit memos applied to refund the excess tax gross-up that was charged. In addition, the Company would propose to refund any remaining balances of the refundable advances as well, at the same threshold.

There remains a small amount of overcharged tax gross-up payments for 824 invoices that were overcharged less than \$25 each. It would not be cost-effective to process refunds for these invoices, which average \$6.72, with a substantial amount less than \$1 each. The Company does not consider itself eligible to retain those overcharged amounts and proposes to make a donation to an energy-related non-profit entity. The Company notes it is not proposing to rebill the 1,452 invoices that were identified as being undercharged in the total amount of \$206,250.27.

In accordance with the BPU's March 19, 2020 Order in BPU Docket No. EO20030254, JCP&L is submitting this report by electronic mail only. Please kindly confirm your receipt and acceptance of this report by electronic mail at your earliest convenience.

Should you have any questions, please do not hesitate to contact me.

Sincerely yours,



Mark A. Mader
Director, NJ Rates & Regulatory Affairs
973-401-8199

cc: Jaqueline Galka
Malike Cummings
Cindy Bianco
Stacy Peterson