



Agenda Date: 1/25/17
Agenda Item: 2H

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

ENERGY

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. INTRASYSTEM MONEY POOL)
ORDER MODIFYING ORDER)
DATED JULY 24, 2002)
DOCKET NO. EF02030185)
AMENDMENT NO. 8)

Parties of Record:

Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel
Gregory Eisenstark, Esq., Windels Marx Lane & Mittendorf, LLP, for Jersey Central Power & Light Company, Petitioner

BY THE BOARD:

On November 21, 2016, Jersey Central Power & Light ("Company," "JCP&L" or "Petitioner"), a public utility corporation of the State of New Jersey, having offices in Morristown, New Jersey, filed a petition with the New Jersey Board of Public Utilities ("Board") seeking: (1) an eighth (8th) extension of the time within which JCP&L may participate in the FirstEnergy Intersystem Utility Money Pool ("Money Pool"), through December 31, 2019 ("Amendment No. 8"); and (2) to modify its authorization of its limitation on its Money Pool borrowings to an aggregate principal amount not to exceed \$500 million outstanding at any one time. Given the timing of the Company's filing of proposed Amendment No. 8, JCP&L requested an expedited procedure because the Company's current authorization to participate in the Money Pool was through December 31, 2016. The Company requests that the Board issue an order effective no later than January 31, 2017. By this Order, the Board considers those requests.

By Orders of the Board dated July 24, 2002, April 11, 2003, April 20, 2005, December 21, 2007, December 17, 2009, September 22, 2011, March 18, 2011 and March 20, 2013 (collectively, "Money Pool Orders"), the Board authorized the Company, from time to time through December 31, 2016 and subject to certain conditions specified in the Money Pool Orders, to participate in the Money Pool maintained for the benefit of various public utility subsidiaries of FirstEnergy Corp. ("FirstEnergy"), including JCP&L. The Money Pool is made up of various FirstEnergy public utility subsidiaries investing available cash in the Money Pool, which may then be loaned by the Money Pool to other participating FirstEnergy utility subsidiaries to meet their short-term operating needs.

According to the petition, if continued participation is authorized, JCP&L will make available to the Money Pool, from time to time through December 31, 2019, surplus short-term funds in accordance with the terms of the Money Pool. Other participating subsidiaries may also make surplus short-term funds available to the Money Pool (such surplus short-term funds, whether provided by JCP&L or other subsidiaries, are herein referred to as "Internal Funds"). Other participating subsidiaries may also make available to the Money Pool proceeds from bank borrowings or other forms of short-term indebtedness by such other participating subsidiaries (referred to as "External Funds").

As described in the petition filed by the Company on March 19, 2002 and attached as Exhibit 1 to the instant petition ("March 19, 2002 Petition"), participating companies that borrow through the Money Pool would borrow *pro rata* from each company that lends, in the proportion that the total amount loaned by each such lending company bears to the total amount then loaned through the Money Pool. On any day when more than one (1) fund source (e.g., Internal and External Funds), with different rates of interest, is used to fund the loans through the Money Pool, each borrower would borrow *pro rata* from each such fund source in the Money Pool in the same proportion that the amount of funds provided by that fund source bears to the total amount of short-term funds available to the Money Pool. (Exhibit 1 at paragraph 8.)

The March 19, 2002 Petition further states that if only Internal Funds make up the funds available in the Money Pool, the interest rate applicable and payable to or by the participating subsidiaries for all loans of these Internal Funds will be the greater of the thirty (30) Day LIBOR rate as quoted in *The Wall Street Journal* or the money market rate that a lending participating subsidiary could have obtained if it placed its excess cash in such an investment. (Id. at paragraph 9.)

According to the March 19, 2002 Petition, if only External Funds comprise the funds available in the Money Pool, the interest rate applicable to loans of such External Funds would be equal to the lending company's cost for such External Funds. Appropriate "blending" and pro-rating will be effected if more than one participating subsidiary has made funds available to the Money Pool and/or both Internal and External Funds are available in the Money Pool, provided that loans may be made exclusively from Internal Funds or External Funds, rather than from a "blend" of these funds, to the extent it is expected that these loans would result in a lower cost of borrowing. As stated above, JCP&L may make Internal Funds available to the Money Pool but shall not make External Funds available to the Money Pool for the specific purpose of lending to the Money Pool. Further, JCP&L may borrow both Internal and External Funds provided by other participating subsidiaries, provided this is the least costly borrowing alternative available to JCP&L. (Id. at paragraphs 10 and 11.)

JCP&L represents in the March 19, 2002 Petition that funds not required by the Money Pool to make loans (with the exception of funds required to satisfy the Money Pool's liquidity requirements) are ordinarily invested in one or more short-term investments, including: (1) interest bearing accounts with banks; (2) obligations issued or guaranteed by the U.S. government and/or its agencies and instrumentalities, including obligations under repurchase agreements; (3) obligations issued or guaranteed by any state or political subdivision of a state, provided that these obligations are rated not less than "A" by a nationally recognized rating agency; (4) commercial paper rated not less than "A-1" or "P-1" or their equivalent by a nationally recognized rating agency; (5) money market funds; (6) bank certificates of deposit; and (7) Eurodollar funds. The interest income and other investment income earned by the Money Pool on loans and investment of surplus funds will be allocated among the participating

companies in accordance with the proportion each participating company's contribution of funds to the Money Pool bears to the total amount of funds in the Money Pool and the cost of any External Funds provided to the Money Pool by such participating company. Interest and other investment earnings will be computed on a daily basis and settled once per month. (Id. at paragraph 12.)

JCP&L also represents in the March 19, 2002 Petition that FirstEnergy Service Company ("ServeCo") will continue to administer the Money Pool on an "at cost" basis in accordance with the rules previously adopted by the Securities and Exchange Commission under the Public Utility Holding Company Act of 1935, which the Federal Energy Regulatory Commission has accepted for continued use under the Public Utility Holding Company Act of 2005. ServeCo is required to maintain separate records for the proposed Money Pool and any other money pool it administers. (Id. at paragraph 16.)

If continued participation is approved, JCP&L states that it will make available its surplus short term funds to the Money Pool so long as all borrowers in the Money Pool have, at a minimum, investment grade credit ratings from all applicable nationally recognized rating agencies from which ratings are obtained. Therefore, any participating subsidiary that does not meet the applicable credit rating standard would not be allowed to borrow from the Money Pool so long as JCP&L is contributing funds to the Money Pool. If a participating subsidiary has an outstanding loan from the Money Pool at a time when JCP&L is deemed to be a lender (because JCP&L had contributed funds to the Money Pool that were deemed included in such outstanding loan), such participating subsidiary would be required to repay that loan immediately upon no longer meeting the applicable credit rating standard.

JCP&L states that it has discretion to lend its Internal Funds, if any, and other participating subsidiaries have the discretion to lend their Internal and External Funds, if any, and all participating subsidiaries (including JCP&L) have discretion to borrow moneys from the Money Pool at any time. The determination of whether a participating subsidiary at any time has surplus funds to lend to the Money Pool or shall lend funds to the Money Pool is made by such Participating Company's chief financial officer or treasurer, or by a designee thereof, on the basis of cash flow projections and other relevant factors, in such participating company's sole discretion. Each participating subsidiary may withdraw any of its funds from the Money Pool at any time upon notice to ServeCo, as administrator of the Money Pool. Similarly, all borrowings from the Money Pool shall be authorized by the borrowing participating company's chief financial officer or treasurer, or by a designee thereof. A participating subsidiary will not be required to borrow from the Money Pool, if it is determined that the participating subsidiary will be able to obtain funds at lower costs through direct bank borrowing or through the issuance of its commercial paper. No loans will be made available to FirstEnergy, ServeCo or Allegheny Service through the Money Pool. (Id. at paragraphs 13-14.)

Each participating subsidiary receiving a loan from the Money Pool shall repay the principal amount of such loan, together with all interest accrued thereon, on demand and in any event within 364 days of the date on which such loan was made. All loans made through the Money Pool may be prepaid by the borrower without premium or penalty. Loans from the Money Pool are made as open-account advances. Separate promissory notes are not required for each transaction, but may be executed if the participating subsidiaries deem it necessary or appropriate. (Id. at paragraph 15.)

Petitioner agrees that its borrowing through the Money Pool shall not exceed \$500 million.

The Company further represents that its continued participation in the Money Pool, on the terms discussed herein and in the petition, is in compliance with all of the provisions of the money pool-related regulations at N.J.A.C. 14:4-4.7(f), (g) and (h).

In a letter dated December 28, 2016, the Division of Rate Counsel ("Rate Counsel") stated that it does not object to the Company's extension and borrowing limit requests, subject to the limitations and clarifications included in this order. However, Rate Counsel emphasized that, contrary to its past practice, the Company filed this petition on November 21, 2016, less than six (6) weeks prior to its borrowing authorization expiring. Rate Counsel stated that this is not an adequate amount of time for it to conduct a thorough review of the Company's request, including exploring the reasons for the \$100 million reduction in borrowing authority and alternatives to the Money Pool. Rate Counsel further points out that JCP&L's proposed form of order includes only eight (8) of the twelve (12) protective conditions adopted by the Board in its March 20, 2013 Order regarding Amendment 7.

Accordingly, in light of these concerns, Rate Counsel recommends two (2) additional requirements in the Order in addition to the inclusion of all twelve (12) conditions previously approved by the Board. First, the Rate Counsel asserts that Company must be required to file its next extension amendment no less than 120 days prior to the expiration of the then current authority (presumably this would be no later than September 1, 2019). Second, Rate Counsel states that JCP&L should consider whether a commercial paper program could provide savings relative to the Money Pool borrowings (either to supplement or replace) and provide this information in its next petition. Nonetheless, Rate Counsel reserves its rights to take appropriate positions in current and future Board proceedings involving JCP&L.

By letter dated January 6, 2017, JCP&L responded to Rate Counsel's comments. Among other things, the Company indicated that it had no objection to the twelve (12) conditions set forth in the Board's last extension approval order, and, as included in this Order, accepted Rate Counsel's recommendations related to JCP&L's next extension request.

DISCUSSION AND FINDINGS

The Board, after investigation and review of Petitioner's representations and submissions, and after consideration of the recommendations of Rate Counsel and Board Staff, **FINDS** that JCP&L's continued participation in the Money Pool on the conditions specified below and in the Money Pool Orders is in compliance with the law, and that its borrowing limit be set at \$500 million, and the extension of time within which Petitioner may participate in the Money Pool, are necessary and proper.

Accordingly, the Board **HEREBY AUTHORIZES** JCP&L to continue to participate in the Money Pool through December 31, 2019, subject to the conditions of the initial Order except as modified herein.

This Order is subject to the following provisions:

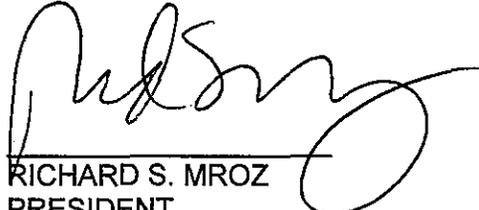
1. Petitioner's borrowing through the Money Pool shall not exceed \$500 million.
2. Petitioner shall not make any bank borrowings or issue commercial paper for the sole purpose of lending the proceeds to the Money Pool.
3. Petitioner shall not borrow from the Money Pool if it will be able to obtain funds at lower costs either through a direct bank borrowing or issuance of commercial paper.
4. Petitioner's chief financial officer or treasurer, or designee thereof, shall render Money Pool-related short term financing decisions based on what is in the best interests of JCP&L's ratepayers.
5. Petitioner shall only deposit such Internal Funds (i.e., surplus cash) in the Money Pool as it would otherwise have available for investment in short-term money markets or other short-term investments instruments.
6. Petitioner shall not borrow any sum from the Money Pool for a period of greater than 364 days.
7. Petitioner shall file with the Board quarterly comparative statements indicating the interest rate imposed for borrowing/investing with the Money Pool and the prevailing market rate at the time for similarly situated utilities.
8. Petitioner shall comply with the requirements of N.J.A.C. 14:4-4.7(f), (g) and (h), and the provisions of all other applicable statutes, rules and Orders.
9. JCP&L shall inform the Board within three (3) business days of any participating subsidiary not meeting the applicable credit rating standard as described in the Money Pool Agreement.
10. The proceeds from the Money Pool borrowings shall be used only for JCP&L's utility operations and shall not be used for purposes of funding the company's or its affiliates' non-regulated operations.
11. Nothing in this Order authorizes rate recovery from customers or the capital structure to be used in the Company's pending rate case.
12. The Company is obligated to utilize a prudent and cost effective capital structure and mix of capital to finance its utility operations at lowest reasonable cost.

Finally, based on Rate Counsel's recommendations, JCP&L is **HEREBY ORDERED** to file its next extension request (i.e., for Amendment No. 9) no less than 120 days prior to the expiration of the authority granted by this Order and to provide information regarding the Company's consideration of a commercial paper program to Rate Counsel and Board Staff at the time of filing such request.

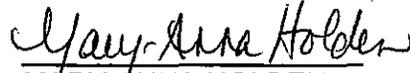
This Order shall become effective on January 25, 2017.

DATED: 1/25/17

BOARD OF PUBLIC UTILITIES
BY:


RICHARD S. MROZ
PRESIDENT


JOSEPH L. FIORDALISO
COMMISSIONER

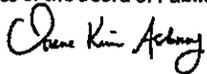

MARY-ANNA HOLDEN
COMMISSIONER


DIANNE SOLOMON
COMMISSIONER


UPENDRA J. CHIVUKULA
COMMISSIONER

ATTEST: 
IRENE KIM ASBURY
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 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. INTRASYSTEM MONEY POOL
DOCKET NO. EF02030185**

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