



Agenda Date: 11/21/25  
Agenda Item: 2G

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
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ENERGY

LETTER PETITION OF JERSEY CENTRAL POWER	)	DECISION AND ORDER
& LIGHT COMPANY PROPOSING TO REFUND	)	
OVERCHARGED AMOUNTS DUE TO INCORRECT	)	
TRA-86 GROSS-UP APPLIED TO CUSTOMER	)	DOCKET NO. EO24090624
INVOICES	)	

**Parties of Record:**

**Brian O. Lipman, Esq., Director**, New Jersey Division of Rate Counsel  
**James Austin Meehan, Esq., Counsel**, Jersey Central Power and Light Company

**BY THE BOARD:**

By this Decision and Order, the New Jersey Board of Public Utilities ("Board") considers a letter petition filed by Jersey Central Power & Light Company ("JCP&L" or "Company") on August 30, 2024, proposing to refund overcharged amounts due to its application of an incorrect tax gross-up factor to invoices for requested work, including contributions in aid of construction ("CIAC") and refundable advances ("Letter Petition"). By the Letter Petition, JCP&L sought Board approval for the following: 1) where the refund to JCP&L customers would be \$25.00 or more, to refund the overcharged amounts that have not already been refunded; and 2) for refund amounts that would be less than \$25.00, which average \$6.72, make a donation to an energy-related non-profit entity.

**BACKGROUND**

Pursuant to N.J.A.C. 14:3-8.6(f)(4), JCP&L must file with the Board, and use, the tax gross-up factor based on the Internal Revenue Code ("IRC") Gross-up Factor Template (formerly the "TRA-86" Gross-up Factor Template) posted on the Board's website. The IRC Gross-up Factor Template incorporates the rate of return authorized in the Company's most-recently approved base rate case. In October 2023, JCP&L discovered that, since 2018, it had been using a tax gross-up factor that it calculated without the use of the required IRC Gross-up Factor Template. According to JCP&L, the Company erroneously based its tax gross-up factor on an Allowance for Funds Used During Construction rate, which JCP&L asserted is the method used to calculate the tax gross-up factor in other states in which its parent company, FirstEnergy Corp., operates.

On November 3, 2023, pursuant to N.J.A.C. 14:3-8.6(f)(4), JCP&L filed a revised TRA-86 gross-up factor, effective November 2, 2023, that incorporated the rate of return approved by the Board in its base rate case ("November 2023 Filing").<sup>1</sup> By the November 2023 Filing, JCP&L identified that it was delinquent under N.J.A.C. 14:3-8.6(f)(4) because JCP&L did not file notice with the Board of its update to reflect the results of its base rate case, which rates were effective January 1, 2021. Further, JCP&L identified that it was delinquent under N.J.A.C. 14:3-8.6(c) because the Gross-up Factor it used for billing was not calculated in accordance with Form TRA-86.

### **Letter Petition**

On August 30, 2024, JCP&L filed the Letter Petition, noting that JCP&L's investigation found that it applied incorrect tax gross-up factors to amounts billed to 6,179 invoices issued during the period encompassing invoices from 2018 until corrected on November 2, 2023. The Company used its information technology ("IT") resources to estimate the over-under billing for 4,629 of the invoices and hired temporary employees to manually estimate the over-under billing for the remaining 1,550 invoices.

JCP&L identified 482 invoices as being out of scope which includes those with 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). JCP&L identified that the invoices billed to PSE&G would be processed by the Company's transmission group to review and make any applicable corrections.

JCP&L further noted that many invoices identified as overcharged were for customer advances (i.e., line extensions), which amounts are refundable. Therefore, because some, or all, of the invoiced amounts may have already been refunded, some or all, of the tax gross-up amounts associated with these advances may have already been refunded as well. Consequently, the Company determined that it would need to use a different process, including additional steps, to determine the refunds associated with these advances to ensure the Company does not refund tax gross-up amounts that have already been refunded.

JCP&L categorized the invoices where the applicant was overcharged due to the incorrect gross-up factor as either "non-refundable" (contributions) and "refundable" (advances). Of the 791 refundable invoices, 293 were fully refunded and 498 were either partially refunded or awaiting refund when JCP&L filed the Letter Petition. According to the Letter Petition, reducing the total over-payment amount by the tax gross-up amounts from the fully refunded invoices reduced the total overpayment by \$123,286.48, from \$658,636.74 to \$535,350.26.

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<sup>1</sup> In re the Verified Petition of Jersey Central Power and Light Company for Review and Approval of Increases in and Other Adjustments to its Rates and Charges for Electric Service, and for Approval of Other Proposed Tariff Revisions in Connection Therewith ("2020 Base Rate Filing"), BPU Docket No. ER20020146 and OAL Docket No. 04343-2020N, Order dated October 28, 2020 ("2020 Rate Case Order").

According to the Letter Petition, the Company can begin refunding the amounts associated with the 796 non-refundable invoices. The remaining partially 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.

The Company proposed that the proper threshold for refunding any incorrect charges is \$25.00 or greater and recommended that non-refundable invoices have credit memos applied to refund the excess tax gross-up that was charged. In addition, the Company proposed to refund any remaining balances of the refundable advances, at the same \$25.00 or greater threshold.

The Company identified that there remains a small amount of overcharged tax gross-up payments for 824 invoices that were over-charged less than \$25.00 each. The Company asserted that it would not be cost-effective to process refunds for these invoices, which average \$6.72, with a "substantial amount" being less than \$1.00each. The Company does not consider itself eligible to retain those overcharged amounts and proposed to donate the funds to an energy-related non-profit entity.

The Company identified that it is not proposing to rebill the 1,452 invoices that were identified as being undercharged in the total amount of \$206,250.27.

### **Comments**

By letter dated July 2, 2025, the New Jersey Division of Rate Counsel ("Rate Counsel") filed comments with the Board noting that, while it supported the Company's efforts to rectify the overcharges resulting from the incorrect application of the TRA-86 tax gross-up factor, several areas require further clarification, reconciliation, or procedural enhancements to ensure accuracy and fairness with the refund process.<sup>2</sup>

Rate Counsel indicated that, under normal circumstances, it would recommend that the Board require the Company to apply interest on the amounts owed. However, considering any accrued interest would be minimal and the significant administrative burden required to calculate the carrying costs, Rate Counsel noted that this approach would be impractical and recommended that the Board refrain from requiring the Company to pay carrying costs on the refunds.

Rate Counsel reviewed the amounts provided in the Letter Petition and the supporting calculations. Rate Counsel identified calculation errors and classification errors whereby three (3) invoices that were classified as overcharged appear to have been correctly charged and four (4) invoices that were classified as undercharged appear to have been overcharged (collectively, "Seven Invoices"). In addition, Rate Counsel identified that the Company provided two (2) different amounts for the total potential overcharges on refundable invoices. Rate Counsel quantified the adjustment for the three (3) correct invoices to be \$417.23, the adjustment for the four (4) overcharged invoices to be \$360.27, and the difference between the two (2) different totals for overcharges on refundable invoices to be \$762.36. Rate Counsel characterized these discrepancies as relatively small. However, based on these discrepancies, Rate Counsel asserted that the Company's proposed review and reconciliation related to the Refundable Deposits 252 Account is essential to accurately determine the number of refundable applicants

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<sup>2</sup> On August 22, 2025, Rate Counsel submitted amended comments to correct a transposed number that appeared in Rate Counsel's July 2, 2025 comment letter.

and their corresponding refund amounts. Further, Rate Counsel recommended that the Company review the Seven Invoices as part of its proposed review and make any necessary corrections.

Rate Counsel noted that its preferred approach is for the Company to issue refunds to all eligible customers promptly; however, as detailed above, Rate Counsel asserted that it is essential to conduct a comprehensive reconciliation to ensure the accurate allocation of refunds for the refundable accounts. Accordingly, Rate Counsel recommended that the Board approve the Company's proposed refund approach, which entails the near-immediate issuance of refunds for the 796 non-refundable accounts, amounting to \$201,917.68.

Rate Counsel recommended that the Board require the Company to submit a reconciliation report no later than forty-five (45) days following the issuance of the initial Order disposing of this matter ("Reconciliation Report"). Rate Counsel recommended that the Board require that the Reconciliation Report provide a clear and detailed account of the exact number of eligible applicants and the total refund amount associated with each refundable invoice. Additionally, Rate Counsel recommended that, either concurrently with the Reconciliation Filing or upon completion of the subsequent review by Board Staff ("Staff") and Rate Counsel, the Company promptly proceed disbursing refunds for the refundable accounts. Rate Counsel noted that this measure will ensure compliance and provide customer relief.

To ensure that credits for both refundable and non-refundable invoices are properly issued, Rate Counsel recommended that the Board require the Company to submit, within six (6) months of an initial Board order in this proceeding, a report with official documentation and proof confirming the completion of refunds and donations ("Final Report"). If, at the time of filing the Final Report, there remains any amount undistributed, such as funds from uncashed refund checks, or if the Company, despite reasonable efforts using its records and publicly available data, is unable to locate refund recipients, any unclaimed funds should be identified in the Final Report and submitted to the Board for review and final disposition.

Rate Counsel assessed the appropriateness of implementing a \$25.00 per-invoice threshold as a criterion for determining customer eligibility for refunds. Additionally, Rate Counsel considered the Company's claims that there is no automated process for executing the refund tasks and that each refund requires manual review of each invoice, application of the necessary corrections, and issuance of refund checks via mail. Rate Counsel stated that it understands that reducing the threshold below the Company's selected level of \$25.00 is not a particularly optimal approach and the \$25.00 threshold strikes a reasonable balance between ensuring refunds for affected individual accounts and minimizing the additional administrative burden and cost these refunds create would impose on the Company and cost the Company's ratepayers.

Rate Counsel also assessed the Company's proposal to donate the \$5,537.67 total of overcharged tax gross-up payments for the 824 invoices that were overcharged less than twenty-\$25.00 each to an energy-related nonprofit organization. According to Rate Counsel, in response to discovery, JCP&L recommended that the Morris County Office of Hispanic Affairs ("MCOHA") be the recipient of this donation as this organization serves the needs of the Hispanic and low-income population. Rate Counsel confirmed that the Company's assessment that 824 invoices were overcharged by less than \$25.00 each and the \$5,537.67 total appears to be accurate. Rate Counsel concurred with the recommendation to assist low-income customers with the remaining \$5,537.67. However, Rate Counsel recommended that the funds go to JCP&L's Energy Assistance Outreach Team ("EAOT"), which Rate Counsel asserted would benefit a larger segment of JCP&L's low-income customers than MCOHA reaches.

The Company indicated that it does not intend to rebill the 1,452 invoices identified as being undercharged, which total \$206,250.27. Rate Counsel did not object to this proposed approach and recommended that the Board approve the Company's proposed treatment of these invoices. However, as noted above, Rate Counsel's review indicated that four (4) of these invoices require further examination, as they may not have been undercharged.

Rate Counsel noted that, in response to a discovery request, the Company asserted that it maintains an implementation list of compliance items required following the completion and issuance of a base rate case order. The Company further asserted that it has added the required TRA-86 filing to the implementation list to ensure ongoing compliance with N.J.A.C. 14:3-8.6(f)4. Rate Counsel stated that it is satisfied that the Company's addition of the TRA-86 filing to the implementation list it maintains will effectively mitigate the risk of future non-compliance.

## **DISCUSSIONS AND FINDINGS**

N.J.A.C. 14:3-8.6(f)(4) requires that, if a regulated entity's tax gross-up factor changes, that entity must calculate its new tax gross-up factor pursuant to N.J.A.C. 14:3-8.6(c) and file that factor, along with its applicable template or detailed calculation, within fourteen (14) days of the change. Here, the Company indicated it applied an incorrect tax gross-up factor to invoices for customer-requested work in New Jersey. JCP&L calculated the gross-up factor utilizing a method used in other states wherein FirstEnergy Corp. operates rather than the method required by N.J.A.C. 14:3-8.6(c). Additionally, the Company failed to update its tax gross-up factor and submit it to the Board within fourteen (14) days, in accordance with N.J.A.C. 14:3-8.6(f), because it did not do so within fourteen (14) days following the 2020 Rate Case Order. As such, having reviewed the record in this proceeding, including the Letter Petition and Rate Counsel's comments, the Board **HEREBY FINDS** that the Company failed to comply with the requirements set forth in N.J.A.C. 14:3-8.6.

The Board **NOTES** that it is important that the Company does not benefit from its failure to comply with the Board's regulations and that applicants who were overcharged are not materially harmed by JCP&L's failure to comply with the Board's regulations. The general aspects of the Company's proposal, including issuing refunds to applicants who were overcharged by at least \$25.00, donating to charity the total amount of refunds that would have been less than \$25.00, and not re-billing applicants who were under-billed follows this goal. In addition, it is important to ensure that this error is not repeated. Therefore, the Board **HEREBY DIRECTS** the Company to develop a plan to ensure that it is, and remains, compliant with N.J.A.C. 14:3-8.6 ("Compliance Plan") and to submit this Compliance Plan to the Board, by no later than forty-five (45) days from effective date of this Order. The Company shall include, in the Compliance Plan, a clear and detailed description of how it intends to ensure that it will submit timely and accurate reports of its updates to its IRC gross-up factor and that it utilizes the required IRC gross-up factor for all deposits, non-refundable contributions, and refunds that are taxable pursuant to the IRC.

Regarding the amounts overcharged by the Company, the Board **HEREBY DIRECTS** the Company to issue refunds to the 796 non-refundable accounts in the owed amounts determined by JCP&L, amounting to a total of \$201,917.68, on or before than December 26, 2025.

The Board **FURTHER FINDS** the Company's proposal not to rebill the invoices identified as being undercharged to be reasonable and in the public interest.

The Board **HEREBY DIRECTS** the Company to conduct the necessary reconciliations related to the Refundable Deposits 252 Account to accurately determine the number of refundable accounts

and their corresponding refund amounts. As part of this reconciliation, the Board **HEREBY DIRECTS** the Company to review the Seven Invoices and make the necessary corrections.

The Board **FURTHER FINDS** Rate Counsel's recommendation that the Company submit a Reconciliation Report to be reasonable and in the public interest. As such, the Board **HEREBY DIRECTS** the Company to submit a Reconciliation Report on or before forty-five (45) days from effective date of this Order. In the Reconciliation Report, the Company shall include a clear and detailed account of the exact number of eligible applicants and the total refund amount associated with each refundable invoice as well as the results of its review of the Seven Invoices. In addition, the Company shall include an update of the charts included in the Letter Petition with information added that identifies the refunds given to the non-refundable accounts, the refunds to be given to the refundable accounts, and the amounts to be donated to charity as detailed herein.

With respect to the Company's proposal to issue refunds for overcharges of \$25.00 or more per invoice and to donate smaller, more administratively burdensome refunds to a charity benefitting New Jersey ratepayers, the Board **FURTHER FINDS** the Company and Rate Counsel's proposal that the \$25.00 threshold strikes an appropriate balance between ensuring refunds for affected individual accounts and minimizing the additional administrative burden and cost these refunds create would impose to be reasonable. In addition, the Board **FURTHER FINDS** that, while MCOHA and EAOT are worthy charities, the Payment Assistance for Gas and Electric ("PAGE") Program, as administered by NJSHARES, a non-profit corporation organized to provide assistance to individuals and families living in New Jersey who are in need of temporary help paying their energy bills, would be a more appropriate choice. Therefore, the Board **HEREBY DIRECTS** the Company to donate the total amount for all overcharges less than \$25.00 per invoice to PAGE.


The Board **HEREBY DIRECTS** Rate Counsel and Staff to review the Reconciliation Report and advise the Company, within two (2) weeks of the date of receipt of the Reconciliation Report, of any issues with the Reconciliation Report. The Board **HEREBY DIRECTS** the Company to proceed with disbursing refunds for the refundable invoices and the donations within four (4) weeks of the filing date of the Reconciliation Report.


The Board **HEREBY DIRECTS** the Company to submit, within six (6) months of the date of this Board Order, a report with official documentation and proof confirming the completion of refunds and donations ("Final Report"). The Company shall include, in the Final Report, an update of the charts included in the Petition with information added that identifies the refunds given to the non-refundable accounts, the refunds given to the refundable accounts, and the amounts donated to NJSHARES. The Company shall identify, in the Final Report, any undistributed amounts, such as funds from uncashed refund checks, or inability to locate refund recipients. JCP&L shall also identify in the Final Report all steps the Company has followed, or plans to follow, to refund these amounts and to be compliant with New Jersey's Unclaimed Property Statute, N.J.S.A. 46:30B1-109, *et seq.*

The effective date of this Board Order is November 28, 2025.

DATED: November 21, 2025

BOARD OF PUBLIC UTILITIES  
BY:

  
CHRISTINE GUHL-SADOVY  
PRESIDENT

  
DR. ZENON CHRISTODOULOU  
COMMISSIONER

  
MICHAEL BANGE  
COMMISSIONER

ATTEST:

  
SHERRI L. LEWIS  
BOARD SECRETARY

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

LETTER PETITION OF JERSEY CENTRAL POWER & LIGHT COMPANY PROPOSING TO REFUND  
OVERCHARGED AMOUNTS DUE TO INCORRECT TRA-86 GROSS-UP APPLIED TO INVOICES

DOCKET NO. EO24090624

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