



Agenda Date: 2/11/10

Agenda Item: 2B

STATE OF NEW JERSEY

Board of Public Utilities

Two Gateway Center

Newark, NJ 07102

www.nj.gov/bpu/

ENERGY

IN THE MATTER OF THE VERIFIED PETITION OF
JERSEY CENTRAL POWER & LIGHT COMPANY
CONCERNING THE CONTINUATION BEYOND MAY)
31, 2010 OF ITS LEGACY DIRECT LOAD
CONTROL/AIR CONDITIONING CYCLING PROGRAM

ORDER
EXTENDING AC CYCLING
PROGRAM

DOCKET NO. ER10010034

APPEARANCES

Marc B. Lasky, Esq., Morgan, Lewis & Bockius LLP, for the Petitioner
Jersey Central Power & Light Company, 300 Madison Avenue, Morristown, New Jersey 07962-1911

Paul E. Flanagan, Esq., Ami Morita, Esq., Diane Schulze, Esq., Department of the Public Advocate, Division of Rate Counsel, Division of Rate Counsel (Stephanie Brand, Esq., Acting Public Advocate), 31 Clinton Street, 11th Floor, P.O. Box 46005, Newark, NJ 07102

Caroline Vachier, Esq., Jessica L. Campbell, Esq., and Alex Moreau Esq., Deputy Attorneys General for the Staff of the NJ Board of Public Utilities, (Paula T. Dow, Acting Attorney General)

BY THE BOARD:

On January 15, 2010, Jersey Central Power & Light Company ("JCP&L" or "Company") filed a verified petition ("Continuation Petition") with the New Jersey Board of Public Utilities ("Board") proposing to continue its existing residential Legacy Direct Load Control Program, also known as its Air Conditioning Cycling ("AC Cycling") Program, for the period beyond May 31, 2010. The Continuation Petition proposes an extension of the AC Cycling Program without any substantive operational modifications. The Company maintains that continuation of the AC Cycling Program from June 1, 2010 through May 31, 2011 appears to be economic, because the aggregate projected revenues to be received from PJM Interconnection ("PJM") for participation in PJM's demand response ("DR") programs and market opportunities exceed the aggregate projected recoverable costs during that period.

In addition, JCP&L proposes to include existing AC Cycling Program participants, who are located in the target areas for the Company's Integrated Distributed Energy Resource ("IDER") Program, in any general solicitation for the IDER Program. According to the Company, while existing AC Cycling Program participants will not be specifically targeted for enrollment in the IDER Program, if JCP&L becomes aware of any existing AC Cycling Program participants

located in the IDER Program area who have damaged or non-working thermostats or switches, the Company will offer those participants the opportunity to participate in the IDER Program instead. AC Cycling participants who transfer into the IDER Program will be incremental to the previously-approved IDER Program levels. JCP&L proposes to recover reasonable and prudent incremental costs associated with enrolling these customers in the IDER Program through Rider RCC, subject to Board approval.

BACKGROUND:

By way of background, the existing AC Cycling Program was implemented pursuant to the terms of a Stipulation of Settlement (“SOS”) entered into in July 2008 in Docket No. ER07060375, which was approved by the Board by Order dated July 25, 2008. The SOS, entered into by JCP&L; the Department of the Public Advocate, Division of Rate Counsel (“Rate Counsel”) and Board Staff, required the Company to seek further Board authorization for the AC Cycling Program’s continuation beyond May 31, 2009.

Consistent with the SOS and PJM requirements for participation in its DR programs, JCP&L undertook an operability study (“Study”) during 2008 that tested a sample of existing equipment in the AC Cycling Program, including both switches and thermostats. Although the testing indicated a somewhat low equipment operability rate, particularly for switches, the Company provided financial analysis that concluded that continuation of the AC Cycling Program for energy year 2009/2010 was economic because the estimated revenues received by participation in the PJM Interruptible Load for Reliability (“ILR”) Program exceeded the AC Cycling Program’s estimated costs for that year. The Study remains valid for a five- year period as support of the PJM registrations.

By Order dated March 3, 2009, the Board ordered JCP&L to continue its AC Cycling Program during the period from June 1, 2009 through May 31, 2010, consistent with any SOS provisions that determine cycling events, customer incentives and other operational terms. Furthermore, consistent with the SOS, the Order directed the Company not to replace customer inoperable or defective equipment associated with the AC Cycling Program after May 31, 2009. The Company was directed, however, to continue to make service calls in response to requests from participating customers, so long as such service calls were not part of a broad inspection program. In addition, the Board authorized JCP&L to register the AC Cycling Program in the PJM ILR Program for the period from June 1, 2009 through May 31, 2010. The Board also directed the Company to seek further Board approval for continuance of the existing AC Cycling Program beyond May 31, 2010, if the Company deemed such program continuance advisable.

As previously stated, by letter dated January 25, 2010, JCP&L filed its Continuation Petition with the Board, requesting extension of the AC Cycling Program through May 31, 2011, without any substantive modifications to the program’s operation. According to the Continuation Petition, the Company’s analysis shows that the AC Cycling Program would continue to be economic because the aggregate projected revenues to be received from PJM would exceed the aggregate projected recoverable costs for the energy year beginning on June 1, 2010 and ending on May 31, 2011.

After the Company provided additional documentation as to the economic value of the AC Cycling Program to ratepayers, and after intensive telephonic discussions, a stipulation was entered into on February 1, 2010 (“Stipulation”) by Board Staff; Rate Counsel and the Company

providing for continuation of the AC Cycling Program through May 31, 2011, with certain additional provisions.

STIPULATION OF SETTLEMENT:

1. The Parties agree that continuation of the existing AC Cycling Program through May 31, 2011 appears to be cost-effective, and therefore, further agree that the existing AC Cycling Program should be continued for energy year 2010, that is, from June 1, 2010 through May 31, 2011, including the existing Board-approved cost recovery provisions, subject to the determination that such costs are deemed reasonable and prudent. As a result, except as set forth in the Stipulation, costs associated with the Existing AC Cycling Program will continue to be recovered in Rider SCC without modification to the existing recovery mechanism.
2. In accordance with the Continuation Petition, the existing AC Cycling Program will be continued for energy year 2010 without any substantive modifications to the operation of the existing AC Cycling Program. Existing AC Cycling Program participants, who are located in the target areas for the Company's IDER Program, will be included in any general solicitation for the IDER Program. While existing AC Cycling Program participants will not be specifically targeted for enrollment in the IDER Program, if JCP&L becomes aware of any existing AC Cycling Program participants located in the target areas for the IDER Program that have damaged or non-working thermostats or switches, JCP&L will offer those existing AC Cycling Program participants the opportunity to participate in the IDER Program, with the participation in the IDER Program of any transitioning existing AC Cycling participants being incremental to the previously-approved IDER Program levels. The Company will recover reasonable and prudent incremental costs associated with enrolling these customers in the IDER Program through Rider RCC.

DISCUSSION:

The Board has reviewed the Continuation Petition, as well as the Program analysis provided by the Company, the recommendations of Staff and Rate Counsel, and the terms of the Stipulation. JCP&L proposes to continue the AC Cycling Program for an additional year essentially without modifications to the Program, including the payment of incentives to participants, the cycling of switches and thermostats, and the registration of associated capacity in PJM's ILR Program.

The Company's filing in this matter, as supplemented, provides sufficient information to allow the Board to evaluate whether continuation of the AC Cycling Program for the period June 1, 2010 through May 31, 2011 provides sufficient benefits to the State's ratepayers, despite lowered operability of existing program switches and thermostats. JCP&L's financial analysis of the extension of the AC Cycling Program, based upon projected PJM revenues of over \$1,100,000 for summer 2010, show that the estimated Program net revenues exceed expected Program costs by approximately \$228,000. Thus, non-participating ratepayers are not expected to be affected by the continued operation of the full AC Cycling Program as the net credit should continue to offset the Program's costs.

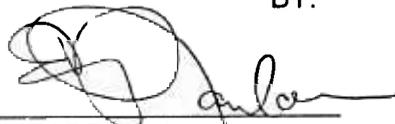
The revenue benefit is in addition to other advantages that the program provides for all classes of ratepayers, including greater distribution system reliability and downward pressure on electricity prices during peak demand periods. Furthermore, the Board believes that the retention of participants in the AC Cycling Program, until all willing participants can be reasonably transitioned into the IDER Program or other successor DR opportunity, can help reduce recruitment costs for the successor program. Additionally, continuation of the AC Cycling Program for existing participants encourages the continuation of changed customer behavior that will hopefully lead these to customers to transfer into the IDER Program or other successor DR program at a later date.

For the foregoing reasons, the Board HEREBY FINDS that JCP&L's AC Cycling Program appears to be economic for the energy year beginning June 1, 2010, and that the Program's continued operation during that period is in the public interest. Therefore, the Board HEREBY APPROVES the Stipulation, and HEREBY ORDERS that the Company continue its AC Cycling Program during the period from June 1, 2010 through May 31, 2011, subject to the terms and conditions of the attached Stipulation. In addition, the Board HEREBY AUTHORIZES JCP&L to register the AC Cycling Program, including DR from both switches and thermostats, in the PJM ILR Program or any successor PJM program, for the period from June 1, 2010 through May 31, 2011.

Furthermore, the Board HEREBY DIRECTS the Company to present a performance review of the AC Cycling Program and the IDER Programs, as well as a transition plan to the Company's IDER Program or other DR program if appropriate, by no later than December 31, 2010, due to the need to terminate the AC Cycling Program no later than May 31, 2012, primarily because of technical and infrastructure issues.

DATED: 2/17/10

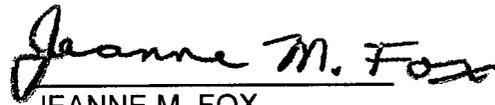
BOARD OF PUBLIC UTILITIES
BY:



ELIZABETH RANDALL
ACTING PRESIDENT



FREDERICK F. BUTLER
COMMISSIONER



JEANNE M. FOX
COMMISSIONER



JOSEPH L. FIORDALISO
COMMISSIONER



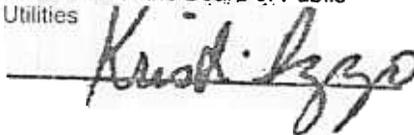
NICHOLAS ASSELTA
COMMISSIONER

I HEREBY CERTIFY that the
document is a true copy of the original
in the files of the Board of Public
Utilities

ATTEST:



KRISTI IZZO
SECRETARY



IN THE MATTER OF THE VERIFIED PETITION OF JERSEY CENTRAL POWER & LIGHT
COMPANY CONCERNING THE CONTINUATION BEYOND MAY 31, 2010 OF ITS LEGACY
DIRECT LOAD CONTROL/AIR CONDITIONING CYCLING PROGRAM

DOCKET NOS. ER07060375 & ER10010034

SERVICE LIST

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<p>Rick Struck Rockland Electric Company 4 Irving Place New York, NY 10003 STRUCKR@oru.com</p>	<p>Michael Dirmeier Georgetown Consulting Group, Inc. 1902 Overlook Ridge Road Keller, TX 76248</p>	<p>Bruce Biewald Synapse Energy Economics, Inc. 22 Pearl Street Cambridge, MA 02149 bbiewald@synapse-energy.com</p>
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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
Concerning the Continuation Beyond May
31, 2010 of its Legacy Direct Load
Control/Air Conditioning Cycling Program
("2010 AC Cycling Filing")

BPU DOCKET NO. ER07060375

**STIPULATION
OF
SETTLEMENT**

TO THE HONORABLE BOARD OF PUBLIC UTILITIES:

APPEARANCES:

Marc B. Lasky, Esq. (Morgan, Lewis & Bockius LLP, attorneys) for the Petitioner, Jersey Central Power & Light Company

Ami Morita, Esq., Deputy Public Advocate, and **Diane Schulze, Esq.**, Assistant Deputy Public Advocate, Department of the Public Advocate, Division of Rate Counsel (**Stefanie A. Brand, Esq.**, Acting Public Advocate and Director, Division of Rate Counsel)

Caroline Vachier, Esq., **Jessica L. Campbell, Esq.** and **Alex Moreau, Esq.**, Deputy Attorneys General, for the Staff of the New Jersey Board of Public Utilities (**Paula T Dow**, Acting Attorney General of New Jersey)

This Stipulation of Settlement ("Stipulation") is hereby made and executed as of the 1st day of February, 2010, by and among Jersey Central Power & Light Company ("JCP&L" or the "Company"), the Staff of the Board of Public Utilities ("Staff") and the New Jersey Department of the Public Advocate, Division of Rate Counsel ("Rate Counsel") (collectively, the "Parties")

The Parties do hereby join in recommending that the Board of Public Utilities ("Board") issue an Order approving this Stipulation, based upon the following stipulations:

Background

By Order dated July 25, 2008¹, the Board approved a Stipulation of Settlement (“Stipulation”) among the Company, Staff and Rate Counsel, providing for, among other things, JCP&L’s continuation of its existing Air Conditioner Cycling Program (“Existing AC Cycling Program”) through May 31, 2009. The Board approved the continued operation of the Existing AC Cycling Program through May 31, 2010 by Order dated March 3, 2009. On January 15, 2010, the Company filed a Verified Petition (“Continuation Petition”) with the Board requesting continuation of the Existing AC Cycling Program through May 31, 2011.

Stipulation

The undersigned Parties DO HEREBY STIPULATE AND AGREE as follows:

The Parties agree that continuation of the Existing AC Cycling Program through May 31, 2011 appears to be cost-effective and, therefore, further agree that the Existing AC Cycling Program should be continued for Energy Year 2010, that is, from June 1, 2010 through May 31, 2011, as proposed in JCP&L’s Continuation Petition, including the existing Board-approved cost recovery provisions thereof, subject to the determination that such costs are deemed reasonable and prudent. As a result, except as set forth below, costs associated with the Existing AC Cycling Program will continue to be recovered in Rider SCC without modification to the existing recovery mechanism.

2. In accordance with the Continuation Petition, the Existing AC Cycling Program will be continued for Energy Year 2010 without any substantive modifications to the operation of the Existing AC Cycling Program. Existing AC Cycling Program participants who

¹ *In the Matter of the New Jersey Direct Load Control Program Proposal – Jersey Central Power and Light*, BPU Docket No. ER07060375, Order Adopting Stipulation of Settlement (July 25, 2008).

are located in the target areas for the Company's Integrated Distributed Energy Resource ("IDER") program² will be included in any general solicitation for the Company's IDER program. While Existing AC Cycling Program participants will not be specifically targeted for enrollment in the IDER program, if JCP&L becomes aware of any Existing AC Cycling Program participant in the target areas for the IDER program that has damaged or non-working thermostats or switches, JCP&L will offer those Existing AC Cycling Program participants the opportunity to participate in the IDER program, with the participation in the IDER program of any transitioning Existing AC Cycling participants being incremental to the previously-approved IDER program levels. The Company will recover reasonable and prudent incremental costs associated with enrolling these customers in the IDER program through Rider RRC.

Conclusion

3. 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

² The IDER program was initially approved as a pilot program as part of the Stipulation in Docket No. ER07060375 and was approved to be expanded in Docket Nos. EO08050326 & EO08080542.

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.

4. The Parties agree that this Stipulation shall be binding on them for all purposes herein.

5. It is specifically understood and agreed that this Stipulation represents a negotiated agreement and has been made exclusively for the purpose of this proceeding. Except as expressly provided herein, (i) no Party waives any rights it possesses under any prior Stipulation, except where the terms of this Stipulation supersede such prior Stipulation, and (ii) the Parties shall not be deemed to have approved, agreed to, or consented to any principle or methodology underlying or supposed to underlie any agreement provided herein in total or by specific item. The Parties further agree that this Stipulation is in no way binding upon them in any other proceeding, except to enforce the terms of this Stipulation.

6. 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: Marc B. Lasky
Marc B. Lasky
Morgan, Lewis & Bockius LLP

Dated: 2/1/2010

Stefanie A. Brand
Acting Public Advocate of New Jersey
and Director, Rate Counsel

By: _____
Diane Schulze
Assistant Deputy Public Advocate

Dated: _____

Paula T. Dow,
Acting Attorney General of New Jersey
Attorney For
Staff of The Board of Public Utilities

By: _____
Caroline Vachier
Deputy Attorney General

Dated: 2/1/10

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: Marc B. Lasky
Marc B. Lasky
Morgan, Lewis & Bockius LLP

Dated: 2/1/2010

Paula T. Dow,
Acting Attorney General of New Jersey
Attorney For
Staff of The Board of Public Utilities

By: _____
Caroline Vachier
Deputy Attorney General

Dated: _____

Stefanie A. Brand
Acting Public Advocate of New Jersey
and Director, Rate Counsel

By: Diane Schulze
Diane Schulze
Assistant Deputy Public Advocate

Dated: 2/1/2010