



Agenda Date: 11/30/11
Agenda Item: 2I

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue
Post Office Box 350
Trenton, NJ 08625-0350
www.nj.gov/bpu/

DIVISION OF ENERGY

IN THE MATTER OF THE PETITION OF RATE)
COUNSEL REQUESTING A BOARD ORDER) ORDER
DIRECTING JERSEY CENTRAL POWER AND LIGHT)
COMPANY TO FILE A BASE RATE CASE PETITION)
AND ESTABLISHING A TEST YEAR OF 2010) DOCKET NO. EO11090528

Stefanie Brand, Director, Division of Rate Counsel

Marc Lasky, Morgan, Lewis & Bockius LLP, for Jersey Central Power and Light

BY THE BOARD:

This matter comes before the Board on an application from the Division of Rate Counsel ("Rate counsel"), seeking to require Jersey Central Power and Light Company ("JCP&L") to file a base rate case, predicated upon Rate Counsel's assertion that JCP&L is earning a rate of return that is not just and reasonable, as required by statute. Rate Counsel points to N.J.S.A. 48:2-21 as foundation for the idea that the Board can and should require a base rate case when rates collected by a regulated entity may no longer be just and reasonable, and predicates its claim upon an analysis of the current rate of return compared to the rate of return authorized to JCP&L through its last rate proceeding. I/M/O Jersey Central Power and Light Company, BPU Dkt. Nos. ER02080506 (Order dated May 31, 2005). Based upon this assertion, Rate Counsel calls upon the Board to issue an Order that requires JCP&L to initiate a base rate case immediately.

JCP&L, in its response to the petition, claims that Rate Counsel's analysis is flawed, and that the rates charged by JCP&L are not unjust and unreasonable such that no action need be taken. Specifically, JCP&L notes that Rate Counsel concentrates only on the overall rate of return, and not on JCP&L's return on equity, which is, according to JCP&L, the most important component of the rate case from the utility's point-of-view. This is further reflected, claims JCP&L, in the Board's decision to use the return on equity for "earnings tests."

Furthermore, JCP&L has reviewed its achieved return on equity, and has calculated it at 10.1%, which it claims is in no way unreasonable. In fact, notes JCP&L, this level of return is consistent with the financial community's expectation of similarly situated utilities. According to

JCP&L, this, coupled with the other omissions and inaccuracies in the analysis by Rate Counsel, renders the request meaningless and unnecessary.

Finally, JCP&L indicates its belief that its decision to not bring a rate case in the last six years is neither unusual nor significant, and in fact represents a reflection on the ability of the company to manage its business in an appropriate and legal manner. For all of these reasons, JCP&L calls upon the Board to deny the request for a rate case as requested by Rate Counsel.

DISCUSSION

As an initial matter, the request before the Board centers on the question of whether the Board should require JCP&L to initiate a base rate case. The answer to that question is not without risk, as a rate case can be expensive and invasive, while allowing a company to earn a rate of return that is unjust and unreasonable is both legally impermissible and financially serious to the ratepayers. Towards that end, while the Board is comfortable with the legal foundation for directing the filing of a base rate case under N.J.S.A. 48:2-21, the Board believes that it is imperative that all appropriate parties have an opportunity to provide input into the question before a final decision is made. Once a more complete record has been developed, the Board will be in a better position to determine if a rate case is necessary or appropriate under the circumstances.

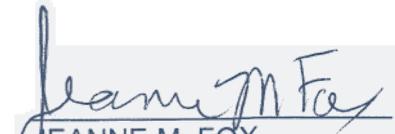
Accordingly, the Board HEREBY DETERMINES to retain jurisdiction over the question of whether or not to require JCP&L to file a base rate case, and HEREBY APPOINTS the President of the Board to serve as the presiding officer. This presiding officer is HEREBY AUTHORIZED to set and modify the schedule for this matter as appropriate, decide upon motions, and otherwise control the conduct of this case, without the need for full Board approval, subject to subsequent Board ratification.

DATED: 11/30/11

BOARD OF PUBLIC UTILITIES
BY:



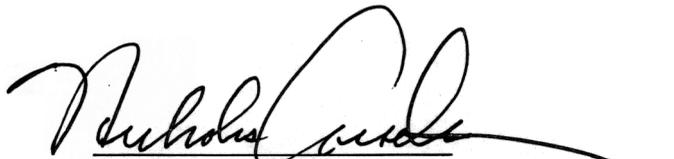
LEE A. SOLOMON
PRESIDENT



JEANNE M. FOX
COMMISSIONER



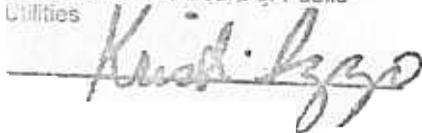
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COMMISSIONER



NICHOLAS ASSELTA
COMMISSIONER

ATTEST: 
KRISTI IZZO
SECRETARY

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



IN THE MATTER OF THE RATE COUNSEL REQUESTING A BOARD ORDER DIRECTING
JERSEY CENTRAL POWER AND LIGHT COMPANY TO FILE A BASE RATE CASE
PETITION AND ESTABLISHING A TEST YEAR OF 2010
DOCKET NO. EO11090528

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