



Agenda Date: 5/21/26  
Agenda Item: 3A

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 1<sup>st</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

ENGINEERING

MICHAEL AND DAWN STRANO, )  
PETITIONERS, )  
 )  
v. )  
 )  
JERSEY CENTRAL POWER AND LIGHT COMPANY, ) BPU DOCKET NO. EC23040208  
RESPONDENT ) OAL DOCKET NO. PUC 07480-2023

Parties of Record”

**Michael and Dawn Strano**, Petitioners, *Pro Se*  
**Michael Martelo**, Esq., for Respondent, Jersey Central Power & Light Company

BY THE BOARD:

This matter is before the New Jersey Board of Public Utilities (“Board” or “BPU”) following an Initial Decision issued by Administrative Law Judge (“ALJ”) Jacob S. Gertsman on March 2, 2026, in the above referenced matter (“Initial Decision”). By this Order, which is the Final Decision in this matter pursuant to N.J.S.A. 52:14B-10, the Board adopts the Initial Decision in its entirety.

**BACKGROUND AND PROCEDURAL HISTORY**

On March 28, 2023, Michael and Dawn Strano (“Petitioners”) filed a formal complaint with the Board regarding outages the Petitioners experienced and Jersey Central Power & Light Company’s (“JCP&L” or “Company”) handling of those outages (“Petition”).

Petition

By the Petition, the Petitioners identified that they were unsatisfied with JCP&L’s response and restoration process after an outage occurring February 3, 2023 to February 4, 2023 (“Outage”). The Petitioners explained that they reported the Outage via SMS text on February 3, 2023, under ticket number 353311927 (“Ticket”). The Petitioners reported that a three (3)-truck crew repaired the damaged wire, caused by a fallen tree, that was the cause of the Outage but did not check to make sure that power was restored to the Petitioners. The Petitioners claimed the Ticket was unilaterally closed out by JCP&L, requiring the Petitioners to submit another outage ticket, number 353312500, that night to have power restored. The Petitioners further alleged that they received a call from a JCP&L representative inquiring about the continued Outage, as well as “numerous

false/misleading texts website information” regarding the Outage.

By the Petition, the Petitioners reported that, on February 7, 2023, they requested, and were denied, information from JCP&L regarding numerous false and misleading texts, work order close-outs, staffing, and other related information that created the negative inference that resulted from the Outage. The Petitioners further identified that, on February 15, 2023, they contacted the BPU to solicit responses from JCP&L regarding the Ticket, however, the Petitioners noted that JCP&L failed or refused to address the issues with the Board regarding the closing of the Ticket.

The Petitioners further alleged that, on February 27, 2023, a JCP&L line supervisor called and informed them that the transformer that serves the customer does not automatically reset and the crew did not have time to check every transformer to ensure they are back in operation during a restoration effort. The Petitioners also noted that the line supervisor tried to dispatch another crew to check the transformer, but no crew was available and, by the end of his shift, there was only one (1) employee on shift for their Flemington area where the Petitioners reside. The Petitioners also noted that the line supervisor mentioned that smart meters, which were not fully rolled out, would alleviate their issues in the future.

The Petitioners further alleged that, on March 7, 2023, they submitted a customer “Bill of Rights” complaint to JCP&L due to the lengthy delay for JCP&L to respond to the Petitioners’ request and that, on March 8, 2023 they received an email from JCP&L indicating that the investigation was completed and any additional disputes can be made through the BPU.

The Petitioners further noted that, on March 15, 2023, they experienced another outage and, on March 20, 2023, a JCP&L engineer called the Petitioners to inform them of upcoming tree trimming, that the transformers would be updated on the Petitioners’ street, that their electrical service wire is old and brittle, and “[f]alse and misleading information.” The Petitioners claimed that they have experienced fourteen (14) outages in the last three (3) years and at least thirty-five (35) they can recall in total.

By the Petition, the Petitioners requested Board grant relief in the form of directing JCP&L to:

1. provide Snyderstown Road with new conventional transformers that reset automatically;
2. install new electrical lines and taller poles similar to Public Service Electric and Gas Company;
3. provide the Flemington, New Jersey office with the authority to staff employees and contractors when impending weather is predicted;
4. cease and desist from unilaterally closing out any outage ticket without verification that power is actually restored to the residence;
5. install functioning smart meters on Snyderstown Road within sixty (60) days; and
6. perform tree trimming on Snyderstown Road and continue a tree maintenance schedule until electrical service reliability is restored.

### JCP&L Response

On July 24, 2023, JCP&L filed a response to the Petition, thereby confirming contact with the Petitioners on the dates alleged in the Petition and denying that it knowingly made any false or misleading statements to the Petitioners (“Answer”). By its Answer, JCP&L also denied that the Petitioners have any right, legal or otherwise, to the information that the Petitioners requested and that JCP&L’s refusal to provide such information was appropriate. JCP&L confirmed the

Petitioners' circuit experienced fourteen (14) sustained outages in the past three (3) years. However, JCP&L denied that these outages qualify as an excessive amount of service outages that would suggest there are reliability issues that need to be addressed, noting that six (6) of the outages were caused by trees off the right of way and one (1) was caused by human error not attributable to JCP&L. JCP&L proffered that they cannot admit or deny the thirty-five (35) outages that the Petitioners also mention because the period for these outages is unclear and JCP&L does not have sufficient knowledge or information regarding the truth of the allegation.

By the Answer, JCP&L affirmed that, at all relevant times, JCP&L substantially complied with all applicable laws, regulations and standards; identified that the Petitioners failed to state a claim against JCP&L upon which relief may be granted; argued that the Petitioners failed to demonstrate that they are entitled to the relief under any applicable statutory or regulatory provision or requirement; and argued that JCP&L has, at all relevant times, taken reasonable actions with respect to the Petitioners' account consistent with, and following all, applicable Board regulations and applicable provisions of JCP&L's Tariff on file with the Board.

On August 16, 2023, this matter was transmitted to the Office of Administrative Law ("OAL") as a contested case and was assigned to ALJ Gertsman. On October 24, 2023, ALJ Gertsman held an initial prehearing conference with all parties to attempt to resolve the matter. On March 4, 2025, the parties notified ALJ Gertsman that they were at an impasse and filed cross-motions, oppositions, and replies.

## **MOTIONS**

### **Petitioners' Motion for Summary Decision**

On June 13, 2025, the Petitioners filed a Motion for Summary Decision in this matter ("Petitioners' Motion") arguing that JCP&L was served notice of the Petition on April 4, 2023 and its response, on July 24, 2023, was ninety-one (91) days late, in violation of the requirement of N.J.A.C. 14:1-6.2(a) that all answers be filed within twenty (20) days after service of the pleading against which it is directed. The Petitioners demanded that JCP&L be denied its reservation of rights to supplement its verified answer and its affirmative defenses with any additional defenses that become available or apparent during the course of investigation, preparation, or discovery and to amend its verified answer accordingly because they filed their position untimely. The Petitioners concluded that, because they demonstrated without any doubt that JCP&L "violated [their] rights outlined in N.J.A.C. 14:1-6.2," that they should be made whole in accordance the relief requested in the Petition.

### **JCP&L Motion for Summary Decision**

On June 13, 2025, JCP&L filed a Motion for Summary Decision ("JCP&L Motion"), requesting dismissal of the Petition. JCP&L noted that the Petitioners are located on Snydertown Road, a location that experiences issues with reliable electric services as evidenced by its high number of outages and that their service first must travel through a heavily wooded area before reaching the Petitioners' residence. JCP&L Motion at 1. JCP&L noted that they maintain certain practices and procedures with respect to outages, vegetation management, and above-ground infrastructure maintenance. Id. at 1-2. JCP&L argued that the Petitioners cannot establish, as a matter of law, that JCP&L failed to provide safe, adequate, and proper service or that JCP&L is in violation of New Jersey law, Board regulation, or JCP&L's own tariff. Id. at 2. JCP&L argued that it must first learn of an outage, typically from the customers, before following its specified process for responding to outages to accomplish rapid restoration and, as such, cannot be expected to

provide perfect, continuous, service. Ibid. JCP&L further identified that the Petitioners' request for relief constitutes overbroad policy change and an overhaul of the Company's reliability and customer service practices inappropriate for a contested case, that would necessarily constitute undue preference and adversely impact other JCP&L customers, and are more appropriately addressed in a more generic proceeding in which all interested parties have an opportunity to participate. Ibid.

JCP&L explained that it maintains certain practices and procedures related to outages, vegetation management, and aboveground infrastructure maintenance that dictate responses to service interruptions to accomplish safe, rapid restoration of service. Id. at 4. JCP&L further explained that, once an outage is reported, a ticket is created to track the outage and an operator dispatches a troubleshooter or line crew to assess the situation and determine the steps needed for restoration. Ibid. JCP&L noted that it is common to assume that, once a repair is complete, all services are restored unless the Company learns otherwise through the customer or equipment. Id. at 5.

JCP&L further reported that their vegetation management program is designed to inspect and trim vegetation along the electric distribution circuits every four (4) years, alongside off-cycle vegetation management on an as-needed basis, including after storms, customer notification, or additional inspections. Ibid. However, JCP&L identified that it cannot remove all vegetation that can interfere with their facilities because it is circumscribed with respect to private property that is off the right of way. Ibid. JCP&L noted that the Petitioners' circuit was inspected and trimmed in 2023 and 2019, per the standard cycle schedule. Id. at 5-6.

In addition, JCP&L identified that the Company does pole-to-pole inspections every five (5) years for standard inspections and every ten (10) years for a more intensive inspection performed by a contractor. Id. at 6. JCP&L noted that the last time these inspections occurred for the Petitioners' circuit were in 2024 for the standard five (5)-year inspection and 2022 for the ten (10)-year inspection. Ibid.

JCP&L identified that the Petitioners reported the Outage during a windy storm that caused outages for a considerable number of customers. Ibid. JCP&L noted that a line crew was dispatched at 7:03 pm and determined that the Outage was caused by a tree off the right of way, meaning it was not within JCP&L's property rights. Id. at 6-7. JCP&L further identified that, by 8:27 pm, the line crew made repairs and restored power to the majority of customers affected along Snyderstown road and believed all customers were restored until the Petitioners reported at 10:17 pm they still had no service, whereupon JCP&L dispatched further personnel who repaired the Petitioner's power by 4:00 am on February 4, 2023. Id. at 7. JCP&L noted that over the past four (4) years, 2020 through 2024, the Petitioners experienced eighteen (18) sustained outages comprising of eight (8) off-right-of-way trees, one (1) right-of-way tree, one (1) tree of unknown location, one (1) line failure, three (3) equipment failures, and four (4) of unknown causes. Id. at 7-8.

JCP&L noted that the Company continues to take steps to improve reliability on the Petitioners' circuit, emphasizing that smart meters were installed in December of 2024, three (3) new conventional transformers were installed on Snyderstown road, it cleared a structural access path through the woods and it installed two (2) new utility poles, two (2) fuse laterals, five (5) animal guards, monitoring devices for real-time data about the system, and three (3) new cross-arm braces. Id. at 8.

JCP&L identified that the New Jersey Administrative Code provides the following instructions regarding motions for summary decision:

The motion for summary decision shall be served with briefs and with or without supporting affidavits. The decision sought may rendered if the papers and discovery which have been filed, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to prevail as a matter of law.

Id. at 10; N.J.A.C. 1:1-12.5. Additionally, in determining whether a genuine issue of material fact exists, the motion judge must consider whether the evidence, when viewed in the light most favorable to the non-moving party, is sufficient to permit a rational fact finder to find in favor of the non-moving party. Ibid. [quoting *Brill v. Guardian Life Ins. Co.*, 142, N.J. 520, 540 (1995)]. When the evidence is so favorable to a particular party such that the moving party must prevail as a matter of law, the court should grant summary decision. Ibid.

JCP&L argued that, based on the affidavits of Patrick Conley of JCP&L's Operations Department, Robert Wolf Jr. of JCP&L's Vegetation Management Department, and Sean T. Hayes of JCP&L's Engineering Services Department, the Petitioners cannot establish any genuine issues of fact to warrant an evidentiary hearing in this matter and that JCP&L is entitled to prevail as a matter of law because JCP&L adhered to its duty to provide safe, reliable, and adequate service to its customers and the Petitioners, and that the Petitioners are not entitled to unduly preferential treatment or broad policy changes to JCP&L's reliability and customer service practices. Id. at 11. Therefore, JCP&L concluded that they are entitled to a summary decision and the Petitioners' complaint should be dismissed. Ibid.

JCP&L argued that, because it responded promptly to customer communication to determine the time and source of the Outage, and because it followed standard procedure in relying on further customer communication to determine that the Outage was not resolved by the initial response, it complied with all applicable law and standards such that it did not fall below its duty to provide reliable service in this instance. Id. at 16. JCP&L further proffered that it did not fall below its standard to ensure safe, adequate, and proper service because 1) it responded as promptly as possible to the Outage given the circumstances and consistent with safe practice, in accordance with N.J.A.C. 14:3-3.7(a); 2) the Outage was caused by an off-right-of-way tree not within JCP&L's control and outside the scope of what reasonable vegetation management could have prevented; and 3) the Outage was otherwise unavoidable because it occurred in a heavily wooded area during a wind storm and JCP&L did not unreasonably delay its response. Id. at 19-21. JCP&L further emphasized that outages are unavoidable, that it is impossible to ensure perfect, continuous service, and that the standard is that the utility must exercise "reasonable diligence" to respond to outages as promptly as possible "consistent with safe practice." Id. at 21 [quoting N.J.A.C. 14:3-3.7(a)].

JCP&L further argued that its practices established to avoid and prevent outages meet its duty to provide reliable service because its established practices comply with standard utility practice and applicable law including its outage response procedures, vegetation management, and aboveground infrastructure maintenance. Id. at 22. JCP&L noted that the Petitioners' suggested measures by which JCP&L could improve reliability, including installation of new transformer and line infrastructure, which JCP&L identified would be premature and costly because these measures involve replacing infrastructure that has not reached end of life. Id. at 26. JCP&L further emphasized that, during the course of this proceeding, it started work to improve reliability

on the Petitioners' circuit which, JCP&L noted, should improve reliability to the Petitioners. Id. at 27.

JCP&L next argued that the Petitioners' requested relief is unavailable in the context of a contested case because the Petitioners requested significant, companywide policy changes that, in accordance with N.J.A.C. 1:1-2.1, are not appropriate in the context of a contested case. Id. at 28 (citing Loigman v. Verizon New Jersey, Inc., BPU Docket No. TC14050490, OAL Docket No. PUC 13695-14 (Nov. 21, 2017) ("Loigman Order") at 3). JCP&L explained that the Board already exercises considerable oversight over JCP&L, including reliability and customer service practices, through outage reporting requirements including quarterly reporting of information concerning sustained outages, reliability information included in its annual system performance reports, and information about responses to major events. Id. at 30. Additionally, JCP&L argued that the Company submits compliance plans for inspection and maintenance activities to the Board annually for review. Ibid. JCP&L emphasized that the Petitioners seek relief that is too broad, inconsistent with the limits of a contested case, and which exceed the scope of the successful measures JCP&L implemented to resolve the Outage. Id. at 31. JCP&L noted that the Petitioners' requests "inappropriately attempted to transform this proceeding into a larger and broader reliability matter" with requested changes that extend throughout JCP&L's territory and there already exists rules and requirements to which JCP&L is subject that address the Petitioners' concerns. Id. at 31-33.

#### Petitioners' Opposition

By letter dated July 25, 2025, the Petitioners opposed the JCP&L Motion ("Petitioners' Opposition"), reaffirming that JCP&L violated their rights by filing its answer to the Petition ninety-one (91) days late, in violation of the provisions of N.J.A.C. 14.1-6.2 and, as such, the Petitioners' Motion for Summary Decision should be granted. Petitioners' Opposition at 1.

The Petitioners further argued that JCP&L failed, or refused, to identify the distance between the damaged equipment and the off-right-of-way tree that caused the Outage, in violation of N.J.A.C. 14:5-9.4(b).<sup>1</sup> Id. at 2. The Petitioners further argued that N.J.A.C. 14:5-9.4(b) required JCP&L to "have previously removed the tree based on its height" to ensure safe and reliable service. Ibid.

The Petitioners further responded to JCP&L's contention that it substantially complied with all applicable laws, that the Petitioners failed to demonstrate entitlement to any relief, and that the company took reasonable action with respect to the Outage, arguing that JCP&L failed or refused to comply with all applicable laws and did not take reasonable action "for years" to provide safe, efficient, and reliable power. Ibid. The Petitioners emphasized that JCP&L failed, or refused to act diligently for years, to take prompt action to provide safe and adequate service and failed to take corrective action regarding certain deficiencies. Ibid. The Petitioners further identified that JCP&L provided no timeline for installation of smart meters to better mitigate similar outages in the future. Ibid. The Petitioners noted that they received a smart meter in the interim, but "have no knowledge that the smart meter is functioning." Id. at 3.

The Petitioners responded to JCP&L's contention that the initial response to the Outage restored power to the overwhelming majority of customers on Snyderstown Road, taking the position that the repaired pole "to [their] knowledge . . . only served five (5) residents at the end of JCP[&]L's

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<sup>1</sup> N.J.A.C. 14:5-9.4(b) requires that an electric utility must "perform vegetation management on vegetation that is close enough to pose a threat to its energized conductors at least once every four years."

line” so the restoration could not have covered an overwhelming majority of customers affected. Ibid. The Petitioners further identified prior discussions with JCP&L responders wherein they identified other marked trees near the damaged equipment and which JCP&L identified as outside the right of way, which the Petitioners contested and claimed JCP&L must manage in accordance with vegetation management requirements. Ibid. The Petitioners further argued that JCP&L failed to conduct adequate visual inspection of the conductors affected prior to the Outage, in violation of N.J.A.C. 14:5-9.4(b) and, had it done so, it is “very likely [the Outage] would not have occurred.” Id. at 4.

The Petitioners next contested JCP&L’s citation of Loigman, arguing that these cases are incongruous because Loigman concerned a low-voltage telecommunications utility and the service provided by JCP&L holds higher risk to the public if improperly maintained. Ibid.

The Petitioners further contested JCP&L’s contention that their request for relief is inappropriate in the context of a contested case, arguing that the BPU improperly sent this matter to the OAL as a contested case and should be returned to the Board for hearing without the benefit of JCP&L’s position statement that was sent untimely. Id. at 7. In addition, the Petitioners argued that they were not seeking broad policy changes, but merely seeking reliable electrical service restored to their residence.

#### JCP&L Opposition

By letter dated July 25, 2025, JCP&L filed its opposition to the Petitioners’ Motion, arguing that the Petitioners’ Motion only argued that JCP&L supposedly failed to timely file its answer to the Petition (“JCP&L Opposition”). JCP&L Opposition at 1. JCP&L argued that the Petitioners are incorrect because the time by which to file a response to a pleading begins to run when the public utility is served with the full pleading by the Board Secretary. Id. at 2. Because the Board had difficulty serving the full pleading on JCP&L, which JCP&L speculated is a result of voluminous attachments to the Petition, JCP&L did not receive a full copy and service of the pleading until July 3, 2023. Ibid. JCP&L further identified that it would be inconsistent with New Jersey law to grant the Petitioners’ Motion on this basis because the State’s law favors public policy adjudications on their merits, rather than on procedural grounds and granting summary decision on the basis of default would contradict that law. Ibid. JCP&L further noted that its answer was timely filed because it was filed within twenty (20) days of JCP&L’s sufficient receipt of the full pleading, July 3, 2023, not including the day of receipt. Id. at 2-6. JCP&L emphasized that it maintained consistent communication with the Board in the interim between the filing of the Petition and receipt of the full pleading in an effort to respond in good faith. Id. at 4-6.

#### Petitioners’ Reply

By letter dated September 10, 2025, the Petitioners filed a reply to the JCP&L Opposition, arguing that they should have been notified in advance that there was delay in JCP&L’s receipt of the pleading, that they should have been notified of any extension of time granted to JCP&L, and restating the Petitioner’s Opposition in its entirety.

#### JCP&L Reply

On September 10, 2025, JCP&L filed a reply in support of its Motion for Summary Decision, thereby requesting dismissal of the Petition (“JCP&L Reply”). JCP&L argued that the Petitioners failed to submit competent evidence in the form of affidavits from qualified witnesses necessary to establish a genuine issue of material fact as to JCP&L’s conduct in providing safe, adequate,

and proper service. JCP&L Reply at 3. JCP&L noted that the Petitioners' argument was based on lay opinion, speculative arguments, conclusory findings, and self-serving assertions in the form of an unsworn letter to ALJ Gertsman. Id. at 6-7. JCP&L noted that the Petitioners' arguments amounted to speculative and unsubstantiated lay opinion insufficient to rebut competent evidence and did not contain any expert testimony to back up their claims, especially where the Petitioners questioned whether JCP&L's reliability improvement measures were successful. Id. at 8-9. In contrast, JCP&L explained that its three (3) affidavits from experts in operations, forestry, and engineering had not been adequately or sufficiently rebutted by the Petitioners and the Petitioners therefore had not satisfied the burden to proceed to hearings and avoid summary decision in favor of JCP&L. Id. at 10.

JCP&L further restated its argument that the Petitioners are not entitled to their requested relief in a contested case because the requested relief would constitute major changes to JCP&L operations that affect large swathes of JCP&L customers. Id. at 11-12. JCP&L reiterated that the Petitioners are not experts qualified to determine whether such changes are necessary and that such changes would be unduly preferential to the Petitioners. Id. at 12-13.

JCP&L emphasized that the Board's decisions in *Loigman and Drummond v. Verizon New Jersey, Inc.* were based upon the Board's exercise of considerable authority over reliability, customer service, and the matters complained of in those respective petitions.<sup>2</sup> Id. at 14. JCP&L noted that the Board exercises considerable oversight and authority over the matters concerned by the Petition including significant reporting mandates on vegetation management, outages, and compliance plans. Ibid. Additionally, JCP&L's most recent base rate case, a matter open to public comment and participation, already concerned significant improvements to infrastructure, reliability, and customer service. Ibid.

The record in this matter was closed on February 26, 2026. On March 2, 2026, the Board received ALJ Gertsman's Initial Decision in this matter with the forty-five (45)-day statutory period for the Board to review and issue a Final Decision expiring on April 16, 2026.

By Order dated March 18, 2026, the Board approved a forty-five (45)-day extension, until June 1, 2026, for Board Staff ("Staff") to review the record and Initial Decision, and for the Board to issue a Final Decision in this matter.

## **INITIAL DECISION**

### **A. Findings of Fact**

Upon review of this matter, ALJ Gertsman found certain facts that were not in dispute. ALJ Gertsman found that the Petitioners, residing on Snyderstown Road in Hopewell, New Jersey and receiving electrical service on JCP&L's "Ringo Circuit," experienced the Outage on February 3, 2023, and notified JCP&L at 5:24 pm via text. Initial Decision at 3. ALJ Gertsman further found that, at the time of the outage, windy conditions affected the area causing several thousand customers to lose power throughout JCP&L's northern territory. Ibid. ALJ Gertsman determined that the Petitioners experienced eighteen (18) sustained outages from 2020 through 2023. Ibid. ALJ Gertsman also noted that eight (8) of those outages were caused by trees off the right of way, one (1) from a tree on the right of way, one (1) caused by an unknown tree, one (1) from line

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<sup>2</sup> Drummond V. Verizon New Jersey, Inc., BPU Docket No. TC11010045, OAL Docket No. PUC 6769-11, Order dated July 18, 2012 ("Drummond Order").

failure, three (3) from equipment failure, and four (4) had an unknown cause. Ibid. ALJ Gertsman found that the cause of the Outage was due to damage caused by an off-right-of-way tree outside of JCP&L's property rights, that JCP&L restored most customers by 8:27 pm, and JCP&L was not aware that the Petitioners and a few neighbors on Snyder Road did not have power until the Petitioners alerted them at 10:17 pm. Id. at 3-4. ALJ Gertsman noted that JCP&L's troubleshooter arrived on scene at 12:52 am and determined that the transformer had an internal fuse that needed to be repaired. Id. at 4. ALJ Gertsman recognized that JCP&L's truck encountered a mechanical issue that needed to be repaired before the fuse that caused the Outage could be repaired. Ibid. ALJ Gertsman also noted that power was fully restored at 4:00 am on February 4, 2023. Ibid.

ALJ Gertsman found that the Petitioners filed an informal and formal inquiry with the Board on March 7, 2023 and March 28, 2023, respectively. Ibid. ALJ Gertsman also noted that the Petition was not complete when filed and that the Board experienced technological issues when viewing and acknowledging the Petition due to its size and voluminous attachments which delayed JCP&L's response. Ibid.

ALJ Gertsman found that the sole issue raised in the Petitioners' Motion was their contention that JCP&L failed to timely file an answer to the Petition. Id. at 5. In addition, ALJ Gertsman acknowledged the Petitioners' Opposition to the JCP&L Motion, arguing that the Company "failed and/or refused to comply with all applicable laws, regulations, and standards and have not taken reasonable actions for years in providing us safe, efficient, and reliable supply of electrical power." Id. at 5-6.

ALJ Gertsman noted that JCP&L argued that the Petitioners inappropriately sought broad policy changes and an overhaul of JCP&L's reliability and customer service practices that are incompatible with the definition of a contested case. Id. at 6. ALJ Gertsman further noted that JCP&L argued such relief would affect large segments of JCP&L's customers and ordering such relief for an individual customer would constitute undue preference to certain customers and violate well-settled New Jersey law that requires electric distribution companies to provide uniform and non-discriminatory service to all customers. Ibid. ALJ Gertsman also noted that JCP&L argued the Petitioners' requested relief should be accomplished in a more generic, service-territory-wide proceeding in which all customers and interested stakeholders have an opportunity to participate. Ibid. ALJ Gertsman further acknowledged JCP&L's argument that New Jersey law provides time to respond to a petition measured by when the respondent is served the full pleading from the Board Secretary. Ibid.

## **B. Applicable Law**

ALJ Gertsman explained that, under N.J.A.C. 1:1-12.5(b), summary decision should be rendered

if the papers and discovery which have been filed, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to prevail as a matter of law. When a motion for summary decision is made and supported, an adverse party, in order to prevail, must, by a responding affidavit set forth specific facts showing there is a genuine issue which can only be determined in an evidentiary proceeding. Such response must be filed within [20] days of service of the motion.

Id. at 7. ALJ Gertsman explained that the standard in N.J.A.C. 1:1-12.5(b) mirrors R. 4:46-2(c), which sets the standard for summary judgment where a movant is entitled to summary judgment

if there is no genuine issue of material fact and the movant is entitled to judgement or order as a matter of law. Ibid.

ALJ Gertsman further explained that a determination of whether a genuine issue of material fact exists that precludes summary decision requires the judge to consider whether the competent evidence presented, when viewed in the light most favorable to the non-moving party, is sufficient to permit a rational finder of fact to resolve the dispute in favor of the non-moving party. Ibid. If an opposing party offers only facts that are immaterial or insubstantial, the court will not grant summary judgment in that party's favor. Ibid. [quoting Brill, 142 N.J. at 529 (1995)]. ALJ Gertsman explained that the function of the judge is not to weigh the evidence but to determine whether there is a genuine issue for trial. Ibid. (quoting Brill, 142, N.J. at 540). ALJ Gertsman emphasized that summary decision should be granted where the evidence "is so one [(1)]-sided that one [(1)] party must prevail as a matter of law." Ibid. [quoting Anderson v. Liberty Lobby, 477 U.S. 242, 252 (1986)].

### C. Initial Decision Conclusion

Upon review of the moving papers in support and opposition of the motions, ALJ Gerstman concluded that this matter is appropriate for summary decision. Id. at 8.

In considering the evidence provided and weighing all relevant considerations, ALJ Gertsman concluded that, regarding the Petitioners' Motion:

1. Technical issues prevented JCP&L from receiving the complete Petition with all attachments and the Board's attempts to provide adequate service of the Petition and supporting documents to JCP&L were insufficient;
2. JCP&L was properly served with the Petition on July 3, 2023;
3. JCP&L's answer, filed July 24, 2023, was properly filed on the twentieth day from the date JCP&L was served with the Petition;
4. JCP&L timely filed its answer to the Petition;
5. Even assuming JCP&L did not timely file its answer, the Petitioners offered an insufficient argument to support their proposed "extraordinary and draconian" remedy of denying JCP&L the opportunity to argue the merits of its case and grant the Petitioners' prayers for relief;
6. The Petitioners were not prejudiced by JCP&L's filing of its answer on July 24, 2023; and
7. The Petitioners' Motion should be denied.

[Id. at 8-9.]

Regarding the JCP&L Motion, ALJ Gertsman concluded:

1. JCP&L persuasively argued that broad policy changes such as the kind requested in the Petitioners' prayer for relief are incompatible with, and unavailable in, the regulatory definition of contested cases;

2. The Petitioners' attempt to distinguish this matter from Loigman by arguing there is a major difference between the two (2) utilities involved in each case fails because the Board made no distinction holding JCP&L to a higher standard of safety and reliability than Verizon;
3. The relief sought by the Petitioners constitutes broad policy issues that would affect large segments of JCP&L's service area, comparable to the relief sought in Loigman;
4. The relief sought by the Petitioners is unavailable as a matter of law;
5. A contested case is not the proper forum to address the Petitioners' concerns and the Petition must therefore be dismissed; and
6. The JCP&L Motion requesting summary decision in this matter should be granted.

[Id.] at 9-10.]

Based upon the above, ALJ Gertsman determined that the Petitioners' Motion should be denied, the JCP&L Motion granted, and the Petition dismissed. Id. at 11. ALJ Gertsman further determined that, having made a determination that this is not the proper forum to address the Petitioners' requests, the court will not address the remaining issues in the Petition.

### **DISCUSSION AND FINDINGS**

The Board, upon review of the record, agrees with ALJ Gertsman's determinations regarding the Petitioners' Motion, the JCP&L Motion, and analysis thereof. The Board further agrees with ALJ Gertsman's findings of fact, specifically:

1. The Petitioners experienced the Outage at their home on Snyderstown Road in Hopewell, New Jersey which they reported via SMS text at 5:24 pm on February 3, 2023. Id. at 3.
2. The Outage was caused by damage resulting from a fallen off-right-of-way tree not located on JCP&L's property or within JCP&L's property rights. Ibid.
3. JCP&L's line crew made initial repairs that restored power to a large majority of the affected customers, but not the Petitioners, by 8:27 pm and JCP&L was alerted at 10:27 pm that some customers, including the Petitioners, had not yet been restored. Id. at 4.
4. JCP&L dispatched a troubleshooter whose truck experienced a mechanical issue that delayed repair, and power was restored to the Petitioners at 4:00 am on February 4, 2023. Ibid.
5. The Petitioners submitted an informal complaint to the Board on March 7, 2023 and a formal complaint on March 28, 2023 containing voluminous supporting documents which JCP&L did not receive in full until July 3, 2023. Id. at 5.
6. JCP&L submitted its answer to the Petition on July 24, 2023. Ibid.

As noted in the Initial Decision, the legal standard for granting a summary decision before the Board is governed by N.J.A.C. 1:1-12.5, which provides that summary decision may be rendered if the papers and discovery which have been filed, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled

to prevail as a matter of law.<sup>3</sup> To prevail on a motion for summary decision, an adverse party must, by responding affidavit, set forth specific facts showing that there is a genuine issue which can only be determined in an evidentiary proceeding.<sup>4</sup> In reviewing a motion for summary decision, the Board must “consider whether the evidential materials presented, when viewed in the light most favorable to the non-moving party in consideration of the applicable evidentiary standard, are sufficient to permit a rational factfinder to resolve the alleged disputed issue in favor of the non-moving party.”<sup>5</sup>

Additionally, N.J.A.C. 14:1-6.2(a) requires that a respondent must file its answer, if made, within twenty (20) days after the service of the pleading against which it is directed. Further, in determining a period of time prescribed by regulation, the day of the act or event from which the designated period begins to run shall not be included and neither shall the last day of the period if it is a weekend or holiday, then the period runs until the end of the next day that is not a weekend or legal holiday.<sup>6</sup>

The Board, having received no objection from either party regarding the salient facts of this matter, **HEREBY FINDS** that there is no genuine issue of material fact in this matter and that the remaining determination is whether either party must prevail as a matter of law.

#### Petitioners’ Motion

In this instance, as noted in the Initial Decision, the Petitioners filed their Motion for Summary Decision arguing solely that JCP&L failed to timely answer the Petition and, as such, summary decision should be granted in favor of the Petitioners. The Petitioners argued that, because JCP&L responded ninety-one (91) days after the Petition was filed and N.J.A.C. 14:1-6.2(a) requires a respondent file its answer no later than twenty (20) days following service of the pleading, the Petitioners’ Motion should be granted and the relief requested in the Petition should be granted. However, the Petitioners’ contention misapplies N.J.A.C. 14:1-6.2(a) which requires a respondent file its answer no later than twenty (20) days of *service* of the pleadings, not of the *filing* of a petition in a given matter. Requiring a respondent to file its answer within twenty (20) days of a filing would prejudice respondents in numerous scenarios and, as such, full service of a pleading is not achieved until the respondent has been served with the full pleading, not merely put on notice that a petition has been filed.

In the instant matter wherein, due to numerous technical issues, JCP&L had not been served the full pleading until several weeks following the initial filing. Requiring JCP&L to file an answer prior to being properly served would have required JCP&L to respond to evidence without being able to analyze that evidence and would have rendered JCP&L unable to argue the complete merits of its case. Accordingly, the time within which JCP&L was required to respond to the pleading began on July 3, 2023 and, because it filed its answer on July 24, 2023, the twentieth day following service of the pleadings, the Board **FURTHER FINDS** JCP&L timely filed its answer to the Petition. Therefore, the Board **HEREBY AFFIRMS** ALJ Gertsman’s conclusion that the Petitioners were

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<sup>3</sup> N.J.A.C. 1:1-12.5(b).

<sup>4</sup> Ibid.

<sup>5</sup> Contini v. Bd. Of Educ. Of Newark, 286 N.J. Super. 106, 122 (App. Div. 1995) (citing Brill, 142 N.J. at 523).

<sup>6</sup> N.J.A.C. 1:1-1.4.

not prejudiced by the filing of JCP&L's answer on July 24, 2026 and **FURTHER AFFIRMS** ALJ Gertsman's conclusion that the Petitioners' Motion should be denied.

### JCP&L Motion

JCP&L filed the JCP&L Motion arguing that the Petitioners requested relief constitutes broad policy issues that would affect large segments of JCP&L's service territory which, in accordance with New Jersey law, is incompatible with the definition of contested cases and is unavailable in the context thereof. JCP&L identified that, in Loigman, the petitioner requested policy changes in customer service relations that the ALJ and the Board found inappropriate because the requested relief would overhaul the respondent's customer service practices.<sup>7</sup> Additionally, JCP&L identified that, in Loigman, the Board explained that there already exist rules and requirements to deal with broad utility policy issues and therefore agreed with the ALJ in that matter that the complaint should be dismissed. Because this matter concerns similar prayers for relief and there is no genuine dispute of material fact, JCP&L argued that the Board should grant the JCP&L Motion and dismiss the Petition.

The Petitioners, by their reply, argued that the utility in Loigman, Verizon New Jersey, Inc. ("Verizon"), is distinct from JCP&L because it provides a low voltage utility and JCP&L provides a utility that "puts the public in a potential unsafe situation in that human beings can be killed" if not properly maintained. Petitioners' Reply at 4. The Petitioners offered no supporting evidence showing that improperly maintained JCP&L lines are more dangerous than Verizon's and offered no other analysis detailing how this matter is legally distinct from Loigman, particularly with respect to forums in which requests for relief such as those contained in the Petition are appropriate. Additionally, the Petitioners did not dispute any facts in the record and offered no explanation as to why a contested case is the appropriate forum to address their requested relief.

Because the Petitioners failed to offer any genuine dispute of material fact and failed to show that a contested case is the appropriate forum to award their requested relief, the Board **HEREBY AFFIRMS** ALJ Gertsman's finding that the relief sought by the Petitioners constitutes broad policy issues that are unavailable as a matter of law in a contested case. Accordingly, the Board **FURTHER AFFIRMS** ALJ Gertsman's conclusion that this is not the proper forum to address these issues and that the JCP&L Motion should be granted.

As such, the Board **HEREBY FINDS** the findings of fact and conclusions of law set forth by ALJ Gertsman to be reasonable and supported by law and **HEREBY ACCEPTS** those findings. Accordingly, pursuant to N.J.S.A. 52:14B-10, the Board **HEREBY ADOPTS** the Initial Decision in its entirety and **HEREBY ORDERS** the Petitioners' motion for summary decision be **DENIED** and **FURTHER ORDERS** that JCP&L's motion for summary decision be **GRANTED**.

Because a contested case is not the appropriate forum to address the Petitioners' requests for relief, the Board **FURTHER AFFIRMS** ALJ Gertsman's conclusion that the court, and the Board, need not address the remaining issues in the Petition.

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<sup>7</sup> Loigman Order at 3.

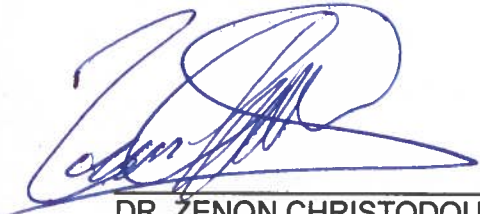
This Order shall be effective May 28, 2026.

DATED: May 21, 2026

BOARD OF PUBLIC UTILITIES  
BY:



CHRISTINE GUHL-SADOVY  
PRESIDENT



DR. ZENON CHRISTODOULOU  
COMMISSIONER



MICHAEL BANGE  
COMMISSIONER



EMMA REBHORN  
COMMISSIONER



JOSEPH COVIELLO  
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.

IN THE MATTER OF STRANO, MICHAEL AND DAWN, V. JERSEY CENTRAL POWER AND  
LIGHT COMPNAY

BPU DOCKET NO. EC23040208

OAL DOCKET NO. PUC 07480-2023

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**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**INITIAL DECISION**

**SUMMARY DECISION**

OAL DKT. NO. PUC 07480-23

AGENCY DKT. NO. EC23040208

**MICHAEL STRANO AND  
DAWN STRANO,**

Petitioners,

v.

**JERSEY CENTRAL POWER  
AND LIGHT COMPANY,**

Respondent.

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**Michael Strano** and **Dawn Strano**, petitioners, pro se

**Michael J. Martelo**, Esq., for respondent Jersey Central Power and Light  
Company

**William A. Lesser**, Esq., for respondent (Cozen O'Connor, attorneys)

**Steven Chaplar**, Deputy Attorney General, for New Jersey Board of Public Utilities  
(Jennifer Davenport, Acting Attorney General of New Jersey, attorney)

Record Closed: February 26, 2026

Decided: March 2, 2026

BEFORE **JACOB GERTSMAN**, ALJ t/a:

## **STATEMENT OF THE CASE AND PROCEDURAL HISTORY**

This matter comes before this tribunal by cross-motions for summary decision. Petitioners Michael and Dawn Strano filed a complaint with the Board of Public Utilities (BPU or Board) relating to an electrical-service outage at their property from February 3 through February 4, 2023. Respondent Jersey Central Power & Light Company (JCP&L or Company) is the electrical-service provider for petitioners.

The petition seeks the following relief from JCP&L: providing Snyderstown Road with new conventional transformers that reset automatically; installing new electrical lines and taller poles; providing the Flemington, New Jersey, office with the authority to staff employees and contractors when impending weather is predicted; cease and desist from unilaterally closing out any outage ticket without verification that power is actually restored to the residence; the installation of functioning smart meters on Snyderstown Road within sixty days; and performing tree trimming and cutting on Snyderstown Road and the continuation of a tree-trimming and -cutting maintenance schedule until electrical service reliability is restored.

The petition was filed with the Board on March 28, 2023, and the matter was transmitted to the Office of Administrative Law (OAL), where it was filed on August 16, 2023, to be heard as a contested case. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13. I conducted the initial prehearing conference on October 24, 2023, and the parties engaged in good-faith attempts to resolve the matter. Following numerous telephone status conferences, the parties advised me during the March 4, 2025, conference that they were at an impasse, and a briefing schedule for cross-motions for summary decision was agreed to. The cross-motions, opposition, and replies were submitted to my chambers, and the record was closed. The record was reopened on February 25, 2026, in order for respondent's counsel to submit his letter of representation. The letter was received on February 26, 2026, and the record was once again closed.

## **DISCUSSION AND FINDINGS OF FACT**

Upon review of the briefs submitted for purposes of the motion, the following pertinent facts are not in dispute, and I so **FIND**:

Michael and Dawn Strano reside at XX Snyderstown Road in Hopewell, New Jersey.<sup>1</sup> JCP&L provides electric service to the property via the “Ringo Circuit,” which includes a spur that runs along Snyderstown Road through a heavily wooded area within the Sourlands before reaching petitioners’ residence. (R-5 at 14.) Snyderstown Road and the Ringo Circuit are located within the Flemington District in the Northern Region. (R-3 at 18.)

Petitioners reported an outage at their residence via SMS text at 5:24 p.m. on February 3, 2023, which was confirmed by a customer call notification. (Resp’t’s Cross-Mot., R-3 at 31.) At the time of the reported outage, windy conditions affected the area, causing a considerable number of outages and service interruptions. As of 5:00 p.m. on February 3, 2023, there were 3,552 customers without power in the Northern Region, and 4,807 customers lost power in the Northern Region throughout February 3, 2023. (*Id.* at 28, 32.) JCP&L dispatched a line crew at 7:03 p.m., which arrived in the area affected by the outage at 7:37 p.m.

The line crew determined that an “off-right-of-way” tree fell, causing the outage. “Off-right-of-way” means that the tree was not located on JCP&L’s property or within JCP&L’s property rights. The tree cleared itself from JCP&L’s line after it fell. (*Id.* at 34–36.) Between 2020 and 2023, petitioners experienced eighteen sustained outages. Of those eighteen outages, eight were caused by trees off-right-of-way, one was caused by a tree on-right-of-way, one was caused by a tree in an unspecified location, one was caused by line failure, three were caused by equipment failure, and four had unknown causes. (Resp’t’s Cross-Mot., R-5 at 16–17.)

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<sup>1</sup> Petitioners’ full address is redacted for privacy purposes.

The repairs made by the line crew restored power to a large majority of the affected customers by 8:27 p.m. While the company believed that power had been restored to all customers on Snyderstown Road, 3 of the 41 customers remained without power. (Resp't's Cross-Mot., R-3 at 37.) JCP&L was alerted by a customer at 10:17 p.m. that power had not been fully restored and assigned a troubleshooter at 11:19 p.m. (Id. at 38–39.) The troubleshooter arrived in the affected area at 12:52 a.m. on February 4, 2023, and determined that an overhead transformer serving petitioners' residence had an internal fuse that needed to be reset. (Id. at 40–41.) The troubleshooter's truck experienced a mechanical issue with its boom during an attempt to repair the fuse. The mechanical issue was called in to the overnight clerk at the Northern Region Distribution Control Center, who called a mechanic to repair the truck. (Id. at 41.) Once the truck was repaired, the troubleshooter was able to repair the fuse, and power was fully restored to petitioners at 4:00 a.m. on February 4, 2023, within twelve hours of the reported outage. (Id. at 41–43.)

Petitioners submitted an informal complaint to the Board regarding the outage on March 7, 2023, and a formal complaint was filed on March 28, 2023. (R-1.)<sup>2</sup> The Board acknowledged receipt of the complaint on April 5, 2023; however, only pages 1 through 24 of the 74 pages comprising the filing were included in the email to petitioners and JCP&L. (Resp't's Opp'n, R-1 at 7.) Petitioners notified the Board the same day that the attachment to the acknowledgment email was missing pages. Additionally, several attachments to the petition were not included in the attachment to the Board's acknowledgement email to the parties. (Id. at 8.) Later on April 5, 2023, the Board responded to Mr. Strano's email about the missing pages, stating: "Please see the complete formal. My apologies." However, when JCP&L received this email, there was no attachment. (Id. at 9.) Respondent emailed the Board on April 7, 2023, requesting that a copy of the petition be sent to the Company directly. The email noted that while the Company saw the newly docketed matter, the email received "did not include any attachments despite referencing 'the complete formal.'" (Id. at 10.)

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<sup>2</sup> The procedural history of the filings of a petition and answer at the agency are not usually issues of fact to be determined at the OAL. However, as discussed below, the sole basis for petitioners' cross-motion for summary decision is whether respondent timely filed its answer. Therefore, I have determined that these factual findings are necessary in this matter.

The Board contacted respondent on May 22, 2023, to inquire on the status of the matter, attaching the emails from April 5, 2023. The full complaint was not attached to the email received by JCP&L. The Company responded, asking once again for the Board to send the full complaint. The Board again contacted JCP&L on June 12, 2023, inquiring about the matter, and the Company asked again for the complete petition. (Id. at 12.) It was later determined that the large file size likely prevented the email attachments from being received by the Company. (Id. at 11–12, Ex. 1.) When the Board reached out to respondent on June 23, 2023, the Company responded, noting that there was a technical issue with its receipt of the full petition. JCP&L stated in its response, “[w]hile you clearly sent us the [p]etition, for some reason we are not seeing the e-mail on our end.” (Id. at 13.) Respondent received a Word version of the full petition on July 3, 2023, and a hard copy was sent to the Company. (Id. at 15.) Respondent submitted its answer to the petition on July 24, 2023. (Id. at 16.)

### Positions of the Parties

#### Petitioners

The sole issue raised by petitioners in their cross-motion is their contention that respondents failed to file a timely answer to the petition. Petitioners assert that the filing of the Company’s response ninety-one days after the filing of the petition and the Board’s subsequent transmittal of the matter to the OAL are in violation of N.J.A.C. 14:1-6.2. They further claim that they were never notified of any extension given to respondent by the Board and that the Company informed them in discovery that no such extensions were given. Petitioners “demand that JCP&L be denied their reservation of rights to supplement its verified answer and its affirmative defenses with any additional defenses that become available or apparent during the course of investigation, preparation or discovery and to amend its verified answer accordingly since they have filed their position untimely.” (Pet’rs’ Cross-Mot. at 2.) Petitioners contend that they have, therefore, demonstrated that the relief requested in their petition should be granted.

Petitioners oppose respondent's cross-motion, arguing that respondent "failed and[/]or refused to comply with all applicable laws, regulations, and standards and has not taken reasonable actions for years in providing us with safe efficient and reliable supply of electric power." (Pet'rs' Opp'n at 2.)

### Respondents

Respondent argues that petitioners "inappropriately seek broad policy changes and an overhaul of the Company's reliability and customer service practices that are incompatible with the definition of a contested case. Such requests for relief would affect large segments of JCP&L's customers throughout the service territory and ordering such relief at the request of an individual customer would constitute an undue preference in service and violate well-settled New Jersey law that requires electric distribution companies to provide uniform and non-discriminatory service to all customers." (Resp't's Cross-Mot. at 2–3.) Additionally, "[i]mplementing broad policy changes such as those requested by Petitioners should be accomplished in a more generic, service-territory-wide proceeding in which all customers and interested stakeholders have the opportunity to participate. It would be inappropriate for the BPU to order such upgrades at the request of a single customer and not in a uniform proceeding." (Id. at 3.) Respondent also cites prior BPU precedent, which demonstrates that the relief sought by petitioners is incompatible with the definition of a contested case.

In opposition to petitioners' cross-motion, respondent argues that New Jersey law "provides that the time by which to file a response to a pleading begins to run when the public utility is served with the pleading by the Board Secretary. Measured by when JCP&L was served with Petitioners' full Pleading from the Board Secretary, JCP&L filed its Answer on time." (Resp't's Opp'n at 2.) Further, "[a]n award of summary decision on the basis of default would contradict New Jersey law that liberally excuses defaults and finds setting aside an answer to be a drastic remedy."

## **DISCUSSION AND CONCLUSIONS OF LAW**

N.J.A.C. 1:1-12.5(b) provides that summary decision should be rendered “if the papers and discovery which have been filed, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to prevail as a matter of law. When a motion for summary decision is made and supported, an adverse party, in order to prevail, must, by a responding affidavit set forth specific facts showing that there is a genuine issue which can only be determined in an evidentiary proceeding. Such response must be filed within 20 days of service of the motion.” Our regulation mirrors R. 4:46-2(c), which provides that “the judgment or order sought shall be rendered if the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to a judgment or order as a matter of law.”

A determination of whether a genuine issue of material fact exists that precludes summary decision requires the judge to consider whether the competent evidential materials presented, when viewed in the light most favorable to the non-moving party, are sufficient to permit a rational fact finder to resolve the allegedly disputed issue in favor of the non-moving party. Our courts have long held that “if the opposing party offers . . . only facts which are immaterial or of an insubstantial nature, a mere scintilla, ‘fanciful frivolous, gauzy or merely suspicious,’ he will not be heard to complain if the court grants summary judgment.” Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520 (1995) (citing Judson v. Peoples Bank and Trust Co., 17 N.J. 67, 75 (1954)).

The “judge’s function is not himself [or herself] to weigh the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial.” Brill, 142 N.J. at 540 (citing Anderson v. Liberty Lobby, 477 U.S. 242, 249 (1986)). When the evidence “is so one-sided that one party must prevail as a matter of law,” the trial court should not hesitate to grant summary judgment. Liberty Lobby, 477 U.S. at 252.

After a review of the moving papers submitted in support of and opposition to the cross-motions for summary decision, I **CONCLUDE** that for the reasons set forth more fully below, under the Brill standards, this matter is appropriate for summary disposition.

### Petitioners' Cross-Motion

Petitioners' sole argument in support of their cross-motion for summary decision is their contention that respondent failed to provide an answer to the petition within the required timeframe, and that they have, therefore, demonstrated that the relief requested in their petition should be granted. This argument is meritless.

N.J.A.C. 14:1-6.2(a) provides that “[u]nless otherwise provided in these rules or ordered by the Board, an answer, if made, must be filed within 20 days after the service of the pleading against which it is directed.” Emphasis added. Petitioners filed their complaint with the Board on March 28, 2023. However, technical issues, beginning with the Board’s April 5, 2023, email to the parties, prevented JCP&L from receiving the complete petition with all attachments. In fact, JCP&L requested, and the Board attempted to provide, the complete filing on multiple occasions between April 3, 2023, and July 3, 2023, when the complete complaint was finally received by the company in Word format. JCP&L argues that the inability to review the complete filing hindered its ability to file an answer since those attachments were referenced in the petition. I agree. Accordingly, I **CONCLUDE** that these attempts at service were insufficient. I **FURTHER CONCLUDE** that JCP&L was served with the petition on July 3, 2023.

N.J.A.C. 1:1-1.4 provides that in “computing any period of time fixed by rule or judicial order, the day of the act or event from which the designated period begins to run is not to be included” and the “last day of the period so computed is to be included, unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday or legal holiday.” JCP&L filed its answer on Monday July 24, 2023, which I **CONCLUDE** is the 20th day from the date it was served with petitioner’s complaint pursuant to N.J.A.C. 1:1-1.4. I therefore **CONCLUDE** that respondent timely filed its answer to petitioners’ complaint.

Even assuming *arguendo* that respondent had not timely filed its answer, petitioners offer an insufficient argument to support the granting of the extraordinary and draconian remedy of not only denying respondent's ability to present its position, but for this tribunal to also conclude that petitioners have demonstrated that the relief requested in their petition should be granted. Respondent correctly argue that "New Jersey law favors adjudication on the merits and cautions against defaults as a matter of public policy. See Midland Funding LLC v. Albern, 433 N.J. Super. 494, 499 (App. Div. 2013) (explaining the "strong preference for adjudication on the merits rather than final disposition for procedural reasons")." (Resp't's Opp'n at 6–7.) Further, as petitioners actively participated in discovery and good-faith attempts to resolve this matter from the first telephone conference on October 24, 2023, through the last conference on March 4, 2025, I **CONCLUDE** that petitioners were not prejudiced by the filing of JCP&L's answer on July 24, 2023.

For the foregoing reasons, I **CONCLUDE** that petitioners' cross-motion for summary decision should be denied.

#### Respondent's Cross-Motion

Respondent persuasively argues that "[i]t is well-established under New Jersey law and based on prior BPU decisions that broad policy changes for public utilities that will affect a large number of customers are incompatible with the regulatory definition of contested cases and are therefore unavailable in such contexts." (Resp't's Cross-Mot. at 28.) In Loigman v. Verizon New Jersey, Inc., petitioner Loigman lost four days of service when moving homes due to an error by respondent Verizon. 2017 N.J. AGEN LEXIS 1219, Final Decision (Nov. 21, 2017). Loigman sought relief including financial sanctions, costs and fees, and significant policy changes to Verizon's customer service and advertising. Id. at \*6. The judge in that matter granted Verizon's motion for summary decision, finding that Loigman's attempt to overhaul Verizon's customer-service practice was an "ill fit for the OAL's discreet adjudicatory function," and would be more appropriately addressed by the Board's investigatory, supervisory, or rule-making functions. Id. at \*4. The judge also found that the remedies sought by Loigman were unavailable as a matter of law. Ibid. In adopting the judge's findings and conclusions the

Board pointed toward the plain language of N.J.A.C. 1:1-2.1, noting that “contested cases are not intended to provide a forum to deal with broad policy issues that would affect large segments of the service area . . . .” Id. at \*8 (citing High Horizons Dev. Corp. v. Dep’t of Transp., 120 N.J. 40 (1990)). The Board noted that “there are already rules and requirements in place to deal with customer service issues, as well as other forums for the Board to address concerns with customer service or to adopt or revise rules related to these broader policy issues. See N.J.A.C. 14:10-1A et seq.; N.J.A.C. 14:1-5.16.” Id. at 4. The Board added that the judge had correctly pointed Loigman toward N.J.A.C. 14:1-5.16, whereby they could utilize existing rules to address broader policy issues. Id. at 8.

Petitioners attempt to distinguish this matter from Loigman by arguing that there is “a major difference between the two (2) utilities, in that failure and or refusal by JCP&L to properly maintain the infrastructure to provide a safe and reliable service puts the public in a potential unsafe situation in that human beings can be killed as opposed to another utility Verizon which provides a low voltage utility.” (Pet’rs’ Opp’n at 4.) However, the Board made no such distinction. I therefore **CONCLUDE** that the relief sought by petitioners constitutes broad policy issues that would affect large segments of the service area, just as in Loigman.<sup>3</sup> Accordingly, I **CONCLUDE** that the relief sought by petitioners is unavailable as a matter of law. I **FURTHER CONCLUDE** that this is not the proper forum to address these issues and the petition must be dismissed. Having made this determination, this tribunal will not address the remaining issues in the petition.

For the foregoing reasons, I **CONCLUDE** that respondent’s cross-motion for summary decision should be granted.

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<sup>3</sup> During the pendency of this matter, petitioners received a smart meter in October 2024, rendering that request moot. (R-3 at 27.)

**ORDER**


It is **ORDERED** that petitioners' cross-motion for summary decision is **DENIED**. It is **FURTHER ORDERED** that respondent's cross-motion for summary decision is **GRANTED**. The petition is hereby **DISMISSED**.

I hereby **FILE** my initial decision with the **BOARD OF PUBLIC UTILITIES** for consideration.

This recommended decision may be adopted, modified or rejected by the **BOARD OF PUBLIC UTILITIES**, which by law is authorized to make a final decision in this matter. If the Board of Public Utilities does not adopt, modify or reject this decision within forty-five days, and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B 10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **SECRETARY OF THE BOARD OF PUBLIC UTILITIES**, 44 South Clinton Avenue, P.O. Box 350, Trenton, NJ 08625-0350, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

March 2, 2026  
\_\_\_\_\_  
DATE

  
\_\_\_\_\_  
**JACOB S. GERTSMAN, ALJ t/a**

Date Received at Agency: \_\_\_\_\_

Date Mailed to Parties: \_\_\_\_\_

JSG/js/sb/jm