



STATE OF NEW JERSEY
Board of Public Utilities
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Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

ENERGY

IN THE MATTER OF THE VERIFIED PETITION)	DECISION AND ORDER
OF JERSEY CENTRAL POWER & LIGHT)	APPROVING STIPULATION FOR
COMPANY CONSTITUTING ITS ANNUAL FILING)	PROVISIONAL NGC RATES
WITH RESPECT TO THE NON-UTILITY)	
GENERATION CHARGE CLAUSE OF ITS FILED)	
TARIFF ("2020 NGC FILING"))	DOCKET NO. ER21010083

Parties of Record:

Joshua R. Eckert, Esq., on behalf of Jersey Central Power & Light Company
Brian O. Lipman, Esq., Acting Director, New Jersey Division of Rate Counsel

BY THE BOARD:

On January 29, 2021, Jersey Central Power & Light Company ("JCP&L" or "Company") filed a petition with the New Jersey Board of Public Utilities ("Board") seeking review and approval of the amounts included in the Company's Non-Utility Generation Charge ("NGC") deferred balance ("2020 NGC Petition"). Among other things, the NGC relates to the amounts paid by the Company under Board-approved contracts with non-utility generators ("NUGs") for the period January 1, 2020 through December 31, 2020 ("2020 NGC Period"). By this Decision and Order, the Board considers a Stipulation for provisional Rates ("Stipulation") executed by JCP&L, Board Staff ("Staff"), and the New Jersey Division of Rate Counsel ("Rate Counsel") (collectively, "Parties") which requests that the Board approved revised NGC rates on a provisional basis, subject to refund with interest.

BACKGROUND AND PROCEDURAL HISTORY

As a result of the Board's March 7, 2001 Final Decision and Order, the Company implemented unbundled rates that included a new tariff rider entitled the "Market Transition Charge" which was renamed the NGC effective September 1, 2004.¹ The NGC is designed to recover, among other things, the portion of the costs of power purchases from NUGs that were deferred on JCP&L's books, to the extent JCP&L was unable to fully recover them under its regulated rates and market sales.

¹ In re Jersey Central Power and Light Company d/b/a GPU Energy – Rate Unbundling, Stranded Cost and Restructuring Filings, BPU Docket Nos. EO97070458, EO97070459, and EO97070460, Final Decision and Order dated March 7, 2001 ("Restructuring Order").

Other costs included in the NGC are costs associated with the Yards Creek pumped storage generating facility (“Yards Creek”), wholesale energy/capacity revenues and expenses for PURPA Qualifying Facilities (“QFs”) taking service under Rider QFS, wholesale revenues and expenses associated with an allocation of the St. Lawrence public power project (“St. Lawrence”), and revenues from the lease of certain legacy fiber communication equipment to third parties.²

The composite NGC rate also includes the recovery of the Deferred Basic Generation Service (“BGS”) Transition Bond Charge (“DB-TBC”) and Deferred BGS MTC-Tax Charge (“DB-MTC-Tax”) related to the securitization of BGS transition costs.

2020 NGC Petition

On January 29, 2021, JCP&L filed the 2020 NGC Petition with the Board seeking review and approval of the amounts included in the Company’s NGC deferred balance to the extent accumulated during the 2020 NGC Period. In the 2020 NGC Petition, JCP&L provided that the net NGC deferral balance on December 31, 2020 amounted to an over-recovery of \$6,987,587 after the application of carrying costs of \$286,443. In addition, the Company projected that, at present rates, the net NGC deferred balance on December 31, 2021 would be an over-recovery of \$1,246,595 after the application of carrying costs of \$22,564. In JCP&L’s 2019 NGC Petition under Docket No. ER20060473, the Company indicated that the DB-TBC would be fully satisfied as of May 2021. Accordingly, the Company proposed to reset the NGC factor, effective June 1, 2021, to reset the NGC to incorporate the removal of Yards Creek, St. Lawrence DB-TBC and DB-MTC-Tax. The proposed total NGC would be a credit rate of \$0.000114 per kWh [excluding Sales and Use Tax (“SUT”)] which would credit customers \$2,189,109 annually to refund the net of ongoing revenues and expenses from the lease of certain legacy fiber communications equipment to third parties and Rider QFS.

JCP&L explained that after the Company received the Yards Creek Order, the Company became aware that an amendment to Yards Creek Interconnection Service Agreement (“ISA”) needed to be filed at the Federal Energy Regulatory Commission (“FERC”). On January 13, 2021, PJM Interconnection, L.L.C. and JCP&L filed an amended Yards Creek ISA at FERC, requesting an expedited comment period and issuance of an order accepting the amended Yards Creek ISA by February 15, 2021. Accordingly, the Company was not able to close on the transaction until FERC approved the amended ISA. JCP&L anticipated that the transaction would close in the first quarter of 2021, and indicated that it would supplement the 2020 NGC Petition with testimony regarding the closing at that time.

Subsequently, JCP&L submitted supplemental testimony regarding the Yards Creek transaction and updated the schedules in the 2020 NGC Petition to include actual information through June 2021 (“Updates”). Based upon the Updates, JCP&L projected that, at present rates, the net NGC

² On October 28, 2020, the BPU approved the sale of JCP&L’s ownership interest in Yards Creek. See In re the Verified Petition of Jersey Central Power & Light Company Seeking (a) Approval of the sale of its Ownership Interest in the Yards Creek Generating Station Pursuant to N.J.S.A. 48:3-7, (b) Waiver of the Advertising Requirement of N.J.A.C. 14:1-5.6(b), (c) A Specific Determination Allowing the Yards Creek Generating Station to be an Eligible Facility Pursuant to Section 32 of the Public Utility Holding Company Act of 1935 Under the Public Utility Holding Company Act of 2005, (d) To the Extent Necessary, a Determination of Compliance with, or the Non-Applicability or Waiver of, the Auction Standards Under the Board’s 1998 Order Adopting Auction Standards Under N.J.S.A. 48:3-59 b., and (e) Other Related Relief, BPU Docket No. EM20050343, Order dated Oct. 28, 2020 (“Yards Creek Order”).

deferred balance at December 31, 2021 would be an over-recovery of \$323,421 (after the application of carrying charges).

Based upon the Updates, JCP&L revised its proposed NGC credit rate to \$0.000215 per kWh, excluding SUT.

The Company's 2020 NGC Petition requested a decrease to rates, and therefore, public hearings were not held in this matter. In addition, no written comments from the public were received.

STIPULATION

Following a review of the 2020 NGC Petition, Updates, and discovery responses, the Parties executed the Stipulation, which provides for the following:³

1. The Parties agree that, during the pendency of this proceeding, an interim credit rate of \$0.000215 per kWh (excluding SUT) will be implemented. The interim credit rate was developed considering the Company's ending NGC balance as of December 31, 2020 of (\$6,987,587), including carrying costs of (\$286,443), as well as a projected over-recovery as of December 31, 2021 of (\$323,421), including carrying costs of (\$15,104). With the sale of Yards Creek (March 2021) and the maturity of certain transition bonds (June 2021) occurring in the first half of 2021, the interim annual credit rate of \$4,159,364 was calculated based on projected activity for the period July 1, 2021 to December 31, 2021 and then annualized. See Stipulation Attachments A-H. The Company shall file a revised tariff in the form of Stipulation Attachment I.
2. The Parties further agree that this proceeding will remain open and that discovery will continue on issues related to the Company's proposed refund of certain vendor payments through the NGC and the Company's calculation of the net proceeds of the Yards Creek transaction, including but not limited to the legal fees related to that transaction.
3. The Parties further agree that the interest rate applied to the NGC deferred balance during the period the interim rate is in effect will be set to an interest rate equal to the rate on seven-year constant maturity Treasuries, as shown in the Federal Reserve Statistical Release on or closest to January 1 of each year, plus sixty basis points, ("Carrying Cost Rate"), until changed by a future Board Order. The Parties agree that the Carrying Cost Rate is currently 1.24%. The annual compounding date remains January 1st of each year.
4. The Parties agree that a typical residential customer using a class average 768 kWh per month will see a decrease in their average monthly bill of \$0.27, or 0.25%, as a result of the implementation of the interim rate.

DISCUSSION AND FINDING

The Board, having carefully reviewed the record to date in this proceeding, including the 2020 NGC Petition, the Updates and attached Stipulation, **HEREBY FINDS** that the Stipulation is reasonable, in the public interest and in accordance with the law. Accordingly, the Board **HEREBY ADOPTS** the Stipulation as its own, as if fully set forth herein.

³ Although described in this Order, should there be any conflict between this summary and the Stipulation, the terms of the Stipulation control, subject to the findings and conclusions contained in this Order. Each paragraph is numbered to coincide with the paragraphs of the Stipulation.

The Board **HEREBY APPROVES** on a provisional basis, subject to refund, a composite MTC/NGC credit factor of \$0.000215 per kWh (excluding SUT). As a result of the Stipulation, an average JCP&L residential customer will see a decrease in their monthly bill of \$0.27.

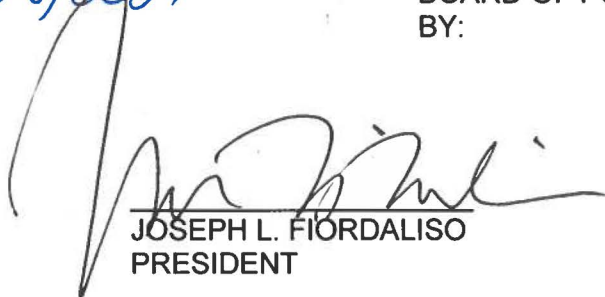
The Board **HEREBY DIRECTS** the Company to file the appropriate revised tariff sheets conforming to the terms of this Order by November 15, 2021.

The Company's costs, including those related to the NGC deferred balance, remain subject to audit by the Board. This Decision and Order shall not preclude nor prohibit the Board from taking any actions determined to be appropriate as a result of any such audit.

The effective date of this Order is November 4, 2021.

DATED: *October 28, 2021*

BOARD OF PUBLIC UTILITIES
BY:



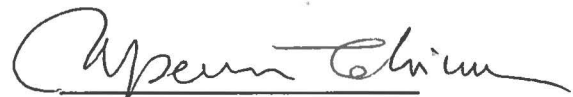
JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER



UPENDRA J. CHIVUKULA
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER

ATTEST: 
AIDA CAMACHO-WELCH
SECRETARY

IN THE MATTER OF THE VERIFIED PETITION OF JERSEY CENTRAL POWER & LIGHT
COMPANY CONSTITUTING ITS ANNUAL FILING WITH RESPECT TO THE NON-UTILITY
GENERATION CHARGE CLAUSE OF ITS FILED TARIFF (“2020 NGC FILING”)

BPU DOCKET NO. ER21010083

SERVICE LIST

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

In the Matter of the Verified Petition of Jersey	:	
Central Power & Light Company Constituting	:	STIPULATION FOR
Its Annual Filings With Respect to the Non-	:	PROVISIONAL RATES
Utility Generation Charge Clause of Its Filed	:	
Tariff (" 2020 NGC Filing ")	:	BPU Docket No. ER21010083
	:	
	:	

TO THE HONORABLE BOARD OF PUBLIC UTILITIES:

APPEARANCES:

Lauren M. Lepkoski, Esq. and Joshua R. Eckert, Esq., attorneys for the Petitioner, Jersey Central Power & Light Company

T. David Wand, Esq. (Deputy Rate Counsel, Managing Attorney, Electric), **Maria Novas-Ruiz, Esq.** (Assistant Deputy Rate Counsel), for the New Jersey Division of Rate Counsel (**Brian O. Lipman**, Acting Director)

Terel Klein, Deputy Attorney General, for the Staff of the New Jersey Board of Public Utilities (**Andrew J. Bruck**, Acting Attorney General of the State of New Jersey)

This Stipulation of Settlement (the "Stipulation") is hereby made and executed as of the dates provided below by and among the Petitioner, Jersey Central Power & Light Company ("JCP&L" or "Company"), the Staff of the New Jersey Board of Public Utilities ("Staff"), and the New Jersey Division of Rate Counsel ("Rate Counsel") (collectively, "Parties").

The Parties do hereby join in recommending that the New Jersey Board of Public Utilities ("Board" or "BPU") issue an Order approving this Stipulation based upon the following provisions.

Background

The Company's Non-Utility Generation Charge ("NGC") was initially approved by the Board to recover, among other things, the portion of the costs of power procured from non-utility

generators (“NUGs”) that were deferred on JCP&L’s books to the extent that the Company was unable to recover them in full under its regulated rates and market sales.¹ The Restructuring Order authorized the Company to defer, for future recovery, its costs incurred under power purchase agreements (“PPAs”) with NUGs, to the extent those costs were not recovered on a current basis through the Company’s capped and declining rates over the restructuring Transition Period (August 1, 1999, through July 21, 2003), with this treatment to continue after the end of the transition period.²

Pursuant to the Board’s Final Order dated May 17, 2004 issued in connection with JCP&L’s “2002 Deferred Balances Petition” in BPU Docket No. ER02080507, all issues relating to the NGC deferred balance through July 31, 2003 (the end of the restructuring Transition Period), were determined and resolved.³

The Company’s “2005 NGC Filing” in Docket No. ER05121018 sought review of its NGC deferred balance for the period from August 1, 2003 through December 31, 2005, and approval of an adjustment to the level of its NGC. This proceeding was settled and resolved in a Stipulation of Settlement dated November 8, 2006 by and among JCP&L, Staff, and the then New Jersey

¹ In re Jersey Central Power & Light Company, d/b/a GPU Energy – Rate Unbundling, Stranded Cost and Restructuring Filings, BPU Docket Nos. EO97070458, EO97070459, and EO97070460, Final Order dated March 7, 2001 (“Restructuring Order”). The NUG clause was originally designated as the Market Transition Charge and renamed the Non-Utility Generation Charge effective September 1, 2004, to comply with the BPU’s final order dated May 17, 2004, in BPU Docket Nos. ER02080506 *et al.*

² Restructuring Order at 112, ¶30.

³ In re the Verified Petition of Jersey Central Power & Light Company For Review and Approval of an Increase in and Adjustments to its Unbundled Rates and Charges for Electric Service, and for Approval of Other Proposed Tariff Revisions in Connection Therewith and In Re the Verified Petition of Jersey Central Power & Light Company for Review and Approval of its Deferred Balances Relating to the Market Transition Charge and Societal Benefits Charge and In re the Consumer Education Program on Electric Rate Discounts and Energy Competition - Jersey Central Power & Light Company’s Verified Petition for Declaratory Ruling and In re the Verified Petition of Jersey Central Power & Light Company for Review and Approval of Costs Incurred for Environmental Remediation of Manufactured Gas Plant Sites and for an Increase in the Remediation Adjustment Clause of its Filed Tariff in Connection Therewith and In re Jersey Central Power & Light Company for Increases in its Levelized Energy Adjustment Clause Charge and Demand Side Factor, BPU Docket Nos. ER02080506, ER02080507, EO02070417, ER02030173, and ER95120633, Final Order dated May 14, 2004 (“Deferred Balances Order”).

Department of the Public Advocate, Division of Rate Counsel, which Stipulation of Settlement was approved by Board Order dated December 6, 2006.⁴ Pursuant to the 2006 NGC Order, the Company was directed to make an annual informational NGC filing with the Board in the last quarter of each year, commencing in 2007, with notice to Rate Counsel, and an opportunity for full discovery and evidentiary hearings.⁵

In accordance with the Board's directive in the 2006 NGC Order, the Company submitted its annual NGC filings between December 21, 2007 and June 26, 2020. On December 2, 2020, the Board issued an Order that provided JCP&L would make its 2020 NGC Filing in January 2021.⁶ Pursuant to the December 2020 Order, JCP&L agreed to "file testimony in the 2020 NGC proceeding upon the closing of the Yards Creek sale to address the final accounting of the Yards Creek sale and the associated calculation of net proceeds."⁷

In accordance with the December 2020 Order, on January 29, 2021, JCP&L filed with the Board a Verified Petition, including supporting schedules, under BPU Docket No. ER21010083

⁴ In re the Verified Petition of Jersey Central Power & Light Company ("JCP&L") for the Review and Approval of an Adjustment of the Non-Utility Generation Charge Clause of Its Filed Tariff ("2005 NGC Filing"), Docket No. ER05121018, Order dated December 6, 2006 ("2006 NGC Order").

⁵ See the 2006 NGC Order at 4, ¶6.

⁶ In re the Verified Petition of Jersey Central Power & Light Company Constituting Its Annual Filing With Respect to the Non-Utility Generation Charge Clause of Its Filed Tariff ("2019 NGC Filing"), BPU Docket No. ER20060473, Order dated December 2, 2020 ("December 2020 Order").

⁷ On October 28, 2020, the Board issued an Order approving JCP&L selling its interest in the Yards Creek Generating Station ("Yards Creek") to Yards Creek Energy, LLC and applying the net proceeds of the sale against the balance of the Company's deferred storm-related regulatory asset. In that Order, the Board required that within thirty (30) days of the date of the closing on the Yards Creek transaction, the Company shall file with the Board proof of the closing, net transaction costs, and final journal entries along with a detailed calculation, including selling expenses, of the sale. In re the Verified Petition of Jersey Central Power & Light Company Seeking (a) Approval of the Sale of Its Ownership Interest in the Yards Creek Generating Station Pursuant to N.J.S.A. 48:3-7, (b) Waiver of the Advertising Requirement of N.J.A.C. 14:1-5.6(b), (c) A Specific Determination Allowing the Yards Creek Generation Station to be an Eligible Facility Pursuant to Section 32 of the Public Utility Holding Company Act of 1935 Under the Public Utility Holding Company Act of 2005, (d) To the Extent Necessary, A Determination of Compliance With, or the Non-Applicability or Waiver of, the Auction Standards Under the Board's 1998 Order Adopting Auction Standards Under N.J.S.A. 48:3-59(b), and (e) Other Related Relief, BPU Docket No. EM20050343 (Order Approving Sale of Generation Station, Oct. 28, 2020).

("2020 NGC Filing"), seeking review and approval of the deferred amounts included in the Company's NGC deferred balance, which, among other things, relate to amounts paid by the Company under Board-approved contracts with NUGs, to the extent accumulated from January 1, 2020 through December 31, 2020 ("2020 NGC Period"). In the 2020 NGC Filing, JCP&L proposed to set a new NGC factor at a credit rate of \$0.000114 per kWh (excluding Sales and Use Tax ("SUT")).⁸

On March 5, 2021, JCP&L's sale of its interest in Yards Creek to Yards Creek Energy, LLC, closed.⁹

On April 27, 2021, JCP&L filed a Supplemental Letter in the instant proceeding which supplemented the Company's Verified Petition with the Direct Testimony of Tracy M. Ashton, and associated Schedule TMA-1, which addressed the final accounting of the Yards Creek sale and the associated calculation of the net proceeds resulting from same. Schedule TMA-2 stated the cost to sell Yards Creek was \$1,377,947.99. The Supplemental Letter also updated schedules reflecting certain credits that the Company was proposing to be applied against the Rider NGC deferred balance. Specifically, JCP&L proposed that a monthly credit be applied against the Rider NGC deferred balance to return of ratepayer funds used for certain vendor payments that FirstEnergy Corp. disclosed had been improperly classified, misallocated, or otherwise lacked proper supporting documentation, and which had been charged to its affiliated operating companies, including JCP&L ratepayers.

⁸ At the time the Company submitted the 2020 NGC Filing, it had not closed on the Yards Creek sale. Therefore, Company did not submit direct testimony as part of the Verified Petition addressing final accounting of the Yards Creek sale and the associated calculation of net proceeds.

⁹ On April 5, 2021, JCP&L filed the accounting entries associated with the closing of the Yards Creek transaction, in BPU Docket No. EM20050343, in accordance with the requirements in that proceeding.

Stipulation

1. The Parties agree that, during the pendency of this proceeding, an interim credit rate of \$0.000215 per kWh (excluding SUT) will be implemented. The interim credit rate was developed considering the Company's ending NGC balance as of December 31, 2020 of (\$6,987,587), including carrying costs of (\$286,443), as well as a projected over-recovery as of December 31, 2021 of (\$323,421), including carrying costs of (\$15,104). With the sale of Yards Creek (March 2021) and the maturity of certain transition bonds (June 2021) occurring in the first half of 2021, the interim annual credit rate of \$4,159,364 was calculated based on projected activity for the period July 1, 2021 to December 31, 2021 and then annualized.¹⁰ See Attachments A-H. The Company shall file a revised tariff in the form of Attachment I.

2. The Parties further agree that this proceeding will remain open and that discovery will continue on issues related to the Company's proposed refund of certain vendor payments through the NGC and the Company's calculation of the net proceeds of the Yards Creek transaction, including but not limited to the legal fees related to that transaction.

3. The Parties further agree that the interest rate applied to the NGC deferred balance during the period the interim rate is in effect will be set to an interest rate equal to the rate on seven-year constant maturity Treasuries, as shown in the Federal Reserve Statistical Release on or closest to January 1 of each year, plus sixty basis points, ("Carrying Cost Rate"), until changed by a future Board Order. The Parties agree that the Carrying Cost Rate is currently 1.24%. The annual

¹⁰ By Order dated June 8, 2006, the BPU approved and issued a Bondable Stranded Costs Rate Order ("Deferred BGS Transition Costs Rate Order") (Docket No. ER03020133) authorizing the issuance and sale of \$182.4 million aggregate principal amount of transition bonds to recover the Company's net of tax deferred basic generation service transition costs incurred during the transition period from August 1, 1999 through July 31, 2003, the imposition of a non-bypassable Transition Bond Charge ("DB-TBC") for the recovery of such costs and the related Market Transition Charge – Tax ("DB-MTC-Tax"). The bondable stranded costs are defined in the Deferred BGS Transition Costs Rate Order and include: (1) the upfront transaction costs and (2) the ongoing transition bond costs.

compounding date remains January 1st of each year.

4. The Parties agree that a typical residential customer using a class average 768 kWh per month will see a decrease in their average monthly bill of \$0.27, or 0.25%, as a result of the implementation of the interim rate.

Conclusion

5. The Parties agree that this Stipulation contains mutual balancing and interdependent clauses and is intended to be accepted and approved in its entirety. In the event any particular provision of this Stipulation is not accepted and approved in its entirety by the Board, or is modified by a court of competent jurisdiction, then any Party aggrieved thereby shall not be bound to proceed with this Stipulation and shall have the right, upon written notice to be provided to all other Parties within ten (10) days after receipt of any such adverse decision, to litigate all issues addressed herein to a conclusion. More particularly, in the event this Stipulation is not adopted in its entirety by the Board in an appropriate Order, or is modified by a court of competent jurisdiction, then any Party hereto is free, upon the timely provision of such written notice, to pursue its then available legal remedies with respect to all issues addressed in this Stipulation, as though this Stipulation had not been signed. The Parties agree that this Stipulation shall be binding on them for all purposes herein.

6. It is specifically understood and agreed that this Stipulation represents a negotiated agreement and, except as otherwise expressly provided for herein:

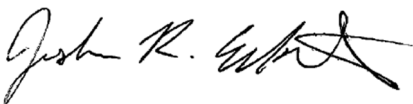
a. By executing this Stipulation, no Party waives any rights it possesses under any prior Stipulation, except where the terms of this Stipulation supersede such prior Stipulation.

b. The contents of this Stipulation shall not in any way be considered, cited or used by any of the undersigned Parties as an indication of any Party's position on any related or other issue litigated in any other proceeding or forum, except to enforce the terms of this Stipulation.

7. This Stipulation may be executed in any number of counterparts, each of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the Parties.

WHEREFORE, the Parties hereto have duly executed and do respectfully submit this Stipulation to the Board and recommend that the Board issue a Final Decision and Order adopting and approving this Stipulation in its entirety in accordance with the terms hereof.

Jersey Central Power & Light Company

By: 
Joshua R. Eckert, Esq.
Jersey Central Power & Light Company

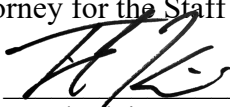
Dated: October 19, 2021

Brian O. Lipman, Esq.
Acting Director, Division of Rate Counsel

By: T. David Wand
T. David Wand, Esq.
Deputy Rate Counsel

Dated: October 19, 2021

Andrew J. Bruck, Acting Attorney General of the State
of New Jersey
Attorney for the Staff of the Board of Public Utilities

By: 
Terel Klein
Deputy Attorney General

Dated: October 19, 2021