Agenda Date: 3/18/15
Agenda Item: 2E

STATE OF NEW JERSEY
Board of Public Utilities
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Trenton, New Jersey 08625-0350
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ENERGY

IN THE MATTER OF THE VERIFIED PETITION OF JERSEY CENTRAL POWER & 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; AND FOR APPROVAL OF AN ACCELERATED RELIABILITY ENHANCEMENT PROGRAM ("2012 BASE RATE FILING")	)	ORDER ADOPTING INITIAL DECISION WITH MODIFICATIONS AND CLARIFICATIONS BPU DOCKET NO. ER12111052 OAL DOCKET NO. PUC16310-12

Parties of Record:

Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel
Gregory Eisenstark, Esq., Jersey Central Power & Light Company
Martin C. Rothfelder, Esq., Public Service Electric and Gas Company
Andrew Dembia, Esq., New Jersey Natural Gas Company
Steve Goldenberg, **Esq**., New Jersey Large Energy Users Coalition
Catherine Tamasik, Esq., Township of Marlboro
Michael Gruin, Esq., Wal-Mart Stores East, LP and Sam's East, Inc.
Janine G. Bauer, Esq., AARP
Bob Weishaar, Esq., Gerdau Ameristeel Sayreville, Inc.
Michael Selvaggi, Esq., Township of Tewksbury
Anthony R. Francioso, Esq., Township of Robbinsville
Matthew J. Giacobbe, Esq., Township of Wayne
Fred Semrau, Esq., Township of West Milford
Anthony J. Zarillo, Jr., Esq., County of Morris
Murray Bevan, Esq., Consolidated Edison Development

BY THE BOARD[1]:

By this Decision and Order, the New Jersey Board of Public Utilities ("Board" or "BPU") considers the Initial Decision rendered in this matter; exceptions to the Initial Decision filed by Jersey Central Power and Light Company ("JCP&L" or "Company"), the New Jersey Division of

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[1] Commissioner Upendra J. Chivukula recused himself due to a potential conflict of interest and as such took no part in the discussion or deliberation of this matter.

Rate Counsel ("Rate Counsel"), Board Staff ("Staff"), Gerdau Ameristeel Sayreville ("Gerdau"), Consolidated Edison Development Inc. ("Con Ed"), and AARP; and reply exceptions to the Initial Decision filed by JCP&L and Rate Counsel.

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I. BACKGROUND AND PROCEDURAL HISTORY

By petition dated September 7, 2011, Rate Counsel sought an Order pursuant to N.J.S.A. 48:2-21(b)(1) directing JCP&L to file a base rate case petition so that the Board may determine whether the Company's current rates for electric service are just and reasonable. Rate Counsel asserted that it had reason to believe that JCP&L is earning an unreasonable return based upon publicly available data, and therefore it would be appropriate for the Board to require JCP&L to file a base rate case to address any doubts about the Company's earnings. On July 31, 2012, the Board issued an Order in Docket No. EO11090528, directing JCP&L to file a base rate case using a historical 2011 test year on or before November 1, 2012 ("July 2012 Order"). [2]

On November 30, 2012, JCP&L filed a Verified Petition ("Petition") with the Board, pursuant to N.J.S.A. 48:2-21, N.J.S.A. 48:2-21.1 and N.J.A.C. 14:1-5.12, for approval of an increase in its distribution rates by $31.47 million annually, or approximately 1.4%, based on a 2011 test year and updated for known and measurable post-test year changes. (Petition at 4 and 6).[3] The Company also sought to implement an Accelerated Reliability Enhancement Program ("AREP") for projects that had yet to be developed, and to recover associated costs through a non-bypassable surcharge on its distribution rate rider to its tariff. (Petition at 7).

The Board transmitted the Petition to the New Jersey Office of Administrative Law ("OAL") as a contested matter on December 10, 2012. The OAL assigned the Honorable Richard McGill, Administrative Law Judge ("ALJ"), to preside over the matter.

On January 13, 2013, Rate Counsel moved to compel the filing of a new depreciation study, noting that the Company had failed to file one with the pending rate case petition, responding that it was unnecessary to do so. ALJ McGill denied the motion on February 1, 2013, and Rate Counsel requested, on February 7, 2013, interlocutory review by the Board. By Order dated March 20, 2013, the Board determined that a new depreciation study was warranted given that the last study was conducted over 17 years earlier, and proper depreciation rate determinations required more than the annual updates provided by the Company. Accordingly, the Board directed JCP&L to file a new depreciation study on or before June 14, 2013.[4] The Company complied.

On March 7, 2013, ALJ McGill issued a Pre-hearing Order ("Pre-hearing Order") detailing the schedule for discovery and pre-filed testimony, public and evidentiary hearings, and estimated number of witnesses. The Pre-hearing Order provided the following issues to be resolved: (1) whether the requested increase in rates should be approved (including rate base, rate of return ("ROR"), pro forma operating revenues, pro forma operating expenses, cost of service, rate design and service concerns); (2) whether the other tariff revisions should be approved; and (3) whether the AREP should be approved.

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[2] The filing deadline was extended to December 3, 2012 at the request of the Company due to inclement weather.

[3] On June 14, 2013, the Company filed an update to its Base Rate Filing ("June 14 update"). The purpose of the June 14th Update was to update the Company's 2012 Base Rate Filing and proposed rates to include the results of the Board-ordered depreciation study, the amended cash working capital ("CWC") testimony, and other revisions to rate base and expenses. As a result of that filing, the Company reduced its proposed increase in base rates by $10.847 million to $20.624 million annually, exclusive of 2012 storm costs. (JC-3, Supp. No, 2, 4:10-19).

[4] Order Compelling JCP&L to File a New Depreciation Study, Docket No. ER12111052 (March 20, 2013).

GENERIC STORM COST PROCEEDING

In 2011 and 2012 New Jersey was struck by several extraordinary major storm events ("Major Storm Events") which left millions of New Jersey residents without necessary utility service and caused unprecedented damage to the State's utility infrastructure. The Company included the costs related to Hurricane Irene and the October 2011 Snowstorm ("2011 Major Storm Events") in the Petition. The requested costs for the 2011 Major Storm Events totaled approximately $164 million.

On February 22, 2013, the Company filed an "update" to its base rate filing that included a request for recovery of JCP&L's costs for preparation, response and recovery related to Superstorm Sandy and the subsequent Nor'easter snowfall ("2012 Major Storm Events"). The requested costs for the 2012 Major Storm Events totaled approximately $603 million.

On March 20, 2013, the Board issued an Order establishing a generic proceeding to evaluate the prudence of the public utilities' major storm event restoration costs related to the 2011 and 2012 Major Storm Events.[5] The Board ordered Staff to open a generic proceeding to evaluate and review the prudence of all submissions for Major Storm Event expense reimbursement from ratepayers, filed or to be filed, by each utility under its own separate sub-docket numbered proceeding ("Generic Storm Costs Proceeding"). Where a utility, such as JCP&L, had already filed for recovery or deferral of expenses related to a 2011-2012 Major Storm Event, to the extent that the amount of the allowed recovery had not yet been determined, the Board directed that review of the prudence of those costs would be conducted within the generic proceeding.

On April 4, 2013, JCP&L filed a motion pursuant to N.J.S.A. 14:1-8.6 seeking a ruling that its costs for 2011 and 2012 Major Storm Events would remain under review in the base rate case and not be considered in the Generic Storm Costs Proceeding. Alternatively, JCP&L sought clarification of the procedures, process and safeguards that the Board would employ to coordinate the Generic Storm Costs Proceeding with the base rate case to enable recovery of costs for the major storm events in 2011 and 2012, requesting that the rate case be held in abeyance until the Generic Storm Costs Proceeding was completed. By Order dated May 31, 2013, while the Board reaffirmed the decision in the March Order qualifying that Major Storm Event expenses would be reviewed within the Storm Costs Proceeding, it provided clarification specific to JCP&L:

> [T]he Major Storm Event costs incurred by JCP&L in 2011 and 2012 will be reviewed for prudence within the Generic Storm Costs Proceeding. Those costs incurred in 2011, during the base rate case test year, will be reviewed expeditiously and returned to the base rate case for consideration there with the goal of maintaining the schedule of the case already set by ALJ McGill. The recovery of prudent costs incurred in connection with the 2012 Major Storm Events will be considered through a Phase II in the existing base rate case or through another method found to be appropriate by the Board. That decision will be made by the

[5] In re the Board's Establishing a Generic Proceeding to Review the Prudence of Costs Incurred by NJ Utility Companies in Response to Major Storm Events in 2011 and 2012, BPU Docket No. AX13030196, Order dated March 20, 2013. ("March Order")

Board at the conclusion of JCP&L's Generic Storm Costs Proceeding review.[6]

MOTIONS TO INTERVENE / PUBLIC HEARINGS

Motions for intervention and participation in the base rate case were filed and subsequently granted by ALJ McGill. The parties granted intervention or participant status included the following: AARP (participant); Gerdau; Con Ed; Township of West Milford; Township of Wayne; Township of Tewksbury; Township of Marlboro; Township of Robbinsville; New Jersey Natural Gas (participant); Public Service Electric and Gas Company (participant); Wal-Mart Stores East, LP and Sam's East, Inc. ("Wal-Mart"); New Jersey Large Energy Users Coalition ("NJLEUC"); and the County of Morris.

Public hearings were duly noticed and held at the following locations at 1:30 p.m. and 6:30 p.m. on the following dates: April 8, 2013, in Toms River, New Jersey; April 16, 2013, in Morristown, New Jersey; and April 24, 2013, in Freehold, New Jersey. ALJ McGill presided over each hearing.

EVIDENTIARY HEARINGS

Evidentiary hearings were held at the OAL offices in Newark, Essex County on September 12 and 23; October 1, 2, 4, 7, 9, 10, and 16; and November 19, 2013.[7] JCP&L presented the pre-filed and/or live testimony of James Warren, Mark Mader, Gary Grant, Mark A. Jones, Steven E. Strah, Jeffrey W. Cummings, Ralph C. Hilmer, Steven R. Staub, Pauline M. Ahern, Michael J. Marano, Carol Pittavino, Christine L. Walker, James Pearson, Dennis Pavagadhi, Kevin Connelly, Meghan Moreland, Sally J. Cheong, Jeffrey Adams, Marlene A. Barwood, Harvey L. Wagner, and John J. Spanos. Rate Counsel presented the pre-filed and/or live testimony of Andrea Crane, Roger Colton, Peter J. Lanzalotta, Mathew I. Kahal, Robert Henkes, David Peterson, Michael I. Serota, and Michael J. Majoros. Wal-Mart presented the pre-filed and/or live testimony of Steve W. Chriss. Gerdau presented the pre-filed and/or live testimony of Kevin O. O'Donnell, Jeffrey Pollack and Mark Quiring, and Con Ed presented the pre-filed and/or live testimony of Stephen Wemple.

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[6] In re the Board's Review of the Prudency of the Costs Incurred by Jersey Central Power & Light Company in Response to Major Storm Events in 2011 and 2012, Docket No. EO13050391, et al. (May 31, 2013).

[7] The transcripts of the hearings dates shall be referred to as follows:
1T- September 12, 2013
2T- September 23, 2013
3T- October 1, 2013
4T- October 2, 2013
5T- October 4, 2013
6T- October 7, 2013
7T- October 9, 2013
8T—October 10, 2013
9T- October 16, 2013
10T- November 19, 2013.

Following the hearings, ALJ McGill approved a briefing schedule that required the parties to simultaneously file initial briefs on January 17, 2014, and reply briefs on February 14, 2014. On January 15, 2014, ALJ McGill approved Staff's January 14, 2014 request for an extension of time to file, making the initial and reply briefs due on January 27, 2014 and February 24, 2014, respectively.

Accordingly, on January 27, 2014, JCP&L, Rate Counsel, Staff, AARP, Gerdau, Wal-Mart, the County of Morris, and Con Ed filed briefs. On February 24, 2014, JCP&L, Rate Counsel, Con Ed, Gerdau, and the County of Morris filed reply briefs.

By Order dated March 19, 2014, the Board approved a Stipulation that settled the JCP&L Storm Costs Proceeding ("March 2014 Storm Costs Order"). The Stipulation specified the amount of prudently incurred capital and deferred operations and maintenance ("O&M") costs for the 2011 and 2012 Major Storm Events. In accordance with the stipulation, the exact manner of recovery of the 2011 major storm costs would be decided in the pending base rate case, and recovery of the 2012 major storm costs would be addressed separately. By letter dated March 25, 2014, the Board sent back to the OAL the portions of the JCP&L Storm Costs Proceeding that addressed the 2011 major storm costs.

Pursuant to a directive by ALJ McGill, JCP&L and Rate Counsel filed letters identifying the portions of the evidentiary record that related to the recovery of the 2011 major storm costs. On May 5, 2014, the Company submitted updated revenue requirement schedules that reflected the impact of the Board's March 2014 Storm Order and JCP&L's updated cost of debt of 5.93%, entered into evidence as Exhibit JC-5A, neither of which had been previously reflected in the revenue requirement schedules. The updated revenue requirement schedules reflected the Company's final proposed increase in revenues of $9.1 million. Rate Counsel filed updated revenue requirement schedules with its reply brief on February 24, 2014 that were based on the assumption that the Board would issue an order approving the stipulation of settlement in the JCP&L Storm Costs Proceeding. Rate Counsel's updated schedules represented its final recommended rate decrease of approximately $190.2 million. (Rate Counsel Reply Brief at 41 and at Sch. RJH-1RB) On June 11, 2014, Staff submitted revised updated revenue requirement schedules that reflected the impact of the Board's March 2014 Storm Costs Order. Staff's updated schedules represented its final proposed revenue reduction of $169.8 million. (Staff's update, Page 1 of the Attachment)

On June 30, 2014, ALJ McGill closed the record.

On August 14, 2014, ALJ McGill requested additional time for filing his Initial Decision, which was granted by the OAL and accepted by the Board. On September 26, 2014, ALJ McGill requested an additional 45 day extension, which was also granted. Subsequently, on November 13, 2014, a third request for additional time was received from ALJ McGill. On December 29, 2014 ALJ McGill requested an additional 10 day extension.[8] On January 8, 2015, ALJ McGill filed his Initial Decision in this matter.

[8] This extension was accepted by the Board at its next scheduled Board meeting on January 21, 2015.

RATE COUNSEL MOTIONS FOR PROVISIONAL RATES

On July 24, 2014, Rate Counsel filed a motion requesting that the Board issue an Order directing that the current rates of JCP&L be continued on a provisional basis, subject to refund as of August 1, 2014 ("July 2014 Motion"). In the July 2014 Motion, Rate Counsel asserted that because of the extraordinary length of time that the base rate case has taken, and because ratepayers continued to pay what Rate Counsel believed were excessive rates, the Board should exercise its regulatory authority and set the effective date for any Board-authorized change in JCP&L's rates for electric service to August 1, 2014, allowing for a refund to JCP&L's customers if the Board finds that JCP&L's current rates were excessive. (July 2014 Motion at 5).

Rate Counsel cited In re the Revision of Rates Filed by Lambertville Water Company Increasing Its Rates for Water Service, 79 N.J. 449, 457 (1979) ("Lambertville Water") and In re the Revision of Rates Filed by Toms River Water Co. Increasing Its Rates for Water Service, 82 N.J. 201, 211 (1980) ("Toms River") as the authority for its argument. (Id. at 6). According to Rate Counsel, Lambertville Water granted the Board "broad discretion" to fix an effective date for a rate increase. In Toms River the Board provided the company with a remedy for regulatory lag by making proposed rates effective subject to certain conditions. Rate Counsel argued that because utilities are compensated for a regulatory lag, customers should also be compensated. Rate Counsel also cited Congress modifying the Federal Power Act to allow refunds when rates under review are determined to be excessive. (Id. at 7). Rate Counsel argued that New Jersey should offer its ratepayers similar refunds to those that Congress offered at the federal level.

Walmart, Gerdau and AARP filed letters in support of Rate Counsel's motion. PSE&G filed a letter opposing Rate Counsel's motion.

JCP&L filed a response to the July 2014 Motion urging that the Board deny Rate Counsel's motion ("JCP&L Response to July 2014 Motion"). JCP&L argued that Rate Counsel had not identified any applicable legal authority in support of its motion. In addition, JCP&L asserted that granting the motion and declaring the Company's rates provisional could be highly prejudicial to the ALJ's deliberations in the matter.

JCP&L also argued that it would be "wholly inappropriate" to declare JCP&L's rates provisional while the case still pending. (JCP&L Response to July 2014 Motion at 5). JCP&L also asserted that no relevant, applicable legal authority exists for Rate Counsel's requested action. (Id. at 7). Instead, JCP&L cited N.J.S.A. 48:2-21.1, providing that the Board may only implement interim or provisional rates during the pendency of a rate case if it "negotiate[s] and agree[s] with" the utility for such an adjustment. (Ibid.) JCP&L further argued that Lambertville Water does not apply because it involved the interplay of a suspension period and the rate effective date, and cannot be applied to the issue of provisional rates. (Ibid.) The Company maintained that Rate Counsel's argument that New Jersey should model the federal government's actions with respect to the Federal Power Act is not applicable here because the Federal Power Act does not have jurisdictional authority, and because the Federal Power Act "specifically directs FERC to establish a rate effective date if it initiates a proceeding under Section 206, while there is no parallel directive under New Jersey law." (Id. at 10).

In response to ALJ McGill's November 13, 2014 request for additional time to complete his Initial Decision, by letter dated November 18, 2014, Rate Counsel renewed its request that the Board render a decision on the July 2014 Motion, or alternatively, require that the Initial

Decision be filed no later than December 1, 2014. Walmart and AARP filed letters expressing continued support of the July 2014 Motion. JCP&L reaffirmed its opposition to the relief requested by Rate Counsel's motion.

Upon issuance of ALJ McGill's Initial Decision, by letter dated January 12, 2015, Rate Counsel again requested that the Board decide the July 2014 Motion.

II. INITIAL DECISION

On January 9, 2014, ALJ McGill filed his Initial Decision with the Board. The Initial Decision, which totaled 128 pages, included an appendix, a list of exhibits, a procedural history, a background, an overview of the case, and a discussion of findings and recommendations for each issue in the case. Key elements of the Initial Decision are summarized below.

A. Revenue Requirement

As summarized on page 113 of his Initial Decision, ALJ McGill recommended a rate base of $1,901,376,452, a rate of return of 8.01 percent, and a reduction in annual revenues of $107,489,352.

1. Rate of Return/Capital Structure

<u>Return on Equity</u>

<u>Positions of the Parties:</u>

JCP&L requested that its return on equity ("ROE") be set at 11 percent, while Rate Counsel argued that the appropriate rate would be 9.25 percent. (Initial Decision at 24-31). AARP supported Rate Counsel's analysis and conclusion. (<u>Id.</u> at 28). Gerdau supported a ROE of 8.9 percent. (<u>Id</u>. at 28 – 29). Walmart's witness testified that JCP&L found that the 9.75 ROE in place since the last rate case was sufficient for its operations, and therefore, an increase was not required. (<u>Id.</u> at 29 – 30). Staff reviewed the DCF, RPM and CAPM analyses produced in testimony as well as other data, to arrive at a recommendation of 9.75 percent. (<u>Ibid.</u>)

<u>Initial Decision:</u>

ALJ McGill found that Staff's recommendation of a return on equity of 9.75 percent for JCP&L is fair and reasonable and should be approved. (Initial Decision at 31).

<u>Capital Structure/Cost of Long-Term Debt</u>

<u>Positions of the Parties:</u>

To develop an appropriate capital structure for ratemaking purposes, the Company eliminated short-term and securitized debt to produce a capital structure comprised of 39.2 percent debt and 60.8 percent equity as of June 30, 2012, which it then adjusted to reflect the issuance of $500 million in long-term debt in August 2013. The Company maintained that this reflects the capital structure during the first full year when the rates will be in effect. The adjustment decreased the overall embedded cost of long-term debt from 6.26 percent to 5.82 percent, which was later updated to 5.93 percent. (Initial Decision at 31).

Rate Counsel opposed the adjustment to the capital structure because (1) the $500 million debt issuance occurred too far beyond the historic test year's end to be incorporated into the ratemaking capital structure, and (2) a major portion of JCP&L's actual capital structure is goodwill, an accounting adjustment to the Company's balance sheet from the decade-old GPU-FirstEnergy merger. (Id. at 32). Rate Counsel witness Mr. Kahal cited a data response detailing that, "the first $1.8 billion in goodwill on [JCP&L's] books represents a premium over book value that FirstEnergy paid for GPU," and argued that through the inclusion of goodwill in the ratemaking capital structure, FirstEnergy effectively was seeking cost recovery of the merger acquisition premium in the form of a return on rate base. (Ibid.) Removing the $500 million in long-term debt adjustment, JCP&L's capital structure would be comprised of 39.2 percent debt and 60.8 percent equity, and Kahal argued that this capital structure would be too costly from the ratepayers' perspective, while elimination of goodwill would produce a capital structure that is overleveraged and too risky. Instead, Kahal recommended a hypothetical capital structure of 50 percent long-term debt and 50 percent common equity which was roughly in line with companies in Kahal's and Ahern's proxy groups. (Ibid.). Moreover, the 50/50 hypothetical capital structure is the midpoint of the 45 to 55 percent target equity ratio range that the Company recognized as reasonable for credit quality and ratemaking purposes. (Ibid.)

Gerdau witness O'Donnell also recommended a 50/50 hypothetical capital structure for similar reasons, and Staff also supported the proposed 50/50 hypothetical capital structure. (Ibid.)

Initial Decision:

ALJ McGill found Rate Counsel's arguments to be persuasive and agreed with the view that approval of JCP&L's proposed adjustment to include the $500 million in long-term debt would violate the matching principle because the issuance in August 2013 was too far outside the 2011 test year. The ALJ ruled that the proposed adjustment is unreasonable and should not be approved. (Initial Decision at 33). Further, ALJ McGill found that without the adjustment, the capital structure is unreasonable in that the equity component is too large at 60.8 percent, and Rate Counsel's proposed hypothetical capital structure with 50.0 percent equity and 50.0 percent debt is at the midpoint of the range considered reasonable and should be approved. (Ibid.). The ALJ also found that a hypothetical capital structure with 50.0 percent equity and 50.0 percent debt with embedded cost of long-term debt of 6.26 percent is reasonable and should be approved. (Id. at 34).

2. Rate Base

a) Materials and Supplies

Positions of the Parties:

JCP&L included $16,699,010 for materials and supplies in rate base based upon the balance as of June 30, 2012, six months beyond the end of the test year. (RC-3 Rebuttal at 6). Rate Counsel adjusted this amount to reflect a 13 month average of the balance for the period ending June 30, 2012. Rate Counsel's adjustment would reduce the balance for materials and supplies by $1,877,767 to $14,821,243. According to Rate Counsel, the adjustment would normalize the balance because it varied significantly during the year due to seasonality and/or other reasons. (RC-145 at 19). Staff supported Rate Counsel's adjustment.

Initial Decision:

ALJ McGill adopted Rate Counsel's position, and concluded that the thirteen-month average proposed by Rate Counsel is more representative of the balance for materials and supplies. (Initial Decision at 8).

b) Cash Working Capital

Working Capital, for ratemaking purposes, is the average amount of capital, over and above the investment in plant and other separately identified rate-base components, provided by investors to bridge the gap between the time expenditures are required to provide service and the time collections are received for that service. (Exhibit JC-12, at 2:1-6) Cash working capital is a component of working capital. A lead / lag study which sets the time frame of the gap for specific expenses is a method that is used to determine the amount of cash working capital.

In this proceeding, the Company presented a lead/lag study which indicated that it requires distribution cash working capital in the amount of $138,138,683. Rate Counsel proposed adjustments that would reduce JCP&L's distribution cash working capital requirement by $61,654,653 to $76,484,029.

The contested cash working capital ("CWC") issues are: (1) lead days for federal income tax payments; (2) depreciation, regulatory debits and credits; (3) deferred taxes; and (4) return on invested capital.

i. Lead Days for Federal Income Tax Payments

Positions of the Parties:

JCP&L makes estimated payments of federal income taxes on the fifteenth day of April, June, September, and December of each year. In 2011, JCP&L made the following payments to FirstEnergy: $24.5 million, $9.9 million, $31.6 million, and ($16.7 million). (JC-12 at 5; RC-152 at 11 and JCP&L Initial Brief at 45) The negative amount for the payment on December 15, 2011 represents a refund from FirstEnergy to JCP&L and it is the result of major storms late in that year. In its lead/lag study, JCP&L used these actual payments.

Rate Counsel maintained that the distortion of payments caused by the major storms of 2011 should be eliminated by the use of a normalization type adjustment. To accomplish this, Rate Counsel calculated the lead days for income taxes as though JCP&L had made equal tax payments in each of the four quarterly installments. Rate Counsel believes this is appropriate because, as acknowledged by the Company's witness, the IRS allows taxpayers to utilize a number of different methods to estimate quarterly tax payments. (8T 122:2-18). In addition, Rate Counsel noted that JCP&L makes its quarterly tax payments, not to the IRS, but to its parent corporation.

The Company argued that it would violate the matching principle if, as Rate Counsel proposes, only one element of the lead/lag study is set apart to be calculated using normalized, rather than actual payments. (JCP&L Initial Brief at 46)

Staff concurred with Rate Counsel stating that due to the severity and impact of the storms, Staff finds it appropriate to normalize this item to eliminate the distortion from the storms. (Staff Initial Brief at 43).

Initial Decision:

The ALJ found the arguments of Rate Counsel and Staff to be persuasive and found that Rate Counsel's proposed adjustment should be approved. (Initial Decision at 9).

ii. Depreciation and Regulatory Debits and Credits

Positons of the Parties:

JCP&L included depreciation, and regulatory debits and credits in its lead/lag study as expenses with zero lag days. (JC-12 at 8). JCP&L argued that each dollar of expense recovered in rates reflects the return of a dollar of investor-supplied funds, and as such, belongs to investors.

Rate Counsel objected to including these items in the lead-lag computation, asserting that a rate base allowance for cash working capital is intended to compensate the utility for investor funds used to finance the day-to-day cash operating needs of the utility. Rate Counsel maintained that since cash flows arising from non-cash expenses do not serve this purpose, they should not be included in the working cash allowance. (RC-152 at 14). Furthermore, Rate Counsel asserted that depreciation expense represents a significant source of cash flow for the utility, not a requirement for working capital. (RC-152 at 14).

Staff recommended that depreciation and regulatory debits and credits be included in the lead/lag study, and assigned a zero lag as proposed by the Company. JCP&L and Staff relied on Board precedent, while Rate Counsel recognized that it is urging the Board to reconsider the issue at this time.

Initial Decision:

The ALJ reviewed the cases cited by JCP&L and Staff and found that the reasoning in those decisions was persuasive. Therefore, the ALJ recommended that depreciation, and regulatory debits and credits, should be included in the lead/lag study as expenses with zero lag days as proposed by JCP&L and Staff. (Initial Decision at 11).

iii. Deferred Income Taxes

Positions of the Parties:

JCP&L included deferred taxes in its lead/lag study as expenses with zero lag days. (JC-12, page 8 lines 1 to 19). Rate Counsel urged the Board to continue its past policy of excluding deferred income taxes from lead-lag analyses.

Rate Counsel stated that like depreciation, deferred taxes are non-cash expenses to the utility. However, including deferred taxes in the lead/lag analysis was more egregious because investor-supplied funds never use or require deferred taxes.

Consistent with Board policy on this issue, Staff recommended that deferred taxes be excluded from the lead/lag study as proposed by Rate Counsel.

Initial Decision:

ALJ McGill found that the position of Rate Counsel and Staff was consistent with Board precedent, specifically In the Matter of the Petition of Public Service Electric and Gas Company for an Increase in Rates, Docket No. ER85121163 (Board Order dated April 6, 1987). Accordingly, the ALJ found that Rate Counsel's proposed adjustment eliminating deferred taxes from the allowance for cash working capital was reasonable and should be approved. (Initial Decision at 11).

iv. Return on Invested Capital and Interest on Long Term Debt

Positions of the Parties:

Consistent with Board precedent, the Company included the return on invested capital (which includes components for cost of equity and long-term debt) in the calculation of cash working capital, and assigned that return a zero lag. (JCP&L Initial Brief at 52) The rationale for inclusion was that the interest on long-term debt and the return on common equity are earned and become the property of the utility's investors at the time that service is rendered.

Rate Counsel rejected the Company's zero-day lag, stating that it is as if stockholders and debt-holders are being compensated on a daily basis. Rate Counsel asserted that the issue is not whether the Company's operating income is the property of the investor once service is provided, but how much investor-supplied capital is required to meet the utility's day-to-day operating expenses. Therefore, to measure the actual delay in the utility's cash outlay to stockholders, Rate Counsel recommended that a reference should be made to the quarterly dividends that are being paid rather than assuming a zero lag. However, since there is no contractual requirement for JCP&L to pay stockholders a quarterly dividend, the common equity should not be included in the lead/lag analysis. (RC-152 at 16). Rate Counsel took issue with the Company's similar treatment of long-term debt interest in the lead/lag analysis. Instead, Rate Counsel recommended that the average payment lead for long-term debt be separately recognized in the lead/lag calculation because it is paid semi-annually, creating a 91.25 day expense lead. (RC-152 at 17; Rate Counsel Initial Brief at 77).

Staff recommended that consistent with Board policy, the return on invested capital be included in the lead/lag study, and assigned a zero lag as proposed by the Company.

Initial Decision:

Citing In the Matter of Atlantic City Electric Company, Docket No 8310-883 (Order dated August 17, 1984), the ALJ found that the reasoning in that decision was persuasive. Therefore, the ALJ recommended that the return on invested capital be included in the calculation of cash working capital, and assigned a zero lag as proposed by the Company. (Initial Decision at 13).

c) Consolidated Tax Adjustment

Positions of the Parties:

JCP&L is a wholly-owned subsidiary of First Energy and participates along with other affiliated companies in the filing of a consolidated federal income tax return. As a result, tax losses of one affiliate may be offset against the taxable income of other entities included in the consolidated return. The net effect of the consolidated return is that the holding company, First Energy, and its profitable subsidiaries pay less in federal income taxes than if each affiliate filed a separate, stand-alone income tax return.

In this proceeding, JCP&L calculated its pro forma income tax expenses on a "stand-alone" basis and made no adjustment for consolidated tax savings. Staff and Rate Counsel proposed a consolidated tax adjustment based on the method approved by the Board in In the Matter of the Petition of Rockland Electric Company for Approval of Changes in Electric Rates, its Tariff for Electric Service, Its Depreciation Rates, and for Other Relief, BPU Docket No. ER02100724 (Board Order dated April 20, 2004) ("2004 Rockland Decision"). Approval of the consolidated tax savings adjustment proposed by Rate Counsel and Staff would reduce JCP&L's rate base by $511,030,428. (RC-13 at Sch. ACC-1). Staff and Rate Counsel asserted that this adjustment is consistent with the Board's orders on this issue, including the Board's January 2013 Order in the generic proceeding ("CTA Proceeding") to review its consolidated tax savings policy. In re the Board's Review of the Applicability and Calculation of a Consolidated Tax Adjustment, BPU Docket No. EO12121072, Order dated January 23, 2013 ("2013 CTA Order"). In the 2013 CTA Order, the Board established a generic proceeding to reexamine its CTA policy, and the Board directed that "until such time as the Board makes a final determination on the consolidated tax adjustment issues, the current consolidated tax saving policy shall apply."

Initial Decision:

The ALJ found that the most advisable course was to defer implementation of a CTA pending completion of the 2013 CTA proceeding, at which time a reasonable CTA could be calculated. (Initial Decision at 18).

Staff's Consolidated Tax Adjustment Revised Calculation

On January 30, 2015, Board Staff circulated a CTA for JCP&L calculated to reflect the methodology that the Board adopted in its December 17, 2014 Order in the CTA Proceeding ("2014 CTA Order") using the information provided in the rate case. Board Staff's CTA would reduce JCP&L's rate base by $47,127,737. The impact of this would be a reduction in revenue requirement of $5.36 million ($47,127,737 x the pre-tax rate of return of 11.37%).

d) Excess Cost of Removal Reserve

Positions of the Parties:

In the Company's last base rate case (ER02080506), the Board ruled that Net Salvage/Cost of Removal would be separated from depreciation expense (Order dated May 17, 2004 at 54).

Since the conclusion of the 2002 base rate case, the amount of $107.2 million remained as a credit to rate base. In its Petition in this case, the Company proposed to return the $107.2 million excess cost of removal reserve to customers over 28.5 years, the remaining life of the property. (JC-3 Rebuttal at 5). The Company argued that because the $107.2 million is being removed from the depreciation reserve, it should be added back to rate base. (JCP&L Initial Brief at 74).

Staff supported Rate Counsel's position that the $107.2 million should remain as a credit to rate base for the entire amortization period (Exhibit RC-145 at 17-18), citing the Board's finding in a PSE&G proceeding directing that "[a]ll amounts associated with Cost of Removal which remain in the depreciation reserve will continue to be an offset to the Company's rate base" GR05100845, <u>Decision and Order Adopting Initial Decision</u>, January 9, 2006. (Rate Counsel Initial Brief at 66).

<u>Initial Decision:</u>

ALJ McGill found that the Company's proposed add-back of the $107.2 million to rate base is unreasonable and should not be approved. Additionally, the ALJ found that the unamortized excess cost of removal reserve should remain as a rate base reduction, which will decline over time, with the length of the amortization adjusted to reflect any changes in depreciation rates approved in this proceeding. (Initial Decision at 20).

e) Customer Refunds

<u>Positions of the Parties:</u>

Rate Counsel proposed to deduct $1.16 million from JCP&L's rate base to reflect the 2011 12-month average level of customer refunds carried on JCP&L's records. Rate Counsel based its adjustment on the fact that the "customer refunds" account contains ratepayer funds rather than investor supplied funds. (Rate Counsel Initial Brief at 81, Rate Counsel Reply Brief at 38).

JCP&L contended that the Board never required the Company to impute a rate base deduction based on a level of customer refunds on the Company's books. (JCP&L Initial Brief at 77). The Company also contested Rate Counsel's calculation of the level of customer refunds because its calculation is based upon total revenues (including distribution, Basic Generation Service, Third Party Supply, and rate riders), rather than solely on the distribution-only revenues that are at issue in this case. JCP&L submitted that, at most, only 27% of the customer refunds on the Company's books are related to the distribution portion of the customer's bill. (<u>Ibid.</u>)

Rate Counsel's witness accepted the limitation to distribution rates only. The effect of this change is to reduce the adjustment to $314,000. Staff supported Rate Counsel's adjustment as limited to distribution rates only.

<u>Initial Decision:</u>

ALJ McGill agreed with Rate Counsel that customer refunds are ratepayer-supplied funds and therefore, should be deducted from rate base limited to the portion of the customer refunds related to distribution base rates only. Accordingly, the Initial Decision reduced rate base by $314,000 to reflect distribution related customer refunds. (Initial Decision at 21).

f) Unamortized Net Loss on Reacquired Debt

Positions of the Parties:

Under Generally Accepted Accounting Principles ("GAAP"), if debt is terminated or significantly modified, the Company must recognize, with a charge to income or expense, any gain or loss associated with the termination of the debt, and any deferred issuance costs in the period the debt is terminated or significantly modified. Deferred net unamortized gain or loss on reacquired debt occurs when there is a redemption or reacquisition of long-term debt, and there exists remaining unamortized original debt expense or discounts and/or other financing costs related to the original debt issuance. The balance of the net gains or losses on reacquired debt is amortized to interest expense over the remaining original life of the debt. According to the Company, the Board has long required the reclassification of the amortization of the net loss on reacquired debt from interest charges to operating expenses. (JC-3 at 7-8).

These costs are treated as regulatory assets for financial reporting purposes because they qualify as such under GAAP due to the pre-existing Board approval to recover those deferred gains and losses. The unamortized amount is reflected in rate base. In this case, the Company proposed an amortization of the net loss on required debt of $1.773 million and an addition to rate base of $17.920 million. (Id. at Schedule SDM-2, p, 6).

Rate Counsel proposed two modifications to the Company's proposed adjustment. First, Rate Counsel contended that the Company calculated its adjustment using total Company data rather than only the distribution portion. (Rate Counsel Initial Brief at 64). In response to a request by Rate Counsel, the Company quantified the distribution portion of its total electric balance for the net loss on reacquired debt at 78.78 percent. Application of this percentage reduces the amortization to $1.397 million and the adjustment to rate base to $14.118 million. The Company did not dispute this modification to its proposed adjustment. (Ibid.) Staff supported Rate Counsel's position on this issue.

In regard to the second modification, Rate Counsel maintained that there is an associated deferred income tax balance that offsets the unamortized net loss on reacquired debt that the Company failed to recognize in this case. (Ibid.) Rate Counsel calculated the offsetting tax benefit by applying the composite tax rate of 40.85 percent to the distribution-related net loss on the reacquired debt balance. Rate Counsel would further reduce the Company's proposed addition to rate base by $5.767 million to $8.351 million. (Ibid.)

The Company contended that its proposed adjustment was made in its last base rate case without an offsetting amount of accumulated deferred income taxes. (JCP&L Reply Brief at 37).

Initial Decision:

ALJ McGill found that Rate Counsel's position reducing the amortization expense to $1.397 million and the adjustment to rate base to $8.351 million, was reasonable and should be approved. (Initial Decision at 6).

g) TMI-2 Non-Qualified Decommissioning Trust Fund Deferred Tax

Positions of the Parties:

In the Company's 2002 base rate case, JCP&L was authorized to include an addition to rate base for the deferred taxes related to the TMI-2 non-qualified decommissioning trust fund. In the instant proceeding, the Company did not propose to treat this deferred tax asset balance as an addition to rate base because the asset would be eliminated by the end of 2013. The amount of the adjustment was $19.8 million.

Rate Counsel rejected the Company's proposal as the balance in the account will not be eliminated until the end of 2013, well beyond the 2011 test year. (Rate Counsel Initial Brief at 82). Therefore, Rate Counsel treated the $19.8 million prepaid deferred tax balance as a rate base addition. (Ibid.)

Staff supported Rate Counsel's position. The Company did not actively oppose the adjustment.

Initial Decision:

Citing the fact that the underlying change at the end of 2013 is too far beyond the end of the 2011 test year, ALJ McGill found that Rate Counsel's proposed adjustment was reasonable and should be approved. (Initial Decision at 23).

h) 2011 Major Storm Costs

In the portion of the Storm Costs Proceeding related to JCP&L, In re the Board's Review of the Prudence of Costs Incurred by Jersey Central Power & Light Company in Response to Major Storm Events in 2011 and 2012, Docket No. EO13050391 (Board Order dated March 19, 2014), the Board approved a Stipulation of Settlement, which determined the amount of the prudently incurred capital costs and deferred operation and maintenance (O&M) expenses for the Major storms of 2011 and 2012 that could be recovered from ratepayers.

Initial Decision:

For the 2011 Major Storm Costs, the Board approved $74,007,396 in capital expenditures, which is the amount included in rate base in this proceeding and recognized in the Initial Decision. (Ibid.)

3. Pro Forma Operating Income

a) Revenue Annualization

Positions of the Parties:

In calculating its pro forma revenues, the Company used the average number of customers in the 2011 test year to establish the pro forma test year sales level. The Company temporally matched the revenues and expenses that were expressed on a (2011) test year basis. (JCP&L Initial Brief at 80 to 81).

Staff supported Rate Counsel's normalization rationale, based upon actual customers as of six months beyond the end of the test year, at June 30, 2012, matched with actual rate base balances and annualized depreciation expenses based upon plant-in-service balances as of June 30, 2012. This provided recognition to any customer growth from the mid-point of the 2011 test year to six months after the end of the test year. (Rate Counsel Initial Brief at 85 - 86). The change in the sales level based upon the number of customers as of June 30, 2012 compared to the average number of customers during the 2011 test year, resulted in an increase in operating income of $823,138. (Ibid.)

Initial Decision:

The ALJ found that Rate Counsel's proposed adjustment, increasing pro forma revenues by $823,138, was reasonable, linked to Board precedent, and should be approved. (Initial Decision at 35).

b) Board and Rate Counsel Assessments

Positions of the Parties:

Board and Rate Counsel Assessments are based upon the Company's gross operating revenues. The Company normalized the annual Board and Rate Counsel Assessments by using the most recent known assessment rates (as of October 2012) times the normalized test year revenues. (JCP&L Initial Brief at 81). This adjustment is not disputed in principle, but any change in the Company's pro forma revenue requirements will require a further adjustment to the Board/Rate Counsel assessment expense. The recommended adjustment is calculated by applying the combined Board/Rate Counsel assessment rate of 0.00221 to Rate Counsel's recommended sales revenue adjustment. (RC-145 at 29).

Initial Decision:

The ALJ found that Rate Counsel's proposed revenue annualization adjustment is reasonable, should be approved, and should flow through the assessment adjustment. (Initial Decision at 35).

c) Net Loss on Reacquired Debt

Positions of the Parties:

After filing, the Company acknowledged that its test year expense of $1,772,707 reflected the Company's total electric amortization expense, rather than just the distribution-related amortization expense.

The Company quantified that the distribution portion of the total electric amortization expense for the net loss on reacquired debt is 78.78%. (RC-133).

Application of the .7878 distribution allocator to the total electric amortization expense results in Rate Counsel's recommended distribution–related amortization expense of $1,396,538. (RC-145 at RJH-4).

The Company did not dispute the reduction in the $1,772,707 filed-for amortization amount, to the distribution-only $1,396,538 amount. Staff supported the reduction.

Initial Decision:

The ALJ found that reducing the amortization expense to $1,396,538 is reasonable and should be approved. (Initial Decision at 36).

d) Rate Case Expenses

Positions of the Parties:

The Petition included an estimate of rate case expenses at $2.348 million with a proposed amortization over a four-year period, or $0.587 million per year. In its Rebuttal Testimony, the Company changed the estimated rate case expense to $3.208 million, mirroring what it claimed was the actual level of rate case expenses incurred in its 2002 base rate case. (JC-3 Rebuttal, Schedule SDM-2 Rebuttal, at 1). This change resulted in an amortization of $0.802 million per year over a four year period.

Rate Counsel recommended allowing recovery of one-half of the Company's rate case expenses, citing the Board's long-standing policy that it is reasonable to have shareholders and ratepayers share the responsibility. In addition, to more closely align the amortization period with the Company's time between base rate case filings, Rate Counsel called for the actual rate case expense incurred through the completion of this case to be amortized over a six year period. (Rate Counsel Initial Brief at 87-90).

Staff concurred with Rate Counsel's position on the use of the six-year amortization period and up-dating for actual expenses incurred. In light of the Company's infrequency between rate case filings, i.e. 1991 – 2002 – 2012, Rate Counsel and Staff asserted that a six-year amortization is justified and reasonable.

Initial Decision:

The ALJ found that an annual rate case expense of $0.401 million, representing a 50/50 sharing over a four-year period, is reasonable, and that the Company should change the amount to reflect actual rate case expenses with its replies to exceptions for the Board's consideration. (Initial Decision at 37).

e) Merger Costs to Achieve

Positions of the Parties:

The Company sought to recover its allocated share of the costs which it claims were necessary to achieve the synergy savings resulting from JCP&L's parent (FirstEnergy) acquiring Allegheny Energy, Inc. The Company argued that the merger produced savings in administrative and general expenses which were allocated to JCP&L, and requested base rate recovery of its cost-to-achieve those savings of $14.467 million to be amortized over three years, or $4.822 million per year. (JCP&L Initial Brief at 84).

The Company argued that the combination of the two companies reduced JCP&L's allocation percentage of shared costs. The Company quantified the savings in the test year in costs allocated to JCP&L at $6.422 million. According to the Company, the merger resulted in benefits to JCP&L of $19.548 million when $13.126 million is included "as a result of the Board-approved settlement in the Allegheny merger matter that resulted in JCP&L crediting its NGC deferred balance by that amount," and these savings would not be possible if the costs to achieve the merger savings had not been incurred. (Ibid.)

Rate Counsel countered that the Company failed to introduce any evidence regarding the costs JCP&L included in the claimed $14.467 million, and failed to demonstrate that JCP&L's

ratepayers received any benefit from the merger. Therefore, Rate Counsel submits that recovery of the entire $14.467 million should be disallowed. (Rate Counsel Initial Brief at 91).

Rate Counsel argued that non-merger related factors could have caused the reduction in the parent company's indirect cost allocator. (Id. at 92). Additionally, the merger resulted in credit downgrades for FirstEnergy to the detriment of its ratepayers and that any cost to achieve merger savings allocated to JCP&L was reflected in the test year. (Id. at 92 and 93). Lastly, should the Board determine that it is appropriate to grant the cumulative "costs to achieve," Rate Counsel submitted that a six-year amortization is more appropriate than a three year amortization, which would risk over-recovery given the likelihood that the Company will not file a rate case within that period.

Staff supported Rate Counsel's positions.

Initial Decision:

ALJ McGill found that the Company failed to establish that the recovery of these costs was reasonable because the Company failed to provide necessary, specific information about these cost. Therefore, the proposed adjustment should not be approved. (Initial Decision at 40). However, ALJ McGill stated that in the event that recovery of these costs is permitted, the amortization period should be six years to prevent an over-recovery which would occur if new rates remained in effect for more than three years. (Ibid.)

f) Net Salvage and Cost of Removal

Positions of the Parties:

In the Company's prior base rate case (ER02080506), the Board determined that net salvage/cost of removal could no longer be recovered through depreciation rates, but instead would be considered a separate O&M expense. In that case, the Board approved a level of net salvage cost based upon a five-year historical average. (Rate Counsel Initial Brief at 106; RC-126 at 54).

In this case, the Company proposed to base its net salvage expense on a two-year average. The Company argued that the most recent two-year average reflects a marked increase in net salvage costs, and that basing the annual recoverable charge on the average of the most recent two-years (2010-2011) is more representative moving forward. The 2010-2011 average results in a $4.8 million annual expense versus the standard five-year average of $2.4 million. (JCP&L Initial Brief at 99 - 101).

Staff and AARP supported Rate Counsel's position that the five-year average standard be utilized.

Initial Decision:

The ALJ agreed with Staff and Rate Counsel, stating that "… the five-year average from 2007-2011 reflects actual historical experience during that period without distortion by shorter term aberration…," finding that the five-year average is reasonable and should be approved. (Initial Decision at 40 - 41).

g) Storm Damage Cost Amortization

Positions of the Parties:

In its Petition and Direct Testimony, the Company requested recovery of $89,504,499 in "O&M costs for the system-wide repairs traced to the 2011 major storms: $47,800,390 for Hurricane Irene and $41,704,109 for the October snow storm." (JCP&L Initial Brief at 101 - 102).

In the Storm Cost Proceedings, the Board approved a Stipulation which provided that the Company may recover from ratepayers $81,912,314 of deferred O&M costs, and the appropriate carrying charge rate on the unamortized balance. The issues to be decided in the base rate case were 1.) the length of the period over which the deferred O&M costs will be amortized, and 2.) the carrying charge rate on the unamortized balance. (Initial Decision at 42).

The Company petitioned for a three-year amortization with a carrying charge rate equal to the overall rate of return approved by the Board in the base rate case, arguing that the Company incurred significant costs in financing the O&M payments, and that a three-year amortization strikes an appropriate balance between JCP&L's need to expeditiously recover the costs while ameliorating rate shock. (Ibid.)

Rate Counsel recommended a six-year amortization period over the Company's suggested three, arguing that should the recovery rates remain in base rates beyond three years, ratepayers would run the risk of the Company over-recovering storm damage costs at a rate of approximately $30.0 million per year. In addition, the use of the longer amortization period lessened the immediate impact of the recovery on ratepayers which is an important consideration given the relatively large sum involved. (Ibid.) Staff and AARP supported Rate Counsel's position.

With respect to the return rate to be applied to the unamortized balance, Rate Counsel requested use of the same interest rate that is applied to Societal Benefits Charge over-recoveries: equivalent to the seven-year constant maturity Treasury rate plus sixty basis points, now equaling approximately 4%. (Initial Decision at 43).

Initial Decision:

The ALJ agreed that the three-year amortization is too short would create a risk of a substantial over-recovery if the new rates remained in effect beyond the three years, and thus, find that recovery of the deferred O&M costs should be over six years. Regarding the return allowed on the unamortized balance, the ALJ agreed with the Company that the overall rate of return as determined in this matter is reasonable and should be approved. (Ibid.)

h) Forestry Maintenance Expense

Positions of the Parties:

The Company proposed to normalize its vegetation management expense, maintaining that the actual level of vegetation management expense incurred in test-year 2011 was abnormally low tied to Major Storm responses during the third and fourth quarters of the year, and the "corridor widening" initiative that shifted vegetation management work (expense) to capital cost. (JC-16 at 13 to 15). The Company's normalization adjustment increased the pro forma vegetation management expense from $9.34 million to $14.45 million, or by $5.1 million. (JC-2 at Schedule SDM-2, at 13).

Rate Counsel rejected the Company's normalization adjustment, asserting that it was based upon a 2013 expense amount, and that it represented a time period that falling two years beyond the test year, and is therefore not a "known and measurable" change, but rather a "planned" change. (Rate Counsel Initial Brief at 79). AARP supported Rate Counsel's position.

Staff concurred with Rate Counsel, and also noted that the $9.340 million spent by the Company in the test year is comparable to the Company's average annual expenditures over the six-year period ending in 2012 ($9.067 million). (Staff Initial Brief at 80).

Initial Decision:

The ALJ found that because the Company's proposed adjustment to its vegetation management expenses to $14,449,113 "is nothing more than a budgeted figure and the Company's more specific analysis is actually based on estimates as well," the adjustment was unreasonable and should not be approved. (Initial Decision at 45).

i) Production-Related Regulatory Asset Amortization

Positions of the Parties:

The test year included $109,008 in amortization expense for two regulatory assets involving Oyster Creek and TMI-1 design basis documentation studies. JCP&L argued that because the Company no longer owns these facilities, the amortization period should be accelerated to three years resulting in a pro forma annual expense amortization of $1,929,650 versus the current $109,008. (JCP&L Initial Brief at 88 - 89).

Rate Counsel argued that, because there was no compelling reason given to alter the amortization, the existing amortization should be maintained at the $109,008 test year amount. Since there was no change in circumstances, a re-examination of the issue is not warranted. (Rate Counsel Initial Brief at 107). Staff and AARP concurred.

Initial Decision:

The ALJ found no change in circumstances related to this issue since the Board rejected a similar proposal in the Company's 2002 base rate case. Therefore, the proposed adjustment is unreasonable and should not be approved. (Initial Decision at 46).

j) Account 935 Normalization

Positions of the Parties:

This "Administrative and General" account represents a combination of several nominal charges. The Company's test year recorded $2.74 million in charges for these accounts. For rate setting (normalization) purposes, Rate Counsel proposed a downward revision of the $2.74 million test year amount to $1.72 million, based on a five-year (2007-2011) average. (RC-145, at 36 to 37).

The Company disagreed with Rate Counsel's approach to "normalization," arguing that it was inappropriate to isolate one element of the test year (Account 935) maintenance expense, when the overall test year O&M expense is reasonable, and called for the ALJ and the Board to reject Rate Counsel's proposed adjustment to Account 935 expense. (JCP&L Initial Brief at 105).

Initial Decision:

The ALJ found Rate Counsel's arguments in support of the proposed adjustment persuasive, while the Company's argument that the overall level of distribution O&M expense was lower in 2011 than 2012 unpersuasive. The ALJ recommended approval of Rate Counsel's proposed adjustment reducing Account 935 by $1,018,802. (Initial Decision at 47).

k) Incentive Compensation

Positions of the Parties:

The Company sought to recover 100% of $8.419 million of incentive compensation expenses consisting of $6.658 million for the Short Term Incentive Plan ("STIP") and $1.761 million for the Long Term Incentive Plan ("LTIP"). According to the Company, both plans are tied-in to meeting management's shareholder/financial and operating goals. (JCP&L Initial Brief at 90-96).

Rate Counsel and Staff maintained that because these programs are tied to enhancing the financial performance of the Company, shareholders, not ratepayers, should be the sole bearers of these costs. Also, the Company's proposed incentive compensation expenses are not known and measureable as they are dependent on FirstEnergy's achievement of financial thresholds. (Staff Initial Brief at 50).

In addition, Staff concurred with Rate Counsel that the Company presented no evidence of specific operational benefits that are accruing to ratepayers as a result of the incentive compensation plans. (Ibid.)

JCP&L countered that these incentives are not bonuses but "pay at risk," and in the last rate case, the Board permitted recovery of incentive compensation that was part of the company's collective bargaining agreements with its unions. (JCP&L Reply Brief at 50-51).

Initial Decision:

Citing the Board's Order in the Company's last base rate case, the ALJ found that $2.678 million of the total $8.419 million incentive compensation package that the Company identified as being designated for its union work force under its collective bargaining agreements should be approved. (Initial Decision at 50). ALJ McGill further found that a corresponding adjustment decreasing pro forma operating expenses by $401,867 should be made to reflect the payroll tax impact of the incentive compensation adjustment. (Ibid.)

l) Supplemental Executive Retirement Plan (SERP)

Positions of the Parties:

JCP&L's 2011 test year included $408,576 applicable to nine eligible JCP&L and Service Company executives. (RC-117). Rate Counsel argued that SERP recovery should be disallowed, as ratepayers are already paying for regular retirement funding for these individuals and should not be forced to fund supplemental retirement packages and, therefore, all SERP expenses should be eliminated.

In support of Rate Counsel's position, Staff added that the Company provided no evidence that specific benefits are accruing to ratepayers as a result of SERP funding.

Initial Decision:

The ALJ found that the arguments of Rate Counsel and Staff to disallow the recovery of SERP expenditures were reasonable and should be approved. (Initial Decision at 51).

m) Miscellaneous Operations and Maintenance Expenses

Positions of the Parties:

The test year included expense amounts for service awards ($37,875), civic memberships ($25,292), advertising ($8,140), "Celebrated Success" ($5,707), and employee and private clubs ($1,387 and $854, respectively). (JCP&L Initial Brief at 116).

Rate Counsel recommended that these and the other expenses in the test year that comprise this category should be excluded from recovery. (JC -22 Rebuttal at 11).

In its Rebuttal Testimony, the Company agreed to remove the advertising and club expenses.

Rate Counsel recommended disallowance of all items in this expense category, arguing that the Company failed to identify the local organizations that were favored by these memberships. (Rate Counsel Initial Brief at 103-104). In addition, the expenses are discretionary, and the discontinuance of funding has no impact on the Company's obligation to provide safe, adequate and reliable service. (Rate Counsel Reply Brief at 55). Staff concurred.

Initial Decision:

The ALJ found Rate Counsel's arguments persuasive, stating that the Company has not demonstrated that it cannot establish channels of communication to accomplish the same purposes without paying membership fees, and that removing $79,258 from pro forma operating expenses is reasonable and should be approved. (Initial Decision at 53).

n) Interest Synchronization

Positions of the Parties:

The Company proposed an adjustment to synchronize the income tax savings associated with the deductibility of interest expense with the percentage amount and weighted cost of debt implicit in the capital structure and rate of return used to support rate base. Rate Counsel and Staff agreed with the concept, but calculated adjustments based upon their positions on various issues in the case.

Initial Decision:

ALJ McGill found that an interest synchronization adjustment is appropriate in this proceeding and should reflect the determinations approved in the Initial Decision. (Initial Decision at 53-54).

o) Werner Plant Amortization

Positions of the Parties:

The Company's 2011 test year included an amortization expense of $526,500 for the Werner Plant. The amortization ceased in April 2013. Rate Counsel did not remove this amortization from pro forma expenses as it ended too far beyond the end of the test year, based upon the Board's practice of limiting consideration for out-of-period changes in expenses to nine months beyond the end of the test year.

Initial Decision:

ALJ McGill noted that the Company's other out-of-period adjustments for changes more than nine months beyond the end of the test year had not been approved, and it therefore follows that there is no need to consider the out-of-period changes such as the cessation of the Werner Plant amortization. (Initial Decision at 54).

p) Pension Expense and OPEB

Positions of the Parties:

In response to discovery request RCR-A-62, the Company provided that its pension expense for the 2011 test year was $40.402 million. In its Initial Brief, the Company stated that in 2011, FirstEnergy implemented an accounting change related to the timing of cost recognition of the actuarial gains and losses component of FirstEnergy's pension and OPEB plans. (JCP&L Initial Brief at 106).

Under GAAP, companies have the option to recognize actuarial gains and losses either immediately i.e. in the year that they occur, or delay recognition by amortizing the gains and losses over future periods.

According to JCP&L, prior to the accounting change in test year 2011, the companies (FirstEnergy and JCP&L) had been amortizing gains and losses over future periods. With the accounting change made in 2011, the companies applied immediate recognition of 2011's 'recoverable' pension "loss" at $40.402 million and an OPEB "gain" of $3.342 million. The Company maintained that the decision to implement the accounting change effective in 2011 was made in January 2012 for the entire FirstEnergy system, six-months before the Board directed JCP&L to file a base rate case with a 2011 test year. (JCP&L Initial Brief at 28).

Rate Counsel maintained that the correct pension "loss" and OPEB "gain" for test year 2011, and consequently, for purposes of revenue requirement calculation, are $2.738 million and $4.057 million, respectively. This amount is designed to strip out all actuarial gains and losses leaving the pension and OPEB with true, on-going operating cost. Under the accounting change elected by FirstEnergy, actuarial gains are not spread over the years, but recognized immediately for accounting purposes. Rate Counsel asserts that the result was a much higher Company-calculated pension "loss" that should not form the basis for the Company's rates going forward. (Rate Counsel Initial Brief at 114).

Staff supported Rate Counsel's positions on pension and OPEB. Assessing prudence and establishing fair, recoverable pension and OPEB amounts should be based upon proofs reflecting transparent reporting consistency, history and process, which Staff believed was absent in the Company's filing.

Initial Decision:

The ALJ found that Rate Counsel's arguments impacting both pension and OPEB costs were persuasive, and that the Company's proposals as filed were not suitable for ratemaking purposes. The main concern was the risk associated with focusing on single-year results that may introduce volatility and aberrations into the ratemaking process. In the future, for rate making purposes, the Company should be required to maintain records to file based on amortizing the gains and losses over future periods, thereby presenting a stable means to estimate pension and OPEB expenses. In summary, the ALJ found that the Company's proposed pension and OPEB expenses were unreasonable and should not be approved, and that Rate Counsel's proposed adjustments decreasing pro forma operating expenses by $37,664,418 for pensions, and $814,905 for OPEB were reasonable and should be approved. (Initial Decision at 56 - 57).

q) Depreciation

Positions of the Parties:

As directed in the Board's March 20, 2013 Order in this matter, JCP&L filed a depreciation study. The Company's study used the straight line remaining life method of depreciation, which allocates the original cost of the property, less accumulated depreciation in equal amounts to each year of remaining service life. (JC-18 at 10). The Company argued that the remaining life depreciation technique (as contrasted with the whole-life technique) "takes into account how long property has been in service (attained age) and how much of the original cost has been recovered through depreciation (as measured by the book reserve), it automatically and seamlessly adjusts the remaining life depreciation rate to reflect changes in the service life parameters that may occur periodically." (JC-18 Rebuttal, at 7). As a result of the depreciation study, JCP&L updated its depreciation expense to include annualized depreciation expense by applying the revised depreciation accrual rates. Based upon the study, JCP&L proposed a $5.8 million decrease to depreciation expense as applied to 2012 year-end plant balances. (RC-165, Attachment 1).

Rate Counsel determined that JCP&L understated the service lives of many of its asset categories, resulting in what Rate Counsel believed was the production of excessive depreciation expense. Rate Counsel rejected the Company's proposed decrease in depreciation expense stating that it was excessive, resulted in extraction of capital contributions from ratepayers as opposed to investors, and understated the service lives of its groups. (RC-166 at 5). In addition, Rate Counsel contended that too much time elapsed from the time the Company's last depreciation study was conducted, allowing the excess reserves to build. Rate Counsel calculated the amount of the Company's depreciation reserve excess to be $515.0 million and proposed whole life depreciation rates and separate remaining life amortization of the accumulated excess depreciation reserve of $515.0 million to be a rate base deduction until fully amortized[9]. (RCR-166 at Exhibit MJM-5). The $515 million amortized over 48 years, represented the composite remaining life as calculated by Rate Counsel, and translated into a $13.9 million annual negative amortization of the Company's depreciation reserve excess. (RC-166 at Exhibit MJM-5 and MJM-6).

[9] Rate Counsel's Initial Brief recommended change to the whole life method results in a pro forma depreciation expense amount of $86.581 million [Sch. RJH-14R: total pro forma depreciation expense of $72.684 million minus Rate Counsel's $13.897 million excess depreciation reserve amortization), which exceeds the Company's $83.827 million by $2.754 million.

The Company criticized Rate Counsel's depreciation findings as outdated based upon fundamental changes in the way rate base is determined. The Company further recommended that there be no departure from the remaining life technique, insisting that the extension of service lives would produce erroneous results. The Company argued that because the remaining life technique takes into account how long property has been in service (attained age) and how much of the property's original cost has been recovered through depreciation (as measured by the book reserve), it automatically and seamlessly adjusts the remaining life depreciation rate to reflect changes in service life parameters that may occur periodically (JC-18 Rebuttal at 7), and that the 'excess' that Rate Counsel points to does not exist, originating from service life estimates that are dramatically longer than both the service lives currently approved and those proposed by JCP&L. (JCP&L Initial Brief at 125).

Staff supported a depreciation reserve of $371 million, which was based upon the Company's application of the calculation that Rate Counsel performed, using the Company's depreciation study service life estimates. (Staff Initial Brief at 31). Staff further supported the amortization of the $371 million as a regulatory liability over 48 years ($7.73 million annually), with the full $371 million treated as a rate base deduction until fully amortized. Staff asserted that the $371 million rate base reduction and $7.73 million annual negative amortization represented a fair point of compromise between the parties' positions. (Id. at 32).

Excluding the excess depreciation reserve adjustment, Staff supported the Company's pro forma depreciation expense based on distribution plant balances as of December 31, 2011, adjusted for depreciation on post-test year distribution plant additions for January 1, 2012 through June 30, 2012, (including minor adjustments) of $83.827 million. Staff also supported the Company's continuation of the remaining life method and the remaining life rates that support its depreciation expense of $83.827 million. (Ibid.)

Initial Decision:

The ALJ found the Company's remaining life position argument persuasive. Specifically, in the context of rate-setting, the remaining life method is better because it seamlessly addresses possible reserve imbalances as an inherent part of the process of determining remaining life depreciation rates without the need to create a separate vehicle, external to the determination of depreciation rates, to amortize imbalances. (Initial Decision at 60). Therefore, the ALJ found the positions of the Company and Staff in support of the remaining life method and pro forma depreciation expense of $83.827 million were reasonable and should be approved. However, he also concluded that Staff's proposal to use the remaining life method with a separate amortization of $371 million is unreasonable and should not be approved. (Id. at 60 - 61).

B. Cost of Service Study/Rate Design/Tariff Issues

1. Cost of Service Study

COST OF SERVICE METHODOLOGY

The primary purpose of the cost of service study ("COSS") is to provide guidance in assigning the Company's revenue requirement to the individual rate classes on a cost causation basis. The selection of a proper cost allocation methodology represents the fundamental first step in the process of rate design. The cost of service study identifies the degree to which customer, demand and energy consumption drive the overall level of cost in a particular utility system; and the degree to which each customer class is responsible for those costs. COSS results identify the actual costs imposed on the system by each customer class and the extent to which class revenue requirements are covering those costs. Additionally, the cost study generates output data utilized to set the specific customer, demand and energy charges within each customer class. The ultimate objective of interclass and intraclass rate design is the establishment of rates which reflect the utility's cost of providing customer demand and energy service to its ratepayers.

JCP&L's COSS follows the traditional process of functionalization, classification, and allocation of costs to rate classes based on 2011 year-end balances.

The Average and Excess Methodology has consistently been the Board-approved methodology for the allocation of distribution costs in JCP&L rate cases. (JCP&L Initial Brief at 145). However, the Board made refinements to the cost of service study as more data about system planning and operations became available. The Company asserted that it has continued these cost allocation refinements beyond the specific composition of the Average and Excess method ordered by the Board in the Company's last base rate proceeding.

<u>Positions of the Parties:</u>

The Company performed a COSS study which recognizes that customers take service at different distribution voltage levels. The Company sub-functionalized distribution plant costs booked to FERC accounts 364-367 into primary and secondary voltage components These costs were then classified as either customer related, demand related, or energy related. (<u>Id.</u> at 144). Consistent with established Board policy, costs that are classified as customer related do not vary based upon the customer's demand or energy consumption. These costs must have a direct and linear relationship to the number of customer accounts on the distribution system. Demand related costs vary with the customer's demand on the distribution system and energy related costs vary with the customer's consumption on the system. Allocation factors used to allocate these costs among the various customer rate schedules should reflect these different consumption characteristics. (<u>Id.</u> at 145).

The Company used the voltage level specific Average and Excess COSS ordered by the Board in the Company's last base rate case proceeding. The Average and Excess Method employs a two part formula to distinguish energy related and demand related costs. (<u>Ibid.</u>) The Company classified to the energy component those portions of sub-functionalized primary and secondary voltage costs equivalent to the corresponding voltage level specific load factors. These energy classified costs were allocated based upon the respective levels of class energy usage. The residual demand related portions of primary and secondary voltage costs were allocated to the various rate schedules based upon the average of four class Non-Coincident Demands ("NCD"). The Company allocated the customer classified component of costs based on class customer accounts. (<u>Id.</u> at 145 - 146).

The Company made two explicit modifications to the Board-approved COSS regarding the classification of transformers' cost (Acct. 368) and meters' cost (Acct. 370). Rather than classify transformers' cost (Account 368) to demand and energy cost components, JCP&L instead split these costs between customer and demand related components using a minimum grid transformer study. (<u>Id.</u> at 147 - 148). Meter costs (Account 370) were classified exclusively to the customer component rather than differentiated between customer and demand costs. (JC-7 at 6) In addition, the Company employed a geographic information system ("GIS") analysis to sub-functionalize costs booked to accounts 364-367 into primary and secondary voltage components. (JCP&L Reply Brief at 76 - 78, 7T 61-1 to 25). The Company represented these COSS modifications are improvements to the COSS ordered by the Board in the last base rate proceeding.

Staff argued that the Company's purported refinements to the COSS fail to properly reflect distribution system planning and operational considerations, and therefore should be rejected. Staff identified the following four principal failures of the JCP&L COSS:

- An underdeveloped method of sub-functionalizing to primary and secondary segments costs booked to FERC accounts 364 through 367.
- The classification of a substantial portion of line transformers to the customer cost component.
- An exclusive customer related classification of meters investment booked to FERC account 370.
- The use of class NCD rather than class contributions to voltage level specific coincident peak demand to allocate demand classified costs.

In lieu of the Company's COSS, Staff urged adoption of its own COSS in the record as exhibit S-61 and S-61A. Staff's COSS includes a claimed refinement to the past Board-approved COSS. Staff recommended a re-examination of the employment of class non-coincident demands ("NCD") to allocate demand classified costs, an accepted practice in past JCP&L base rate cases, based on its contention that these undiversified class peak demands are not the most relevant parameter in the sizing of the distribution system. (Staff Initial Brief at 90).

<u>Classification Of Line Transformers – FERC Account 368</u>

<u>Positions of the Parties:</u>

Staff objected to the Company's classification of a substantial portion of Account 368, Line Transformers to the customer cost component. In the 2002 base rate case, the Company relied upon a 2002 engineering study to separate Account 368 into primary and secondary components. These sub-functions were then classified into demand related and energy related components. The Company's present COSS disregards the energy/demand split of these costs, replacing it with a customer/demand classification split. As a result, 26% or $168.5 million of the costs for transformers is classified as customer related in the Company's study. The Company argued that as the number of customers increase, the number of line transformers installed must also increase to avoid excessive voltage drop. Staff maintained that the introduction of a customer component to transformer cost classification is directly contrary to Board findings dating back to its Order in the 1992 base rate case, which made conclusions regarding the types of costs that should be classified as customer related, and identified certain FERC costs accounts that could be classified as customer related.[10]

It is Staff's position that in the order, the Board narrowly identified certain plant accounts that it considered to vary linearly and directly with the number of customers: the minimum size component of the services account 369, and meters account 370, and a proportionate share of their related operations and maintenance expense in accounts 586 and 597, and a portion of

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[10] <u>In re the Petition of Jersey Central Power and Light Company for Approval of an Amendment to its Tariff to Provide for an Increase in Rates and Charges for Electric Service</u>, BPU Docket No. ER89110912J, Order dated April 9, 1992.

customer accounting and services expense associated with meter reading, or account 902, and customer records, account 903. These findings were re-affirmed by the Board in its 1993 Order. (S-58, 16 to 18). These cost of service classification approaches were also upheld by the Board in the Company's last base rate proceeding. (RC-127; S-62 at Attachment 1, JEB-1, SRC-1, 5).

In further support for its recommended rejection of JCP&L's partial customer classification of transformer costs, Staff pointed to the Company's failure to provide any that indicates transformer quantity determinations vary directly with the number of customers being served on the circuit. JCP&L system planning considerations for new transformer installations are rather guided by the particular service characteristics of a new customer's load and the distance between the customer's meter and the nearest existing transformer. (Staff Initial Brief at 100). Staff argued that the incurrence of transformer costs is a function of the energy and demand requirements of customers and the system planner's objective of ensuring service adequacy. (Id. at 97-100).

Staff also maintained that voltage drop is principally a function of conductor length rather than the number of customers served, and is mitigated by transformer installations only when such installations result in the shortening or elimination of conductors. The shortening and elimination of conductors are not system planning objectives, rendering the consequence incidental to transformer installation. (Id. at 102).

Rate Counsel stated that the Company did not apply the peak and average allocation method to all of JCP&L's distribution plant, specifically, Account No. 368, Line Transformers. Therefore, the Company diverged from the Board accepted method of allocating Line Transformers on a peak demand and energy basis, and classified 26.20 percent of the Company's Line Transformers to the customer cost classification using a minimum grid study. The remaining 73.8 percent was allocated to the classes using non-coincident peak demands. Although Rate Counsel concluded that the Company's approach in classifying Line Transformers as customer and demand related did not have a material impact on the results of the COSS, Rate Counsel objected to using a minimum grid study and classifying a portion of Line Transformers as customer related, arguing that it does not give appropriate consideration to JCP&L's actual system design, construction and operation. Rate Counsel argued that the installation of minimum sized distribution equipment is based upon expected customer loads, not on the number of customers served by the utility or minimum service requirements. Rate Counsel argued that no utility installs distribution equipment incapable of carrying loads. Rate Counsel further explained that there is no direct, linear relationship between the two. Rate Counsel further objected to expanding the use of a minimum grid study to other distribution accounts in future rate proceedings. (Rate Counsel Initial Brief at 134).

Rate Counsel argued that JCP&L's reliance on NARUC's 1992 Electric Utility Cost Allocation Manual as support for its allocation of transformers using a minimum grid study is misplaced. The NARUC Cost Allocation Manual does not advocate any particular cost allocation method. (Id. at 71).

The Company argued that Staff's position should be rejected on the basis that although Rate Counsel disagrees with the Company's approach, Rate Counsel concluded that allocating a modest portion of line transformer costs on a customer basis did not have a material effect on the results of the Company's COSS. On this point, if the Company's classification and allocation of Line Transformers is not approved, the overall results of the Company's COSS would remain similar and thus is reasonable to use in this case. (JCP&L Reply Brief at 80-81).

Initial Decision:

The ALJ agreed with Staff that the Company failed to demonstrate that increased voltage drop is a function of the number of customers served on the system. The Company also failed to demonstrate that system planners resort to the installation of additional transformers every time a new customer is added to the system. Rather, system planners have multiple ways to deal with voltage drop. The ALJ agreed with Staff and Rate Counsel that the proposed customer classification of some line transformers costs is unreasonable and should not be approved. (Initial Decision at 67).

Classification Of Meter Investment- FERC Account 370

The Company proposed to classify 100% of plant booked to Account 370 Meters to the customer cost component, allocating it among the classes on the number of customer accounts in each class. (JC-7 at 6). In the Company's 1992 base rate case, the Board found that the portion of Account 370 Meter Costs related to the minimum sized meters can be classified as customer related and allocated to customer classes based upon the number of customer accounts in the class. The Company argued that since each customer needs its own meter regardless of the amount of energy the customer consumes, these costs should be allocated based upon the number of customers (or customer accounts). The Company provided a study to support its position for an exclusive customer classification of meter investments. The study showed that the average embedded costs for actual meters in service for residential customers served on rate schedule RS range from $15.14 to $652.15, with a total class average per meter cost of $22.68. (Staff Initial Brief at 110)

Positions of the Parties:

Staff contended that the Company's position diverges from the long-standing Board policy that Account 370 meters should not be exclusively classified as customer related, but rather, split between customer and demand components, and allocated accordingly. (Id. at 108-110)

Staff asserted that the proposed treatment of meter investment as solely customer related comes with no support, but rather with the self-evident observation that every customer needs its own meter. Customer costs, as discussed above, have been found by the Board to be only those costs that vary directly and linearly with the number of customers on the system. The application of this principal to meter investments was been explicitly determined by the Board to mean that customer costs are those associated with the cost of a minimum size meter; that is, the investment associated with the smallest size meter capable of connecting a customer to the distribution system, absent considerations of customer energy and demand consumption. (Ibid.) (S-58 at 17 to 18)

Staff acknowledged the utility of the detail contained in the Company's meters study which documented the variety of actual meters in service by rate schedule and the average cost of these various size meters. (S-73). The study allowed for a direct allocation and determination of the minimum size meter under the Residential Rate Class. Staff used the Company's lowest cost per actual meter of $15.14 as the minimum size component of the Residential Service meters investment, and compared it to the total class average per meter cost of $22.68, computing 67% as that portion to be classified as customer related with the balance of 33 percent classified to the demand component. Staff argued that on a system basis, applied to all rate schedules, this minimum size approach resulted in a more rational 52/48 customer/demand classification split of meters cost, as compared to the 100 percent customer classification advanced by JCP&L. Staff recommended rejection of the Company's proposed 100 percent customer classification of meters cost but recommended that the data supplied in its new meters study be employed consistent with its above-described use in the Staff cost of service study alternative. (Staff Initial Brief at 110).

The Company asserted that it used a cost weighted meter allocator that closely aligned the meter costs allocated to each customer class with the actual cost of the meters used to serve customers in each service classification. (JCP&L Reply Brief at 82). The Company argued that contrary to Staff's assertion, meters were not allocated simply in relation to the customer counts. Rather, appropriate cost weighted allocation factors were calculated to assure that the meter costs allocated to each service classification reflected the differing cost of meters typically used for customers in each class. (Ibid.)

Moreover, the Company provided that Staff's use of the $15.14 was improper and inaccurate because it reflected the cost of a small population of meters installed many years ago, and failed to account for the effect of inflation over time on the cost of the "smallest sized meter." (Id. at 83). It was simply the lowest cost meter and not the average cost of the smallest sized meter connecting customers to the system. As a result, the Company argued that what Staff allocated on a demand basis was not only the increased cost of larger sized meters used to serve larger usage customers but, in addition, the effects of inflation on the "smallest sized meter". (Id. at 84).

Initial Decision:

The ALJ determined that Staff's argument was persuasive, specifically, that the Company's proposed treatment of meter costs is inconsistent with the Board's policy to treat as customer-related only those costs that vary directly and linearly with the number of customers on the system. While, the Company questioned Staff's use of the $15.14 as to the cost of the smallest size meter for the RS rate Schedule, in view of the inconsistency with Board policy, the ALJ found that the Company's proposed classification of meters in Account 370 as only customer-related was unreasonable and should not be approved. (Initial Decision at 69).

Sub-Functionalization Into Primary And Secondary Segment Costs Booked To FERC Accounts 364 Through 367

Positions of the Parties:

In its 1993 Decision and Order ("1993 Order"), the Board adopted the voltage level specific average and excess method for use in allocating JCP&L's distribution system costs, and prescribed its use in future base rate proceedings. (S-58, 16) The Board reaffirmed the validity of the method in its post-unbundling 2002 Order, the Company's last base rate proceeding. (RC-127, 74; 7T 23-11 to 24). Use of a voltage level specific average and excess methodology presumes an initial step of segmenting functionalized distribution plant costs into discrete primary and secondary voltage components.

The Company asserted that it executed this "sub-functionalization" or segmentation step through the use of a special study "tracing distribution circuits from primary power customers back to the substations that serve them, and identifying the portions of the primary distribution facilities that are used by such primary power customers. The remainder of the primary distribution system, which is not used by these customers, serves only secondary voltage load." (JC-7, 10-5 to 20). The Company's segmentation of costs to secondary voltage customers is thus composed of all secondary voltage plant plus the residual component of primary voltage plant not specifically identified as serving individual primary voltage customers in the study.

The JCP&L segmentation study employed geographic information system ("GIS") data identifying installed primary voltage poles, overhead and underground conductors, and underground conduit, along with customer accounting and billing data contained in its Customer Care System ("CCS") data to identify primary voltage customers and the primary voltage electrical equipment in service connecting these customers back to specific substations. (S-63A, 3) According to the Company, the GIS data "is not sufficient" to conduct a similar trace of secondary customers, leaving the identification of primary voltage poles, conductors and conduit plant in service to meet their electrical requirements purely a residual outcome of the primary customer traces. (Id. at 3 - 5, 7).

Staff raised concerns about the limits of the use of GIS. The geographic information system did not provide data regarding secondary voltage equipment, and thus, it did not perform similar traces of secondary voltage accounts. Staff argued that absent this secondary voltage check on the study results, the Board is left with the validity of the resulting segmentation of primary and secondary voltage costs resting purely on the integrity of the primary voltage customer traces. The implications of the primary traces are significant, with the Company's study sub-functionalizing to secondary voltage customers over 97 percent of pole investment, over 98 percent of overhead conductors, 94 percent of underground conduit and over 98 percent of underground conductors investment. (S-63A, 4 to 7) This segmentation approach thus transfers massive cost responsibility to JCP&L's secondary rate classes at the first step of the COSS. (Staff Initial Brief at 93)

Staff asserted that successive iterations of a relatively simple grid, failed to demonstrate a result where primary voltage equipment serving secondary voltage customers was segmented to secondary voltage customers in the presence of a downstream primary voltage customer. Such results, call into question the reliability of the practical operation of JCP&L's GIS segmentation method to properly assign costs to secondary and primary customers on a rational basis. (7T 74-16 to 80-21)

Beyond the practical application problems raised, Staff further raised concerns about the Company admitting that its study could determine the substations as the ultimate source for the 429 primary voltage customers, but could not determine the flow of the electrical current and whether the 429 primary voltage accounts identified were indeed receiving those electrons, or whether those customer were being served by some other flow of electrons. (7T 85-17 to 86-6), Electric distribution systems are complicated, interwoven complexes of circuits designed to ensure that customers have electrical energy when they choose to use it. The paths of electrical current are rarely convenient and linear, and are certainly not reliably traceable backward from 429 meters to particular substations. (JC-7, Schedule MCM-2, WP-5). Thus, Staff concluded that it is the equal possibility that multiple different electrical paths are serving each of these primary voltage customers that renders the segmentation methodology unfit for use in allocating the $1.6B in plant.

Based upon the technical impediments that Staff identified with respect to the Company's GIS primary/secondary voltage segmentation, Staff recommended a default 50/50 primary/secondary voltage segmentation split. Staff professed that the split will minimize the adverse impacts to any particular group of customers when the data necessary to execute a more precise split is lacking. In Staff's cost of service study, the primary and secondary segmented costs were then split between demand and energy components utilizing voltage specific load factors and allocated to the classes using the Staff average and excess allocator, which employs Coincident Peak in the demand allocation rather than the Non-Coincident Demand discussed later in this order.

JCP&L stated that it segmented portions of its distribution circuits that were used by primary voltage customers. That portion was then allocated between secondary and primary voltage customers because, according to the Company, those facilities were used by secondary and primary voltage customers. The portion of the distribution system that provides secondary service was assigned to secondary voltage customers because, according to the Company, primary voltage customers do not use that portion of the distribution system. (JCP&L Reply Brief at 77-78).

The Company stated that Staff erroneously compared the segmented costs that serve both secondary and primary voltage customers with the total segmented costs allocated to primary voltage customers, and labeled them as contradicting each other when the Company maintains it was a perfectly rational and expected difference between the two. (Id. at 78).

The Company further took exception to Staff's criticism that the segmentation study was not precise. JCP&L maintained that the study was the result of a detailed engineering analysis that traced the paths from primary voltage meters to substations from which those accounts are served in order to identify the primary power segment of each circuit. (Ibid.)

Initial Decision:

The ALJ cites to Staff's two main criticisms: 1) the data on secondary voltage equipment is not available and therefore the validity of the study rests entirely on the reliability of the primary voltage customer traces; and, 2) electric distribution systems are complicated, interwoven complexes of circuits designed to ensure that customers have electrical energy when they choose to use it, and that the paths of electrical current are rarely convenient and linear and thus cannot reliably be traced backward from 429 meters to particular substations. The ALJ stated that the Company's main assertion in support of its GIS based segmentation methodology may or may not be true, but is certainly is not supported by the testimony of a qualified expert. Under the circumstances, the ALJ stated the Company's segmentation study should not be accepted for use in this proceeding. (Initial Decision at 68).

The Appropriate Demand Related Cost Allocator for Use in the Average and Excess Method

Consistent with Board policy, the Company's COSS applied the average of four non-coincident demands ("NCD") to allocate demand related costs within the average and excess methodology approved by the Board for use in JCP&L's territory. The use of the NCD has been advanced by Staff and Rate Counsel for decades in JCP&L proceedings, with the Board upholding the allocator each time.

Positions of the Parties:

Staff urged replacement of a bedrock allocator used for decades within the average and excess methodology approved for use in the JCP&L service territory. As the voltage level specific average and excess method was developed over that time, Staff questioned whether non-coincident ("NCD") or coincident peak demands ("CP") registered independently at the primary and secondary voltage distribution systems were the relevant system planning operational parameter. Staff is now opinion that JCP&L sizes and operates its primary voltage distribution system to meet primary voltage CP and sizes, and operates its secondary voltage system to meet secondary voltage CP. Staff maintained that voltage level specific CP rather than NCD by definition represents the maximum demand imposed on those systems and should thus be used to allocate demand related COSS within the currently approved average and excess methodology. NCD measures the maximum demand of a particular customer rate class, regardless of when the maximum system peak occurs. CP measures the maximum peak demand imposed on the utility system; each class' contribution to CP may or may not be equivalent to their class maximum NCD.

Staff illustrated using Company data in the record that the average of four summer months CP on the primary distribution system is 5,118 mW representing the average maximum demand actually imposed on the primary voltage system. (S-61 2; 7T 53-21 to 54- 6, Staff Initial Brief at 112) For the same four summer months in 2011, the average sum of all classes' NCD registered at the primary voltage level was 5,736 mW. (7T, page 50, line 12 to page 51, line 2,: Staff Initial Brief at 112) Staff asserted that JCP&L system planners construct and operate the primary voltage system to meet the actual maximum demand imposed upon it (CP), rather than building out its system to meet the higher theoretical sum of diversified class NCD which is never, in fact, imposed on the system. Staff cited to the Company concurring that the primary and secondary voltage distribution systems are sized to meet the maximum demand imposed on each. (Id. at 113). Staff urged the Board to replace the currently used NCD with primary and secondary voltage level class CP contributions employed in the demand portion of the average and excess allocator. The Staff COSS in evidence as exhibit S-61 employs its recommended CP allocator.

JCP&L took exception to Staff's request to change decades of Board policy while it criticized the Company in other areas of the COSS for making modifications to the study which do not comport with past Board policy. (JCP&L Reply Brief at 85). The Company claimed that there is no valid reason to abandon the use of NCD based upon Staff's argument that since the Average and Excess Method is now applied on a voltage level specific basis, it is appropriate to examine the peak demand drivers for those systems.

The Company further referred to the National Association of Regulatory Utility Commissioners' Electric Utility Cost Allocation Manual (pp. 96-97) which provides that distribution facilities are sized to meet "localized area loads" because that is the load they serve. JCP&L contended that CP is irrelevant to the appropriate design and sizing of a specific secondary and primary voltage circuit. (Id. at 86 - 87)

Initial Decision:

The ALJ refers to the 1992 Base Rate Case Order (1992 JCP&L Order, 93 N.J.A.R.2d (BRC) at 65.) where the Board provides that, "distribution system planning and operation is tailored to local area demand and energy requirements." The ALJ stated that this observation led to a finding that there are both demand and energy components of the distribution system costs. He also refers to the Board's 1993 JCP&L Order, where the Board approved the voltage level specific average and excess method for classification and allocation for distribution costs. 94 N.J.A.R. 2d (BRC) at 56, and to the Board 2004 order which refers to its "most recent findings on the Average and Excess Methodology (with the excess defined as each customer class' contribution toward the overall system peak)." (Initial Decision at 70).

The ALJ found difficulty with Staff's position in that the proposed change was made at the briefing stage of the proceeding, and he believes that the parties have not had the opportunity to address Staff's position through testimony and exhibits during the hearing. The ALJ found that Staff's position should not be approved in this proceeding, but rather, this issue should be addressed in the Company's next base rate case. (Initial Decision at 70-71).

Rate Schedule GT – Special Provision D, Gerdau Ameristeel

Positions of the Parties:

Gerdau asserted that it is being significantly overcharged as a consequence of a flawed over-allocation of Administrative and General expenses ("A&G") in the JCP&L cost of service study. (Gerdau-4 at 9-20). Gerdau, a steel producer located in Sayreville that is the sole customer served under Special Provision D of Rate Schedule GT, maintained that the over-allocation of A&G expenses (FERC Accounts 920-932) and resultant inflated rates are undermining the firm's competitive position in its product market and threatening the viability of the Sayreville mill. (Gerdau Reply Brief at 12-14)

Mr. Pollock, Gerdau's expert witness, produced a cost of service analysis identifying what Gerdau believes is the source of the over-allocation and its remedy, along with a recommended level of demand charges designed to recover only those costs properly allocated to Gerdau. (Gerdau-4 at 21-23).

Gerdau argued that JCP&L's approach to the allocation of A&G costs violates the fundamental principle that cost allocation within the COSS should track cost causation. (Gerdau Initial Brief at 46-47) As a bulk power transmission customer served at 230 kV, the vast majority of plant used to provide electric service to Gerdau is FERC jurisdictional transmission plant – for which Gerdau pays FERC approved transmission rates - rather than the lower voltage distribution facilities that are in JCP&L's rate base and are thus subject to BPU ratemaking jurisdiction. (Gerdau Initial Brief at 47-48) Gerdau pointed out that the total of distribution plant in service at the Sayreville mill is limited to merely three meters, installed at a total original cost of $1,300; the firm also receives a single monthly bill, the preparation of which implies the incurrence by JCP&L of the normal Operations and Maintenance ("O&M") expenses attendant to customer billing. On the basis of this limited distribution plant and expense incurrence by JCP&L, Gerdau is billed annual distribution charges exceeding $1.1 million, a consequence indicative of a misalignment of actual cost causation and cost allocation occurring within the Company's COSS. (Gerdau Initial Brief at 50-51)

Gerdau maintained that the fundamental source of the over-allocation within the COSS is JCP&L's employment of the average and excess ("A&E) allocator for A&G expense allocation. (Gerdau Initial Brief at 45-46) By employing the A&E allocator to A&G costs, Gerdau maintained that JCP&L artificially inflates the share of actual A&G expenses for which Gerdau is responsible, causing an annual over-charge through the distribution kilowatt charge of some $800,000. (Gerdau Initial Brief at 51) Mr. Pollock testified that A&G expenses represent a category of costs not easily classifiable to customer, demand and energy cost components due to their somewhat amorphous nature (e.g., the cost of computer software, buildings and furniture, etc.). As a consequence, such costs are not traditionally the subject of direct allocations within the cost of service study, but are instead indirectly allocated or assigned based upon aggregate plant allocations, revenue, or labor expenses. (Gerdau Initial Brief at 48-49) Disaggregating A&G expenses into plant, revenue and labor-related functions, Mr. Pollock applied corresponding allocators that he developed reflecting previously allocated plant, revenue and expenses in his study. At present rates, Mr. Pollock's cost study thus generated a cost-based demand charge for GT Special Provision D customers of $.55/kW. (Gerdau Initial Brief at 49-50)

JCP&L objected to the analysis and recommendations of Gerdau on several bases. First, while Gerdau conceded that JCP&L appropriately allocated to it only meter reading and related plant costs, Gerdau failed to acknowledge the true nature of its service voltage and the cost allocation subsidies it received from other distribution customers. The Company contended that as a consequence of the predecessor GTX rate originally applicable to NJ Steel, Gerdau is in actuality taking service from the 34.5 kV side of a 230 kV/34.5 kV substation but is being treated nominally as a 230 kV transmission voltage customer, resulting in JCP&L's other distribution customers shouldering the fixed and operating costs of the substation. Gerdau's claim of being over-allocated A&G expenses out of proportion to its simple metering plant responsibility is thus unfounded as the subject substation costs are not being properly included as part of Gerdau's distribution plant responsibility. (JCP&L Initial Brief at 151-154) Second, JCP&L argued that the varied nature of A&G expenses (including among others the fixed and operating costs of Company buildings which support a variety of regulatory, billing and other human resource functions, vehicle fleet and software programs) indicates that these expenses were incurred to serve all customers regardless of rate schedule, and are thus appropriately allocated using the average and excess allocator. (JCP&L Initial Brief at 151-154; Reply Brief at 92) Third, in aggregate, Gerdau's 2011 annual bill of $1.2 million, or $.0056/kWh, represents a just and reasonable rate level that undermines Gerdau's claim that its rates are excessive. Fourth, contrary to its claims, Gerdau is not paying twice for administrative and general expenses but once for those attendant to distribution system costs and, at best, once for transmission related A&G expenses through FERC-approved transmission rates (though JCP&L contends that since Gerdau is not a Load Serving Entity it does not make such reimbursements to PJM). (JCP&L Reply Brief at 91).

Rate Counsel took the position that while JCP&L allocated too much A&G to Gerdau, Mr. Pollock allocated too little of these expenses to it. With neither approach satisfactory, Rate Counsel recommended that the Company's over-allocation error be remedied by splitting the difference between JCP&L's and Mr. Pollock's A&G allocation to Gerdau, and principally resolving the issue through interclass revenue allocation. That is, Rate Counsel proposed to allocate a 10 percent greater than system average rate reduction to both rate schedules GT and GP. Rate Counsel asserts that the adoption of Mr. Pollock's recommended demand charge reduction in this proceeding would represent an attempt to solve the problem too quickly and result in rate shock to the balance of distribution customers. (Rate Counsel Initial Brief at 140; Reply Brief at 73-74)

Staff took the position that Mr. Pollock accurately identified the over-allocation of A&G expenses to Gerdau occurring in the Company's COSS. Staff concurred with Gerdau's assessment, prescribing within its own Staff COSS a revised A&G approach similar to that recommended by Mr. Pollock. (Exhibit S-61, S-J-ERD-41 at 11) Staff further observed that a similar over-allocation of such costs has been imposed on the balance of transmission voltage customers served under rate schedule GT. Staff's recommended solution is slightly different than that proposed by Mr. Pollock, however, in that it would effect a direct allocation or assignment of A&G expenses to rate schedule GT based strictly on the percentage of total allocated distribution plant to that class. (Staff Initial Brief at 118) The balance of A&G expenses are allocated to the balance of rate schedules in the Staff COSS using an average and peak allocator at the distribution system level, with the peak or demand related component of costs allocated using class contributions to the coincident peak (net of GT) and the energy component on class shares of net system requirements (net of GT). (S-61 at section 11) Staff's COSS thus retains the use of an average and peak approach for the allocation of these largely indeterminate costs to the non-GT rate classes while correcting for the over-allocation of A&G expenses to all GT customers, including Gerdau.

Initial Decision:

ALJ McGill, while acknowledging the over-allocation of A&G costs to Gerdau, rejected the Gerdau and Staff recommended COSS revisions, and instead found Rate Counsel's proposal for remedying the over-allocation through interclass revenue allocation was the closest to a fair result. (Initial Decision at 73).

2. Interclass Revenue Allocation

The objective of interclass revenue allocation is over the course of time to move individual class rates of return, as identified in the cost of service study, closer to the system average rate of return. The relevant metric used to guide the level of interclass revenue allocation to each class is the class unitized rate of return ("URR"), simply computed as the class rate of return divided by the system rate of return. Class URRs are computed as output from the COSS at the present level of system revenue requirements: rate classes with current URRs below 1.000 are paying below the cost of service, while classes with URRs exceeding 1.000 are paying more than their cost of service. Class URRs in turn provide guidance for the allocation of the utility's new revenues between rate classes.

In the case of a rate decrease, classes exhibiting URRs above unity should see a greater than system average rate reduction, while classes below unity should be allocated a less than system average revenue reduction. The principle of rate gradualism tempers the degree to which this general guidance is calibrated: no customer class should experience an excessive allocation constituting rate shock. (Staff Initial Brief at 120; Initial Decision at 74).

These longstanding principles were endorsed by all parties advancing interclass rate design recommendations in this proceeding. The Company, Rate Counsel and Gerdau all advanced interclass revenue recommendations that would accomplish a progressive movement of class returns closer to unity relative to the COSS and URR results that each party employed.

In the case of a rate decrease, Staff recommended that this general interclass revenue allocation formula be reversed, but, notably, that all classes receive a rate reduction with the objective of driving all classes' returns closer to unity under that unique circumstance. (Staff Initial Brief at 118-122).

Initial Decision:

ALJ McGill's recommended that: 1) no rate class should receive a net increase; 2) for the GP and GT classes, the revenue decrease should be 1.3 times the Company-wide decrease; 3) the lighting class should receive a rate decrease equal to 75% of the Company-wide decrease; and 4) the other rate classes should receive an equal percentage rate reduction. (Initial Decision at 75).

3. Intra-Class Rate Design- Customer and Demand Charges

Positions of the Parties:

The Company did not propose any rate design changes from current rates to the proposed distribution rates. (Initial Decision at 76).

The Company proposed to increase the monthly customer charge by $1.00 for customers served under Rate Schedule Residential Service (RS), Residential Time-of Day Service (RT) and Residential Geothermal and Heat Pump Service (RGT). The Company also proposed to increase the supplemental monthly customer charge for off-peak and controlled water heating provisions by $1.00. Similarly for customers served under Service Classifications General Service (GS), and General Service Secondary Time-of-Day (GST), the Company is proposed to increase the monthly customer charge by $1.00. The Company also proposed to increase the supplemental monthly customer charge for off-peak and controlled water heating provision by $1.00. The Company argued that the charges were approved by the Board in 1993 have not changed for twenty years. The Company did not propose increases to customer charges served under other Service Classifications including General Service Primary or GP, General Service transmission or GT and Lighting Service classes. (JC-8 at 8 to 9).

Rate Counsel opposed the proposed increases in customer charges. Rate Counsel argued that in view of its proposed large reduction in JCP&L's existing revenues, this case does not present an appropriate circumstance in which to consider an increase in existing rates. The revenue reduction should be obtained by maintaining the existing customer charge and by reducing the kwh and kw charges by an equal percentage in each rate class. (RC-152 at 28).

Staff proposed a few modifications to JCP&L's intra-class design. First, Staff specified that the customer classified costs and expenses be reflected in the customer charges for secondary classes, Residential Service, Residential Geothermal and Heat Pump Service, Residential Time-of-Day, and General Service provided they are no greater than the class average increase occurring under the interclass revenue allocation. (Staff Initial Brief at 123).

Based upon the proposed increase, and the Staff's cost of service study results, Staff recommended residential class customer charge increases from $2.06 to $2.13 per month, a 3.4% increase approximating the 3.6% overall increase to class revenue requirements. Given the declining block structure of GS-Secondary energy charges, where usage rates per kwh decrease significantly as usage increases above 1,000 kwh in both the summer and the winter, Staff recommended a uniform increase to reflect the class average increase of 4.65%. (Id.).

Initial Decision:

The ALJ agreed with Rate Counsel and recommended that in view of the revenue reduction recommended in this case, it is not an appropriate time for a rate increase in the customer charges.

With regard to demand and energy charges, the ALJ found that Staff's position created an intra-class rate design which more accurately tracked the approved treatment of cost of service and inter-class revenue allocation. More specifically, the reductions in demand and distribution charges for the service Classifications GP and GT should be larger than the Company-wide reduction, and the distribution charges for the lighting classes should be less than the Company-wide reduction in the same proportions as the interclass revenue allocation. Under these circumstances, the ALJ found that for demand and energy charges, percentage reductions which track the changes in interclass revenue allocation were reasonable and should be approved. (Initial Decision at 77).

4. Miscellaneous Service Charges

Positions of the Parties:

JCP&L proposed increasing three miscellaneous service charges: 1) returned payment fee; 2) reconnection at the meter fee; and the 3) field collection charge. In addition, JCP&L proposed the introduction of a convenience fee.

With respect to the returned payment fee, JCP&L proposed increasing the fee from the current $10 to $15. The Company's proposal reflected their belief that there must be a disincentive to engaging in issuing checks and making electronic payments that are returned or dishonored, and that the costs associated with this behavior should be borne by the customers engaging in such acts. (JC-9 at 12). The Company's cost analysis demonstrated that the cost-based charge for this service is $12.04, but according to JCP&L, its proposed $15 charge will provide an additional disincentive for such customers. (JC-9, Schedule KC-2 at 1, and JC-9 at 12-13).

JCP&L also proposed to increase the fee for reconnection at the meter for non-payment from $22 to $45. (JC-9 at 13). The Company's cost analysis showed the cost-based charge for this service is $68.57. According to the Company, by proposing the $45 charge, it has tried to mitigate the full impact on this group of customers of the significant increase that would otherwise be supported. (JC-9, Schedule KC-2 at 5, and JC-9 at 13).

In addition, JCP&L proposed an increase in the field collection charge from $20 to $25. This charge is assessed for every type of field visit a collector makes that results in an attempt to collect. The Company's cost analysis showed that the cost-based charge for this service is $25.52. (JC-9, Schedule KC-2 at 3).

Finally, JCP&L proposed to implement a convenience fee for the Company's processing of a check or savings withdrawal over the telephone requiring the direct assistance of a Company customer service representative ("CSR"). Customers that use the Company's Interactive Voice Response system or the Company's website, which require no direct interaction with, or assistance from, a Company CSR, would continue to be able to make a payment without a fee. (JC-9 at 14). The proposed convenience fee ($1) is to encourage customers to increase the use of the free self-service bill payment options while, at the same time, continuing to provide, for live Company CSR availability at a nominal charge for such services and/or transactions. (Id. at 14-15).

Rate Counsel challenged the Company's proposed changes in the above miscellaneous service charges. With respect to the Returned Payment Fee, Rate Counsel proposed a $12 fee to reflect JCP&L's actual costs associated with returned payments. (Rate Counsel Reply Brief at 74). While the cost analysis did support an increase in the fee for reconnection at the meter, Rate Counsel contended that the Company's proposal would result in "rate shock" and recommended a moderate increase to $30. (Rate Counsel Initial Brief at 137). Finally, Rate Counsel asserted it was inappropriate to impose a "convenience fee" on customers who are attempting to settle their accounts by phone through existing customer service representatives whose costs are already reflected in rates. Accordingly, Rate Counsel requested that the convenience fee be rejected. (Ibid.).

Initial Decision:

ALJ McGill agreed with Rate Counsel with respect to the Returned Payment Fee and found that there was no sound economic justification for pricing the service above cost, and thus, set the Returned Payment Fee at $12. (Initial Decision at 78). ALJ McGill further found that the Company's proposed reconnection fee of $45 is well below the cost of the service and represents substantial mitigation of the impact on customers. Therefore, ALJ McGill determined that the reconnection fee should be increased to $45. (Ibid.) Citing that the Company offered no cost justification for the proposed convenience fee, ALJ McGill denied the Company's request to implement a $1 convenience fee for payments by phone that required the direct assistance of a customer service representative. (Id. at 78 - 79).

5. Con Edison Development Proposed Modification

Positions of the Parties:

Con Ed is a developer, owner and operator of grid supply solar renewable energy projects with four projects in JCP&L's territory. It is Con Ed's position that JCP&L should be directed to eliminate the GT and GP On-Peak Demand Charge for all large grid supply solar projects. (CED-4 at 9) Con Ed argued that large solar producing customers only use the grid in the off peak and the fringes of the on peak hours, questioning the rationality of JCP&L charging large solar grid projects On-Peak Demand Charges. Con Ed contended that solar projects generate the most power during clear, sunny days when demand for electricity is high but also produce electricity during rainy and cloudy days, and inject the electricity into the JCP&L electric grid. Con Ed further stated that during the PJM reported peak usage for JCP&L in 2012 on July 18 between the hours of 2 PM and 3 PM, Con Ed was injecting power into the grid. (CED-4 at 6).

Con Ed argued that the solar projects do not contribute to the non-coincident peak load of distribution facilities, and, therefore, do not impose incremental costs on JCP&L's system. Con Ed stated that demand charges in the GP and GT rate schedules compensate JCP&L for building and maintaining the transmission and distribution infrastructure necessary to deliver electricity to GP and GT customers. Con Ed further argued that it already fully compensated JCP&L for all infrastructure improvements necessary for its projects to inject power into the distribution system, and it should be relieved from paying demand charges. According to Con Ed, it demonstrated that grid-connected solar developers pay directly for the interconnection facilities and equipment upgrades that JCP&L, identified as necessary to deliver the generated solar power to the electric grid. Therefore, demand charges are not designed to cover and do not actually compensate JCP&L for any costs associated with Con Ed's injection of power into the grid, and imposing Demand Charges on the solar projects is entirely inappropriate. Con Ed should be relieved from any duty to pay them through this proceeding.

Con Ed concluded that large scale solar projects do not have any usage coincident with JCP&L's system peak and, instead, inject power into the PJM grid during peak periods and thus should not be charged on peak demand charges.

According to the Company, Con Ed's four solar projects in JCP&L's service territory cannot operate without an off-site power source. These projects are customers of JCP&L under the GP and GT rate schedule. The demand determinant for the demand charges under GP and GT service is based upon the maximum 15 minute integrated kilowatt demand registered during the on peak hours of each billing month. (JCP&L Initial Brief at 161). This demand charge is applied consistently for all GP and GT customers. JCP&L affirms that the demand charges are assessed on customers to recover fixed costs of the Company's distribution system. According to JCP&L, Con Ed erroneously stated that the distribution plant investment is sized to meet the Company's single annual coincident peak load and that solar projects are not contributing toward the coincident peak and therefore they should not pay the demand charges. Moreover, JCP&L rejected Con Ed's claims that its solar projects have not used any power coincident with JCP&L's peak demand. JCP&L proclaimed that, in fact, the solar projects registered maximum demand from the Company between 4:15 and 4:45 pm on the afternoon of July 18, 2012. (Ibid.). The Company's coincident peak demand for all of 2012 was registered during the hour ending at 3:00 pm on that same day. Thus, the solar projects' maximum demand requirements for power delivered by the Company occurred within an hour and fifteen minutes from the Company's coincident peak hour, not on the "fringe" of the on peak period as claimed by Con Ed. The third highest coincident peak achieved by JCP&L in 2012 also occurred on July 18, 2012 during the hour ending at 4:00 pm or within fifteen minutes of the solar projects' peak demand on the Company's system. (Id. at 162).

According to JCP&L, no distribution company can instantaneously increase the load carrying capacity of a circuit whenever a customer imposes increased demand on that circuit regardless of frequency or the cause of the customer's need for power. If JCP&L did not build its distribution system to meet the total load on individual circuits to serve the solar projects when those projects register on peak demands, none of the demands on those circuits could be met. (JCP&L Reply Brief at 97). Thus, the Company must be ready to serve the maximum peak load of a customer and that is why solar projects must bear a portion of the fixed costs of building and maintaining the distribution system.

Not only does JCP&L's system serve solar project loads, but it also is used as a contract path by which solar projects can move their power to the grid. Thus, without the properly built distribution system, it would be unable to sell to the Grid. JCP&L asserted that Con Ed conceded that even though the power generated at the solar facilities is helping to meet the local load, by going into the grid at 34 kV load bus, they are using the capacity on the Company's distribution system because that power exits the solar projects on JCP&L's facilities. Thus the solar projects are using the distribution system at the time of the coincident peak. This use of the system does not relieve constraints on JCP&L's transmission and distribution system. (Id. at 98). And, for those solar projects that do not sell into the PJM Grid, JCP&L argued that no constraints were identified as being relieved when these projects sell to other customers and use the Company's distribution facilities.

In conclusion, JCP&L found no valid cost of service basis for eliminating the demand charge for solar generators under rate schedules GP and GT. Furthermore, to do so, would shift the costs to other customers either within the GP or GT class or other tariff rate classifications, creating intra- and/or inter- class subsidies. (Id. at 99).

Initial Decision:

The ALJ concluded that Con Ed's arguments were unpersuasive for four reasons. First, Con Ed's solar projects had their highest demand within two hours of JCP&L's coincident peak demand for 2012. (Initial Decision at 81). Thus, Con Ed's assertions that its highest demand does not coincide with JCP&L's system peak is not factually accurate. (Ibid.) Second, the measurement of on peak demand between 8 a.m. and 8 p.m. clearly implies that consideration was given to one or more factors other than the hourly coincident peak for JCP&L. Third, Con

Ed focused solely on its use of JCP&L's distribution system to supply station power to the solar projects. Adequate consideration has not been given to Con Ed's use of JCP&L's distribution system to deliver the electric power generated by its facilities. (Ibid.) Lastly, Con Ed's request to eliminate the demand charge for solar projects is not warranted. At most, an adjustment to the hours of the on peak period for solar projects may be warranted after further analysis in a future proceeding. ALJ McGill found that the tariff modification requested by Con Ed is unreasonable and should not be approved. (Ibid.)

6. Other Tariff Revisions

Positions of the Parties:

The Company proposed several changes to its Tariff for Service ("Tariff"), including Part I (General Information), Part II (Standard Terms and Conditions), and Part III (Service Classification and Riders). With respect to Part I, JCP&L proposed several definitional changes, including the definition of "tampering", "beneficiary", and "end user." (JC-9 at 4-5). Within Part II, the Company proposed updated language to the following sections: 1) Section 2.04- Modification or Rejection of Application; 2) 2.07- Unauthorized Use; 3) Section 3.06- Billing Adjustments; 4) Section 3.18- Returned Check Charge; Section 7.04- Tampering; Section 7.06 Service Disconnection and Meter Removal Authorized; and Section 13- Net Metering. (Id. at 6-11 and 15-16).

Staff maintained that some of the Company's proposed and current tariff provisions are in contravention of the relevant New Jersey Administrative Code provisions and to the tariff provisions of similar utilities. (Staff Initial Brief at 130). In addition, Staff asserted that there were inconsistencies between the Company's Tariff and a November 2009 guide entitled "Information and Guidance for Customer Electric Service Which Can Be Accessed On The Company's Website ("2009 Guide"). (Ibid.) Staff recommended that JCP&L be ordered to conduct a review of the standard terms and conditions included in its current and proposed tariffs as well as the 2009 Guide, and to make all necessary changes to ensure conformance with N.J.A.C. requirements, standard utility business practices, consistency between the 2009 Guide and the Tariff, and the maximization of customer comprehension. (Ibid.)

JCP&L responded that Staff failed to provide any citations to support its position or analysis as to the applicability to the requested modifications.

Initial Decision:

ALJ McGill concluded that Staff's position offered no basis for evaluation of the Company's specific proposals, and therefore, found that the Company's proposals were reasonable. Accordingly, ALJ McGill found that the Company's proposed Tariff revisions should be approved. (Initial Decision at 85).

C. BGS-CIEP Meter Costs

Positions of the Parties:

By Order dated June 18, 2012 in Docket No. ER12020150, the Board directed that the Basic Generation Service-Commercial and Industrial Energy Pricing ("BGS-CIEP") threshold be lowered from 750 kw to include those customers with a peak load of 500 kw beginning June 1, 2013.[11] The Board further directed all of the electric distribution companies to install interval meters on all BGS eligible accounts with a peak load share equal to or above 500 kw, and that the recovery of the costs associated with the installation of these meters should be addressed in the context of each EDC's next rate proceeding. Pursuant to that Order, JCP&L requested recovery of the costs associated with 254 interval meters required for CIEP-eligible customers between 500 kw and 750 kw. (JC-9 at 17).

The June 2012 Order further provided that the Board would continue to investigate further lowering the CIEP threshold. JCP&L submitted a schedule setting forth the costs associated with interval meters for 511 customers within the range from 300 kw to 500 kw. While the Company did not seek recovery of these costs in this base rate case, the Company sought approval to adjust rates automatically to recover such costs through an additional $177,846 increase in the revenue requirement, if the Board issues an order expanding CIEP eligibility to these lower-usage customers. Alternatively, JCP&L requested authority to defer such expenditures, with carrying costs, for recovery in a future base rate proceeding, if the Board issues an order further expanding CIEP eligibility. (Id. at 18). While acknowledging that there is uncertainty as to whether and when, the Board will act to further expand the CIEP class, JCP&L argued that the Company would be entitled to recovery of the costs associated with the purchase and deployment of the additional interval meters. Therefore, JCP&L contended that, providing either: (1) authority now (in the next rate case following the June 2012 Order) for automatic recovery in rates if, and when, the costs are incurred pursuant to the Board's further expansion of CIEP, or, alternatively, (2) authority to defer with carrying costs, is a matter of equity and judicial/regulatory efficiency and economy. (JCP&L Initial Brief at 105). JCP&L stated that if the Company's request in this proceeding was granted but the Board never determined to expand CIEP eligibility, there is absolutely no risk to ratepayers since automatic recovery through then existing rates or, alternatively, deferral with carrying cots for future recovery, would never be triggers. (Id. at 105 to 106).

Rate Counsel opposed JCP&L's request to include "automatically" any cost related to potential future action by the Board, arguing it would be more appropriate to address the treatment of those costs if or when the Board makes a decision to lower the CIEP threshold. (Rate Counsel Initial Brief at 137-138).

Initial Decision:

ALJ McGill found that it would be more appropriate for the Board to address the subject of the BGS-CIEP meter costs related to expansion of the CIEP threshold, and the treatment of these costs if and when the Board makes a decision to lower the current CIEP threshold and therefore rejected the Company's proposal. (Initial Decision at 90).

D. Accelerated Reliability Enhancement Program

The Company proposed to implement an accelerated reliability enhancement program ("AREP") and an associated cost recovery mechanism. According to JCP&L, the AREP is being proposed at this time to address increasing expectations of customers for higher service levels, following the two extraordinary storm events of 2011 and 2012. (JCP&L Initial Brief at 233). In addition, the Company proposed to implement an accompanying cost-recovery mechanism to recover costs associated with its accelerated capital investments. (Ibid.) The Company's

[11] In re the Review of the Basic Generation Service Procurement Process, BPU Docket No. ER12020150, Order dated June 18, 2012. ("June 2012 Order").

proposal has not specified any specific projects that would be included in the AREP, but provides that the Company will consider reliability-related capital work that may include, but is not limited to, technology deployment, costs associated with implementing the Board's directives arising from the recommendations in the Emergency Preparedness Partnerships ("EPP") Report, pilot projects to explore the benefits of smart-grid technologies, and concentrated right-of-way corridor improvements with projects to be developed in collaboration with Staff. (Ibid.)

Positions of the Parties:

Rate Counsel opposed approval of the Company's request for an AREP, stating that such electric distribution reliability projects are a normal and integral part of the electric distribution business and should be handled like any other investment that is required to provide safe and reliable utility service and recovered through a general base rate case proceeding. (RC-13 at 39). According to Rate Counsel, the Company did not committed to undertaking a specific level of investment, nor has the Company demonstrated that any such expenditures would be incremental to those that would otherwise be made in the normal course of business. (Rate Counsel Initial Brief at 125). Rate Counsel further argued that, as currently structured, the proposed program would significantly accelerate the recovery of costs that would not otherwise be recoverable until the Company filed a base rate case, but the proposal further accelerates recovery by requiring ratepayers to pay for not only actual expenditures, but projected expenditures as well. (Id. at 128-129). Further, because the Company's proposal would increase rates for one component of the ratemaking equation without consideration of the overall revenue requirement or revenue levels being earned by JCP&L, Rate Counsel argued that the proposal results in single issue ratemaking. (Id. at 131). Rate Counsel argued that the proposed AREP will increase shareholder return while significantly reducing risk through accelerated recovery of costs and the true-up mechanism. (Id. at 129 to 130). While the mechanism would shift risk to ratepayers, there is no commensurate reduction in the Company's proposed return on equity. (Id. at 130)

Similarly, Board Staff recommended rejecting the AREP, noting that in previous accelerated infrastructure programs approved by the Board, specific projects were identified prior to Board approval of those programs. (Staff Initial Brief at 129). In addition, Staff noted that the Board invited all regulated utilities to submit detailed proposals for infrastructure upgrades to protect utility infrastructure from future major storm events in Docket No. AX13030197[12]. Staff asserted that the more appropriate venue to review the Company's AREP proposal would be the Storm Mitigation Proceeding. (Ibid.)

Intervenors Gerdau and Walmart also opposed the AREP, adding concern about the proposed rate design because the entirety of the costs would be recovered with a kwh charge and the proposal would be unfair to customers with high load factors. (Walmart Initial Brief at 9, Gerdau Initial Brief at 55). Similarly, AARP opposed the AREP. (AARP Initial Brief at 8-9).

Initial Decision:

ALJ McGill found that while the cost recovery mechanism is very specific, the details of the AREP rider are ill-defined. (Initial Decision at 89). ALJ McGill further found that the proposed

[12] In re the Board's Establishment of a Generic Proceeding to Review the Costs, Benefits, and Reliability Impacts of Major Storm Event Mitigation Efforts, BPU Docket No. AX13030197, Order dated March 20, 2013. ("Storm Mitigation Proceeding")

AREP rider with a collaborative role for Staff in choosing projects for inclusion inappropriately shifts management responsibility from the Company to Staff. (Ibid.) Under these circumstances, ALJ McGill found that the AREP proposal is unreasonable, should not be approved, and that a more clearly defined proposal may be appropriate for consideration in another proceeding. (Ibid.)

E. Ring Fencing

Positions of the Parties:

Rate Counsel witness Kahal reviewed JCP&L's credit ratings and the reports by Standard & Poor's, Moody's and Fitch Ratings, and noted that all three credit rating agencies depicted JCP&L as having a very favorable business risk profile. However, Kahal asserted that, JCP&L's credit rating is impaired and weakened by its affiliation with FirstEnergy operations. (Initial Decision at 90).

Kahal recommended that the Board require JCP&L to investigate whether it could improve its credit quality by implementing "ring fencing" measures. Such measures refer to corporate structural protections and business practices that can help separate the utility subsidiary from its riskier parent and corporate affiliates. Kahal acknowledged that JCP&L already had some ring-fencing measures in place, but he asserted that pursuant to credit rating agencies' comments, the measures are insufficient. Kahal recommended that within 90 days of issuance of the final Board order in this case, JCP&L should report back on the costs, benefits and feasibility of potential additional ring-fencing measures that it could take to further separate itself from credit risks associated with the FirstEnergy's non-utility operations. (Initial Decision at 90-91).

JCP&L's rebuttal witness Steven R. Staub, ("Staub") FirstEnergy Service Company Vice President and Treasurer, testified that JCP&L's credit ratings are typical of a situation in which an EDC's parent company and/or affiliates have a riskier business profile than the EDC. Staub maintained that Kahal provided no support for the assumption that additional ring-fencing measures would have any impact on JCP&L's credit ratings. Staub further argued that there is no need for the Board to launch an investigation into the adequacy of JCP&L's ring fencing measures because that issue is periodically reviewed during the Board's regular management audits, most recently conducted by Schumaker & Company in 2011. (Id. at 91).

Initial Decision:

ALJ McGill found that, in the view of credit rating, FirstEnergy's non-utility operations continue to have a negative impact on JCP&L's credit ratings. Therefore, the study recommended by Kahal is warranted. (Ibid.)

F. Reliability

In its July 31, 2012 Order requiring the Company to file the present rate case, the Board indicated that it recently addressed several JCP&L service related issues. See In re the Petition of Rate Counsel Requesting a Board Order Directing Jersey Central Power and Light Company to File a Base Rate Case Petition and Establishing a Test Year of 2010, BPU Docket No. EO11090528, Order dated July 31, 2012 ("Rate Petition Order") at 11 to 12. In the Rate Petition Order, the Board found that a base rate proceeding with appropriate data including an examination of rate base, expenses, operations and rate of return as required by N.J.S.A. 48:2-21 will assure that JCP&L's rates are just and reasonable, and that the Company is investing sufficiently to assure the provision of safe, adequate and proper utility service to its customers as required by N.J.S.A. 48:2-23. Pursuant to the Rate Petition Order, the rate case would include a review of the financial integrity and adequacy of capital expenditures, and provide valuable insight as to the company's operational efficiency and organizational effectiveness. (Id. at 12 - 13).

With respect to service reliability, ALJ McGill noted that several areas were not challenged by any party, including that JCP&L is maintaining an adequate level of capital expenditures, that the Company has established a reasonable degree of organizational effectiveness and operational efficiency, and that JCP&L is maintaining a sufficient level of O&M expenditures. (Initial Decision at 93 - 95).

Among the contested issues to be determined in this proceeding were whether the Company is currently providing reliable electric distribution service, whether the current regulatory standards for reliable service should be modified as proposed by Rate Counsel, and the Company's tree trimming practices.

In N.J.A.C. 14:5-8.1 to 8.12, the Board set standards for electric distribution service reliability and quality. Each EDC is required to have reasonable programs and procedures necessary to maintain minimum reliability levels for its respective operating areas. N.J.A.C. 14: 5-8.1(a). In addition, each EDC must submit to the Board an Annual System Performance Report (the "Annual Report") by May 31 of each year. N.J.A.C.14:5-8.7(a). (Initial Decision at 95).

Two metrics for evaluating the reliability performance levels are the System Average Interruption Frequency Index ("SAIFI") and the Customer Average Interruption Index ("CAIDI"). Pursuant to N.J.A.C. 14:5-1.2, SAIFI is defined as follows:

> "System Average Interruption Frequency Index" (SAIFI) represents the average frequency of sustained interruptions per customer during the reporting period. SAIFI is defined as the total number of sustained customer interruptions per reporting period divided by the total number of customers served per reporting period.

CAIDI in defined in N.J.A.C. 14:5-1.2 as follows:

> "Customer Average Interruption Duration Index" (CAIDI) represents the average time in minutes required to restore service to those customers that experienced sustained interruptions during the reporting period. CAIDI is defined as the sum of sustained customer interruption durations per reporting period divided by the total number of sustained customer interruptions per reporting period.

A sustained interruption is "an interruption of electric service to one or more customers that is not classified as a momentary event interruption and which is longer than five minutes in duration. Interruptions which occur during a "major event" in one or more operating areas shall not be included in the EDC's SAIFI and CAIDI calculations.[13]

[13] "Major event" means any of the following: a sustained interruption of electric service resulting from conditions beyond the control of the EDC, which may include, but is not limited to, thunderstorms,

The performance levels for SAIFI and CAIDI are based on a benchmark standard and a minimum reliability level. Currently, an operating area's CAIDI benchmark standard is set at the five-year average CAIDI for the years 2002 to 2006, N.J.A.C. 14:5-8.9(a)1; the operating area's SAIFI benchmark standard is set at the five-year average SAIFI for the years 2002 to 2006, N.J.A.C. 14:5-8.9(a)2. The minimum reliability level for each operating area is attained when its annual CAIDI and SAIFI are no higher than the CAIDI and SAIFI five-year benchmark standard plus 1.5 standard deviations. N.J.A.C. 14:5-8.9(a)3. (Initial Decision at 95-97).

1. Adequacy of service

Positions of the Parties:

Witnesses for JCP&L testified that JCP&L's reported reliability has shown a pattern of improvement since 2002, and since 2007 has reached a point where all of the Company's reported reliability metrics are now better than the benchmark targets established under N.J.A.C. 14:5-8.9. (JC-16 at 16). Rate Counsel does not dispute that JCP&L's electric service reliability performance as measured by SAIFI and CAIDI without major events is well within the levels set forth in the Board's regulations. (RC-87 at 4). Rate Counsel requested that the Board acknowledge JCP&L's poor performance and specifically order the Company to establish an improvement plan with specific deadlines and consequences, such as a reduction of its Return on Equity, if reliability does not improve. (Rate Counsel Initial Brief at 19).

Initial Decision:

ALJ McGill determined that because the Company is in compliance with the performance standards provided in the current regulations for SAIFI and CAIDI, it is unreasonable to asses JCP&L's performance with respect to reliability as poor. (Initial Decision at 106). The ALJ stated that it is more likely that the major storms of 2011 and 2012 will prove to be aberrations rather than a trend toward deteriorating performance as suggested by Rate Counsel. (Initial Decision at 106). Therefore, ALJ McGill concluded that, at present, Rate Counsel's position appears to be unreasonable, and that as additional data becomes available, it should be evident whether there is a trend toward deteriorating performance. Accordingly, ALJ McGill stated that based upon current standards the Company is providing reliable electric distribution service. (Ibid.)

2. Use of a Benchmark

Positions of the Parties:

Rate Counsel contended that the Board's existing reliability standards for JCP&L are set too low because they are based on JCP&L's substandard performance between 2002 and 2006. (Rate Counsel Initial Brief at 18). Rate Counsel recommended that instead of solely relying on the minimum reliability levels currently set for JCP&L, the Board should consider modifying the minimum reliability benchmark by using more recent SAIFI and CAIDI data. (Id. at 19). Rate

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tornadoes, hurricanes, heat waves or snow and ice storms, which affect at least 10 percent of the customers in an operating area. Due to an EDC's documentable need to allocate field resources to restore service to affected areas when one operating area experiences a major event, the major event shall be deemed to extend to those other operating areas of that EDC, which are providing assistance to the affected area. The Board retains authority to examine the characterization of a major event.

Counsel testified that reliability benchmark standards should reflect either more recent historical performance, at a minimum, or they should reflect a reliability target sought after by the Board, rather than just a level of historical performance. (Id. at 25).

The Company argued that the Board's selection of the average CAIDI and SAIFI metrics over the period 2002-2006 as the benchmark for its reliability standards was the result of an extensive 2007-2008 rulemaking proceeding, and is appropriate and well-reasoned. (JCP&L Reply Brief at 116). Furthermore, JCP&L stated that the Company's CAIDI and SAIFI performance has been steadily improving since prior to the initiation of its last base rate case in 2002. (Id. at 119).

Initial Decision:

ALJ McGill concluded that the results for SAIDI and CAIFI for 2002 to 2006 reflect a period of poor performance with respect to service reliability, and that it is unreasonable to use those results as the standard for future evaluation of the Company's reliability performance in the future. Therefore, SAIFI and CAIDI figures for JCP&L for 2007 to 2011 constitute a more reasonable standard for evaluation of the Company's reliability performance in the future. (Initial Decision at 107). With respect to Rate Counsel's recommendation to use a benchmark as opposed to the minimum reliability standard for evaluation of JCP&L's system performance, ALJ McGill found that this proposal would have some appeal with the use of data from 2002 to 2006 to set the benchmark. With the use of SAIFI and CAIDI results for 2007 to 2011 to set the benchmark, it is reasonable to allow some latitude in regard to the minimum reliability standard. (Ibid.)

3. Inclusion of Major Storm Events in SAIFI/CAIDI Indices

Positions of the Parties:

According to Rate Counsel, due to the increase in the number of major event days, the CAIDI and SAIFI numbers reported by the utility to the Board are becoming less reflective of the customer experience. (Rate Counsel Initial Brief at 26). Citing an exponential increase in major event days in recent years, Rate Counsel contended that inclusion of major event days in the Annual Report becomes critical for the Board to obtain a clear understanding of how the utility is performing in all types of conditions. (Id. at 27). Rate Counsel believes that the Board's current regulations may have the effect of encouraging the Company to define more bad performance days as "major storms" so that blue sky CAIDIs and SAIFIs appear to be improving. (Ibid.) To address these issues, Rate Counsel suggested that the Board order require JCP&L to include, in its Annual Report, the Company's CAIDI and SAIFI both including and excluding major events. In addition, Rate Counsel requested that the Board better define "major event" so that the definition cannot be modified to skew the Company's performance results. (Id. at 28).

The Company presented testimony providing that while the pertinent regulations do not establish specific performance metrics with respect to major storms, EDCs are required by N.J.A.C. 14:3-3.7 "to exercise reasonable diligence to avoid interruptions, curtailments or deficiencies…of service and, when interrupts occur, [to restore] service … as promptly as possible consistent with safe practice." It would not be helpful, the Company contended, to include the impact of events over which utilities have no control; indeed, to do so would only negatively skew the perception of a utility's reliability performance. Moreover, the Board anticipates rulemaking regarding enhancements to regulatory reporting requirements, which would be a more appropriate forum for Rate Counsel to advance its proposals and recommendations, where they would be subject to State-wide stakeholder review and input. (JCP&L Initial Brief at 195).

Initial Decision:

ALJ McGill found that the results during the major storms of 2011 and 2012 are totally out of proportion to the figures with major storms excluded, and cannot serve as a basis for comparison. Therefore, it is more useful to evaluate the results for each major storm on an individual basis. (Initial Decision at 107). With respect to Rate Counsel's recommendation that SAIFI and CAIDI should be reported both with and without major events, the ALJ concluded that the high number of major event days from 2008 to 2011 may well be the result of aberrations in weather conditions and that additional data for several years should be considered before making a determination as to whether to change the definition of major event days. (Id. at 107 - 108).

4. Poor Performing Circuits

Positions of the Parties:

Under N.J.A.C. 14:5-8.7(g), each EDC reports on its worst distribution circuits based upon reliability performance and what corrective actions are planned for these circuits. The Company has a program (Highest Priority Circuit Program) which focuses attention on its worst performing circuits based on the reliability metric SAIDI. (RC-87 at 37). According to Rate Counsel, there has been a high rate of repeat distribution circuits in this program, indicating that the program is not working well, and the Company needs to consider the costs and benefits of other approaches for improving reliability on these circuits, including more equipment replacement, more aggressive tree trimming, selective use of undergrounding, more advanced circuit protection and sectionalizing, and other potential approaches. (Id. at 38 - 39). In addition, Rate Counsel suggested that the Board consider regulations which put more emphasis on improving reliability on these circuits, or which penalize the Company for failure to improve reliability on its worst-performing distribution circuits. (Id. at 39).

The Company disputed Rate Counsel's testimony to the effect that there has been a high level of repeat distribution circuits in the Highest Priority Circuit Program, and that the program is not adequately addressing reliability of those poorly performing circuits. According to the Company, only sixty-one out of 1,190 circuits, or approximately five percent, are repeat circuits. (JC-14 Rebuttal at 23). Additionally, the repeat could occur at any time over a full nine-year period. Further, it is necessary to consider the particular circumstances of each circuit. Some circuits in question have many miles of poles, equipment and wires that are exposed to potential damage from trees, vehicle accidents and weather impacts. (Id. at 23 to 24). Additionally, in view of initiatives to augment the worst performing circuit program in accordance with the Board's Order dated February 20, 2013, BPU Docket No. E012070650, JCP&L sees no constructive benefit to encumbering the current priority program with additional regulations and penalties. In addition, starting in the third quarter of 2013, the EDCs were to begin reporting quarterly to the Board regarding outages on all circuits. (Id. at 27 - 28).

Initial Decision:

ALJ McGill determined that under the circumstances, the effectiveness of this new program should be evaluated prior to consideration of other methods. (Initial Decision at 108).

5. CEMI

Positions of the Parties:

In its testimony, Rate Counsel expressed concern about pockets of poor reliability that may exist on the distribution system that are smaller than an entire distribution circuit. Rate Counsel recommended that JCP&L be required to report the customers experiencing multiple interruptions ("CEMI") to permit examination of problems that may be too localized for the Annual Report to capture. (Rate Counsel Initial Brief at 25).

The Company stated that JCP&L uses the CEMI metric as one of an assortment of tools for certain circuit-related assessments in the priority circuit program, but cautions against using it as a general regulation-required metric because of the need for engineering judgments to determine the priority and criticality of actions that will lead to overall system reliability improvements. (JCP&L Reply Brief at 123).

Initial Decision:

ALJ McGill found that the Company should be required to measure and report CEMI in an appropriate form. After the Company reports CEMI for a period of time, it will be possible to develop an appropriate response to the circumstances revealed by the data. (Initial Decision at 109).

6. Vegetation Management

Positions of the Parties:

Rate Counsel had several recommendations for JCP&L's vegetation management and tree trimming practices, including: 1) more aggressive distribution tree trimming by JCP&L; 2) should be fewer deferrals of cyclical trimming past their scheduled years; and 3) strengthening and continuation the just-completed Corridor Widening Initiative. (RC-87 at 27 to 35). Rate Counsel argued that JCP&L deferred vegetation management and reallocated revenues to other projects despite the Board's regulations. (Rate Counsel Initial Brief at 29). Rate Counsel testified that four years of low cost per mile tree trimming along with miles of vegetation management deferred had a dramatic negative impact on JCP&L's SAIDI, including major events. (Id. at 30). Rate Counsel stated that while cost savings were realized by deferring projects, a substantial amount of revenue is being collected from ratepayers that has not invested in JCP&L's infrastructure. During this same time, JCP&L gave its parent, FirstEnergy, a generous dividend, including over 70 percent of JCP&L's profit during 2009 to 2011, that was paid out in dividends instead of reinvesting its projects in its New Jersey electric distribution utility. (Id. at 31). Rate Counsel requested that JCP&L be ordered to maintain an increased level of vegetation management spending, and be required to report and be subject to sanctions if its vegetation management practices are not maintained at a sufficient level. (Ibid.)

JCP&L acknowledged that there have been deferrals from one year to another, but maintains that deferrals were due to the off right of way vegetation management program, i.e. the "Corridor Widening Initiative" which was completed in 2012. (JC-16 at 11). JCP&L contends that it took great care to minimize outage risk, and all deferred tree trimming from 2009 and 2010, as well as the 2011 planned tree trimming, was completed by early 2012. (Ibid.)

According to JCP&L, the current clearance requirements are adequate and strike an appropriate balance between reliability benefits and stakeholder interests. (JC-16 at 4). From a vegetation management perspective, most reliability challenges are non-preventable and relate to off-corridor trees. The worst-performing circuits are scheduled for priority vegetation management earlier in the cycle year. A "tree cause" of an outage is a tree-related incident that results in an outage because a tree or other vegetation has grown into, or otherwise contacted, a Company circuit. Vegetation related outages are considered to be "preventable" when the outage is caused by vegetation that is within the right-of-way or trim corridor that is ordinarily addressed through the cyclical vegetation management program. (Id. at 8).

The Company uses the terms "preventable" and "nonpreventable" to describe outages caused by trees. According to the Company's witness, the term "preventable" is a term of art and does not mean that the outage could or should have been avoided through implementation of vegetation management practices. A "preventable" outage is one caused by vegetation that is within the right-of-way or trim corridor that is ordinarily addressed through the cyclical vegetation management program. The clearance is typically fifteen feet from all sides of the conductor. This includes a height of fifteen feet above the conductor. In contrast, a "non-preventable" tree cause is a tree-related incident resulting in an outage where a tree or limb falls or is forced into a Company line from outside the right-of-way or trim corridor. (Ibid.)

Rate Counsel questioned the use of the term "non-preventable" to describe outages caused by branches that are within the right-of-way but are also within the canopy directly over the wires. According to Rate Counsel, it branches located fifteen feet directly above the conductors that break and fall onto the wires during snow, ice or heavy wind conditions are "non-preventable" because the Company chooses not to try to prevent them by restricting its trimming of the canopy. (RC-87 at 30).

The Company responded that most of the tree-related damage in the three major storms of 2011 and 2012 was caused by the uprooting of large, healthy trees. During the October 2011 snow storm, most trees were still foliated and broke when they became heavily laden with snow. (JC-16 Rebuttal at 3).

Initial Decision:

ALJ McGill agreed with Rate Counsel that branches and foliage above the conductors, even if fifteen or more feet away, will sometimes break and fall onto the wires, and this is an area where the Company could expand its tree trimming to prevent outages. (Initial Decision at 110). The ALJ also noted that, the term "non-preventable" like "preventable" is a term of art and should not be taken literally. (Ibid.) With respect to Rate Counsel's recommendation that JCP&L should implement cyclical corridor widening, ALJ McGill stated that JCP&L should continue to take advantage of opportunities for corridor widening as they present themselves. (Ibid.).

G. Major Storm Related Performance and Customer Service Issues

Positions of the Parties:

In its testimony, Rate Counsel offered several recommendations regarding JCP&L's storm related public communications, credit and collections, access to Company personnel and accuracy of bills.

The Company presented testimony on its improved storm related communications, and on its credit and collection practices. The Company also maintained that these issues are normally addressed outside of a base rate case.

Initial Decision

ALJ McGill stated that while all aspects of customer service provided by a public utility are important, the concerns raised by Rate Counsel are not sufficiently serious to impact the determinations as to the revenue requirement, and Rate Counsel's concerns in regard to operations should be addressed in another proceeding. (Initial Decision at 112).

III. EXCEPTIONS AND REPLY EXCEPTIONS

A. EXCEPTIONS

1. JCP&L

In its Exceptions to the Initial Decision, the Company emphasized the importance of the Board's inclusion of the 2012 Major Storm Costs into the Company's rates at the same time base rates are set at the conclusion of this matter. (JCP&L Exceptions at 5). JCP&L asserted that not incorporating these costs into the Company's rates at this time would have significant financial consequences for JCP&L. (Id. at 6).

JCP&L proposed use of its actual capital structure ratios and cost of long-term debt at June 30, 2012, adjusted to remove short-term and securitized debt and to reflect $500 million of new debt issued in late August 2013. In addition, JCP&L requested an equity allowance of 11.0 percent which, if approved, would begin to restore the investment community's confidence in the Company's ongoing financial health, and enable JCP&L to access needed capital on reasonable terms. (Ibid.).

JCP&L excepts to three of ALJ McGill's revisions to JCP&L's position which it claims have the effect of reducing JCP&L's fair overall rate of return from 8.66 to 8.01 percent : 1) use of a hypothetical capital structure proposed by Rate Counsel and comprising 50 percent long-term debt and 50 percent common equity, 2). recalculation of JCP&L's cost of long-term debt after removing the effect of the August 2013 debt issuance the ALJ concludes was "too far outside the 2011 test year," and 3) adoption of the Staff's recommended common equity allowance of 9.75 percent. (Id. at 7).

JCP&L argued that ALJ McGill's recommended capital structure should be rejected for several reasons, including that rigid adherence to the "matching principle" makes no sense here and will not produce a just and reasonable result since nearly four years will have passed since the midpoint of the historic test year (2011), and 19-20 months will have passed since the $500 million of debt will have been issued. JCP&L witness Staub testified that the Board, to the extent practicable, should set JCP&L's rates based upon the actual capital structure it is likely to employ during the period new rates are in effect and not default to a "hypothetical' set of rates." (Id. at 8). Second, JCP&L maintains that ALJ McGill's observation that 45 to 55 percent is generally regarded as a reasonable range within which to set a utility's common equity ratio for ratemaking purposes actually supports the Company's position because if a utility's actual equity ratio falls within the designated 45 to 55 percent range, it is reasonable by definition and no further adjustment is needed or warranted. (Ibid.) JCP&L asserted that defaulting to Rate

Counsel's arbitrary "midpoint" would defeat the very purpose of establishing a range of accepted values and, at least in theory, would essentially relegate every utility to a hypothetical 50/50 capital structure construct. (Id.at 9).

Finally, JCP&L argued that the Board should reject any implication that its proposed capital structure is unreasonable because its equity component is somehow deemed to be "too high" or because of an unwarranted view that the 50/50 hypothetical capital structure compares more favorably to what has been unjustifiably perceived as some sort of industry "norm." JCP&L emphasizes that two of Rate Counsel witness Kahal's five proxy group companies had equity ratios in excess of the 53.8 percent figure claimed by JCP&L, and that the median common equity ratio for Kahal's proxy companies was 52.7 percent, which compares far more favorably to the Company's proposed 53.8 percent equity ratio than to Rate Counsel's hypothetical 50 percent alternative. In addition, in two recent cases, Gerdau's witness, Mr. O'Donnell recommended capital structures with 53% common equity. (Ibid.) Therefore, JCP&L argue that the Company's proposed capital structure ratios should be approved. (Ibid.) JCP&L further argued that if the Board adopts JCP&L's actual capital structure ratios, it should likewise adopt its actual, but lower, cost of long-term debt. (Id. at 10).

With regard to setting a return on common equity, JCP&L maintained that its requested 11 percent ROE, coupled with fair treatment of the other major issues presented by this proceeding, will be credit supportive and will instill confidence in the investment community regarding JCP&L's financial health, enabling the Company to access the capital markets and to fund its ongoing construction programs on reasonable terms. (Id. at 11). JCP&L states that Staff's proposed 9.75 percent ROE, adopted by Judge McGill, substantially understates JCP&L's cost of equity, and should be adjusted upwards. The Company faulted Staff's recommendation as essentially endorsing a one-size-fits-all approach to the cost of equity and Staff's Initial Brief assertion (at p. 22) that 9.75 percent was a "just and reasonable" return rate not because it comported with the record evidence in this case, but because it was what Atlantic City Electric and certain unidentified water utilities accepted "in recent years" and because it purportedly was comparable to the return on equity that other utilities were authorized to earn in 2012 and early 2013 according to data from SNL Financial set forth in an exhibit submitted by Walmart. (Id. at 11-12). JCP&L further argued that Staff's homogenized equity cost rate recommendation should be rejected because (1) the ROE should be based on the operating risks and challenges confronting JCP&L at this time and not those faced by sixty-two-companies of varying risk profiles in other parts of the country up to two years ago; (2) the Walmart exhibit relied upon by Staff does not differentiate between cases where the "authorized ROE" was determined by the regulatory authority following its independent review of the record evidence and those cases where the parties simply stipulated to an ROE as part of an omnibus settlement agreement; and (3) the Walmart exhibit confirms the inadequacy of Staff's 9.75 percent equity cost rate proposal by showing that over 70 percent of the authorized equity cost rates exceeded 9.75 percent and over 56 percent equaled or exceeded 10.0 percent. (Id. at 12).

JCP&L takes exception to the ALJ's proposal that the Company be directed to conduct a study to determine the feasibility of implementing additional "ring-fencing" measures. (Id. at 7). JCP&L argued that this proposal is redundant and would duplicate measures already in place at JCP&L as well as the periodic reviews the Board already has in place and the study would only cause JCP&L to incur additional, unnecessary expenses. JCP&L asserted that most of the ring-fencing measures that Kahal recently recommended to the Maryland Public Service Commission for Potomac Edison, JCP&L's sister company, had been adopted already by JCP&L well before the Maryland proceeding as JCP&L issues its own debt, maintains its own books and records and participates in a money pool restricted to FirstEnergy's regulated operations. (Id. at 15-16). JCP&L rejects the notion that additional ring-fencing measures would have any impact on JCP&L's credit ratings, and points to JCP&L witness Staub's testimony that none of the credit rating reports that he reviewed referred to ring-fencing, or the inadequacy thereof, as contributory to credit weakness. (Id. at 16).

With respect to Materials and Supplies, JCP&L reiterated its arguments for inclusion of its June 30, 2012 balance of $16,699,010 citing the Board's decision in In re Elizabethtown Water Company, Docket No. WR850433085 (Order dated May 23, 1985) ("Elizabethtown Water"). JCP&L also noted that inclusion of the balance as of June 30, 2012 would be consistent with the Board's decision in JCP&L's last base rate case in 2002. JCP&L urged the Board to reject ALJ McGill's recommendation on the basis that it is contrary to long-standing Board precedent, ignores the principle of matching rate base amounts, and is otherwise arbitrary and unsupported. (Id. at 17).

Regarding excess cost of removal, the Company argued that because the $107.2 million has been a rate base reduction for more than ten years, customers already benefited from lower rates, and therefore, the Board should reject the ALJ's finding by ruling that the entire $107.2 million should be in the rate base during the amortization period. (Id. at 18).

The Company took exception to the $314,000 reduction in rate base to reflect customer refunds, and requests that the Board reject the ALJ's recommendation on the issue. The Company continued to contend that there is no Board precedent for such a rate base reduction. (Id. at 20). The Company reiterated its argument that the individual amounts that comprise the overall level of customer refunds are typically of a relatively short-term nature, affecting cash balance, and are not at all related to an appropriate level of rate base, which is supported by the company's long-term capitalization. (Ibid.)

JCP&L requested that the Board reject ALJ McGill's finding, Net Loss on Reacquired Debt. (Id. at 22).

The Company took exception to the ALJ's decision regarding revenue annualization, stating that Rate Counsel's position is inconsistent with Board precedent that "does not require that date for revenues 'match' the date for rate base." (Id. at 23 referencing Elizabethtown Water). With respect to Rate Case Expenses, the Company asserted that, in a situation where the Board orders a utility to file a base rate case, 100% of rate case expenses are properly recovered through rates. Accordingly, JCP&L requested that the Board modify this portion of the ALJ's decision. (Id. at 24).

Further, the Company took exception to the ALJ's justification for disallowance of Merger Costs to Achieve due to lack of evidence. In its response to discovery request RCR-A-77, the Company maintain that it provided a detailed breakdown of the costs to achieve," "[h]owever because no party, including Rate Counsel, raised an issue with respect to the documentation of the specifics of the merger costs-to-achieve until post-hearing briefs, discovery response RCR-A-77 was not entered into the record." (Id. at 25 - 26). As the ALJ's "decision on the merger costs-to achieve issue is based solely on an argument that no party supported with record evidence…..the Board must reject this aspect of the Initial Decision and approve JCP&L's recovery of $14.466 million in merger costs to achieve." The Company added that it would not take exception to the six-year amortization that the ALJ endorsed as an alternative. (Id. at 26).

With respect to Net Salvage and Cost of Removal, the Company saw exception to the ALJ's finding that the five-year average was reasonable, arguing that the Company has seen a marked increase in net salvage expense in recent years, and that a two-year period is more representative of reality moving forward. (Id. at 26 - 27).

With respect to Storm Damage Cost Amortization, the Company took exception to the ALJ's recommendation that a six-year amortization of the deferred O&M costs is more appropriate than the three-year period the Company proposed, arguing that a three-year amortization period would be consistent with that allowed for deferred storm costs in the Company's last base rate case (ER02080506), and would be consistent with what the Board approved in Atlantic City Electric's recovery (ER11080469) associated with the 2011 and 2012 Major Storms. (JCP&L Exceptions at 28, JCP&L Reply Exceptions at 23 - 24).

Concerning Forestry Maintenance, the Company argued that the Board routinely allowed utilities to normalize test year expenses where the actual amount is atypical. Also, contrary to the ALJ's conclusions, the Company documented its $5.1 million pro forma adjustment with calculations that were not refuted. (JCP&L Exceptions at 31). Should the Board approve the normalization adjustment, the Company would not object to deferred account treatment of the variance between the actual expenses in any year and the amount included in base rates. (Id. at 32).

The Company asserted that there is no rational basis to continue to amortize regulatory assets relating to generating facilities that the Company no longer owns, and the fact that the Board did not shorten the amortization period in the last rate case is not a basis to refuse to make that correction now. The Company requested that the Board modify the Initial Decision and approve a three-year amortization period for the two production-related regulatory assets at an annual expense of $1,629,650. (Id. at 32 - 33).

The Company takes exception to the ALJ's decision regarding Account 935 normalization maintaining that, as Account 935 is a subset of both Administrative and General ("A&G") and overall O&M expense for an electric distribution utility, it is inappropriate to single it out for "normalization" while ignoring the overall level of distribution O&M for the relevant time period. In addition, the 2007-2012 data upon which Rate Counsel based its position was "stale" and used to "manufacture" an issue. Accordingly, the Company requested that the Board modify this aspect of the Initial Decision and approve the $2.74 million test year expense for Account 935. (Id. at 33 - 35).

The Company disagrees with the ALJ's decision to disallow $5,740,957 in non-bargaining unit employee incentive compensation, arguing that incentive compensation "is simply one component of the Company's wage and salary expense, and should be treated as such for ratemaking purposes. (Id. at 35).

The Company argued that the SERP Program is necessary and retain qualified individuals in certain key positions, and like the Short Term Incentive Plan ("STIP") and the Long Term Incentive Plan ("LTIP"), is directly related to customer service and performance. Accordingly, the Company requests that the Board modify the Initial Decision and allow recovery of $408,576 of test year SERP expense. (Id. at 36 - 37).

The Company takes exception to findings of the Initial Decision regarding Miscellaneous Operation and Maintenance Expenses contending that civic memberships lead to better service quality, while service anniversary awards assist in keeping employees engaged and promote longevity within the FirstEnergy organization. (Id. at 38 - 39).

The Company reiterated that the ALJ's disallowance of more than $38 million of the Company's test year pension and OPEB expenses is arbitrary, capricious and unreasonable, and if adopted by the Board would be a derogation of the regulatory compact. The Company requested the Board approve the test year pension expense of $40.4 million, and its test year OPEB expense of negative $3.242 million. In the alternative, should the Board prefer to "smooth" the impact of the net actuarial gains and losses over a longer period of time, the Company proposed a combined pension/OPEB expense of approximately $19.9 million. (Id. at 39 - 47).

With respect to the lead days for federal income tax payments in the cash working capital analysis, JCP&L asserted that the matching principle would be violated if, as Rate Counsel proposed and ALJ McGill recommended, only one element of the lead/lag study is set apart to be calculated on a hypothetical, rather than actual, basis. Accordingly, JCP&L asserted that ALJ McGill's recommendation should not be adopted and JCP&L's calculation of the cash working capital requirement associated with its actual payment of estimated federal income taxes should be adopted. (Id. at 51).

JCP&L takes exception to ALJ McGill's finding that deferred income taxes should be excluded from the cash working capital analysis. It is JCP&L's position that investor-supplied capital supports the Company's rate base between the time that deferred taxes are booked and when the Company receives rate revenue that includes the recovery of its deferred tax liability. JCP&L asserted that this is contrary to the assumption underlying prior Board decisions on this matter that deferred taxes do not, at any point in time, require investor-supplied capital. (Id. at 51 - 53).

Regarding the findings on the COSS, the Company again states that Staff's proposal to classify and allocate Line Transformers as demand and energy related does not impact the results of the Company's COSS and thus, argued that the Staff and ALJ's position should be rejected. The Company says that intervenors representing both secondary and primary power customers reviewed the Company's cost of service study and perceived no issues with the primary/secondary functionalization performed by the Company. Nonetheless, Staff claimed that the Company's study was deficient. JCP&L believes that Staff's understanding of the study is flawed and that the ALJ accepted erroneous arguments set forth by Staff. Again JCP&L maintains that Staff confused the result of the segmentation study, which functionalized distribution property, with the use of those results in the cost of service study, which allocated the segmented costs among customer classes. (Id. at 56-58).

JCP&L states that Staff had no concrete criticism of how the study was conducted. Instead, it broadly asserted that the entire study should be rejected simply because there is a theoretical possibility that a primary voltage customer could obtain some of its electric power from more than a single transformer as electric power seeks the path of least electric resistance. Because no one can account for every electron on each of the theoretically possible paths from meter to substation, the threshold Staff is positing for an acceptable segmentation study could never be satisfied. The Company maintained that reasonable cost of service results can be based on study techniques that measure the relevant metrics with reasonable accuracy. (Id. at 58-60).

In JCP&L's exceptions, the Company reiterated its comments from its reply with respect to Staff's position on the allocation of Account 370, Meters. (Id. at 62 – 66).

There is no evidence that Staff's 50/50 segmentation split between primary and secondary comes close to capturing the primary/secondary segmentation of the Company's system. The Company believes that its study which was carefully designed that has been accepted by other parties should be disregarded in favor of an arbitrary 50/50 primary/secondary functionalization of the distribution system that lacks credibility. (Id. at 60-61).

JCP&L took exception to the ALJ's discussion of the Company's proposal to increase the customer charges for Service Classifications Residential Service, Residential Time-of-Day Service, and Residential Geothermal and Heat Pump Service stating that the ALJ failed to reflect in the Initial Decision that the Company subsequently withdrew that proposal in the supplemental testimony of Sally Cheong. The Company asks that the Board Order reflect this withdrawal of the Company's position with respect to the customer charges. (Id. at 66).

JCP&L noted in its Exceptions that, while ALJ McGill did address the contested issue of the additional 511 interval meters that may be installed if the Board further lowers the CIEP eligibility criteria, he failed to explicitly recommend approval of the $88,398 in the revenue requirement to provide for the recovery of the cost of the 254 already installed interval meters. (Id. at 66). JCP&L has requested the recovery of these already-installed meters be explicitly acknowledged in the final decision. (Id. at 66 - 67).

In addition, JCP&L takes exception to ALJ McGill's finding that the Company's proposal to confer with Board Staff on the specific programs to be undertaken shifts management responsibility to Staff. (Ibid.) In support, JCP&L points to the 2009 capital infrastructure investment programs, stating that Board Staff was actively involved in the discussions that led to the selection of many of the particular utility projects. JCP&L does not believe that such a role shifts management responsibility to Staff, but rather appropriately recognizes the role that a public utility commission's staff often plays in the process. (Ibid.) JCP&L also believes that ALJ McGill's characterization of the AREP as "ill-defined" is off-target stating that the process JCP&L proposed for defining the actual investments and projects would be developed through a collaborative process. (Ibid.)

JCP&L excepted to ALJ McGill's recommendation that the metrics on which the existing BPU reliability standards are based should be revised primarily because it would deviate from, and therefore violate, the Board's currently effective reliability standards as set forth in N.J.A.C. 14:5-8.9- Electric Distribution Service Reliability and Quality Standards. (Id. at 67). JCP&L further states that the import of the ALJ's language is not clear since the Initial Decision doesn't explicitly explain direct any particular modification to the evaluation of the Company's reliability performance under applicable Board rules or otherwise. JCP&L believes that this issue should be addressed only in a rulemaking applicable to all New Jersey EDCs and not in the context of this base rate case. (Id. at 68).

JCP&L takes exception to the language in the Initial Decision concerning the measurement and reporting of the CEMI. The Company contended that the Initial Decision does not direct any particular measurement and reporting modification with respect to CEMI. If the Initial Decision is suggesting that the Board undertake a statewide review of this area for all EDCs, and is not providing direction for JCP&L specifically in the context of this base rate case, JCP&L states that the language is not objectionable. To the extent the language is intended specifically to require JCP&L alone to modify its practices in this regard, the recommendation should be rejected. (Id. at 72). JCP&L further argued that the Initial Decision doesn't fully appreciate that the Board's 2013 Order (EO12070650) anticipated a rulemaking process to address matters which the Board ordered on an interim basis. This stakeholder process is the predicate process to the promulgation of a rulemaking in early 2015 to address these matters. (Ibid.) Because CEMI doesn't provide a meaningful system-wide measure of performance, JCP&L contended that the Board should reject any JCP&L specific implications arising from ALJ's recommendation in the Board's final decision. (Id. at 73).

Additionally, the Company took exception to any suggestion in the Initial Decision that JCP&L should expand its tree trimming beyond 15 feet from the conductors, including more than 15 feet above the conductors. JCP&L contended that the Initial Decision ignores JCP&L's testimony that the existing clearance struck a balance between reliability benefits, costs to customers and various other stakeholder interests. (Id. at 74).

Regarding the AREP, JCP&L states that JCP&L customers, as well as the Board (through the establishment of a generic proceeding[14]), have expressed interest in utility initiatives that would be beneficial to electric distribution system performance during severe weather. (Id. at 78). JCP&L argued that the AREP proposal would do this. (Ibid.) JCP&L, while acknowledging there are other avenues in which it may pursue Board approval of the AREP, stated that it doesn't mean that approval of the AREP in conjunction with the instant base rate case is inappropriate as rate clause recovery in many cases requires a nexus to a utility's base rate case. (Id. at 79).

2. Rate Counsel

Rate Counsel argued that this case was fully tried and the record created before any consolidated tax adjustment policy changes were made public by the Board. JCP&L should be held to Board practices and policies in effect at the time of the rate case filing and should not be allowed to benefit from the delays in reaching an initial decision in this case. Therefore, Rate Counsel urges the Board to reject the ALJ's decision to make no consolidated tax adjustment and instead adopt the CTA proposed by Rate Counsel. (Rate Counsel Exceptions at 4-6)

With respect to cash working capital, Rate Counsel recommended that the Board reconsider its current policy and exclude depreciation and amortization expenses from the lead/lag study for purposes of determining the Company's CWC allowance. Rate Counsel reiterated its argument that the expenses that relate to depreciation and amortization do not require cash outlays by JCP&L investors and a properly conducted lead/lag study should exclude these non-cash expenses. (Id. at 9) Rate Counsel reiterated its arguments that 1) ownership of earnings is not the issue in a lead/lag study; rather, the only relevant consideration is the timing of the receipt of revenues vis-à-vis the timing of the utility's cash outlays, 2) the Company is under no contractual obligation to make dividend payments to shareholders before collection of the corresponding revenue, and 3) it is incorrect to assume that debt-holders are being compensated on a daily basis. Therefore, the Board should adopt Rate Counsel's recommended adjustment for equity returns and long-term debt expense. (Id. at 10-11).

Rate Counsel stated that while the ALJ agreed with Rate Counsel that the Board's current standard based on the 2002 to 2006 SAIFI and CAIDI is unreasonably low, the Initial Decision refused to apply Rate Counsel's recommendation to establish an improvement plan with specific deadlines and consequences if JCP&L's reliability does not improve. Accordingly, Rate Counsel requests that the Board acknowledge JCP&L's poor performance and specifically order

[14] In re the Board's Establishment of a Generic Proceeding to Review Costs, Benefits, and Reliability Impacts of Major Storm Event Mitigation Efforts, BPU Docket No. AX13030197, Order dated March 20, 2013.

the Company to establish such an improvement plan. (Id. at 13). Additionally, Rate Counsel reiterated its arguments and continued to urge the Board to require JCP&L to compile CAIDI and SAIFI data with major events and report them to the Board in the Company's Annual System Reliability Report. (Id. at 13 to 15).

Rate Counsel asserted that the ALJ erred in concluding that a return on equity of 9.75 percent is reasonable notwithstanding the fact that this ROE is the same as that granted JCP&L in its last base rate case in 2005. Rate Counsel argued that since that time the cost of capital has declined precipitously rendering a 9.75 percent ROE too high. Rate Counsel pointed out that the ALJ noted that a 9.75 percent ROE today is "better" for the Company than when it was awarded in its last base rate case. (Id. at 16). Rate Counsel further asserted that a combination of the revenue, cost and rate of return components established in JCP&L's last base rate case undoubtedly led to the Company overearning and the evidence presented in this case shows that JCP&L's ROE is ripe for a downward adjustment with the 9.25 percent ROE recommended by Rate Counsel being fair and reasonable and fully supported by evidence in the record. (Ibid.)

Rate Counsel argued that by adopting the same ROE as that awarded in 2005, the Initial Decision effectively dismisses the unmistakable capital trends and ample evidence presented such as witness Kahal's data on capital cost trends from 2002 through calendar year 2012, benchmarks of annualized inflation rates, 10-year Treasury yields, 3-month Treasury bill yields, and Moody's single A and triple B yields on long-term utility bonds which show that capital costs have declined between 2005 and 2013. Rate Counsel argued that, in short, the overwhelming evidence shows that capital costs have declined since JCP&L's last base rate case and that the record contains convincing analytical evidence to support an award of less than 9.75 percent as presented by witness and Gerdau's witness O'Donnell. (Id. at 16-18.).

Rate Counsel asserted that Staff's recommended 9.75 percent ROE adopted by the ALJ is based on weak evidence. Reliance on but one provision of a stipulation of settlement resolving a recent Atlantic City Electric base rate case as well as the ROE awards in recent unidentified water base rate cases is insufficient. Since settlements by their very nature involve compromises and trade-offs by the litigating parties among a range of issues, it is entirely reasonable that a different ROE might have been awarded if any of the cited cases were fully litigated. Second, Staff bases its ROE recommendation on average regulatory commission ROE awards compiled by SNL Financial rather than company specific facts here. (Id. at 18-19).

Rate Counsel argued that the ALJ's conclusion with respect to JCP&L's customer service issues is contrary to law and Board precedent. (Id. at 20). Specifically, Rate Counsel asserted that ALJ McGill's finding that Rate Counsel's concerns should be addressed in another proceeding was based on a factually incorrect conclusion and is without foundation. (Id. at 21). Rate Counsel notes that the Pre-hearing Order in this matter expressly included "service concerns" among the issues to be resolved and that based on that, all parties clearly had the expectation that service issues would be addressed in this proceeding. (Id. at 21 to 22). With respect to the ALJ's finding that the concerns raised by Rate Counsel in this area are not sufficiently serious to impact the determinations as to the revenue requirement, Rate Counsel notes that the Board's remedies for poor performance are not limited to financial penalties. (Id. at 22). Accordingly, with respect to JCP&L's customer service issues, Rate Counsel recommends that the Board order JCP&L to: a) offer reasonable deferred payment arrangements; b) provide clear and believable disconnection notices; c) promptly and effectively resolve customer payment disputes to improve its credit and collection problem. (Ibid.) Similarly, with respect to JCP&L's storm related communications, Rate Counsel has requested that the Board order several measures to address the issues. (Id. at 24).

3. Board Staff

The ALJ recites the evolution of the Board's consideration of the proper allocation of demand-related costs within the cost of service study, commencing with the 1992 JCP&L Order through the most recent 2004 Board order. That recitation shows that cost of service methodology has been evolving through the years with refinements to the functionalization, classification and allocation of costs. (Staff Exceptions at 4)

The Staff again recounts its argument on initial brief that the sum of class NCD in the JCP&L system substantially exceeds the recorded system peak demand imposed on both the primary and secondary voltage systems, meaning that if the Company's system planners actually sized the equipment on each voltage system to meet the NCD rather than CP, then both systems would be significantly larger and more costly than they are at present. (Staff Exceptions at 5; Staff Initial Brief at 111-113). Distribution system planners construct systems of sufficient size to meet the maximum coincident peak load that will be imposed and that maximum peak load is defined as the voltage level specific CP; to do otherwise would be economically irrational and imprudent.

Board Staff recommends that the Board adopt the CP allocator in the instant proceeding and direct the Company to file a cost of service study in its next base rate case employing the CP allocator for demand related, "excess" distribution costs. In the alternative, the Company should be directed to file a cost of service study in its next base rate proceeding that employs the voltage level specific average and excess method with the excess portion of costs allocated on class contributions to voltage level system peaks (CP). (Staff Exceptions at 2-3).

Staff argued that the ALJ erred in failing to adopt the Staff's A&G allocator for Rate Schedule GT, including Special Provision D on which Gerdau takes service. Staff argued that a direct assignment of A&G expenses to Gerdau based on distribution plant allocated to Gerdau in the Staff COSS would resolve the cost allocation issue. Staff argued that the ALJ erred in not adopting such direct assignment to the GT class in total based on the same approach. Staff argued that the ALJ erred in selecting an interclass revenue allocation remedy without determining a cost of service basis for such finding. (Id. at 6-8)

In its Exceptions, Board Staff opposed the increase in the Returned Payment Fee and the Reconnection Fee in the context of a general rate reduction. (Id. at 8). Staff contended that both of these charges generally apply to customers facing an inability to make timely and appropriate payments for service. (Ibid.) Staff urged the Board to maintain the current level of each of these service charges. (Id. at 9).

In the Stipulation of Settlement of Depreciation Rates dated June 27, 1996, it was agreed that "[the Company] shall continue to bear the burden of proof to establish the reasonableness and prudence of all its cost of service, including depreciation expenses…" and that "JCP&L shall change its method of depreciation to remaining life depreciation, updated annually and booked in accordance with such annual updates commencing January 1, 2000."[15]

[15] Stipulation of Settlement of Depreciation Rates in Docket No. EO95030098, Summary Order dated March 24, 1997

The Company's current base rates were established by the Board's May 31, 2005 Order in the litigated Docket No. ER02080507 et al.[16] In its filing, the Company maintained that it was compliant with the June 27, 1996 Depreciation Stipulation approved by the Board, by up-dating the book depreciation rate computations annually for plant additions, retirements, transfers, and adjustments, and maintaining imbedded negative net salvage rates. The Company did not submit a depreciation study in this proceeding to change the negative net salvage percentages or service lives that were fixed in those stipulations approved by the Board. The fact is that since the Company's filing of the March 1, 1995 rate case, the Company has offered no evidence that any in-house or third-party depreciation rate study and/or update has been performed for twenty years.

It is Staff's position that too much time has elapsed – twenty years – since the Company conducted a depreciation study, and that the Company bears the burden of proof to establish the reasonableness and prudence of all its cost of service, including depreciation expenses and reserves. The Company has offered no evidence that it had been compliant with Board and industry standards regarding routine and timely depreciation studies for regulatory review, and seeking timely base rate adjustments, if warranted. (Id. at 14).

Based on the foregoing, Staff disagreed with ALJ McGill's findings concerning the excess depreciation reserve and recommended that the Board adopt Staff's briefed position which supported a $371 million rate base reduction and a $7.73 million annual expense reduction as a point of compromise. (Id. at 14-15).

4. AARP

On February 5, 2015, AARP filed Exceptions to the Initial Decision opposing the ALJ's recommendation to defer implementation of a CTA and supporting Rate Counsel's proposed CTA. AARP did not address Staff's CTA. (AARP Exceptions at 4-11).

Further, AARP took exception to the ALJ's finding that the ROE should be set at 9.75 percent and noted that JCP&L's last rate case decided 10 years ago in 2005 included a return on equity set at 9.75 percent at that time. AARP asserted that the Initial Decision makes clear that JCP&L electric rates are not just and reasonable and that the Company is over-earning so that a $1.07 million reduction in the annual revenue requirement is now required. (Id. at 12-13).

AARP pointed to Rate Counsel witness Mr. Kahal's assertions that capital costs have declined considerably since JCP&L's last base rate case in 2005 and during the past decade so that maintaining JCP&L's current ROE of 9.75 percent allows the Company to continue to over earn beyond that which is reasonable, resulting in rates that are currently not reasonable or just, and not legally justified. (Id. at 14). AARP does not support Staff's position and stated that information cited by the Initial Decision supporting Staff's position was not so much data or analysis regarding JCP&L's financial position as it was trend information on ROEs granted several other utilities in recent years (e.g., the 2012 Atlantic Electric rate case), and data from SNL Financial showing that in recent years the national average ROE authorized by regulatory commissions for investor-owned utilities was 9.98 percent, that the range was 9.00 to 10.5 percent, and that the mid-point of the range was 9.75 percent. (Ibid.)

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[16] In the Matter of the verified Petition of Jersey Central Power and Light Company for Review and Approval of an Increase in and Adjustments to its Unbundled Rates and Charges for Electric Service, and for Approval of Other Proposed Tariff Revisions in Connection Therewith, et al.

AARP argued that if either BPU decisions on other companies' ROEs or midpoint of the national ROE range set by other commissions were appropriate factual or legal bases for the decision as to the ROE for JCP&L in this rate case, the result would be rational. However a decision should be based on the actual proofs in the record and not on past rate case ROE results and the national average. According to AARP, one simply cannot tell from the Initial Decision whether this Staff comparative data was actually the factual basis for the 9.75 percent compromise or not due to the lack of analysis accompanying the Initial Decision on this point. (Ibid.)

Given falling interest rates since JCP&L's last base rate case in 2005, Staff's same 9.75 percent ROE is better today because the same 9.75 percent ROE is actually more advantageous to JCP&L than the previously set ROE. AARP thus requested that the Board adopt Rate Counsel's position and reduce the ROE to 9.25 percent based on the testimony, data, methods and other factual proofs in the record as adduced by Rate Counsel. (Id. at 16).

5. Gerdau

Gerdau took exception to the ALJ's approval of a 9.75 ROE arguing it is arbitrary and capricious because it lacks reasonable support in the evidence. Gerdau noted that the ALJ deems a fair ROE in this proceeding to be somewhere between the JCPL's proposed 11.0 percent and Gerdau's 8.9 percent or Rate Counsel's 9.25 percent. Gerdau argued that Staff's proposed ROE of 9.75 percent lacks reasonable support in the evidence, and the ALJ's 9.75 percent ROE finding is therefore arbitrary and capricious and must be reversed. (Gerdau Exceptions at 4).

Gerdau faulted the decision also because Staff's ROE proposal was not sponsored by a witness or supported by any DCF analysis, and Gerdau maintains that the BPU has historically and exclusively relied in DCF analysis to set ROE. Rather, as acknowledged by the Initial Decision, Staffs approach is based on a survey of other parties' positions, the ROE approved for other utilities in the past and select market data. Staff's position lacks reasonable support in the evidence. (Ibid.) Gerdau maintained that proper application of the DCF model would result in a just and reasonable ROE near 9.0 percent. (Id. at 5.)

Gerdau argued that, in summary, the DCF model is consistently adopted by the Board and yields results in a tight range of 8.9 percent to 9.25 percent for all ROE witnesses in this proceeding while models that have not been adopted by the Board (CAPM and RPM) were used by JCP&L witness Ahem to unreasonably inflate her DCF-based ROE results to produce a recommended ROE noticeably out of synch with prevailing capital markets. Gerdau suggested that when these errors are corrected and models are applied consistent with Board precedent, the three experts' results are strikingly close and similar in the 8.9 percent to 9.25 percent range which would be just and reasonable while an ROE of 9.75 percent is wholly unjustifiable on the record that has been developed. (Id. at 7).

Gerdau asserted that the ALJ's finding that Rate Counsel's recommendation on A&G cost allocation represents a "fair result" lacks support in or connection to the evidentiary record, is not the product of reasoned decision-making and is thus arbitrary and capricious. While acknowledging that Gerdau receives an over-allocation of A&G costs, the Initial Decision fails to substantively examine the evidentiary record, particularly the testimony of Gerdau's expert witness, demonstrating that the Company's use of the average and excess allocator produces this result. Instead, after opining that no party produced a compelling argument for remedy, the ALJ found with one of those parties, Rate Counsel, without any explicit rationale based in the evidentiary record. (Gerdau Exceptions at 8-13).

6. Con Ed

Con Ed reiterated its argument that it does not consume power coincident with JCP&L's peak and thus accepting the Initial Decision will result in Con Ed subsidizing the infrastructure improvements which do not benefit Con Ed but other customers served under the GP and GT rate classes during on peak hours (8 am to 8 pm, Monday through Friday). Con Ed proclaimed this will raise costs to solar projects and thus discourage investment in solar infrastructure in violation of sound economic, policy and legal considerations. (Con Ed Exceptions at 2-3).

First, Con Ed took exception to the ALJ's finding that Con Ed did not adequately consider its use of JCP&L's distribution system. Con Ed argued that this finding is incorrect and that Con Ed demonstrated that it has already compensated JCP&L for use of its distribution system when it paid for the interconnection facilities and equipment necessary to deliver the generated solar to the PJM Grid. Con Ed argued that it only uses the Company distribution system during the off peak and fringes of the on-peak hours, and does not place stress on the distribution system during the peak hours and thus does not create additional costs on the JCP&L system. Con Ed argued that GT has a special provision for Commuter Rail Service whereby the Demand Charge applies to usage from a defined peak period from 10 a.m. to 5 p.m. Con Ed further argued that while it pays a demand charge under GT and GP, JCP&L does not charge demand charges to Outdoor and Street Lighting when solar projects essentially use JCP&L's power at the same times. (Id. at 3-5).

Second, Con Ed took exception to the ALJ's finding that Con Ed's request is "grossly excessive". Con Ed argued that it demonstrated in the record that its request is appropriate and necessary to end discriminatory treatment of Con Ed. Con Ed continued to state that the approach of charging customers demand charges during the peak may be appropriate for those customers who use power through the peak hours but not for solar projects that predominantly generate power during that same time period. JCP&L's request for rates of return of 39.9 percent and 51.021 percent for the GP and Gt rate classes is grossly excessive. (Id. at 5-7).

Lastly, Con Ed took exception to the ALJ's finding that an adjustment to hours defined as on peak may be warranted in a future proceeding arguing that the current proceeding is the forum to reduce demand charges. Con Ed urged the Board to order JCP&L in this proceeding to either eliminate the on peak demand charge for solar projects in the JCP&L service territory or to use the same time window used for the Commuter Rail Service (10 a.m. through 5 p.m.). (Id. at 7-8).

B. REPLY EXCEPTIONS

1. JCP&L

JCP&L takes issue with Rate Counsel's principal argument in its exceptions on rate of return that the ALJ's recommended 9.75 percent cost rate ignores "unmistakable capital trends" and fails to take into account a "precipitous" decline in capital costs since the Company's last base rate proceeding. (JCP&L Reply Exceptions at 30). JCP&L argued that Rate Counsel's objections should be disregarded, that a utility's cost of equity must be determined on the basis of credible record evidence and not by reference to findings made in another proceeding ten years ago. Rate Counsel's equity cost rate recommendation is, in fact, largely unchanged from that earlier proceeding and that while Rate Counsel apparently is prepared to recognize *declining* trends in capital costs, it is not so quick to take into account movements in the opposition direction, e.g., the rate on 10-year Treasury notes increased by 90 basis points subsequent to the filing of Mr. Kahal's direst testimony. (Id. at 30-31). JCP&L rejects Gerdau's assertion that the DCF model has been "consistently adopted by the Board" and is the methodology "on which the BPU has historically and exclusively relied to set ROE" since Gerdau cannot offer any citations to any cases in which the BPU has endorsed such a policy. (Id. at 32). JCP&L cites In re the Petition of Rockland Electric Company, 2004 N.J. PUC LEXIS 78, 139 (Order dated March 3, 2004), in which the Board expressed concerns over the reliance on a single cost of equity model. (Ibid.).

JCP&L further argued that primary reliance on the DCF method would be particularly inappropriate in this proceeding because JCP&L's stock is not publicly traded so that the DCF method here provides no direct (*i.e.*, market-derived) evidence as to the Company's cost of capital, and more importantly, DCF results, when applied to an original cost rate base, will understate a utility's cost of capital where the market prices of the proxy company stocks used in the analysis substantially exceed their underlying book values. . (JCP&L Reply Exceptions at 33). JCP&L criticizes AARP's exception to the ALJ's proposed equity allowance in which AARP's states that the Initial Decision, in AARP's judgment, fails "to identify the precise factual basis on which the 9.75 percent ROE was set," and that although AARP filed no testimony and did not participate in the evidentiary hearings, AARP nonetheless concludes that Rate Counsel witness Kahal's presentation constitutes "solid evidence" and, on that basis alone, urges the Commission to reduce the recommended equity cost rate to 9.25 percent. (Id. at 34).

With respect to depreciation, the Company reiterated its arguments that there have been and are no 'excessive depreciation charges'. Second, this rate case will mark the fourth time JCP&L's depreciation rates have been reviewed and approved since 1992, in the Company's 1992 base rate case, in the Global Settlement, in the Company's 2001-2005 base rate case, and in the instant matter. Finally, and most importantly, Board Staff appears to be advocating for the Board to engage in retroactive ratemaking by ordering to "pay-back ratepayers for base rates that included excessive depreciation charges over the last twenty years." (JCP&L Reply Exceptions at 29).

JCP&L reiterates arguments made in prior submissions supporting its recommended rejection of both the Gerdau and Staff positions regarding the allocation of A&G expenses. JCP&L again asserted that Gerdau is served as a 34.5 kV customer and not a 230 kV customer, causing the subsidization of its transformation facilities by JCP&L ratepayers that is unaccounted for in either parties' analyses. JCP&L again argued that in total Gerdau's level of rates is just and reasonable, and that a reduction based upon A&G expense allocation is unwarranted. (JCP&L Reply Exceptions at 39-46).

JCP&L urges the Board to reject Staff's exceptions and adopt the recommendations of the ALJ regarding the miscellaneous service charges arguing that there is no logical connection between the potential rate reduction at issue in this case and the Company's right to collect its costs for these types of miscellaneous charges that seek to target only those customers who cause the Company to incur such costs. (JCP&L Reply Exceptions at 67 - 68). JCP&L further argued that if Staff's recommendation regarding the miscellaneous service charges is adopted, the Company's base rate revenue requirement would need to be further increased by $471,649 because the annual revenue associated with the increases to these charges was adjusted in test year revenues. (Id. at 68).

With respect to reliability, JCP&L continued to recommend that the Board reject Rate Counsel's requested finding that JCP&L's performance was poor. (JCP&L Reply Exceptions at 59). The Company also asserted that with no evidence that the Company has ever fallen below minimum standards, there is no basis for the Board, or the ALJ to reach beyond the Board's duly-promulgated Reliability Standards to impose a reliability improvement plan with penalties for non-compliance. (Id. at 61). The Company continued to oppose Rate Counsel's recommendation regarding the need to require SAIFI and CAIDI to be reported annually, with and without major events included, in the JCP&L Annual System Performance Report. (Id. at 64).

JCP&L urged the Board to reject Rate Counsel's Exceptions regarding major storm performance and customer service issues, and affirm the ALJ's recommendations on these issues. JCP&L contended that by the time of the Initial Decision in this case, other Board proceedings and Company initiatives will have simply superseded Rate Counsel's recommendations on these issues. (Id. at 65 - 66).

2. Rate Counsel

In its Reply Exceptions to the Initial Decision filed on February 19, 2015, Rate Counsel objected to the inclusion of the 2012 Major Storm Costs in the rates established in this proceeding. (Rate Counsel Reply Exceptions at 2). Rate Counsel argued that allowing recovery in this base rate proceeding of these costs would undermine the criteria established in In re Elizabethtown Water Company, Docket No. WR8504330, Order dated May 23, 1985.[17] Rate Counsel urged the Board to direct that the recovery of the 2012 Major Storm Costs be decided in a future JCP&L base rate case. (Id. at 2-3).

Rate Counsel argued that JCP&L is ignoring the Board's Order in In re Atlantic City Electric Company Increasing its Rates for Electric Service, BPU Docket NO. 8310-883, Order dated August 17, 1984, where the Board agreed with the use of a thirteen month average to more accurately reflect the level of revenue needed to provide service in the future by normalizing seasonal fluctuations. (Rate Counsel Reply Exceptions at 5). Rate Counsel urges the Board to adopt ALJ McGill's finding as it is supported by the record and Board precedent. (Id. at 6).

With respect to the lead days for federal income tax payments used in the cash working capital analysis, Rate Counsel disputes the Company's characterization of its position that one element of the lead/lag study be set apart and calculated on a hypothetical basis. Rate Counsel states that it has recommended that the actual payments for federal income taxes should be normalized and should not reflect unusual seasonal events. Further, as the company does not reflect any seasonality in its calculation of revenue lag days and expense lead days, it is not true that only one element in the lead/lag study is calculated on a hypothetical basis. (Rate Counsel Reply Exceptions at 6-8).

With respect to the treatment of deferred income taxes in the cash working capital analysis, Rate Counsel disputes the Company's claim that investor-supplied capital is used to benefit customers as a direct result of the way deferred taxes are reflected in the ratemaking process. Rate Counsel asserted that the deferred taxes used to fund rate base are contributed by ratepayers, not investors. Based on this and BPU precedent, the ALJ recommendation that deferred taxes should not be included in the CWC allowance should be adopted by the Board. (Rate Counsel Reply Exceptions at 8-9).

[17] The Elizabethtown Water case standard allows "known and measurable" changes to income and expense items for a period of nine months beyond the end of the test year and changes to rate base for a period of six months beyond the test year.

While Rate Counsel agrees that Staff's CTA calculation for JCP&L incorporated the Board's recently proposed modifications to the Rockland methodology, Rate Counsel recommends that the Board adopt its proposed CTA adjustment which was calculated in accordance with the Board's CTA policy prior to the 2014 CTA Order. In addition, Rate Counsel reiterated its objections to the Board's new CTA policy overall, detailing the bases of its opposition to the new policy, and noted that it has appealed the Board's 2014 CTA Order. (Rate Counsel Reply Exceptions at 9-14).

With respect to the issues of excess cost of removal reserve, customer refunds and the unamortized net losses on reacquired debt, Rate Counsel submitted that the ALJ's findings on these issues are appropriate and supported by the record and should be adopted. (Id. at 14-18).

Similarly, with respect to all pro forma operating income items, Rate Counsel maintained that the ALJ's findings are appropriate and supported by the record and Board precedent and should be adopted. (Id. at 19-34).

As for the requested recoveries for pension and OPEB expenses, FirstEnergy unilaterally changed its accounting methodology in 2011 creating an aberration in pension expense. The ALJ understood the necessity of having a stable measurement of pension expense for purposes of setting rates, and the ALJ was correct to limit the pension expense to the "preliminary pension expense" because the calculations under the new methodology artificially increased the pension expense by $500 million for FirstEnergy for two years in a row, and, if adopted, JCP&L's portion would be reflected in base rates until the next rate case. (Id. at 37).

The ALJ correctly rejected the Company's "compromise" argument as an untested alternative method, which is not recognized as an approved method to accurately account for pension expense. The ALJ's findings on this issue should therefore be adopted. (Rate Counsel Reply Exceptions at 35 - 39).

Rate Counsel concurs with the ALJ's findings on capital structure, embedded cost of debt and the need for a ring-fencing study. Rate Counsel argued that JCP&L has not presented credible evidence to support its capital structure or return of equity of 11 percent nor did JCP&L present any credible evidence to refute the findings of the ALJ regarding the capital structure, the embedded cost of debt or the need for a ring-fencing study. Rate Counsel reiterated its earlier arguments and also noted that JCP&L's Exceptions exaggerate the effect of the modest increase in Treasury bond rates that occurred during the pendency of this case. (Rate Counsel Reply Exceptions at 40 - 42).

Rate Counsel points out that JCP&L has a favorable business risk profile on a stand-alone basis based on Rate Counsel witness Matthew Kahal's review of rating agency reports. (Id. at 43). Rate Counsel believes that JCP&L's credit ratings are lower than they should be when compared to the ratings of other New Jersey electric utilities, and ascribes this to parent FirstEnergy's management decisions and corporate risk profile. (Ibid.) Rate Counsel argued that JCP&L fails to note the ample support in the record showing that its less-than-optimum financial situation is the result of FirstEnergy's actions. Rate Counsel notes that two credit rating agencies concurred that JCP&L's affiliation with FE impairs its credit rating. (Ibid.) Rate Counsel argued that the Board should adopt the ALJ's ring-fencing study recommendation as a means to improve the credit quality of JCP&L, and asserted that JCP&L presents no persuasive reason for opposing the study, an action recommended JCP&L's most recent management audit. (Ibid.) Rate Counsel states that the ALJ's recommendation for this feasibility study is a modest first step to properly address affiliate risk and should be adopted by the Board. (Ibid.)

Rate Counsel states that Gerdau failed to fully present Rate Counsel's A&G expense allocation position as it related to Gerdau in this matter. Gerdau, in its Exceptions, noted Rate Counsel's agreement with Gerdau that JCP&L's traditional method for allocating A&G expenses results in an excessive cost responsibility being allocated to Gerdau. (Id. at 53) However, Gerdau failed to complete Rate Counsel's position which recognizes some balance to that argument. Rate Counsel argued that while JCJP&L's method allocates too much A&G expense to Gerdau, Gerdau's proposed method allocates too little. For that reason, both Rate Counsel and, ultimately ALJ McGill, agreed that Gerdau should receive a greater than average percentage rate reduction at this time. Rate Counsel states that if the Board were to adopt the Initial Decision, Gerdau will receive a percentage rate reduction that is 1.3 times greater than the overall percentage reduction found reasonable by ALJ McGill. (Ibid.) This will result in other classes receiving a smaller than average rate reduction but, as the Initial Decision states, should consider gradualism in this spread of revenues decrease to the rate classes. (Id. at 54).

Rate Counsel argued that its proposed spread of its recommended rate reduction among rate classes is fair and reasonable. Rate Counsel supports the ALJ's decision in rejecting Con Edison's request. Con Ed took exception to ALJ McGill's finding that adequate consideration has not been given to Con Ed's use of JCP&L's distribution system to deliver the electric power generated by the facilities. Rate Counsel states that the evidence from the record demonstrated that the solar projects did indeed register maximum demand from the Company within 75 minutes of JCP&L's coincident peak on July 18, 2012. Rate Counsel argued that the ALJ McGill correctly observed that the distribution system must be designed and built to meet non-coincident peak demands not coincident demands. Thus, Con Ed's exception is both factually incorrect and irrelevant in adequate system design. Con Ed's second exception is that the ALJ mischaracterized its position as grossly excessive. Having determined that the solar projects use JCP&L's distribution facilities On-Peak, it would be unfair and discriminatory to relieve the solar projects from paying any demand charge and would lead to inter-class and intra-class subsidies. (Rate Counsel Reply Exceptions at 51 to 52). Rate Counsel takes exception to ALJ McGill's opinion that an adjustment in the definition of On-Peak hours may be warranted after further analysis in a future proceeding. Rate Counsel argued that this was not an issue before the court nor was there evidence in the record supporting any review. Thus there is no basis for a review and finding at this time. Based on the evidence in the case, Rate Counsel states that the Board should deny Con Ed's exceptions and adopt ALJ McGill's Initial Decision as it related to demand charges to be paid by the solar projects. (Id. at 52)

With respect to reliability, Rate Counsel stated that although it does not oppose generic proceedings to investigate statewide policies that will improve all New Jersey's electric utility performance, the concerns expressed in this proceeding are unique to JCP&L and present problems that require immediate solutions. (Rate Counsel Reply Exceptions at 48). Rate Counsel requested that JCP&L's exceptions be rejected and the Board adopt Rate Counsel's reliability recommendations in their entirety. (Id. at 50).

Citing the Initial Decision's recognition that these costs could not be approved under traditional rate making practices as the costs were future costs, not "known and measurable", Rate Counsel argued that ALJ McGill's decision regarding the AREP is reasonable and should be approved. (Id. at 55-56).

IV. DISCUSSION AND FINDINGS

The Board has been given broad authority in the general supervision, regulation of and control over public utilities. N.J.S.A. 48:2-13. The Legislature has delegated its power over the activities of public utilities and has vested the Board with broad discretion in the exercise of that authority. See, In re Public Service Elec. And Gas Company's Rate Unbundling, Stranded Costs and Restructuring Filings, 167 N.J. 377 (2001). In exercising its authority to set just and reasonable rates as mandated by N.J.S.A. 48:2-21, the Board carries out a legislative function which requires the use of its expertise in a manner that is sufficiently flexible to be responsive to changing conditions, and which balances complex and competing interests. (Id.).

By letter dated January 12, 2015, Rate Counsel renewed its request for the Board to rule on the July 2014 Motion setting JCP&L's rates as "provisional subject to refund" as of August 1, 2014. As summarized earlier in this Order, Rate Counsel maintains that due to the length of this proceeding, the Board should exercise its authority to set just and reasonable rates, and allow adjustment of JCP&L's rates as of that date in fairness to ratepayers who Rate Counsel asserted have been unjustly over charged. The Company has continued to object, contending that there is no legal authority for the Board to adjust its rates prior to a final decision on the reasonableness of those rates except as provided by N.J.S.A. 48:2-21.1 which requires an agreement between the Board and the public utility.

Both Rate Counsel and JCP&L rely on In re Petition of Elizabethtown Water Co., 107 N.J. 440 (1986) ("Elizabethtown Water") to support their positions. Elizabethtown Water sets out certain basic principles that guide the Board in exercising its ratemaking authority. Ratemaking authority is a legislative and not a judicial function. (Id. at 452). Absent express provision to the contrary, due to its legislative nature, ratemaking authority is to be exercised only prospectively. (Id. at 453). As noted by the Company, provisional rates are normally set during a case only when there is an agreement between the Board and the utility, with those rates subject to adjustment when the Board renders its final decision. Rate Counsel has not identified any relevant authority that would authorize the Board to adjust rates without a utility's consent prior to the determination of whether the rates at issue are just and reasonable. Indeed, in Elizabethtown Water, while recognizing some asymmetry in the legislation, the Court rejected what it saw as an attempt at retroactive ratemaking for the benefit of ratepayers, emphasizing the prospective nature of ratemaking authority. (Id. at 454). The entire purpose of declaring a rate provisional is for the Board to retain the ability to retroactively adjust that rate if the Board later determines that the rate is not just and reasonable. It is by this Order, after hearing upon notice and in writing as required by N.J.S.A. 48:2-21(b), that the Board fixes what it has determined to be just and reasonable rates for JCP&L. Accordingly, the Board **HEREBY DENIES** the July 2014 Motion.

Based on its review of the extensive record in this proceeding, which has been summarized in some detail above, the Board has determined that the Initial Decision, subject to certain modifications and clarifications, which will be set forth and discussed below, represents an appropriate resolution of the issues in contest. Accordingly, the Board **HEREBY ADOPTS** the Initial Decision **WITH MODIFICATIONS** and **CLARIFICATIONS** as described below.

A. Revenue Requirement

1. Rate of Return/Capital Structure

It is well-established that a public utility is entitled to such rates as will permit it to earn a return on the value of the property that it employs for the convenience of the public, equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings, which are attended by corresponding risks and uncertainties. Bluefield Water Works & Improvement Company v. Public Service Commission of West Virginia, 262 U.S. 679, 692 (1923). The Board is empowered to determine what, in a particular situation, is a just and reasonable return for a public utility and it has broad discretion in the exercise of that authority. Atlantic City Sewerage Co. v. Board of Public Utility Com'rs, 128 N.J.L. 359 (1942), aff'd 129 N.J.L. 401. Board-approved public utility rates will be considered valid so long as they enable the utility to operate successfully, maintain its financial integrity, attract capital and compensate its investors for the risk assumed. FPC v. Hope Natural Gas Co., 320 U.S. 591, 605 (1944). Stated another way, if the total effect of the rate order is not unreasonable, judicial inquiry is at an end. (Initial Decision at 602). Thus, a cost of equity figure is appropriate so long as it is "within the range of reasonableness, the zone between the lowest rate not confiscatory and the highest rate fair to the public." In Re N.J. Power & Light Co., 9 N.J.L. 498, 535 (1952).

In determining the cost of equity capital for a regulated utility, rate of return experts typically use a variety of financial models to simulate the returns assertedly required by investors. These include Discounted Cash Flow (DCF) models, Risk Premium models, Capital Asset Pricing Models (CAPM), Comparable Earnings models and variations thereof. However, it is widely acknowledged that these economic models constitute estimates, which, although probative, are not necessarily precise. The imprecision in the estimates provided by these models is more pronounced as a result of the current economic environment still recovering from the Great Recession, characterized by some as the worst economy since the Great Depression.

Nevertheless, it is incumbent upon this Board to define a fair rate of return for JCP&L commensurate with risks faced by similar companies, sufficient to attract capital and maintain the financial integrity of the enterprise. As the New Jersey Supreme Court has recognized, a privately owned public utility is a complex mechanism that exists to serve a public need but to do so it must have investor appeal. It must be allowed a reasonable return on its investment so that it may have borrowing power at normal business rates to finance its day-to-day operations. See, Daaleman v. Elizabethtown Gas Co., 77 N.J. 267, 272 (1978).

The table below summarily presents Judge Richard McGill's Initial Decision on each component of the rate of return, namely, a capital structure of 50 percent equity and 50 percent long-term debt, a 9.75 percent ROE and a 6.26 percent embedded cost rate for long-term debt.

Rate of Return

Capital Component	Capital Structure(%)	Cost Rate (%)	Weighted Cost Rate (%)
Equity	50.00	9.75	4.88
Long-Term Debt	50.00	6.26	3.13
Total	100.00		8.01 (Rate of Return)

While ALJ McGill did not discuss the overall rate of return, based on his Initial Decision's determination of the 50/50 capital structure, the 9.75 percent equity cost and the 6.26 long-term debt cost components, the overall rate of return can be calculated to be 8.01% as shown in the above table and reflected in ALJ McGill's conclusions. (Initial Decision at 113). The Board **FINDS** the 8.01 percent overall rate of return together with ALJ McGill's determinations on capital structure, equity cost and debt cost to be just and reasonable, and **HEREBY ACCEPTS** them.

The Boards **FINDS** that the ALJ appropriately balanced the interests of ratepayers and shareholders in arriving at his decision with regard to rate of return and capital structure. FirstEnergy Senior Vice President James F. Pearson requested that JCP&L's authorized return on equity be set at 11.0 percent. Rate Counsel witness Matthew Kahal recommended that the return on equity be set at 9.25 percent while Gerdau witness O'Donnell recommended that the return on equity be set at 8.9 percent. Staff recommended a 9.75 return and the ALJ chose Staff's position which is within a range of reasonableness and reflects a point weighted more towards Rate Counsel's position than towards the Company. The Board is also concerned with the credit ratings of JCP&L. Standard & Poor's rates JCP&L's bonds as BBB-, just one touch above junk or speculative grade while Moody's rates JCP&L's bond Baa2, two notches above speculative grade. This Board has historically supported the maintenance of investment grade credit ratings for utilities and continues that support. Any further deterioration of credit quality would increase borrowing costs and thereby result, over the long run, in higher costs in this capital intensive industry. The Board **FINDS** that the ALJ's recommendation of 9.75 return on common equity supports JCP&L's credit metrics, fairly balances the interests of ratepayers and shareholders and assures the financial integrity of the corporation.

In addition, adoption of the hypothetical capital structure and embedded cost of debt recommended by Rate Counsel reduces the overall cost of capital further benefiting ratepayers relative to JCP&L's recommendation. The Board notes that the ratio of debt to equity is within the zone of reasonableness and consistent with maintaining the financial integrity of the corporation. The Board chooses to use a hypothetical capital structure because JCP&L's actual capital structure was impacted by such factors as acquisition premiums causing the equity ratio to be more than is required to maintain the financial integrity of the corporation. This 50/50 hypothetical capital structure should provide, along with supportive regulation, a level of financial integrity sufficient to ensure an investment grade rating for JCP&L while protecting ratepayer interests.

ALJ McGill stated with regard to his recommendation on rate of return, "Additionally, interest rates have fallen since the Board approved a return on equity of 9.75 percent in the Company's last base rate case, indicating that Staff's recommendation is better than the same return on equity that the Company was awarded in its last case." (Initial Decision at 30). A number of parties made similar comments in the Exceptions and Reply Exceptions to the Initial Decision which appear to be based on the concept that the cost of equity is equal to the expected cost rate on long-term debt plus a *constant* equity risk premium to compensate for the added risk borne by common stockholders.

The Board does not agree with this conclusion. As pointed out by JCP&L witness Ahern, interest rates have been artificially suppressed by the actions of the Federal Reserve in response to problems in the macro-economy making a comparison of risk spreads since the last rate case questionable. If the Board had followed such logic, it would have awarded equity returns in excess of twenty percent in the late 70s and early 80s. The logic of comparing allowed returns on equity and equity risk premiums in 2005 with allowed returns on equity and equity risk premiums in 2015 does not appear valid, and is rejected as an appropriate method to evaluate allowed returns on equity.

2. Rate Base

c) Consolidated Income Tax

After extensive review, on December 17, 2014, the Board issued its final order in the Generic CTA Proceeding ("2014 CTA Order") setting its revised and updated CTA policy, and the Board REAFFIRMS that policy here . Specifically, the Board FINDS that New Jersey regulated utilities, that are part of holding companies, are required to reduce rates through a CTA applied during base rate cases to reflect savings that occur when the net effect of filing a consolidated tax return is that the organization as a whole pays less in federal income taxes than it would have paid if each affiliate filed a separate, stand-alone income tax return. The Board FINDS that the methodology to be used to calculate the revenue requirement impact of the CTA is the methodology set forth in the 2004 Rockland Decision modified as follows: 1) the review period for the calculation shall be reduced to the five most recent years for which actual tax returns have been filed that do not go beyond the test year; 2) in the case of electric utility companies, the utility's electric taxable income is to be apportioned between FERC jurisdictional transmission and Board jurisdictional electric distribution activities, and the portion of the savings attributable to the FERC jurisdictional transmission activities shall not be included in the CTA , and 3) the impact of the calculation on the revenue requirement shall be reduced to 25% of the impact of the resulting calculation.

In the 2014 CTA Order, the Board also addressed pending cases, such as the current JCP&L rate case, where the record had been closed. In these cases, the Board stated that it shall, following an initial decision by the Office of Administrative Law, reopen the record for the limited purpose of adding the calculation of the CTA as modified by the 2014 CTA Order while providing all parties with the opportunity to comment. As previously described, that procedure was followed in this case.

Therefore, the remaining CTA issue in this proceeding is the appropriate quantification of a CTA that is calculated pursuant to the 2014 CTA Order. The Board has reviewed Staff's CTA calculation, which is attached to this Order as Attachment A and the resulting comments. JCP&L states that it would be more accurate to perform the calculation using the distribution allocator for each year, which it represents is 75.75%, 75.65%, 75.75%, 76.81%, and 76.84% respectively for each of the years 2007 through 2011. JCP&L states that these numbers have been based on publicly-available plant in-service data. However, JCP&L did not point to a public source where each of these exact numbers could be found. Therefore, the Board cannot determine if JCP&L gathered what it claims are the correct numbers from public sources to produce these numbers or if JCP&L used the correct formula to produce these numbers. In contrast, Staff utilized a distribution percentage allocation factor of 78.78% that comes from Exhibit RC-133 (Response to RCR-A-102.) Therefore, the Board **FINDS** that Staff's use of the 78.78% distribution percentage allocation factor is appropriate in this proceeding. This does not preclude the use of separate distribution allocation factors for each year in the calculation of the appropriate CTA to be used in future rate case proceedings. Based upon the foregoing, the Board **FINDS** that the Staff CTA calculation in the amount of $47,127,737 is the appropriate CTA in this proceeding, and JCP&L's rate base **SHALL** be reduced by this amount. The impact of this will be a reduction in revenue requirement of $5.36 million ($47,127,737 x the pre-tax rate of return of 11.37%).

3. Pro Forma Operating Income

g) Storm Damage Cost Amortization

The Board agrees with the Company that there should be a carrying charge on the O&M costs associated with the Major Storms included in this case because money has a time value that deserves to be recognized as a matter of fairness to investors. Non-recognition raises concerns in the financial community, particularly with the credit rating agencies. However, the use of the Weighted Average Cost of Capital ("WACC") is too generous and does not fairly balance the interests of investors and ratepayers given there is very little risk that the Company will not recover these balances.

Instead of the using the WACC, the Board agrees with Rate Counsel that the rate to be applied to the unamortized balance of O&M associated with these storm costs should be the rate on 7-year Constant Maturity Treasury Securities plus 60 basis points which was the rate allowed on the unamortized deferred balances during industry restructuring as well in the Societal Benefit Charge proceedings. The cost to ratepayers is relatively low (currently 2.52 percent) and fairly balances the interests of ratepayers and shareholders, and is consistent with prior Board policy.

Therefore, the Board **ACCEPTS** ALJ McGill's finding that O&M expenses associated with the 2011 storm costs should be amortized over six years with carrying costs on the unamortized balance but **MODIFIES** the Initial Decision to authorize a carrying cost rate of 2.52 percent. The 2.52 percent is equal to the 1.92 percent rate on 7-year constant maturity Treasury securities on January 2, 2015 (which is the date that this rate was set on or closest to January 1 of this year) plus 60 basis points.

h) Forestry Maintenance Expense

The Board finds that it is necessary to modify the ALJ's decision on this issue. The modification is required due to actions taken by the Board subsequent to the ALJ's decision but reflecting ongoing discussions during the pendency of the rate case. Those decisions were, of course, also not fully set forth in the record in this proceeding. Subsequent to the ALJ's Initial Decision the Board approved the publication in the state register of the proposed amendments to its rules in N.J.A.C. 14:5. 47 N.J.R. 631 (March 16, 2015).

Among other things, those amendments change the vegetation management rules applicable to the State's EDCs to reflect a more stringent standard with regard to the EDCs' vegetation management reporting and performance. The proposed rules require the EDCs to enhance their reporting requirements with respect to so-called "hazard trees" and, where possible, to remove such trees. In addition, the proposed rules would require more extensive trimming on certain areas of the EDCs' systems to reduce the number of tree related outages and the duration of those outages. The more stringent standards reflect the Board's determination to take the "lessons learned" from the major storms of 2011 and 2012 and apply them in a focused manner. The identification and, when possible, the removal of hazard trees and the more intensive trimming in certain sensitive areas of the EDCs' systems are in response to those lessons learned.

The ALJ rejected the Company's adjustment for Forestry Maintenance expense and instead used an historical average for such expenses. While ordinarily the Board would agree with that treatment, because of the Board's decisions described above, it is necessary to acknowledge the fact that the more stringent standards will require the EDCs to devote more resources to vegetation management than had been the case in the past. However, the Board does not believe that the Company made a compelling case for the adjustment to actual expenses that it proposed. In its Exceptions the Company suggested it would be willing to accept the use of deferred cost accounting with respect to actual expenses related to Forestry Maintenance. The Board believes it would be appropriate to allow the Company to use deferred cost accounting for all forestry maintenance expenses that exceed 105 percent of the actual expenses reported above the historical average found by the ALJ to be reasonable, and **HEREBY AUTHORIZES** the Company to do so. The Company can argue for the inclusion of such costs in its next base rate case with all other parties retaining the right to take whatever positions they deem appropriate. The revenue requirements in this case will reflect the forestry maintenance expense as determined by the ALJ.

B. Cost of Service Study/Rate Design/Tariff Issues

1. Cost of Service Study

Classification of Line Transformers- FERC Account 368

The Board **FINDS** that the Company diverged from past Board policy with respect to the classification and allocation of Line Transformers and **FINDS** that the cost of Line Transformers does not vary linearly with the number of customers or customer accounts on the JCP&L distribution system and that these costs should be classified as energy and demand only. The Board **HEREBY REJECTS** the Company's proposal to classify and allocate Line Transformers on the basis of demand and customer components and thus **RESTATES** its past policy and **HEREBY ADOPTS** the ALJ's decision with respect to this issue.

Classification of Meter Investment- FERC Account 370

Similarly, the Board **FINDS** that the Company diverged from past Board policy with respect to the classification and allocation of meters. The Board **FINDS** that the cost of meters does not exclusively vary linearly with the number of customers or customer accounts on the JCP&L distribution system; rather, these costs should be classified as both customer and demand related. The Board **HEREBY REJECTS** the Company's proposal to classify meters to the customer component of costs exclusively and thus **REAFFIRMS** its past policy and **HEREBY ADOPTS** the Initial Decision on this issue.

Sub-Functionalization into Primary and Secondary Cost Segments Booked to FERC Accounts 364 to 367

The Board **FINDS** that while the Company adhered to the directives in past Board orders to segment portions of its distribution plant into primary and secondary voltage plant and allocated such plant according to how primary and secondary voltage customers use it, Staff raised substantial concerns about whether identifying primary and secondary voltage facilities by tracing discrete paths from primary voltage customers to the substations that purportedly serve them achieves the Company's stated objective. The Board **HEREBY FINDS** that the study performed by JCP&L should not be used in this case and that Staff's 50/50 default segmentation should be employed. The Board **HEREBY REJECTS** the Company's proposal to functionalize FERC Accounts 364 through 367 using the GIS study in this proceeding and **HEREBY ADOPTS** the ALJ's Initial Decision on this issue.

Appropriate Demand Related Cost Allocator for Use in the Average and Excess Method

The Board **HEREBY ADOPTS** ALJ McGill's Initial Decision with respect to this issue. However, the issue should be re-visited in the next base rate case. Accordingly, the Board **ORDERS** the Company to submit in its next base rate petition a cost of service study pursuant to the prescriptions detailed in Exhibit S-61, pages 1 through 8, attached hereto as Attachment B. JCP&L is, of course, free to argue in that future proceeding that CP is not the relevant planning parameter in the distribution system sizing, and to submit an alternative study employing the NCD or other preferred allocator for demand related costs.

Rate Schedule GT- Special Provision D, Gerdau-Ameristeel

In considering the positions of the parties on this issue, the Board **RE-AFFIRMS** the long-standing principles that rates should reflect the cost of providing service to the maximum extent practicable; that cost allocation as executed in the cost of service study reflects fundamental cost causation factors; and that cost causation factors are best identified through an analysis of system planning and operating conditions. Furthermore, while these bedrock principles will not change over time, the methods and approaches employed in the cost of service study may change as better data and more accurate analyses become available to more precisely reflect the fundamental system planning and operating conditions that drive the actual incurrence of system costs.

Despite the time that has passed since the restructuring of the electric industry in New Jersey and the jurisdictional shift of transmission ratemaking to FERC, the Board continues to address anomalous areas of distribution ratemaking where the vestiges of pre-restructuring ratemaking remain inappropriately rooted. One such area is the cost of service treatment of transmission voltage rate classes at a time when the vast majority of the costs incurred to serve them are no longer under the jurisdiction of the Board or in the utility's distribution rate base. Put simply, while the Board-jurisdictional costs required to serve transmission customers have largely disappeared from the distribution utility's books, the rates charged such customers have not always been proportionately reduced to reflect the lower cost of providing distribution service to these customers. The testimony of Mr. Pollock on behalf of Gerdau raises this precise issue.

The Board is persuaded that the A&E allocator is inappropriate for use in allocating A&G expenses to Gerdau and to the GT class as a whole. With metering and meter-related equipment the predominant distribution plant presently serving these transmission voltage customers, it is clearly inappropriate to employ an allocator that so heavily weights their large consumption characteristics and results in A&G expense allocations disproportionate to the amount of directly allocated plant in service. Gerdau's annual distribution charges relative to the cost of meters plant and related O&M required to provide service to the Sayreville mill demonstrates this fact. Accordingly, the Board **FINDS** the average and excess allocator inappropriate for use in allocating A&G expenses to transmission voltage customers. This determination is applicable to not only Special Provision D serving Gerdau but to the entire GT rate schedule. The A&E allocator, as formulated and employed in the Staff COSS, remains a legitimate though not exclusive means of allocating to non-transmission voltage rate classes the inherently difficult to classify A&G expenses.

In coming to this determination, the Board has considered the arguments advanced by the Company in defense of its system-wide application of the A&E allocator and against the position advanced by Gerdau. JCP&L's contention that Gerdau is served from the 34.5 kV side of the 230 kV/34.5 kV substation connecting it to the system is, even if true, irrelevant to the fact that both voltages are transmission level voltages. Gerdau is a transmission customer either way, and the costs and O&M associated with the substation are FERC-jurisdictional and not the subject of a subsidy to Gerdau from the balance of JCP&L's distribution customers.

ALJ McGill, while acknowledging an over-allocation of A&G expenses to Gerdau, rejected the direct A&G assignment approaches recommended by Gerdau and Staff as replacements for the A&E allocator for transmission voltage customers. Instead, the ALJ followed the recommendation of Rate Counsel to address the over-allocation issue by allocating the largest percentage rate decrease to rate schedule GT – Special Provision D (i.e., Gerdau). (Initial Decision at 73).

The Board has considered the arguments of the parties and the ALJ on the question of how to properly remediate the A&G cost allocation problem within the Company's study. Given the substantial record in this proceeding on the subject, there is no compelling reason to delay further consideration of this cost allocation issue to the next base rate proceeding. Therefore, the Board **HEREBY ADOPTS** the cost of service study revision employing the direct assignment of A&G expenses to rate schedule GT, including Special Provision D, as formulated by Staff and incorporated in its COSS in evidence as Staff Exhibit S-61. The Company is **ORDERED** to include such direct A&G expense assignment to rate schedule GT, inclusive of Special Provision D, in the cost of service study filed in its next base rate petition.

Finally, in addition to fixing the over-allocation of A&G expenses within the COSS, there remains the issue of adjusting the actual distribution charges assessed to Gerdau to reflect the cost of service revision.

ALJ McGill found that both rate schedules GP and GT should receive 130 percent of the system average rate reduction drawing upon the recommended interclass allocations of Staff, Rate Counsel and the Company. (Initial Decision at 75). The ALJ additionally found that the proper redress for Gerdau's over-allocation of A&G costs and artificially inflated rates would be that "Gerdau should be given the largest percentage rate reduction as tempered by gradualism…." (Initial Decision at 73) Such dual prescription would be accomplished through a 130 percent of system average rate reduction to rate schedule GT coupled with an intraclass allocation of the GT class reduction that reduces the demand charges to Special Provision D by more than the class average reduction. In this manner both Gerdau and the GT class as a whole would see results consistent with interclass and intraclass rate design prescriptions produced by the COSS.

The principle of rate design gradualism is indeed a principle guarded closely by the Board; however, the manageable level of reduced distribution charge revenue needed to correct the over-allocation of costs to Gerdau coupled with the tenuous competitive position of the firm's New Jersey operations militate for the maximum practicable level of remediation in this proceeding. In the absence of a discrete Special Provision D sub-class within rate schedule GT in either the Company's COSS or in the COSS run performed by the Company and supported by the Staff, the derivation of cost-based demand charges reflecting the Staff's A&G allocator is problematic for purposes of this proceeding. Accordingly, the Board **HEREBY ORDERS** Gerdau's distribution demand charges applicable under Special Provision D of rate schedule GT be reduced to a level of $.55/kW consistent with the recommendation of Mr. Pollock. The Board recognizes that this level of cost based rates was computed by Mr. Pollock at the Company's present revenue requirements rather than the reduced level to be implemented by virtue of this Order. The extent to which these reduced demand charges do not therefore precisely reflect fully cost-based charges is acceptable given our rate design principle of gradualism and the slight variation between the Board-approved direct assignment of A&G expenses to rate schedule GT advanced by Staff and the slightly different allocator advanced by Mr. Pollock. Moving Gerdau's rates fully to unity should therefore be further examined in the Company's next base rate proceeding. Consistent with such future consideration, the Board further **DIRECTS** the Company to break out Special Provision D into a discrete GT sub-class for cost of service study purposes in its next base rate filing in order to further examine the cost basis of rates applicable to Gerdau under this provision of the Tariff.

2. Interclass Revenue Allocation

The Board **ADOPTS** the ALJ's Initial Decision on this issue.

3. Intra-Class Rate Design- Customer and Demand Charges

The Board **HEREBY ADOPTS** the Initial Decision on this issue. The Board **FURTHER ORDERS** that JCP&L file with the Board its proof of revenues and interclass rate design in compliance with this Order to be filed within 5 days of receipt of the this Order. The Board has previously determined in this Order that the GP and the GT rate classes shall receive the largest portions of the overall system decreases based upon the Staff Cost of Service Study results adopted by the ALJ in the Initial Decision.

4. Miscellaneous Service Charges

With respect to the proposed increases in the miscellaneous service charges, as well as the proposed convenience fee, the Board **HEREBY ACCEPTS** the ALJ's findings concerning these charges. While the overall recommendation of the ALJ is a rate decrease, the Board notes the proposed increases in the Reconnection Fee and the Returned Payment Fee more closely reflect the actual costs of JCP&L providing these services and the Reconnection Fee is still below the actual cost. (Initial Decision at 78).

5. Con Edison Development Proposed Modification

The record shows that Con Edison Development uses the Company's distribution system during the peak hours when the GT and GP demand charges are in effect, from 8 a.m. through 8 p.m. In fact, Con Ed also used the distribution system during the peak hours when the demand charges under the special provision for the Commuter Rail Service are in effect, between 10 a.m. and 5 p.m. Moreover, the record indicates that not only are solar projects using the distribution system during the peak hours but they are also contributing toward the non-coincident peak for the class under which they take service. Because solar projects use the Company's distribution system, the Company must plan, build, size and operate its distribution system to meet the load customers place on the system and must incur associated fixed costs. Regardless of how infrequently a solar facility uses the system, JCP&L cannot instantaneously increase the load capacity of its infrastructure to accommodate such a customer. Thus, JCP&L must be ready to serve the maximum load of these customers at any time. The Board is further persuaded by the Company's argument that solar projects use the system during system peak periods as the power they generate exits the facilities and flows over the distribution system. The argument that solar projects relieve the constraints on the distribution system is not always true. The Board concludes that solar projects do impose costs on the distribution system and use the system for their own benefit. Therefore, the Board **FINDS** that it is reasonable for Con Ed to continue paying the on peak demand charge. Thus, the Board **ACCEPTS** the Initial Decision rejecting the request of Con Edison Development to eliminate the demand charge and its request to modify the peak hours included within the time period covered by the peak demand charge because this was not an issue raised in the context of this base rate case and there is no evidence in the record to support such a change at this time.

6. Other Tariff Revisions

The Board agrees with Staff that tariffs must accurately reflect the law, and all utilities are responsible for ensuring that their tariffs conform to the statutes and rules. However, as Staff has not shown that the requested revisions contravene those statues and rules, the Board **HEREBY ADOPTS** the position of ALJ McGill that the requested Tariff revisions are reasonable.

C. BGS-CIEP Meter Costs

The ALJ determined that JCP&L's request for approval in this case to adjust rates automatically to recover costs associated with additional BGS-CIEP meters in the future should the Board decide to adjust the CIEP threshold to include lower-usage customers should be denied. The Board **HEREBY ADOPTS** the ALJ's decision with respect to this issue. With respect to JCP&L's request that the final decision in this matter acknowledge the approval of the $88,398 for recovery of already-installed interval meters, the Board **HEREBY AFFIRMS** that the revenue requirement approved in this matter does include approval of cost recovery for the 254 interval meters already installed as a result of the Board's prior decision lowering the CIEP threshold.

D. Accelerated Reliability Enhancement Program

By Order dated March 20, 2013, the Board invited all regulated utilities subject to its jurisdiction to submit detailed proposals for infrastructure upgrades designed to project the State's utility infrastructure from future major storm events, and directed the EDCs to make those filings to implement the recommendations on storm preparedness in the earlier January 23,2013 Order[18]. The Board finds it troubling that JCP&L, while claiming to be ready and willing to implement the AREP, did not use the opportunity created by the Board to file such a program in the generic proceeding, and failed to file a sufficiently detailed proposal here. Accordingly, the Board **HEREBY ADOPTS** ALJ McGill's decision with respect to this issue.

E. Ring Fencing

The Board is concerned with the credit ratings of JCP&L. Standard & Poor's rates JCP&L's bonds as BBB-, just one touch above speculative grade, while Moody's rates JCP&L's bonds Baa2, two notches above speculative grade. This Board has historically supported the maintenance of investment grade credit ratings for utilities and continues that support. The Board **FINDS** that action is required to maintain and enhance JCP&L's bond rating, and **FINDS** that Rate Counsel's recommendation for a ring-fencing study has merit. Therefore, the Board **ACCEPTS** ALJ McGill's finding that a ring-fencing study is warranted and, therefore, **HEREBY DIRECTS** JCP&L to produce and file with this Board a detailed study of the costs and benefits of additional ring-fencing no later than nine months from the effective date of this Order. The study shall include a detailed proposal for ring-fencing measures and an implementation schedule for review by Board Staff and Rate Counsel.

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[18] In re the Board's Establishment of a Generic Proceeding to Review Costs, Benefits, and Reliability Impacts of Major Storm Event Mitigation Efforts, BPU Docket No. AX13030197, Order dated March 20, 2013 at 3.

F. Reliability

The Rate Petition Order requiring the Company to file the present case indicated that the case would include a review of the financial integrity and adequacy of capital expenditures and provide insight as to the Company's operational efficiency and organizational effectiveness. As the ALJ's decision noted, the Company's testimony, with respect to whether the Company was maintaining an adequate level of capital expenditures, had established the degree of the Company's organizational effectiveness and operational efficiency, and also established that the Company was maintaining a sufficient level of O & M expenditures. (Initial Decision at 94).

While the Board recognizes that the Company has made significant strides in how it communicates with its customers and the municipalities and counties in its service territory over the past two years, and has found no evidence that the Company's capital expenditures have not been at an appropriate level over the same period, the Board **FINDS** that a more granular review of the Company's operations is necessary. The largest percentage of comments from the public and political entities during the course of this proceeding was directed toward service considerations rather than the level of rates.

The Board has concluded that the kind of investigation needed is one that can determine if there are any systemic deficiencies in the operation of the Company's system; such an investigation is not compatible with the focus of a rate case. The Board has undertaken similar studies in the past, specifically with respect to this Company. The investigations undertaken in the aftermath of the Jersey Shore Fourth of July blackout in 2003 and the Morristown underground system events looked at whether there had been systemic failures related to either the design and engineering or the operations of parts of the Company's system. At this time, the Board believes it is necessary to undertake such an investigation for the Company's entire system pursuant to its authority under N.J.S.A. 48:2-19 to investigate any matter concerning a public utility. In addition to determining whether capital expenditures are adequate, the investigation will review the Company's operations, specifically the extent to which the Company is performing proactive maintenance as opposed to "operating to failure."

The Board **DIRECTS** Staff to initiate a review. Staff should take necessary steps to prepare a scope of work outlining the areas that should be investigated and hire an outside consultant to perform such a study at the Company's expense but under Staff's guidance. The Board requires that such a study be completed and submitted to the Board, with a copy to Rate Counsel, within one year from the effective date of this Order.

Use of a Benchmark

As noted earlier, the ALJ did not have the benefit of the Board's current views and decisions with respect to issues related to reliability and vegetation management. The proposed amendments to N.J.A.C. 14:5 would, among other things, set new benchmark levels for SAIFI and CAIDI. In this case, Rate Counsel has recommended the use of benchmarks as opposed to minimum reliability standards. (Initial Decision at 107). The proposed amendments set explicit benchmarks for each EDC, not necessarily directly tied to a historical average. The point would be to encourage the EDCs to continue to improve the reliability on their systems rather than depend on an explicit method that could lead to meeting minimum requirements that undermine the goal of the Board to have the utilities keep improving the reliability of service. Therefore, the Board **CLARIFIES** and **MODIFIES** the Initial decision to set revised CAIDI and SAIFI benchmarks for JCP&L as follows: the CAIDI minimum reliability level shall be 122.25

customer interruption and the SAIFI minimum reliability level shall be 1.19 customer interruptions, pending a further determination in the ongoing rulemaking proceeding.

CEMI

The Board clarifies the Initial Decision by taking into account the proposed amendments to the Chapter 5 rules described above. Those rules will codify an earlier Board Order that required more detailed quarterly as well as annual reporting with respect to various aspects of system reliability criteria. See, In re the Board's Initiative to Revise Reporting Requirements and Improve Reliability Programs by the Electric Distribution Companies Operating in New Jersey, Docket No. EO12070650 (Order dated Feb. 20, 2013). The EDCs are currently complying with the directives in that Order. The proposed amendments to the rules and the earlier Board Order give Board Staff the authority to evaluate, and where necessary, require additional information related to customers experiencing multiple interruptions (CEMI). Rate Counsel requested that the ALJ require the Company to report CEMI to provide information about pockets of poor reliability on its system. (Initial Decision at 108). ALJ McGill found Rate Counsel's arguments persuasive but did not direct the Company to make any such filings. (Initial Decision at 109). The Initial Decision is therefore clarified and modified to reflect this latest Board directive which the Company has agreed to implement pending the outcome of the rulemaking process.

Vegetation Management

As noted earlier, the Board has taken steps to address vegetation management issues, most recently in the proposed amendments to the Chapter 5 rules including those specifically related to vegetation management. The concern in the ALJ's decision with respect to overhanging branches (Initial Decision at 110) is shared by the Board, and is specifically addressed in the proposed Chapter 5 amendments. Proposed new rule N.J.A.C. 14.5-9.8 requires the removal of all overhanging vegetation on the distribution line from the substation to the first protective device on the circuit starting on January 1, 2016. The proposed amendment would allow the EDCs cutting discretion by exempting mature trees from the removal requirement. The Board believes the proposed amendment will advance efforts for improving reliability while taking into account the need to minimize cost impacts to ratepayers and recognizing aesthetic concerns.

G. Major Storm Related Performance and Customer Service Issues

With respect to Rate Counsel's concerns raised regarding JCP&L's performance during major storm events, the Board **NOTES** that this has been vetted in the Board's EPP proceeding (Docket No. EO11090543. Order dated January 23, 2013). In fact, several directives in that Order relate specifically to communications, customer service and actions to be taken by EDCs during major storm events.

With respect to Rate Counsel's other customer service issues, including discontinuance notices, deferred payment arrangements, and accessibility of Company personnel, the Board **DIRECTS**

Staff to include these issues in the review as discussed above.

V. EFFECTS OF ALL RATE CHANGES

Having accepted the Initial Decision with the modifications and clarifications noted herein, and as summarized in Attachment C hereto, the Board **HEREBY FINDS** the Company's rate base to be $1,830,023,000, its rate of return to be 8.01%, and its excess revenue to be $114,993,000. Accordingly, the Company is **HEREBY DIRECTED** to reduce its base rates by $114,993,000. The Board **HEREBY FINDS** that with the adjustments described above, the resulting rates approved for JCP&L are just and reasonable, reflecting this Board's reasonable judgment based on a review of the record developed in this proceeding. See In re N.J. Power & Light, Co., 9 N.J. 498 (1952).

The Board **HEREBY ORDERS** JCP&L to file tariffs consistent with the findings in this Order within five (5) days of receipt of this Order.

The rates, terms and conditions shall become effective for service rendered on and after April 1, 2015.

The Company's costs will remain subject to audit by the Board. This Decision and Order shall not preclude any actions determined to be appropriate as a result of such audit.

DATED: 3/26/15

BOARD OF PUBLIC UTILITIES
BY:

RICHARD S. MROZ
PRESIDENT

JOSEPH L. FIORDALISO
COMMISSIONER

MARY-ANNA HOLDEN
COMMISSIONER

DIANNE SOLOMON
COMMISSIONER

ATTEST:

KENNETH J. SHEEHAN
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 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; AND FOR APPROVAL OF AN ACCELERATED RELIABILITY ENHANCEMENT PROGRAM ("2012 BASE RATE FILING")

BPU DKT. NO. ER12111052
OAL DKT. NO. PUC16310-12

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CTA TABLE A

Jersey Central Power and Light Company (JCP&L)
Rate Case, ER12111052
Consolidated Tax Savings Adjustment
Generic Proceeding Methdology (EO12121072) - Five Years of Data, 75% / 25% Sharing, Distribution Only

	Utility Taxable Inc/(Loss)	Total Negative Affiliate Taxable (Loss)	Statutory Tax Rate	Consolidated Tax Savings Before AMT	AMT	Total Net Consolidated Tax Savings
2007	365,982,362	(772,038,498)	35%	(270,213,474)	0	(270,213,474)
2008	323,485,332	(109,462,384)	35%	(38,311,834)	0	(38,311,834)
2009	43,886,738	(711,009,297)	35%	(248,853,254)	0	(248,853,254)
2010	244,407,579	(736,262,278)	35%	(257,691,797)	3,357,934	(254,333,863)
2011	(8,822,905)	(1,701,953,077)	35%	(595,683,577)	0	(595,683,577)
Total	968,939,106	(4,030,725,534)		(1,410,753,937)	3,357,934	(1,407,396,003)

Utility Percentage of Positive Income	17.00%
Sharing Percentage	25%
Distribution Percentage	78.78%
CTS Rate Base Adjustment	(47,127,737)
Pre Tax Rate of Return	11.37%
CTS Revenue Requirement Impact	(5,359,252)

JCP&L Pre Tax Rate of Return: ALJ I/D, Schedules C&A: $\boxed{11.37\%}$ = ((8.01%)-(3.13% x 40.85%)) x1.69062

Overall Rate of Return = 8.01% Debt = 3.13% nue Conversion Factor = 1.69062

In the Matter of the Verified Petition of Jersey Central Power & 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; and for Approval of an Accelerated Reliability Enhancement Program ("2012 Base Rate Filing")

BPU Docket No. ER12111052
OAL Docket No. PUC 16310-2012N

RESPONSES TO DATA REQUESTS

S-J-ERD-41 **[Staff COSS Modifications - M. Moreland Testimony, Ex. JC-7, Sch. MCM-1]**

Provide the following modifications to the JCP&L cost of service study submitted as Exhibit JC-7, Schedule MCM-1. The revisions prescribe specific changes to the company's primary/secondary voltage cost segmentation, demand/energy/customer cost classifications, and class cost allocation methodologies. Where the revisions do not prescribe a change to the COSS, the requested re-run of the study should employ the methodologies embedded in Exhibit JC-7. Provide the results in the form of the COSS filed as Exhibit JC-7, Schedule MCM-1, inclusive of all schedules included therein.

1. **Acct. 364 – Poles, Towers and Fixtures**
   A) Replace the company's primary/secondary "customers" segmentation of costs with a 50/50 split of Acct. 364 plant between the primary and secondary voltage segments.
   B) Classify primary and secondary voltage segmented costs to demand and energy cost components using the primary and secondary voltage level specific load factors, respectively, using the net-of-GT data provided in response to S-J-ERD-INF-8(A). Specifically, classify to the primary voltage energy cost component the percentage of primary voltage segmented costs equivalent to the primary voltage load factor; classify the residual costs (i.e., the percentage equivalent to 1 minus load factor) to the primary voltage level demand cost component. Apply the same classification methodology to the secondary voltage segmented costs.
   C) Allocate such primary and secondary voltage classified energy and demand related costs to the rate schedules employing voltage level specific class NSRs and class coincident peak contributions, respectively, provided in response to S-J-ERD-INF-8.

2. Acct. 365 – Overhead Conductors and Devices

A) Replace the primary/secondary "customers" segmentation of costs with a new primary/secondary voltage segmentation, as follows. Allocate to the primary voltage cost segment the original cost of <u>all</u> 4.8 kV through 34.5 kV primary voltage conductors identified in the GIS data. This revision eliminates the company's adjustments for "unique conductor paths" or "double counting" of primary conductors as described in the response to S-J-ERD-22 and any other adjustment that shifts any primary voltage conductor costs to the secondary voltage segment. Allocate to the secondary voltage cost segment all residual Acct. 365 original plant investment not identified as primary voltage investment.

B) If JCP&L maintains Acct. 365 on a *mass-booked* account basis that does not permit an identification and aggregation of the original investment associated with the total footage of primary conductors reflected in the GIS data, as prescribed in step A, above, then allocate to the primary voltage segment the percentage of total original cost booked to Acct. 365 equivalent to the following: the total feet of installation-cost "adjusted" primary conductors identified in the GIS data (504,302,760 ft. per the response to S-J-ERD-22) divided by the total feet of <u>all</u> overhead conductors in service, including secondary voltage conductors.

C) If JCP&L does not possess the data necessary to execute the segmentation split prescribed in B, above, execute a 50/50 split of poles investment between the primary and secondary voltage cost segments.

D) Classify primary and secondary voltage segmented costs (as prescribed in steps A and B, or alternately C, above) to demand and energy cost components using the primary and secondary voltage level specific load factors, respectively, provided in response to S-J-ERD-INF-8. Specifically, classify to the primary voltage energy cost component the percentage of primary voltage segmented costs equivalent to the primary voltage load factor; classify the residual costs (i.e., the percentage equivalent to 1 minus load factor) to the primary voltage level demand cost component. Apply the same classification methodology to the secondary voltage segmented costs.

E) Allocate such primary and secondary voltage classified energy and demand related costs to the rate schedules employing voltage level specific class NSRs and class coincident peak contributions, respectively, provided in response to S-J-ERD-INF-8.

3. Acct. 366 – Underground Conduit

A) Replace the primary/secondary "customers" segmentation of costs with a new primary/secondary voltage segmentation, as follows. Allocate to the primary voltage segment all conduit investment in which primary voltage conductors are installed. According to the company's response to S-J-ERD-23, all large-sized and a portion of small-sized primary conductors are installed in conduit, whereas all or most of all secondary voltage conductors are direct buried. Accordingly, allocate 90% of conduit investment to the primary voltage segment and 10% to the secondary voltage segment.

B) Classify primary and secondary voltage segmented costs to demand and energy cost components using the primary and secondary voltage level specific load factors, respectively. Specifically, classify to the primary voltage energy cost component the percentage of primary voltage segmented costs equivalent to the primary voltage load factor; classify the residual costs (i.e., the percentage equivalent to 1 minus load factor) to the primary voltage level demand cost component. Apply the same classification methodology to the secondary voltage segmented costs.

C) Allocate such primary and secondary voltage classified energy and demand related costs to the rate schedules employing voltage level specific class NSRs and class coincident peak contributions, respectively, provided in response to S-J-ERD-INF-8.

4. Acct. 367 – Underground Conductors and Devices

A) Replace the primary/secondary "customers" segmentation of costs with a new primary/secondary voltage segmentation similar to that employed in the prescribed revision to Acct. 365, above. Allocate to the primary voltage cost segment the original cost of <u>all</u> primary voltage underground conductors identified in the GIS data. This revision eliminates the company's adjustments for "unique conductor paths" or "double counting" of primary conductors as described in the response to S-J-ERD-24 and any other adjustment that shifts any primary voltage conductor costs to the secondary voltage segment. Allocate to the secondary voltage cost segment all residual Acct. 367 original plant investment not identified as primary voltage investment pursuant to step A, above.

B) If JCP&L maintains Acct. 367 on a *mass-booked* account basis that does not permit an identification and aggregation of the original investment associated with the total footage of primary conductors reflected in the GIS data, as prescribed in step A, above, then allocate to the primary voltage segment the percentage of total original cost booked to Acct. 367 equivalent to the following: the total feet of installation-cost "adjusted" primary conductors identified in the GIS data (100,908,364 ft. per the response to S-J-ERD-24) divided by the total feet of <u>all</u> underground conductors in service, including secondary voltage conductors.

C) If JCP&L does not possess information regarding the total feet of secondary underground conductors in service (i.e., conductors at voltages levels below 4.8 kV) required to determine total feet of all underground conductors in service prescribed in B, above, then allocate 50 percent of the investment to the primary voltage segment and 50 percent to the secondary voltage cost segment.

D) Classify primary and secondary voltage segmented costs (as prescribed in steps A and B, or alternately C, above) to demand and energy cost components using the primary and secondary voltage level specific load factors, respectively, provided in response to S-J-ERD-INF-8. Specifically, classify to the primary voltage energy cost component the percentage of primary voltage segmented costs equivalent to the primary voltage load factor; classify the residual costs (i.e., the percentage equivalent to 1 minus load factor) to the primary voltage level demand cost component. Apply the same classification methodology to the secondary voltage segmented costs.

E) Allocate such primary and secondary voltage classified energy and demand related costs to the rate schedules employing voltage level specific class NSRs and class coincident peak contributions, respectively, provided in response to S-J-ERD-INF-8.

5. Acct. 368 - Line Transformers

Perform a classification and allocation of plant booked to Account 368 as follows.

A) Directly assign to rate schedule GP any residual transformer investment associated with the four legacy lease contract agreements referenced in the Company's response to S-J-ERD-INF-12(B) booked to Acct. 364, if any.

B) Classify to the energy and demand components based on the distribution secondary voltage load factor depicted in the Company's response to S-J-ERD-INF-7, Attachment 1, p. 2 of 2. Employing this load factor split should result in 45.7% of costs classified as energy related and 54.3% classified to the energy component.

C) Allocate energy classified costs to the secondary rate classes using class contributions to the secondary voltage NSRs supplied in the Company's response to S-J-ERD-INF-8. Allocate the demand classified costs to the secondary rate classes using class contributions to the secondary voltage CP as supplied in S-J-ERD-INF-8.

6. Acct. 369 – Services

Modify the allocation of demand-classified costs by employing class contributions to the secondary voltage CP as supplied in the Company's response to S-J-ERD-INF-8, Attachment 1 at p.2.

7. Acct. 370 – Meters

A) Disregard the weighted meters allocators appearing at Exhibit JC-7, Schedule MCM-2, WP-12. Utilize the class-specific "Total Value" data, inclusive of CT and VT transformation facilities costs, depicted in the Company's response to S-J-ERD-5A, Attachment 1, as the interclass allocators for meters plant. For example, the total meters and transformers value of $1,661,483 for rate schedule GP represents 4.04% of the apparent total value of $41,079,868 for meters and CV/VT transformation facilities for all class combined. Under this prescribed modification, GP would accordingly be allocated 4.04 percent of the $91,037432 of original meters plant depicted at Exhibit JC-7, Schedule MCM-1, p. 25 of 57.

B) Classify such revised interclass plant allocations to intraclass customer and demand cost components for rate design purposes, as follows. For secondary rate schedules RS, RT, RGT and GS, employ the smallest meter MAP value of $15.14 appearing in the response to S-J-ERD-5A, Attachment 1, to determine the customer cost component of allocated meters plant for each of these three classes. To accomplish this step, first multiply the $15.14 minimum size meter value by the total number of meters within each of the RS, RT, RGT and GS rate schedules (the total number of meters by class is depicted in the column denoted "count"); divide the product by the total meters/transformers cost values of each class, appearing in the response to S-J-ERD-5A, Attachment 1 and referenced in A, above, to produce class-specific percentages representing the customer cost component of allocated meters investment. Use the resulting class-specific percentages to classify as customer-related the allocated meters investment prescribed in A, above. Classify the remaining allocated class-specific meters investment to the demand component within each rate schedule.

8. Acct. 360 – Land and Land Rights; Acct. 361 – Structures and Improvements; and Acct. 362 – Station Equipment

A) Execute a 50/50 split of the investment in the three referenced FERC accounts between the primary and secondary voltage cost segments.

B) Classify primary and secondary voltage segmented costs to the energy and demand cost components using the voltage level specific load factors identified in the Company's response to S-J-ERD-INF-7, Attachment 1, p. 2 of 2.

C) Allocate such primary and secondary voltage classified energy and demand related costs to the rate schedules employing voltage level specific class NSRs and class coincident peak contributions, respectively, provided in response to S-J-ERD-INF-8.

9. Depreciation and Amortization Expense/Depreciation Reserve

Modify the primary/secondary voltage segmentations, classifications and allocations of all depreciation and amortization expense and depreciation reserve accounts so that they are consistent with the segmentations, classifications and allocations of the related distribution plant accounts prescribed above.

10. Distribution Operations and Maintenance Expenses

A) Account 582 – Station Expenses, Acct. 583 – Overhead Line Expenses, and Acct 584 – Underground Line Expenses: Segment, classify and allocate consistent with the above-prescribed treatment of Acct. 362 – Station Equipment, Acct. 365 – Overhead Conductors and Devices and Acct. 367 – Underground Conductors and Devices, respectively.

B) Account 586 – Meters Expenses and Acct. 597 – Maintenance of Meters: Allocate these expenses to each rate schedule consistent with the proportionate class shares of Acct. 370 – Meters original plant, as prescribed in 7, above. Classify costs to the customer and demand component of each rate schedule consistent with the classification split prescribed in 7, above.

C) Account 587 – Correct the functionalization error that placed these expenses in Acct. 593 (See, S-J-ERD-INF-14). Classify to demand and customer cost components consistent with the classification split of Acct. 370 – Meters. Allocate customer costs to the rate classes based upon the number of customers; allocate demand related costs to the rate classes based upon class contributions to system peak (CP) demand as depicted in the Company's response to S-J-ERD-7, Attachment 1, p. 1 of 2.

D) Account 592 – Maintenance of Station Equipment, Account 593 – Maintenance of Overhead Lines, Acct. 594 – Maintenance of Underground Lines, Acct. 595 – Maintenance of Transformers: Segment, classify and allocate consistent with the above-prescribed treatment of Acct. 365, Acct. 367 and Acct. 368, respectively.

E) Account 580 – Operation Supervision & Engineering, Acct. 589 – Rents and Acct. 590 – Maintenance Supervision and Engineering: Segment to primary and secondary voltage based on the aggregate split of all distribution rate base accounts; classify to energy and demand components using the voltage level specific LFs provided in the Company's response to S-J-ERD-INF-7, Attachment 1, p. 2 of 2; and allocate to the classes energy and demand related costs based upon the class shares of NSRs and CPs provided in the Company's response to S-J-ERD-INF-8 (B).

F) Acct. 902 – Meter Reading Expenses and Acct. 903 – Customer Records and Collection Expenses: Allocate these expenses to each rate schedule consistent with the proportionate class shares of Acct. 370 – Meters original plant, as prescribed in 7, above. Classify costs to the customer and demand component of each rate schedule consistent with the classification split prescribed in 7, above.

G) Acct. 904 – Uncollectibles: Classify 100 percent to the energy component and allocate to the classes on NSRs.

H) Accounts 907-910: Replace the APBD allocator with the average and peak allocator utilizing the system load factor, net of rate schedule GT contributions to the system CP and NSRs, as provided in the Company's response to S-J-ERD-INF-8. Classify to the energy component that portion of expenses equivalent to the system load factor and allocate on class contributions to system NSR; classify the residual (1-LF) portion to the demand component and allocate to the classes based on class shares of the system CP.

11. Administrative and General Expense Distribution Operations and Maintenance Expenses

Accounts 920 – 932: Directly assign to rate schedule GT that portion of total A&G equivalent to the percentage of total distribution plant directly allocated to the class. Allocate the balance of Accounts 920-932 expenses as follows. Replace the APBD allocator with the average and peak allocator utilizing the system load factor, net of rate schedule GT contributions to the system CP and NSRs, as provided in the Company's response to S-J-ERD-INF-8. Classify to the energy component that portion of expenses equivalent to the system load factor and allocate on class contributions to system NSR; classify the residual (1-LF) portion to the demand component and allocate to the classes based on class shares of the system CP.

12. Customer Cost Component/Customer Charge Summary

Provide a schedule detailing fully-allocated customer charges for rate schedules RS, RGT, RT and GS based upon the below-prescribed COSS prescriptions and the resulting fully allocated customer-related costs.

Jersey Central Power & Light, Docket No: ER12111052 S-RR

Revenue Requirement

($000)

	JCP&L	Rate Counsel	Staff	ALJ	Board	
Rate Base	2,021,469	1,324,452	1,365,271	1,901,376	1,830,023	S-RB
Rate of Return	8.66%	7.76%	7.85%	8.01%	8.01%	S-RoR
Return Required	175,012	102,711	107,174	152,205	146,493	
Normalized Income	169,622	215,208	207,625	215,785	214,511	S-OI
Income Deficiency	5,390	(112,497)	(100,451)	(63,580)	(68,018)	
Tax Gross-up Factor	1.69062	1.69061	1.69062	1.69062	1.69062	
Revenue Requirement	9,111	(190,189)	(169,825)	(107,489)	(114,993)	

Source:

JCP&L = Exhibit JC-3(S3): SDM-3 S3=Supplemental Schedules Filed on May 5, 2014 to reflect 3/19/14 Generic Storm Order AX13030196 & EO13050391

RC = Exhibit RC-146 & RC-145: RJH-1RB RB=Reply Brief Schedules for Generic Storm Order Updates

ALJ = Initial Decision: The ALJ's Initial Decision did not include detailed revenue requirement schedules. The ALJ column of these schedules is shown for comparison and it represents the Board's interpretation of the ALJ's Initial Decision.

The ALJ column reflects the ALJ's recommended adjustments as referenced and ties into the ALJ's recommended reduction in annual revenues of $107,489,352 on page 113 of the Initial Decision.

Tax Gross-up Factor For CBT and FIT (SDM-2, pg 12) = 1.69062 = 1/(1-(0.09+(0.35*(1-0.09))))

JCP&L	Before Tax (aka Pre-Tax) Rate of Return =	12.74%	\/- ((8.66%)-(2.74% x 40.85%)) x1.69062
RC	Before Tax (aka Pre-Tax) Rate of Return =	10.95%	\/- ((7.76%)-(3.13% x 40.85%)) x1.69061
Staff	Before Tax (aka Pre-Tax) Rate of Return =	11.22%	\/- ((7.85%)-(2.97% x 40.85%)) x1.69062
ALJ	Before Tax (aka Pre-Tax) Rate of Return =	11.37%	\/- ((8.01%)-(3.13% x 40.85%)) x1.69062
Board	Before Tax (aka Pre-Tax) Rate of Return =	11.37%	\/- ((8.01%)-(3.13% x 40.85%)) x1.69062

Jersey Central Power & Light, Docket No: ER12111052 **S-RB**

Rate Base

($000)

	Balance at	JCP&L	Rate Counsel		Staff		ALJ		Board			
	12/31/2011	Position	Adjustment	Position	Adjustment	Position	Adjustment	Position	Adjustment	Position	ALJ	RJH_RB
Total Electric Utility Plant in Service	3,877,825	3,948,975		3,948,975		3,948,975		3,948,975		3,948,975		
July 2011 Heat Storm		-		-		-		-		-		
Hurricane Irene (Overhead Credits)		(8)		(8)		(8)		(8)		(8)		
October 2011 Snowstorm (Overhead Cr)		(443)		(443)		(443)		(443)		(443)		
Total Electric Utility Plant in Service after Adj.	3,877,825	3,948,524	-	3,948,524	-	3,948,524	-	3,948,524	-	3,948,524		
Less: Accum. Provision for Depreciation	(1,479,326)	(1,502,325)		(1,502,325)		(1,502,325)		(1,502,325)		(1,502,325)		3
Accum. Deferred Income Tax	(597,431)	(687,625)		(687,625)		(687,625)		(687,625)		(687,625)		3
Customer Advances (Net of DTax)	(14,206)	(13,264)		(13,264)		(13,264)		(13,264)		(13,264)		3
Customer Deposits	(23,779)	(23,746)		(23,746)		(23,746)		(23,746)		(23,746)		3
Operating Reserves (Net of Dtax) 1of2	-	-		-		-		-		-		
Total Deductions	(2,114,742)	(2,226,959)	-	(2,226,959)	-	(2,226,959)	-	(2,226,959)	-	(2,226,959)		3
Add: Unamortized Net Loss on Reacq-Debt	18,808	17,920	(9,570)	8,351	(9,570)	8,351	(9,570)	8,351	(9,570)	8,351	22	3 & 4
Unamortized Major Storm Cost (Net of DTax)	24,226	24,225	(24,225)	-	(24,225)	-	-	24,225	(24,225)	-	S-OI-d	
Excess Cost of Removal Reserve in Acc.Depr.	107,159	107,159	(107,159)	-	(107,159)	-	(107,159)	-	(107,159)	-	20	3
Total Additions	150,192	149,304	(140,954)	8,351	(140,954)	8,351	(116,728)	32,576	(140,954)	8,351		
Working Capital:												
Materials & Supplies Inventory	14,770	16,699	(1,878)	14,821	(1,878)	14,821	(1,878)	14,821	(1,878)	14,821	8	3 & 6
Cash Working Captial	138,139	138,139	(61,654)	76,484	(20,836)	117,303	(20,836)	117,303	(20,836)	117,303	S-RB-a	
Consolidated Income Tax			(511,030)	(511,030)	(511,030)	(511,030)	-	-	(47,128)	(47,128)	19	3/Crane
Customer Refunds			(1,164)	(1,164)	(1,164)	(1,164)	(314)	(314)	(314)	(314)	21	3
Operating Reserves (Net of Tax) 2of2	(4,237)	(4,237)		(4,237)		(4,237)		(4,237)		(4,237)		3
Deferred Taxes - TMI-2 Non-Qual				-		-		-		-		
Decommisioning Trust Fund			19,663	19,663	19,663	19,663	19,663	19,663	19,663	19,663	23	3
Total Working Captial	148,672	150,601	(556,063)	(405,463)	(515,245)	(364,644)	(3,365)	147,236	(50,492)	100,108		
Total Net Rate Base Investment	2,061,947	2,021,469	(697,017)	1,324,452	(656,198)	1,365,271	(120,093)	1,901,376	(191,446)	1,830,023		

Source: JCP&L = Exhibit JC-3(S3): SDM-5

RC = Exhibit RC-145: RJH-3RB & RJH-RB Schedules as indicated from Reply Brief Updates

RC CTS = Exhbit RC-13: ACC-1 (2,732,494,553 x 18.70%), data from response to RCR-CIT-47

ALJ = I/D, Pages Noted

Storm Adjustments Per Board Order Dated March 19, 2014, AX13030196 and EO13050391, Page 4

Jersey Central Power & Light, Docket No: ER12111052 **S-OI**

Pro Forma Net Utility Operating Income - Yest Year Ended 12/31/11

($000)

	Unadjusted Tot. Company	Non-Distrib. Adjustments	Unadjusted Distribution	JCP&L Normalization Adjustments	JCP&L ProForma Pres. Rates	Rate Counsel Normalization Adjustments	Rate Counsel ProForma Pres. Rates	Staff Normalization Adjustments	Staff ProForma Pres. Rates	ALJ Normalization Adjustments	ALJ ProForma Pres. Rates	Board Normalization Adjustments	Board ProForma Pres. Rates	
Electric Retail Sales	2,374,851	(1,769,869)	604,983	(28,179)	576,804	(27,355)	577,627	(27,355)	577,627	(27,355)	577,627	(27,355)	577,627	
Other Operating Revenue	62,293	(47,095)	15,198	1,539	16,737	1,539	16,737	1,539	16,737	1,539	16,737	1,539	16,737	
Total Revenue	2,437,144	(1,816,964)	620,180	(26,639)	593,541	(25,816)	594,364	(25,816)	594,364	(25,816)	594,364	(25,816)	594,364	S-OI-a
O&M - Production	1,386,053	(1,384,234)	1,819	(1,819)	0	(1,819)	0	(1,819)	0	(1,819)	0	(1,819)	0	S-OI-a
O&M - Transmission	23,037	(23,037)	-	-	-	-	-	-	-	-	-	-	-	
O&M - Distribution	143,936	(68,591)	75,344	16,157	91,501	(43,087)	32,257	(43,087)	32,257	(40,280)	35,064	(40,280)	35,065	S-OI-a
O&M - Customer Accounts	35,995	(11,408)	24,586	-	24,586	-	24,586	-	24,586	-	24,586	-	24,586	
O&M - Customer Service	119,589	(109,731)	9,859	-	9,859	-	9,859	-	9,859	-	9,859	-	9,859	
O&M - A&G	100,952	(18,167)	82,785	-	82,785	-	82,785	-	82,785	-	82,785	-	82,785	
Subtotal O&M	1,809,562	(1,615,168)	194,394	14,338	208,731	(44,906)	149,487	(44,906)	149,488	(42,099)	152,295	(42,099)	152,295	
Depreciation & Amortization	146,253	(54,265)	91,989	(3,400)	88,589	(15,225)	76,764	(15,714)	76,275	(5,755)	86,234	(5,755)	86,234	S-OI-a
Regulatory Debits	159,728	(155,815)	3,913	27,262	31,175	13,058	16,971	25,741	29,654	12,089	16,002	12,700	16,613	S-OI-a
Regulatory Credits	(103,182)	103,182	-	-	-	-	-	-	-	-	-	-	-	
Taxes Other Than Income	66,761	(50,061)	16,700	-	16,700	(589)	16,111	(589)	16,111	(402)	16,298	(402)	16,298	S-OI-a
Total Operating Expenses	2,079,122	(1,772,126)	306,996	38,200	345,196	(47,663)	259,333	(35,468)	271,528	(36,167)	270,829	(35,556)	271,440	
Operating Income Bef. Inc. Tax	358,022		313,185	(64,839)	248,345	21,847	335,031	9,652	322,837	10,351	323,535	9,740	322,925	
Income Taxes @ 40.85%	109,739		127,936	(49,213)	78,723	(8,113)	119,823	(12,724)	115,212	(20,186)	107,750	(19,523)	108,413	S-OI-a
Net Utility Operating Income	248,283		185,249	(15,626)	169,622	29,960	215,208	22,376	207,625	30,536	215,785	29,263	214,511	

Source: JCP&L = Exhibit JC-3(S3): SDM-1
ALJ = I/D, See Supporting Schedule S-OI-a for page numbers.
Income Tax Rate for CBT & FIT = 40.85% = 0.09+(0.35*(1-0.09))
RC = Exhibit RC-145: RJH-7 RB

Jersey Central Power & Light, Docket No: ER12111052 S-RoR
Weighted Average Cost of Capital

JCP&L

	$ Millions Balance	Ratios	Embedded Cost	Weighted Average Cost	
Total Equity	2,317	53.80%	11.00%	5.92%	
Long-Term Debt	1,993	46.20%	5.93%	2.74%	2.74%
Total Capitalziation	4,310	100.00%		8.66%	

Before Tax (aka Pre-Tax) Rate of Retur 12.74% \/- ((8.66%)-(2.74% x 40.85%)) x1.69062

Rate Counsel

	Ratios	Embedded Cost	Weighted Average Cost	
Total Equity	50.00%	9.25%	4.63%	
Long-Term Debt	50.00%	6.26%	3.13%	3.13%
Total Capitalziation	100.00%		7.76%	

Before Tax (aka Pre-Tax) Rate of Retur 10.95% \/- ((7.76%)-(3.13% x 40.85%)) x1.69061

Staff

	Ratios	Embedded Cost	Weighted Average Cost	
Total Equity	50.00%	9.75%	4.88%	
Long-Term Debt	50.00%	5.93%	2.97%	2.97%
Total Capitalziation	100.00%		7.85%	

Before Tax (aka Pre-Tax) Rate of Retur 11.22% \/- ((7.85%)-(2.97% x 40.85%)) x1.69062

ALJ

	Ratios	Embedded Cost	Weighted Average Cost	
Total Equity	50.00%	9.75%	4.88%	
Long-Term Debt	50.00%	6.26%	3.13%	3.13%
Total Capitalziation	100.00%		8.01%	

Before Tax (aka Pre-Tax) Rate of Retur 11.37% \/- ((8.01%)-(3.13% x 40.85%)) x1.69062

Board

	Ratios	Embedded Cost	Weighted Average Cost	
Total Equity	50.00%	9.75%	4.88%	
Long-Term Debt	50.00%	6.26%	3.13%	3.13%
Total Capitalziation	100.00%		8.01%	

Before Tax (aka Pre-Tax) Rate of Retur 11.37% \/- ((8.01%)-(3.13% x 40.85%)) x1.69062

Source: JCP&L = Exhibit JC-3(S3) SDM-3, Appendix G (S3), Page 4
RC = Exhibit RC-145: RJH-2 RB
ALJ = I/D, Return on Equity = Page 31, Capital Structure = Page 33, Cost of Long Term Debt = Page 34

Jersey Central Power & Light, Docket No: ER12111052 **S-RB-a**

Cash Working Captial Requirements

($000)

	Description	12/31/2011 Actual	Adjustments	JCP&L Amount	JCP&L Leads/ Lags	JCP&L Dollar Days	Rate Counsel Amount	Rate Counsel Leads/ Lags	Rate Counsel Dollar Days	Staff / ALJ / & Board Amount	Staff / ALJ / & Board Leads/ Lags	Staff / ALJ / & Board Dollar Days
1	Operating Revenues:											
2	Electric Revenues	2,374,851	(55,268)	2,319,583	39.49	91,590,540	2,319,583	39.49	91,590,540	2,319,583	39.49	91,590,540
3	NJ Sales Tax	-	157,889	157,889	41.20	6,505,046	157,889	41.20	6,505,046	157,889	41.20	6,505,046
4	Other Revenues	62,293	(36,447)	25,845	172.50	4,458,267	25,845	172.50	4,458,267	25,845	172.50	4,458,267
	Revenue Lag Days	2,437,144	66,174	2,503,318	40.97	102,553,853	2,503,318	40.97	102,553,853	2,503,318	40.97	102,553,853
5	Operations and Maintenance	1,809,562	22,754	1,832,316	35.82	65,634,151	1,832,316	35.82	65,634,151	1,832,316	35.82	65,634,151
6	Depreciation and Amortizati	146,253	(18,543)	127,711	-	-	-	-	-	127,711	-	-
7	Regulatory Debits	159,728	-	159,728	-	-	-	-	-	159,728	-	-
8	Regulatory Credits	(103,182)	-	(103,182)	-	-	-	-	-	(103,182)	-	-
9	Taxes Other Than Income	66,761	(1,231)	65,531	(39.62)	(2,596,252)	65,531	(39.62)	(2,596,252)	65,531	(39.62)	(2,596,252)
10	Income Taxes:											
11	Current	17,528	41,003	58,531	(49.88)	(2,919,633)	58,531	15.42	902,541	58,531	15.42	902,541
12	Prior	-	(56,504)	(56,504)	-	-	-	-	-	(56,504)	-	-
13	Deferred	92,343	-	92,343	-	-	-	-	-	-	-	-
14	Investment Tax Credit	(131)	28	(103)	-	-	-	-	-	(103)	-	-
	Total Income Taxes	109,739	(15,473)	94,266		(2,919,633)	58,531		902,541	1,923		902,541
	Net Utility Oper. Inc.	248,283	(79,223)	169,060			-			169,060		
14b	Interest on LT Debt						54,861	91.25	5,006,076			
15	NJ Sales Tax	-	157,889	157,889	(50.57)	(7,985,032)	157,889	(50.57)	(7,985,032)	157,889	(50.57)	(7,985,032)
16	Total Requirement	2,437,144	66,174	2,503,318	20.83	52,133,233	2,169,127	28.10	60,961,483	2,410,975	23.21	55,955,407
				365			365			365		
17	Requirement per day			6,858			5,943			6,605		
18	Net Lag Days			20.14			12.87			17.76		
19	Cash Working Capital Requirement			138,139			76,484			117,303		

Source Rate Counsel = Exhibit RC-152: DEP-2

JCP&L = Exhibit JC-12, JLA-1 Supplemental -

ALJ = ID: Lead Days for FIT = Page 9, Depreciation and Regulatory Debits and Credits = Page 11, Deferred Income Taxes = Page 11, Return on Capital & Int. on LTD = Page 13

Jersey Central Power & Light, Docket No: ER12111052 S-OI-a

Summary of Test Year Normalization /Annualization Adjustments

($000)

		JCP&L	Rate Counsel	Staff	ALJ	Board	ALJ	RJH -RB	
	Revenue Adjustments:								
1	Weather Norm - Retail Rev	(28,179)	(27,355)	(27,355)	(27,355)	(27,355)			
	Weather Norm - Misc Rev	659	659	659	659	659			
	Total Weather Norm	(27,520)	(26,697)	(26,697)	(26,697)	(26,697)			SDM-2 ,p2
13	Tariff Fee Adjustments - Misc Rev	881	881	881	881	881			SDM-2,p14
	Total Revenue Adjustments	(26,639)	(25,816)	(25,816)	(25,816)	(25,816)	35	7	SDM-2,p1
	O&M - Production Adjustments:								
2	Nuclear Fuel Disposal (SNFD) and TMI-2 Post Defueling Monitored Storage (PDMS) Regulatory Assets} [1of2 O&M Portion]	(1,819)	(1,819)	(1,819)	(1,819)	(1,819)		8	SDM-2,p3
	O&M - Distribution Adjustments:								
3	Interest on Customer Deposits	31	31	31	31	31	S-OI-b	8	SDM-2,p4
4	Annualize Payroll Wage Rate Increase at 3%	3,393	3,393	3,393	3,393	3,393		8	SDM-2,p5
5	Re-class Amortization of Net Loss on Reacquired	1,773	1,397	1,397	1,397	1,397	36	8 & 4	SDM-2,p6
6	BPU & RatepayerAdvocate Assessments	(95)	(93)	(93)	(93)	(93)	S-OI-b	8	SDM-2,p7
7	Management Audit Fees	115	115	115	115	115		8	SDM-2,p8
8	Rate Case Expenses	802	267	267	401	401	37	8 & 9	SDM-2,p9
9	Cost to Achieve Merger Synergy Savings	4,822	-	-	-	-	40	8	SDM-2,p10
10	Reclassify Deferred USF Administrative Costs	52	52	52	52	52		8	SDM-2,p11
11	Incremental BGS Meter Costs (CIEP threshold to 500KW) [1of2 O&M Portion]	75	76	76	71	71		8	SDM-2,p12
12	Normalize Forestry Maintenance Expense	5,109	-	-	-	-	45	8	SDM-2,p13
13	Acct. 935 Expense Normalization		(1,019)	(1,019)	(1,019)	(1,019)	47	8 & 10	
14	Remove Incentive Comp		(8,419)	(8,419)	(5,741)	(5,741)	50	8 & 11	
15	Remove SERP		(409)	(409)	(409)	(409)		8 & 12	
16	Pension Expense Adj.		(37,664)	(37,664)	(37,664)	(37,664)	57	8 & Serota	
17	OPEB Expense Adj.		(815)	(815)	(815)	(815)	57	8 & Serota	
18	Misc. Expense Adjs.		(79)	(79)	(79)	(79)	53	8 & 13	
26	Service Company Depreciation at JCP&L Rates	80	80	80	80	80		8	SDM-2,p27
	Total Non-Re-class O&M Adjustments	16,157	(43,087)	(43,087)	(40,280)	(40,280)			
	Total O&M Adjustments	14,338	(44,906)	(44,906)	(42,099)	(42,099)			
	Total Depreciation Adjustments:	(3,400)	(15,225)	(15,714)	(5,755)	(5,755)	S-OI-c		
	Regulatory Debits Adjustments:								
2	Re-class Amortization as Regulatory Asset {Spent Nuclear Fuel Disposal (SNFD) and TMI-2 Post Defueling Monitored Storage (PDMS) Regulatory	1,819	1,819	1,819	1,819	1,819		8 & 15	SDM-2,p3
16	Storm Damage Cost Amortization	28,949	16,266	28,949	15,297	15,907	S-OI-d		
17	Excess Cost of Removal	(3,759)	(3,759)	(3,759)	(3,759)	(3,759)		15	SDM-2,p18
18	Return Net Gain on Sale of Property	(421)	(421)	(421)	(421)	(421)		15	SDM-2,p19
19	Eliminate DOE SNFD Fees Amortization	(1,569)	(1,569)	(1,569)	(1,569)	(1,569)		15	SDM-2,p20
20	TMI-2 PDMS	609	609	609	609	609		15	SDM-2,p21
21	Production-related Regulatory Asset Amortizatio	1,521	-	-	-	-	46	15	SDM-2,p22
25	Regulatory Asset Amortization Recv via Riders	113	113	113	113	113		15	SDM-2,p26
	Total Regulatory Debits Adjustments	27,262	13,058	25,741	12,089	12,700			
	Items in Total Deprec. Adj which RC included in RJH-15R:								
	RJH-15R (1) Unadjusted Test Year Amortization		3,912	3,912	3,912	3,912			
	RJH-15R (3) Net Cost of Removal		2,415	2,415	2,415	2,415			
	Tie into RJH-15R total adjustment & ALJ Sch. F		19,386	32,069	18,417	19,028			
	Taxes Other Than Income Taxes (Tax on Incentive Cor	-	(589)	(589)	(402)	(402)		7 & 11	
	Income Taxes:								
22	Interest Synchronization - Tax on Long Term Del	(22,623)	(16,935)	(16,564)	(24,311)	(23,399)	S-OI-b		
23	Income Tax on Adjustments	(26,590)	8,821	3,840	4,125	3,876	S-OI-b		
	Total Income Tax Adjustments	(49,213)	(8,113)	(12,724)	(20,186)	(19,523)			
	Total All Normalization / Annualization Adjustments	(15,626)	29,370	21,787	30,135	28,861			

Source: JCP&L = Exhibit JC-3(S2): SDM-2, Page 1 & as indicated. (These underlying schedules were not updated, nor supplied with the JC-3(S3) updates.)
RC = Exhibit RC-145: RJH RB Schedules as indicated.
ALJ = I/D, Pages Noted
Storm Adjustments Per Board Order Dated March 19, 2014, AX13030196 and EO13050391, Page 4
(($81,912,314/3)+$1,645,000 =$28,949,000)

Jersey Central Power & Light, Docket No: ER12111052 S-OI-b

Test Year Normalization /Annualization Adjustments - Details

($000)

#	Item	JCP&L	Rate Counsel	Staff	ALJ	Board		RJH-RB	
3	Interest on Customer Deposits - Adjustment to reclassify and annualize interest on customer deposits:								
	Customer Deposits Balance at 12/31/2011	23,779	23,779	23,779	23,779	23,779			
	Interest Rate 2012	0.13%	0.13%	0.13%	0.13%	0.13%			
		31	31	31	31	31		8	
6	BPU and RPA Assessments - Adjustment to normalize based on based on normalized test year revenue:								
	Electric distribution revenues in test year	604,983	604,983	604,983	604,983	604,983			
	Revenue normalization adjustment	(27,520)	(26,697)	(26,697)	(26,697)	(26,697)			
	Non-distribution electric revenues in test year	1,672,402	1,672,402	1,672,402	1,672,402	1,672,402			
	Other operating revenues	62,293	62,293	62,293	62,293	62,293			
	Gross revenues from intrastate sales	2,312,157	2,312,981	2,312,981	2,312,981	2,312,981			
	Combined NJBPU .1857% and RPA .0353%	0.2210%	0.2210%	0.2210%	0.2210%	0.2210%			
		5,110	5,112	5,112	5,112	5,112			
	Test Year Amount	5,205	5,205	5,205	5,205	5,205			
		(95)	(93)	(93)	(93)	(93)		8	
	Taxes:								
22	Interest Synchronization - Income taxes associated with synchronized interest on debt outstanding at the end of the test year.								
	Rate Base at end of test year with adjustments	2,021,469	1,324,452	1,365,271	1,901,376	1,830,023			
	Weighted Cost of Debt	2.74%	3.13%	2.97%	3.13%	3.13%	S-RoR		
		55,381	41,455	40,549	59,513	57,280		16	
	CBT & FIT = 40.85% = 0.09+(0.35*(1-0.09))	40.85%	40.85%	40.85%	40.85%	40.85%			
	Interest Synchronization Adjustment	(22,623)	(16,935)	(16,564)	(24,311)	(23,399)	54	16	
23&24	Income Taxes on Adjustments:								SDM-2,p25
	Total Revenue Adjustments	(26,639)	(25,816)	(25,816)	(25,816)	(25,816)			
	Total O&M Adjustments	14,338	(44,906)	(44,906)	(42,099)	(42,099)			
	Total Depreciation Adjustments	(3,400)	(15,225)	(15,714)	(5,755)	(5,755)			
	Total Amortization Adjustments	27,262	13,058	25,741	12,089	12,700			
	Taxes Other than Income	-	(589)	(589)	(402)	(402)	50		
	Total Non-Income Tax adjustments	(64,839)	21,847	9,652	10,351	9,740			
	CBT at 9%	(5,836)	1,966	869	932	877			
	FIT at 35%	(20,651)	6,958	3,074	3,297	3,102			
24	ITC Amortization	(103)	(103)	(103)	(103)	(103)		16	SDM-2,p25
	Total Income Taxes on Adjustments	(26,590)	8,821	3,840	4,125	3,876		16	SDM-2,p24

Source:

3 JCP&L = Exhbit JC-3S2: SDM-2, Page 4

6 JCP&L = Exhbit JC-3S2: SDM-2, Page 7

22 JCP&L = Exhbit JC-3S2: SDM-2, Page 23

23 JCP&L = Exhbit JC-3S2: SDM-2, Page 24

RC = Exhibit RC-145: RJH RB Schedules as indicated.

ALJ = I/D, Pages Noted

Jersey Central Power & Light, Docket No: ER12111052 **S-OI-c**

Depreciation Adjustments

($000)

			JCP&L		Rate Counsel		Staff		ALJ		Board			
		Unadjusted Distribution	Adjustments	Position	Adjustments	Position	Adjustments	Position	Adjustments	Position	Adjustments	Position	ALJ -1,925-3,924 = -5,848	
	Depreciation on Dist. Plant at 12/31/11	69,121		69,121	8,195	77,316		69,121		69,121		69,121		
	Depreciation on PTY Dist. Plant Adds from 12/31/11- 6/30/12	1,314		1,314	156	1,470		1,314		1,314		1,314	S-OI-a	
	Total Dist. Plant Depreciation Expense	70,435	-	70,435	8,351	78,786	-	70,435	-	70,435	-	70,435	S-OI-a	
	Allocated General Plant Depreciation Expense (JCP&L Adj. 1	11,678	(1,925)	9,754	(5,848)	5,830	(1,925)	9,754	(1,925)	9,754	(1,925)	9,754	S-OI-a	
	Allocated Intangible Plant Depreciation Exp (JCP&L Adj. 14(2	3,396	230	3,625	230	3,626	230	3,625	230	3,625	230	3,625		
	Excess Depreciation Reserve Amortization	-	-	-	(13,897)	(13,897)	(9,958)	(9,958)	-	-		-	S-OI-a	(1)&(2)
	Deprec Exp Reduction for 6/30/13 Plant In Service Adj (Storm	-	-	-	(10)	(10)	(10)	(10)	(8.8)	(9)	(8.8)	(9)		(3)
14	Subtotal (JCP&L Adj. 14)	85,509	(1,695)	83,814	(11,174)	74,335	(11,663)	73,846	(1,704)	83,805	(1,704)	83,805		
11	BGS Metering Depreciation (JCP&L Adj. 11)	-	13	13	13	13	13	13	13	13	13	13		
	Total Pro Forma Deprec Exp before Net CoR (JCP&L Adjs 11	85,509	(1,682)	83,827	(11,161)	74,348	(11,650)	73,859	(1,691)	83,818	(1,691)	83,818	-1,717-2,346 = -4,064	
15	Net Cost of Removal Amortization (JCP&L Adj. 15/ RC RJH-1	6,479	(1,717)	4,762	(4,064)	2,415	(4,064)	2,415	(4,064)	2,415	(4,064)	2,415		
	Depreciation Adjustment for Major 2011 Storms (Storm2of2)					-	-		-		-			
	Total Pro Forma Depreciation Expense After 2011 Storm Inclu	91,989	(3,400)	88,589	(15,225)	76,764	(15,714)	76,275	(5,755)	86,234	(5,755)	86,234	S-OI-a	

Source: JCP&L = Exhibit JC-4S2: CP-2 & Exhibit JC-3S2: SDM-2, pg 12,15,&16
RC = Exhibit RC-145: RJH-14RB & 15RB
Deprec Exp Reduction for 6/30/13 Plant In Service Adj (Storm1of2) = $9,796 ($451,418 x 2.17%) per Rate Counsel Reply Brief RJH-14RB
Deprec Exp Reduction for 6/30/13 Plant In Service Adj (Storm1of2) = $8,759 ($451,418 x 1.94%) per Initial Decision

(1) RC's adjustment is based on ($662.0 M) in excess depreciation reserve that includes a SEC-reported distribution COR reserve excess (regulatory liability) of $107.2 M, translating to a depreciation credit of $13.9 M per year over 48 years.

(2) STAFF's adjustment - On page 39 of the Spanos Rebuttal Testimony, Spanos testified that when he made the same calculation as Majoros but used the Spanos-developed service life estimates the excess depreciation reserve calculated to $371.0 million, translating to a depreciation credit of $7.729 million per year over 48 years.
Rate Base would increase by $263.8 million ($371.0 million minus the existing regulatory liability of $107.2 million, which is already a rate base deduction.

Storm Adjustments Per Board Order Dated March 19, 2014, AX13030196 and EO13050391, Page 4
=(77120550-451418)*0.0217/1000
ALJ = I/D, Page 41 and 61

Jersey Central Power & Light, Docket No: ER12111052 S-OI-d

Storm Cost Amortization and Carrying Costs on Unamortized Balance

($000)

	JCP&L	Rate Counsel	Staff	ALJ	Board	ALJ	RJH-(RB)	
Operating Income Adjustment:								
Storm Costs - (Major 2011 Per Generic Storm)	81,912	81,912	81,912	81,912	81,912	43	5	SDM-2 ,p17
Amortization Period	3	6	3	6	6	43	5	SDM-2 ,p17
Amortization of Major 2011 Storm Costs	27,304	13,652	27,304	13,652	13,652		5	
Avg. Storm Costs Net of Def.Tax (Costs/2x(1-.4085))		24,225			24,225		5	
Carrying Charge Rate		4.00%			2.52%		5	
Carrying Charges on Unam. Major 2011 Storm Costs	-	969	-	-	610		5	
Avg. Storm Damage Costs 2007-2011 (Exc. Major)	10,201	10,201	10,201	10,201	10,201		5	SDM-2 ,p17
Less Amortization Included in Test Year	(8,557)	(8,557)	(8,557)	(8,557)	(8,557)		5	SDM-2 ,p17
Avg. Storm Costs 2007-2011 less Tyear Amort.(10201-8557)	1,645	1,645	1,645	1,645	1,645			
S-OI-a Storm Damage Cost Amortization	28,949	16,266	28,949	15,297	15,907		15	SDM-2 ,p17
Rate Base Adjustment:								
S-RB: Unamortized Major Storm Cost (Net of Dtax)(Costs/2x(1-.4085))	24,225	-	-	24,225	-	43	3	SDM-5

Source: JCP&L = Exhibit JC-3(S3): SDM-2, Page 1 & as indicated.
RC = Exhibit RC-145: RJH RB Schedules as indicated.
ALJ = I/D, Pages Noted
Storm Adjustments Per Board Order Dated March 19, 2014, AX13030196 and EO13050391, Page 4
(($81,912,314/3)+$1,645,000 =$28,949,000)

Revenue Requirement Impact by Issue - Rate Counsel, Staff, ALJ, & Board

		RC Impact	Staff Impact	ALJ Impact	Board Impact	I/D Page
Company Proposed Revenue Requirement:		9,112	9,112	9,112	9,112	
Impacts:						
Rate of Return:						
	Rate of Return (1of2) (Impact without Int. Sync. Piece)	(30,849)	(27,602)	(22,305)	(22,305)	24
	Rate of Return (2of2) (Cost of Debt Impact on Int. Sync.)	(5,449)	(3,216)	(5,449)	(5,449)	24
Rate Base:						
	Total Electric Utility Plant in Service	-	-	-	-	
	Unamortized Net Loss on Reacq-Debt	(1,048)	(1,074)	(1,088)	(1,088)	21
	Unamortized Major Storm Cost (Net of DTax)	(2,652)	(2,718)	-	(2,755)	23 & 42
	Excess Cost of Removal Reserve in Acc.Depr.	(11,733)	(12,023)	(12,186)	(12,186)	19
	Materials & Supplies Inventory	(206)	(211)	(214)	(214)	7
	Cash Working Capital	(6,751)	(2,338)	(2,369)	(2,369)	8-9
	Consolidated Income Tax	(55,953)	(57,339)	-	(5,359)	13
	Customer Refunds	(127)	(131)	(36)	(36)	20
	Operating Reserves	-	-	-	-	
	Decommisioning Trust Fund	2,153	2,206	2,236	2,236	22
Net Utility Operating Income:						
Rev	Weather Norm - Retail Rev	(823)	(823)	(823)	(823)	34
Exp	Re-class Amort. Net Loss on Reacquired Debt	(376)	(376)	(376)	(376)	35
	Rate Case Expenses	(535)	(535)	(401)	(401)	36
	Cost to Achieve Merger Synergy Savings	(4,822)	(4,822)	(4,822)	(4,822)	38
	Normalize Forestry Maintenance Expense	(5,109)	(5,109)	(5,109)	(5,109)	43
	Acct. 935 Expense Normalization	(1,019)	(1,019)	(1,019)	(1,019)	46
	Remove Incentive Comp (& Assoc Payroll Tax .07)	(9,008)	(9,008)	(6,143)	(6,143)	48
	Remove SERP	(409)	(409)	(409)	(409)	51
	Pension Expense Adj.	(37,664)	(37,664)	(37,664)	(37,664)	54
	OPEB Expense Adj.	(815)	(815)	(815)	(815)	54
	Misc. Expense Adj.	(79)	(79)	(79)	(79)	52
	Storm Damage Cost Amortization	(12,683)	-	(13,652)	(13,042)	42
	Production-related Regulatory Asset Amortization	(1,521)	(1,521)	(1,521)	(1,521)	45
Dep	Depreciation on Dist. Plant at 12/31/11	8,195	-	-	-	
	Depreciation on PTY Dist. Plant Adds from 12/31/11- 6/30/12	156	-	-	-	
	Allocated General Plant Depreciation Expense (JCP&L Adj. 14(1))	(3,924)	-	-	-	
	Excess Depreciation Reserve Amortization	(13,897)	(9,958)	-	-	57
	Deprec Exp Reduction for 6/30/13 Plant In Service Adj	(10)	(10)	(9)	(9)	
	Net Cost of Removal Amortization (JCP&L Adj. 15/ RC RJH-15R)	(2,347)	(2,347)	(2,347)	(2,347)	40
	Total Impact of Adjustments	(199,304)	(178,939)	(116,599)	(124,103)	
	Rounding:	3	2	(2)	(2)	
	Total Revenue Requirement	**(190,189)**	**(169,825)**	**(107,489)**	**(114,993)**	

Data:	JC Rate Base, Tax Rate & Rev. Factor:	2,021,469	40.85%	1.69062					
	Overall Rate of Return			8.66%	7.76%	7.85%	8.01%	8.01%	24
	Return on Equity			11.00%	9.25%	9.75%	9.75%	9.75%	24
	Weighted Average Cost of Debt			2.74%	3.13%	2.97%	3.13%	3.13%	24
	Before Tax ROR			12.7448%	10.9491%	11.2202%	11.3718%	11.3718%	

State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. PUC 16310-12

AGENCY DKT. NO. ER12111052

IN THE MATTER OF THE VERIFIED PETITION OF JERSEY CENTRAL POWER & 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; AND FOR APPROVAL OF AN ACCELERATED RELIABILITY ENHANCEMENT PROGRAM ("2012 Base Rate Filing").

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Catherine E. Tamasik, Esq., for the Township of Marlboro (DeCotiis, FitzPatrick & Cole, attorneys)

Martin C. Rothfelder, Esq., for Public Service Electric & Gas Company

Record Closed: June 30, 2014 Decided: January 8, 2015

BEFORE **RICHARD McGILL, ALJ:**

Jersey Central Power & Light Company ("petitioner," the "Company" or "JCP&L") filed a petition with the Board of Public Utilities ("Board" or "BPU"), seeking approval of an increase in base rates and other tariff changes for electric distribution service. The revised rates were designed to produce additional annual revenues of $31.47 million, representing an increase of approximately 1.4 percent.

PROCEDURAL HISTORY

This proceeding stems from a petition in which the Division of Rate Counsel ("Rate Counsel") contended that JCP&L was earning in excess of its allowed rate of return. In the Matter of the Petition of Rate Counsel Requesting a Board Order Directing Jersey Central Power and Light Company To File a Base Rate Case Petition and Establishing a Test Year of 2010, Docket. No. EO11090528. On July 31, 2012, the Board issued an Order in that proceeding, requiring the Company to file a base rate case using a historical 2011 test year on or before November 1, 2012. After receiving an extension until December 3, 2012, the Company filed the petition in this matter on November 30, 2012.

The matter was transmitted to the Office of Administrative Law on December 11, 2012, for determination as a contested case. On February 22, 2013, JCP&L filed an update ("February 2013 update") to its base rate filing to include costs associated with Superstorm Sandy and the November 2012 Nor'easter. The effect of the update was to increase the Company's request for additional revenues to $112.235 million or approximately 5.1 percent.

On March 20, 2013, the Board issued an Order establishing a generic proceeding to review the prudency of costs incurred by New Jersey utilities in response to multiple storm events in 2011 and 2012. In the Matter of the Board's Establishment of a Generic Proceeding to Review the Prudency of Costs Incurred by New Jersey Utility Companies in Response to Major Storm Events in 2011 and 2012, Docket No. AX13030196 (March 20, 2013) ("Storm Costs Proceeding"). As a result, issues related to the prudency of the costs associated with the 2011 major storm events, which were included in the Company's original filing, and those connected with the 2012 major storm events, which were contained the February 2013 update, were transferred in the Storm Costs Proceeding.

In this proceeding, public hearings were held in Toms River, Morristown and Freehold Township, New Jersey, at 1:30 p.m. and 6:30 p.m. on April 8, April 16 and April 24, 2013, respectively, in accordance with N.J.S.A. 48:2-32.6. Intervenor status was granted to Gerdau Ameristeel Sayreville Inc. ("Gerdau"); the New Jersey Large Energy Users Coalition ("NJLEUC"); Wal-Mart Stores East, LP and Sam's East, Inc. (collectively "Walmart"); Consolidated Edison Development, Inc. ("Con Ed Development"); the County of Morris; the Township of Marlboro; the Township of Robbinsville; the Township of Tewksbury; the Township of Wayne; and the Township of West Milford. Participant status was granted to AARP, Public Service Electric and Gas Company and New Jersey Natural Gas.

Pre-filed testimony was submitted by the Company, Rate Counsel, Gerdau, Walmart and Con Ed Development, and evidentiary hearings were conducted on ten days from September 12, 2013, to November 19, 2013, at the Office of Administrative Law, in Newark, New Jersey. Thereafter, parties submitted initial and reply briefs.

On March 19, 2014, the Board approved a Stipulation, which settled the JCP&L Storm Costs Proceeding. The Stipulation specified the amount of prudently incurred capital and deferred operation and maintenance (O&M) costs for the 2011 and 2012 major storms. In accordance with the Stipulation, the exact manner of recovery of the 2011 major storm costs will be decided in this proceeding, and the 2012 major storm costs will be handled separately.

Rate Counsel included 2011 major storm costs in its reply brief based upon the Stipulation. Subsequently, the Company and the Staff of the Board of Public Utilities ("Board Staff" or "Staff") submitted their final positions reflecting the 2011 major storm costs, and the record closed on June 30, 2014.

BACKGROUND AND OVERVIEW

JCP&L is a New Jersey electric public utility subject to the regulatory jurisdiction of the Board. JCP&L is primarily engaged in the delivery and sale of electric energy and related utility services to more than 1,000,000 residential, commercial and industrial customers located within thirteen counties and 236 municipalities in the state of New Jersey. The Company is a direct, wholly-owned subsidiary of FirstEnergy Corporation ("FirstEnergy"), which is a corporate holding company that owns several other major electric utility operating companies in Pennsylvania, Ohio, West Virginia and Maryland as well as non-regulated operations.

JCP&L's current base electric distribution rates were established by an Order of the Board issued on May 31, 2005 in In the Matter of the Verified Petition of Jersey Central Power & Light Company for Review and Approval of an Increase in and Adjustments to Its Unbundled Rates and Charges for Electric Service, and for Approval of Other Proposed Tariff Revisions in Connection Therewith, et al., BPU Dkt. No. ER02080507 et al. (May 31, 2005). The 2005 JCP&L Order concluded the Phase II portion of the Company's 2002 post-restructuring rate filing.

The Board's July 31, 2012 Order defined the scope of this proceeding as follows:

> Therefore, as stated above, given the number and complexity of the issues raised as well as the fact that they may very likely be inter-related, the Board HEREBY FINDS that a base rate proceeding with appropriate data including an examination of rate base, expenses, operations and rate of return as required by N.J.S.A. 48:2-21 will assure that JCP&L's rates are just and reasonable, and that the Company is investing sufficiently to assure the provision of safe, adequate and proper utility service to its customers as required by N.J.S.A. 48:2-23. The rate case will include a review of financial integrity and adequacy of capital expenditures, and provide valuable insight as to the company's operational efficiency and organizational effectiveness.

In view of this language, it is evident that this matter differs from a typical base rate case in that service concerns are an integral part of this proceeding.

The Company's petition in this matter contains three main segments. First, the Company requests approval of an overall increase in its annual revenues. The Company's revenue requirement is based on a 2011 test year as required by the Board's Order dated July 31, 2012. Second, the Company requests approval of various revisions to the terms and conditions in its existing tariff for electric service, as currently set forth in its Tariff for Service, BPU No. 10 – Electric. Third, the Company requests approval of its proposed Accelerated Reliability Enhancement Program (AREP). The Company also submitted pre-filed testimony in regard to service-related concerns.

Rate Counsel submitted pre-filed testimony in regard to petitioner's rates and also service issues. The latter concerned reliability of service and various operations matters including communications related to outages. Prefiled testimony was also submitted by Gerdau, Walmart and Con Ed Development. Among the intervenors, the County of Morris focused primarily on service-related issues. It is noteworthy that at the public hearings, customers and public officials seemed to be more concerned about service problems than the proposed rate increase.

Rate Counsel and Staff oppose the proposed rate increase and the Company's AREP proposal and seek a decrease in rates. Gerdau, Walmart and participant AARP addressed selected issues generally supporting Rate Counsel's positions in regard to rates. Gerdau and Walmart specifically argue for a lower overall rate of return and disapproval of the Company's proposed AREP. Con Ed Development seeks revisions to tariff provisions related to solar projects. To summarize the parties' final positions with respect to the revenue requirement, the Company requests an increase in annual revenues of $5,389,387, while Rate Counsel and Board Staff seek decreases in annual revenues of $190,189,222 and $169,825,000, respectively.

REVENUE REQUIREMENT

A. Rate Base

In its final update, the Company stated its rate base at $2,021,469,381. Rate Counsel proposes various adjustments, which would reduce rate base to $1,324,452,526. Staff's recommended distribution rate base is $1,365,271,000.

Materials and Supplies

Petitioner includes in rate base $16,699,010 for materials and supplies based upon the balance as of June 30, 2012, which is six months beyond the end of the test year. Rate Counsel proposes an adjustment to base the distribution-related materials and supplies on a thirteen-month average of balances for the period ending June 30, 2012. The purpose of Rate Counsel's adjustment is to normalize the materials and supplies balance, because it can vary significantly during the year due to seasonality and/or other reasons. Rate Counsel's adjustment would reduce the balance for materials and supplies by $1,877,767 to $14,821,243. Staff supports Rate Counsel's proposed adjustment.

A review of the monthly balances for materials and supplies for the period from June 2011 to June 2012 does not reveal any particular trend. The three highest balances were for September, October and November 2011, and the fourth lowest balance occurred in April 2012. Petitioner failed to demonstrate that the relatively high balance of $16,699,010 in June 2012 was anything more than happenstance. Under the circumstances, the thirteen-month average proposed by Rate Counsel is more representative as the balance for materials and supplies. Therefore, **I FIND** that Rate Counsel's proposed adjustment reducing petitioner's proposed balance for materials and supplies by $1,877,767 to $14,821,243 is reasonable and should be approved.

Cash Working Capital

Working capital is the average amount of capital provided by investors over and above the investment in plant and other specifically identified rate base items to bridge the gap between the time expenditures are required to provide service and the time collections are received for that service. Cash working capital is a component of working capital. A lead/lag study is a method that is used to determine the amount of cash working capital.

In this proceeding, petitioner presented a lead/lag study which indicates that it requires distribution cash working capital in the amount of $138,138,682. Rate Counsel proposes adjustments that would reduce petitioner's distribution cash working capital requirement by $61,654,653 to $76,484,029.

1. Lead Days for Federal Income Tax Payments

Petitioner makes estimated payments of federal income taxes on the fifteenth day of April, June, September and December of each year. In 2011, JCP&L made the following payments in millions: $24.5, $9.9, $31.6 and ($16.7). The negative amount for the payment on December 15, 2011, is the result of major storms late in that year. In its lead/lag study petitioner used the actual payments to calculate a result which suggests that the Company prepaid this item.

Rate Counsel maintains that the distortion caused by the major storms of 2011 should be eliminated by the use of a normalization-type adjustment. To accomplish this result, Rate Counsel makes the assumption that petitioner made equal tax payments in each of the four quarterly installments. The effect of this adjustment is to reduce petitioner's distribution cash working capital requirement by approximately $10.5 million. Staff supports Rate Counsel's proposed adjustment.

Petitioner contends that it is unreasonable to assume that all receipts and disbursements occurred in a perfectly rateable distribution over the test year and points out that in fact they did not. Petitioner maintains that actual test year results are preferable.

The arguments of Rate Counsel and Staff are persuasive. The proposed adjustment eliminates the gross distortions that were caused by the major storms of 2011 and are not likely to be repeated in the future. The fact that the assumption of equal payments is not likely to be precisely accurate does not mean that it is not preferable to the grossly distorted results in 2011. Therefore, I **FIND** that Rate Counsel's proposed adjustment is reasonable and should be approved.

2. Depreciation and Regulatory Debits and Credits

Depreciation is a distinct and separate item relative to regulatory debits and credits, but because the arguments as to both are the same, they will be considered together. Depreciation refers to the recovery over time of the Company's cash outlay to build and acquire plant and equipment. Regulatory debits and credits represent various amortizations of costs incurred prior to the 2011 test year.

Petitioner included depreciation and regulatory debits and credits in its lead/lag study and assigned a zero lag. In support of this treatment, petitioner argues that each dollar of expense recovered in rates reflects the return of a dollar of investor-supplied funds and as such belongs to investors. The investors, however, must wait to receive the return-of-capital cash payment in the form of utility revenues. This creates a cash working capital requirement equal to the revenue lag. Staff supports the Company's position.

Rate Counsel maintains that non-cash expenses such as depreciation and regulatory debits and credits should not be included in a lead/lag study. According to Rate Counsel, the purpose of cash working capital is to compensate the utility for investor funds used to finance the day-to-day cash operating needs of the utility. Rate Counsel reasons that since cash flows arising from non-cash expenses do not serve this purpose, they should not be included in the cash working capital allowance. Rate Counsel's proposed adjustment would reduce cash working capital by $14.3 million.

Petitioner and Staff rely upon Board precedent, while Rate Counsel recognizes that it is urging the Board to reconsider the issue at this time. The Board included depreciation and regulatory debits and credits in petitioner's last base rate case. <u>In the Matter of the Verified Petition of Jersey Central Power & Light Company for Review and Approval of an Increase in and Adjustments to its Unbundled Rates and Charges for Electric Service, and for Approval of Other Proposed Tariff Revisions in Connection Therewith, et al.</u>, Docket No. ER02080506, <u>et al.</u> (May 17, 2004) ("2004 JCP&L Order"). Further, in <u>In the Matter of the Petition of Public Service Electric and Gas Company for an Increase in Rates</u>, Docket No. ER85121163 (April 6, 1987), the Board adopted the pertinent portion of the Administrative Law Judge's recommendation, which stated as follows:

> Staff advances the position that the investors should be compensated for the revenue lag in the recovery of depreciation expense and the amortization of owned nuclear fuel. This is true since the Company's investors have financed the construction of plant and the purchase of nuclear fuel. The Company should be allowed to earn a return on these funds until the dollars are actually returned to the investor. The return on the investment is accomplished over the period of time the investment benefits ratepayers through their payment of annual depreciation and the amortization expense. Ratepayers have been overcompensated. At the time the items are reflected on the books, the cash associated with those items has not been returned to the investors. Accordingly, the only way to adjust

> for this factor is to assign a zero lag in the lead/lag study to the depreciation expense and the amortization of owned nuclear fuel. This appropriately reflects the fact that the collection of revenue lags behind the provision of service by 42.2 days.

This reasoning continues to be persuasive. Therefore, I **FIND** that petitioner's position is reasonable and should be approved.

3. Deferred Income Taxes

Deferred income taxes are another non-cash item which petitioner includes in its lead/lag study for essentially the same reasons as depreciation and regulatory debits and credits. Rate Counsel opposes inclusion of deferred income taxes in the lead/lag study because of its non-cash nature and for the additional reason that investor-supplied capital was never involved in the Company's deferred tax balance. Based upon this additional reason, Board Staff supports Rate Counsel's proposed adjustment.

The position of Rate Counsel and Board Staff is consistent with Board precedent, e.g., In the Matter of the Petition of Public Service Electric and Gas Company for an Increase in Rates, Docket No. ER85121163 (April 6, 1987), wherein the Board adopted the Administrative Law Judge's recommendation, which stated in pertinent part as follows:

> I FIND that deferred taxes should be excluded from the lead/lag study because they did not, at any point in time, require investor-supplied capital. It would be unreasonable and inappropriate to force ratepayers to pay a return on funds not supplied by investors.

In view of the above, I **FIND** that Rate Counsel's proposed adjustment eliminating deferred taxes from the allowance for cash working capital is reasonable and should be approved.

4. Return on Invested Capital and Interest on Long-Term Debt

Petitioner has included the return on invested capital in the calculation of cash working capital and assigned that return and interest on long-term debt a zero lag. The rationale for inclusion is that the interest on long-term debt and the return on common equity are earned and become the property of the utility's investors at the time that service is rendered. Because these returns are not actually received by investors until the related revenue is collected from customers, such returns must be included in the lead/lag study with a zero payment lag in order to compensate investors for that delay. Staff agrees with petitioner's position, which is supported by long-standing Board precedent, e.g. In the Matter of New Jersey Natural Gas Company for Approval of Increased Base Tariff Rates and Charges for Gas Service and Other Tariff Revisions, Docket No. GR89030335J (July 17, 1990).

Rate Counsel proposes an adjustment which would reduce petitioner's cash working capital by approximately $26.5 million. Rate Counsel argues that ownership is not the issue. Rather, the real issue concerns the amount of investor-supplied capital that is required to meet the utility's day-to-day operating expenses. According to Rate Counsel, the Company is under no contractual obligation to make dividend payments to shareholders before collecting the corresponding revenue. Further, it is incorrect to assume that debt-holders are being compensated on a daily basis.

In In the Matter of Atlantic City Electric Company, Docket No. 8310-883 (August 17, 1984), the Board stated as follows:

> The Board believes that the Staff position on this issue is more appropriate. The return on investment is the property of investors when service is provided. Payments from operating income for long and short term debt, preferred stock and common stock dividends require a zero payment lag because the funds used to render these payments are property of the investors of a utility. This approach is consistent with the Board's treatment of this issue in the previous rate case of the petitioner and also the recent rate case of *Public Service Electric and Gas Company*, Dkt. No. 837-620, Decision and Order dated March 23, 1984.

This analysis continues to be persuasive. In view of the above, I **FIND** that the Company's position is reasonable and should be approved.

Consolidated Tax Adjustment

JCP&L is a wholly-owned subsidiary of FirstEnergy and participates along with other affiliated companies in the filing of a consolidated federal income tax return. As a result, tax losses of one affiliate may be offset against the taxable income of other entities included in the consolidated return. The net effect of the consolidated return is that FirstEnergy and its subsidiaries pay less in federal income taxes than they would have paid if each affiliate filed a separate, stand-alone income tax return.

In this proceeding, JCP&L calculated its pro forma income tax expense on a "stand-alone" basis. In support of this approach, JCP&L contends that its pro forma income tax expense should be calculated without regard to tax consequences attributable to income or costs that are not included in the computation of its regulated rates. In the context of this proceeding, JCP&L's argument would mean that the tax losses of other affiliated companies would not be considered in calculating its pro forma income tax expense. In other words, there would be no adjustment for consolidated tax savings.

Rate Counsel proposes a consolidated tax adjustment based on the method approved by the Board in In the Matter of the Petition of Rockland Electric Company for Approval of Changes in Electric Rates, Its Tariff for Electric Service, Its Depreciation Rates, and for Other Relief, BPU Docket No. ER02100724 (April 20, 2004) ("2004 RECO Decision"). As explained by Rate Counsel's witness, the first step in this method is to determine if each company included in the consolidated group had cumulative taxable income or a cumulative tax loss for the period from 1991 to the present. This analysis results in two groups of companies, those with cumulative taxable income over the review period and those with cumulative tax losses.

The second step is to calculate the tax loss for each year for those companies that had a cumulative taxable loss for the review period. The tax loss for each company in the group is then accumulated by year in order to determine the total annual loss for the consolidated group by year. The total annual loss is then multiplied by that year's annual federal income tax rate to determine the tax loss benefit for the consolidated group by year. The annual tax loss benefits, net of the alternative minimum tax, is then accumulated for the entire review period to determine the total tax loss benefit that is subject to the allocation.

The third step is to allocate the accumulated tax loss benefit to each company that had positive taxable income on a cumulative basis during the review period. The accumulated tax loss benefit is allocated based on the percentage share of each entity's positive taxable income to the total accumulated positive taxable income of the group. This method produces a rate base reduction of $511.66 million. Staff supports Rate Counsel's proposed adjustment.

JCP&L contends that there are serious flaws in the calculation of Rate Counsel's proposed adjustment. According to petitioner's witness, the first flaw is failure to observe the tax law with regard to the treatment of tax losses. More specifically, Rate Counsel's adjustment is based on the assumption that a tax loss produced in any tax year by any group member can offset against taxable income produced in any year by any other group member, when in fact tax rules restrict the ability to use tax losses in a number of ways. Rate Counsel responds that since the tax losses in question have in fact already been used by the consolidated group, the Board should not be constrained by any particular tax law or regulation in regard to the ratemaking treatment of those tax losses.

The second alleged flaw is the failure to incorporate the economic consequences of net operating loss carry forwards. According to JCP&L's witness, the consolidated group has a net operating loss of approximately $1.3 billion. This means that the affiliates that produced those tax losses have not been compensated for the use of such tax losses. Without utilization, there is no incremental cash for the group or any of its members and consequently no logic that it would support the creation of a constructive loan. Rate Counsel responds that the RECO method is in effect an accrual methodology, which simplifies the calculation and eliminates the need to keep track of actual tax payments and the years in which they were made.

The third alleged defect involves consideration of tax results even in years that could not impact current year tax losses. This argument relates to the time limits to carry forward tax losses. JCP&L maintains that Rate Counsel's adjustment uses tax losses after the carry forward time limit. Rate Counsel responds that for ratemaking purposes the Board should not be bound by the carry forward rules and that the Board actually allows an unlimited amount of time to turn losses around.

Another problem is freezing forever tax benefits provided by companies that are no longer part of the consolidated tax group. This argument refers to members that were sold, liquidated or merged out of existence. Rate Counsel acknowledges that once a company leaves the group, its tax losses cannot be reversed in the calculation, but Rate Counsel maintains that the tax losses should not be removed from the calculation. According to Rate Counsel's witness, if an affiliate received a loan from ratepayers and left the consolidated group prior to repayment, then in fairness the ratepayers should continue to receive the benefit of recognition of that loan through the consolidated tax adjustment.

The next alleged flaw concerns the failure to incorporate the impact of JCP&L's transition from a Board-regulated, vertically integrated electric company with generation, transmission and distribution facilities to regulation by the Board of only its distribution operations. In effect, the proposed consolidated tax adjustment violates the principle of separation of jurisdictional and non-jurisdictional operations. Rate Counsel responds that the years prior to divestiture reflect an integrated utility and that the years after divestiture and restructuring reflect the result of operations during these particular years. It follows that there is no need to eliminate any particular business aspects.

The sixth alleged flaw is the failure to eliminate tax losses of other regulated group members in the calculation of the consolidated tax adjustment. The concern is that another jurisdiction could take the same tax loss and reflect it in the rates of its utility. The situation with the tax loss being used twice would be blatantly inequitable. There is also a concern in regard to accelerated depreciation of the assets of the regulated affiliates in other jurisdictions. The concern is that there could be a violation of the rules of the Internal Revenue Service in regard to normalization. Rate Counsel responds that in the past twenty years no New Jersey consolidated tax adjustment has been held by the Internal Revenue Service to violate its tax normalization rules.

It is well established that in setting rates the Board may require a sharing of the savings that result from the filing of a consolidated federal income tax return between the utility and its customers. In re New Jersey Power & Light Co., 9 N.J. 498, 528-29 (1952); In re Lambertville Water Co., 153 N.J. Super. 24, 28-29 (App. Div. 1977), rev'd in part, 79 N.J. 449 (1979); In re Toms River Water Co., 158 N.J. Super. 57, 59-60 (App. Div. 1978), rev'd in part, 82 N.J. 201 (1980); N.J. Telephone Co. v. State, 162 N.J. Super. 60, 78-79 (App. Div. 1978). Consistent with these precedents, the Board has approved consolidated tax adjustments in various rate proceedings, e.g., the Board's 2004 RECO Decision. More recently, the Board has opened a generic proceeding to review its policy in regard to consolidated tax savings. In the Matter of the Board's Review of the Applicability and Calculation of a Consolidated Tax Adjustment, BPU Docket No. EO12121072 (January 23, 2013) ("2013 Generic CTA Order"). As set forth in the 2013 Generic CTA Order, the Board will review the following: (1) the use by the Board of the consolidated tax savings adjustment policy; (2) how to calculate the amount of savings that arise from filing a consolidated return; (3) how these savings should be equitably shared between the regulated company and the ratepayers; and (4) if a rulemaking proceeding should be undertaken to establish utility-wide or statewide standards with respect to the implementation of a consolidated tax adjustment policy. The Board stated therein as follows: "until such time as the Board makes a final determination on the consolidated tax adjustment issues, the current consolidated tax savings policy shall apply."

The first question concerns JCP&L's contention that no consolidated tax adjustment should be approved in this proceeding. In its 2004 RECO Decision, the Board stated that it is well-settled law and Board policy that consolidated tax savings are to be shared with customers. In explaining the rationale for the consolidated tax adjustment, the Board quoted from its decision in In the Matter of the Petition of Jersey Central Power & Light Company, 94 N.J.A.R. 2d (BRC) 49, 52 ("1993 JCP&L Order") as follows:

> The Board believes that it is appropriate to reflect a consolidated tax savings adjustment where, as here, there has been a tax savings as a result of the filing of a consolidated tax return. Income from utility operations provides the ability to produce tax savings for the entire GPU system because utility income is offset by the annual losses of the other subsidiaries. Therefore, the ratepayers who produce the income that provides the tax benefits should share in those benefits. The Appellate Division has repeatedly affirmed the Board's policy of requiring utility rates to reflect consolidated tax savings and the IRS has acknowledged that consolidated tax adjustments can be made and there are no regulations which prohibit such an adjustment.
>
> The issue, in this case, is not whether such an adjustment should be made, but rather, what methodology should be used to make such an adjustment. In this area, the courts have held that the Board has power and discretion to choose any approach which rationally determines a subsidiary utility's effective tax rate. Toms River Water Company v. New Jersey Public Utilities Commissioners, 158 NJ Super 57 (1978). Based on our review of the record in this case, the Board REJECTS the ALJ's recommendation to accept the income tax expense adjustment proposed by Petitioner and, instead ADOPTS the position of Staff that the rate base adjustment is a more appropriate methodology for the reflection of consolidated tax savings. The rate base approach properly compensates ratepayers for the time value of money that is essentially lent cost-free to the holding companies in the form of tax advantages used currently and is consistent with our recent Atlantic Electric decision (Docket No. ER9009190J). Moreover, in order to maintain consistency with the methodology applied in the Atlantic decision, we modify the Staff calculation and find that a rate base adjustment which reflects consolidated tax savings from 1990 forward, including one-half of the 1990 savings, is appropriate in this case.
> [1993 JCP&L Order at 7-8.]

The main difficulty with JCP&L's contention that the Board should not make any consolidated tax adjustment in this proceeding is that this position is directly contrary to the judicial and regulatory precedents in regard to consolidated tax savings as set forth above. It follows that JCP&L's contention opposing any consolidated tax adjustment cannot be accepted in this proceeding.

JCP&L did not use its arguments that there flaws in Rate Counsel's calculation of consolidated tax savings to support an alternative adjustment. Under these circumstances, JCP&L's argument can only be viewed as an alternative reason to reject the proposed consolidated tax adjustment in its entirety. JCP&L's argument against the concept of a consolidated tax adjustment cannot be accepted for the reasons set forth above.

Another question is whether there should be modifications to Rate Counsel's proposed consolidated tax adjustment. JCP&L's witness did not quantify any of the alleged flaws in Rate Counsel's proposed consolidated tax adjustment, and therefore, his testimony will not serve as a basis for any modifications. In its reply brief, JCP&L offered a calculation of a modified consolidated tax adjustment, but it has not been subject to scrutiny by the other parties. Under the circumstances, the version of a consolidated tax adjustment set forth in JCP&L's reply brief should not be approved in this proceeding.

Nonetheless, there is good reason to have serious reservations about the consolidated tax adjustment as calculated by Rate Counsel. The reservations concern the open-endedness of the quantification in that it will continue to grow with each rate case. In JCP&L's 1992 base rate case, the consolidated tax adjustment to rate base was $465,000. In the Company's 2002 base rate case, the consolidated tax adjustment grew to $36.9 million. In this proceeding, the proposed consolidated tax adjustment is $511.66 million, offsetting approximately a quarter of the Company's proposed $2.02 billion rate base. This dramatic growth in the amount of the consolidated tax adjustment is cause for concern as to the soundness of the methodology and presumably will be considered in the 2013 Generic CTA Proceeding.

In view of this concern, the most advisable course is to defer implementation of a consolidated tax adjustment at this time pending completion of the 2013 Generic CTA proceeding. Upon completion of that proceeding, a reasonable consolidated tax adjustment can be made in a Phase II in this matter.

Excess Cost of Removal Reserve

In JCP&L's prior base rate case, the Board determined that estimated net salvage should no longer be recovered through depreciation rates but instead should be recovered separately as an expense item in base rates. 2004 JCP&L Order. Net salvage is the difference between the gross salvage and the cost of removal of the plant. In the 2004 JCP&L Order, the Board did not address the disposition of the related excess cost of removal balance included in the accumulated depreciation reserve.

In this proceeding, petitioner proposes to amortize the net excess cost of removal in the amount of $107.2 million over the average remaining life of plant of 28.51 years. In effect, this amortization at a rate of $3.8 million per year returns the net excess cost of removal to ratepayers over 28.51 years. In conjunction with the amortization, petitioner added $107.2 million to rate base to reflect the removal of that amount from the accumulated depreciation reserve, which reduces rate base.

Rate Counsel opposes the proposed addition of $107.2 million to rate base. According to Rate Counsel, the $107.2 million excess cost of removal reserve has been funded by ratepayers, and therefore, during the course of the amortization, the unamortized excess cost of removal reserve should remain as a rate base deduction. Staff supports Rate Counsel's position.

Petitioner offers several arguments in support of its position. First, petitioner maintains that ratepayers have received the benefit of a return on the full amount of this rate base deduction since 2003. In the event that the ratepayers receive a return on the excess cost of removal, it should be based on the unamortized balance that is declining over time as the amount is being returned to ratepayers as opposed to the full beginning balance. Second, any such return should reflect the ratepayer benefit already received since the conclusion of the Company's last base rate case. Third, an amortization period based on remaining asset life will need to be adjusted to reflect any changes to remaining plant lives resulting from the new depreciation study filed by the Company on June 14, 2013, or as otherwise adopted by the Board in its decision in this case.

The $107.2 million in the net excess cost of removal reserve are ratepayer-supplied funds, and therefore, it is appropriate for ratepayers to receive the benefit thereof, irrespective of whether the situation is characterized as a return to ratepayers or a reduction to rate base. It follows that there is no merit to petitioner's contention that the $107.2 million should simply be added to rate base or that the ratepayers in effect received a windfall by having the net excess cost of removal included in the deprecation reserve since the conclusion of the Company's last base rate case. The appropriate treatment would have the unamortized excess cost of removal reserve remain as a rate base deduction, which would decline over time. The length of the amortization should be adjusted to reflect any changes in deprecation rates approved in this proceeding.

Based upon the above, I **FIND** that petitioner's proposed adjustment adding $107.2 million to rate base is unreasonable and should not be approved and that the unamortized excess cost of removal reserve should remain as a rate base reduction, which will decline over time, with the length of the amortization adjusted to reflect any changes in depreciation rates approved in this proceeding.

Customer Refunds

Rate Counsel proposed an adjustment to reduce rate base by $1.16 million to reflect customer refunds, which would include items such as overpayments, billing errors or final closeout credit balances. The rationale for the adjustment is that the refund balances represent ratepayer-supplied funds that are continually and consistently carried on the Company's books. The amount of the adjustment is based on the thirteen-month average balances for the test year.

The Company argues that there is no Board precedent for the adjustment and that the level of refunds is merely an accounting convention that is necessary to properly account for refunds that JCP&L must make to customers and is in no way related to the proper level of plant in service. Further, the balances are based on total company figures and include transmission operations and reconcilable tariff riders such as Basic Generic Service (BGS) and the Societal Benefits Charge (SBC). Only twenty-seven percent of the amount of customer refunds on the Company's books relate to the distribution portion of the customer bill.

During surrebuttal testimony, Rate Counsel's witness accepted the limitation to distribution base rates only. The effect of this change is to reduce the adjustment to $314,000.

The customer refunds are ratepayer-supplied funds and therefore should be deducted from rate base. The amount of the adjustment should be limited to the portion of the customer refunds related to distribution base rates only. Therefore, I **FIND** that this adjustment reducing rate base by $314,000 is reasonable and should be approved.

Unamortized Net Loss on Reacquired Debt

As explained by the Company's witness, under Generally Accepted Accounting Principles (GAAP), if debt is terminated or significantly modified, the Company must recognize, with a charge to income or expense, any gain or loss associated with the termination and any deferred issuance costs in the period the debt is terminated or significantly modified. Deferred net unamortized gain or loss on reacquired debt occurs when there is a redemption or reacquisition of long-term debt and there exists remaining unamortized original debt expense or discounts and/or other financing costs related to the original debt issuance. The balance of the net gains or losses on reacquired debt is amortized to interest expense over the remaining original life of the debt. The Board has long required the reclassification of the amortization of the net loss on reacquired debt from interest charges to operating expenses.

These costs are treated as regulatory assets for financial reporting purposes, because they qualify as such under GAAP due to the approval of the Board to recover those deferred gains and losses. The unamortized amount is reflected in rate base. In this case, the Company proposes an amortization of the net loss on required debt of $1.773 million and an addition to rate base of $17.920 million.

Rate Counsel proposes two modifications to the Company's proposed adjustment. First, Rate Counsel contends that the Company calculated its adjustment using total Company data rather than only the distribution portion. In response to a request by Rate Counsel, the Company quantified the distribution portion of its total electric balance for the net loss on reacquired debt at 78.78 percent. Application of this percentage reduces the amortization to $1.397 million and the adjustment to rate base to $14.118 million. The Company does not dispute this modification to its proposed adjustment.

In regard to the second modification, Rate Counsel maintains that there is an associated deferred income tax balance that offsets the unamortized net loss on reacquired debt. Further, the Company has failed to recognize this deferred tax benefit in this case. Rate Counsel calculated the offsetting tax benefit by applying the composite tax rate of 40.85 percent to the distribution-related net loss on the reacquired debt balance. Rate Counsel would further reduce the Company's proposed addition to rate base by $5.767 million to $8.351 million. The Company contends that its proposed adjustment was made in its last base rate case without an offsetting amount of accumulated deferred income taxes. Staff supports Rate Counsel's position.

Deferred income taxes are normally recognized as a reduction to rate base, and the Company confirmed the existence of an associated accumulated deferred income tax balance. Under the circumstances, the Company's proposed adjustment should be modified to reflect deferred tax benefits. Therefore, I **FIND** that Rate Counsel's position reducing the amortization expense to $1.397 million and the adjustment to rate base to $8.351 million is reasonable and should be approved.

<u>TMI-2 Non-Qualified Decommissioning Trust Fund Deferred Tax</u>

In JCP&L's 2002 base rate case, the Board approved the Company's proposal to include an addition to rate base for the deferred taxes related to the TMI-2 non-qualified decommissioning trust fund. The Company did not include a similar addition to rate base in this proceeding, because the asset will be eliminated by the end of 2013.

Rate Counsel opposes the elimination of this $19.8 million item, because the underlying change by the end of 2013 is too far beyond the 2011 test year to be given rate recognition in this case. Staff supports Rate Counsel's position, while the Company did not actively oppose the adjustment.

Rate Counsel's argument is persuasive that the underlying change at the end of 2013 is too far beyond the end of the 2011 test year. Therefore, I **FIND** that Rate Counsel's proposed adjustment is reasonable and should be approved.

2011 Major Storm Costs

In the portion of the Storm Costs Proceeding related to JCP&L, In the Matter of the Board's Review of the Prudency of Costs Incurred by Jersey Central Power & Light Company in Response to Major Storm Events in 2011 and 2012, Docket No. EO13050391 (March 19, 2014), the Board approved a Stipulation of Settlement, which specified the amounts of the prudently incurred capital costs and deferred operation and maintenance ("O&M") expenses for the major storms of 2011 and 2012.

For the 2011 major storm costs, the Board approved $74,007,396 in capital expenditures and $81,912,314 in deferred O&M expenses. For the 2012 major storm costs, the Board approved $333,184,830 in capital expenditures and $247,003,027 in deferred O&M expenses. In accordance with the Board's Order dated March 19, 2014, the method of recovery the 2012 major storm costs remains under consideration in the Storm Costs Proceeding.

In this proceeding, the deferred O&M expenses from the 2011 major storms will be considered below, and capital expenditures of $74,007,396 will be included in rate base.

B. Rate of Return

JCP&L requests approval of an overall rate of return of 8.61 percent, based upon a capital structure composed long-term debt and common equity. The parties differ as the return on equity, the cost of long-term debt and the capital structure.

Return on Equity

Petitioner presented the testimony of Pauline M. Ahern as its expert witness concerning the return on equity. Ms. Ahern utilized the discounted cash flow (DCF) method, the risk premium method (RPM) and the capital asset pricing model (CAPM) to estimate the required return on equity for JCP&L. As a wholly-owned subsidiary of FirstEnergy, JCP&L's stock is not publicly traded. Therefore, Ms. Ahern analyzed data for a proxy group of nine electric companies and another comprised of five combination gas and electric companies. In addition, Ms. Ahern considered market data for two proxy groups of non-price regulated companies comparable in risk to her primary utility proxy groups. Ms. Ahern took into account all methods for each proxy group to arrive at her recommendation.

Under the DCF method, a representative dividend yield is combined with a growth rate to produce the return on equity. For her updated recommendation, Ms. Ahern calculated unadjusted dividend yields by dividing a recent annual dividend by the average closing price for the sixty trading days ending June 28, 2013. Since utility dividends generally increase from year to year and are paid quarterly, Ms. Ahern adjusted her findings to capture one-half of the anticipated annual growth of dividends. As adjusted, Ms. Ahern's recommended dividend yield averaged 3.75 percent for the electric group and 3.88 percent for the electric and gas group.

For the growth rate, Ms. Ahern reviewed projections of five year growth in earnings per share by financial analysts and published by services such as Value Line. When combined with the adjusted dividend yields, the DCF method produced a return of 9.01 percent for the electric group and 8.84 percent for the electric and gas group.

The RPM looks first at the cost of long-term debt and then adds an appropriate risk factor, or premium, to recognize the greater risk associated with a common equity investment. Ms. Ahern used the predictive risk premium model and the risk premium using an adjusted market approach for both the group of nine electric companies and the group of five combination electric and gas companies. The averages of the two models were 11.22 percent for the group of nine electric companies and 11.72 percent for the group of five combination electric and gas companies.

Ms. Ahern also employed the CAPM, which is derived from modern portfolio theory. Under this method, the rate of return on a common stock is equal to the sum of the risk-free rate and a market risk premium for the particular security. The market risk premium is adjusted to reflect the systematic risk of the individual security relative to the total market as measured by beta. As the risk-free rate, Ms. Ahern used the consensus forecast of the reporting economists in the September 1, 2012 Blue Chip Financial Forecasts of the expected yields on the thirty-year U.S. Treasury bonds for the six quarters ending with the fourth calendar quarter of 2013 of 3.02 percent averaged with the historical arithmetic mean income return on long-term U.S. Treasury bonds of 5.32 percent. Ms. Ahern relied on the historic returns, because the Federal Reserve is keeping interest rates low amid concern over the struggling U.S. economy. Because the yields are at historical lows, they are not representative of either long-term economic and capital market trends or the long-term nature of the cost of capital. The result is a risk-free rate of 4.17 percent for applications of the CAPM. To calculate the expected equity risk premium, Ms. Ahern used an average of the most recent thirteen weeks ending September 14, 2012, three to five year median total market price appreciation projections from Value Line resulting in a total annual return of 17.01 percent. The forecasted total market equity risk premium is derived by deducting the 4.17 percent risk-free rate from the total annual return.

The two utility proxy groups had identical betas of 0.70. In addition to the traditional CAPM, Ms. Ahern also used the Empirical Capital Asset Pricing Model (ECAPM). As a result, the average of the CAPM and the ECAPM produces identical return rates of 10.53 percent for both proxy groups.

As a final proxy group, Ms. Ahern used a group of comparable domestic, non-price regulated companies. With limited exceptions, Ms. Ahern applied the DCF, RPM and CAPM in an identical manner. The results for two proxy groups of comparable non-price regulated companies were 10.60 percent and 10.25 percent.

Ms. Ahern added adjustments for flotation costs and credit risk. The purpose of the flotation adjustment of 0.14 percent is to capture the costs associated with the sale of new issuances of common stock such as market pressure, underwriting fees and out-of-pocket expenses such as printing, registration and legal representation. According to Ms. Ahern, these costs are not reflected in market prices paid by investors, and there is no other mechanism in the rate-setting process by which such costs can be recovered.

Ms. Ahern also made a credit risk adjustment of 0.33 percent for her electric group and 0.25 percent for the electric and gas group. The purpose of the adjustment is the reflect the fact the JCP&L has somewhat greater credit risk than the companies in the proxy groups.

Ms. Ahern concluded that JCP&L's cost of equity falls within the range of 10.8 percent and 11.0 percent. Based upon Ms. Ahern's findings, the widespread expectation that capital costs will continue to rise during the next several years and his own assessment of JCP&L's weakened financial condition, FirstEnergy's Senior Vice President James F. Pearson requested that the Company's authorized return on equity be set at 11.0 percent.

Rate Counsel presented the testimony of Matthew I. Kahal, who recommended a return on equity of 9.25 percent. Mr. Kahal relied primarily on the DCF model, which he applied to a proxy group of electric distribution utility companies. The DCF model cannot be applied directly to JCP&L, because it is a wholly-owned subsidiary of FirstEnergy. None of the companies in Mr. Kahal's proxy group is considered "vertically integrated" or has substantial unregulated generation.

For the dividend yield component of the DCF model, Mr. Kahal compiled the month-ending dividend yields for the six months ending April 2013. The dividend yields averaged 4.24 percent for the full six months. Mr. Kahal adjusted this percentage using the standard "half year" growth rate adjustment technique to 4.3 percent.

As explained by Mr. Kahal, the growth rate in question is the long-run dividend per share growth rate, but analysts frequently use earnings growth as a proxy. Instead of analyzing historic data, Mr. Kahal relied on estimates prepared by securities analysts of five-year growth rates and reported in public surveys. From a review of estimated growth rates, Mr. Kahal determined a reasonable range of growth rates to be from 4.0 to 5.2 percent.

The sum of the dividend yield and the growth rate produces a range from 8.3 percent to 9.5 percent with the midpoint of 8.9 percent. Mr. Kahal did not include an adjustment for the recovery of flotation expense, because there is no need to include, in rates being set in this case, an expense that was incurred by the parent company approximately ten years ago.

As a check on his analysis, Mr. Kahal conducted a DCF study using thirteen of Ms. Ahern's fifteen utility proxy companies. With one exception, Ms. Ahern's proxy companies are vertically integrated electric utilities, meaning that they have generation supply operations. Mr. Kahal opined that Ms. Ahern's proxy companies are riskier than JCP&L. Ms. Ahern's DCF results were approximately 8.9 to 10.4 percent for her proxy groups.

For this group of proxy companies, Mr. Kahal used an average dividend yield of 3.81 percent for the period ending April 2013 and an adjusted dividend yield of 3.9 percent. As the growth rate, Ms. Kahal used 4.5 to 5.0 percent as a reasonable range. These figures produce a DCF return range of 8.4 to 8.9 percent with a midpoint of 8.7 percent with no adjustment for flotation expense. Mr. Kahal expressed the view that these results support his recommendation of 9.25 percent as the return on equity for JCP&L.

Mr. Kahal also conducted a cost of equity study using the CAPM method. Mr. Kahal used betas that were very similar to those chosen by Ms. Ahern. For the yield on a risk-free asset, Mr. Kahal used thirty-year Treasury yields, which averaged 3.0 percent during the last six months. By comparison, Ms. Ahern used a risk-free rate of 4.17 percent, which is sharply higher than the more current value. Finally, Mr. Kahal used an equity risk premium range of 5.0 to 8.0 percent. With a beta of 0.71 and these inputs, the CAPM calculation produced a cost of equity range of 6.6 to 8.7 percent with a midpoint of 7.6 percent. Mr. Kahal did not place any reliance on those CAPM returns in formulating his recommendation as to the return on equity due to unusual conditions in the Treasury bond market and the current actions by the Federal Reserve to hold down interest rates.

In regard to Ms. Ahern's credit risk adjustment, Mr. Kahal stated that once Ms. Ahern concedes that JCP&L's business risk does not exceed the proxy group, then there is no need to increase the return on equity. Further, since JCP&L proposes a stronger than average capital structure in this proceeding, there is no need to consider financial risk. Additionally, JCP&L's weaker than average credit rating is attributable to FirstEnergy's unregulated operations. This should not serve as a basis for increasing JCP&L's authorized return on equity.

The only data supporting Ms. Ahern's 0.15 flotation expense adjustment is a 2003 FirstEnergy stock issuance. According to Mr. Kahal, this ten-year old expense is too far in the past for inclusion in the cost of service in this rate case. Moreover, there is no indication that FirstEnergy plans a public stock issuance in the near term. Finally, for the flotation expenses incurred by FirstEnergy, the adjustment would be no more than 0.03 percent. AARP supports Rae Counsel's recommended return on equity of 9.25 percent.

Gerdau sponsored the testimony of Kevin W. O'Donnell in regard to the rate of return. Mr. O'Donnell began his analysis with the DCF model which is based on a combination of the current dividend yield with the future growth in dividends. As proxies for JCP&L, Mr. O'Donnell used FirstEnergy and the two utility comparable company groups developed by Ms. Ahern. Mr. O'Donnell used proxy companies because

JCP&L's stock is not publicly traded. Mr. O'Donnell chose to use Ms. Ahern's two comparable groups, which he combined into one, due to the unavailability of publicly traded "distribution only" electric utilities.

For the dividend yield, Mr. O'Donnell averaged the expected dividend yields over recent periods for each comparable company. The results were dividend yields of 3.7 to 3.8 percent for the comparable group and 5.1 to 5.5 percent for FirstEnergy. For the growth rate, Mr. O'Donnell used several methods including the plowback ratio method, the historical compound rates of change, the forecast compound rates of change and the forecast rate of change in earnings per share. Placing more emphasis on forecasted than historical figures, Mr. O'Donnell concluded that the proper growth rate was in the range from 4.75 to 5.25 percent. Combining the comparable group's dividend yield with the growth rate produces a DCF range of 8.45 to 9.05 percent.

For FirstEnergy, the growth rate would be in the range of 3.0 to 3.5 percent. Combining these growth rates with a dividend yield of 5.1 to 5.5 percent produces of DCF range of 8.1 to 9.0 percent.

Mr. O'Donnell performed a comparable earnings analysis to assess the reasonableness to his DCF results and to provide an independent methodological estimate of the return that investors would consider reasonable for JCP&L. For this purpose, Mr. O'Donnell used earned and forecasted returns on equity for the comparable group over the period of 2012 through 2018. This period combines one year of historical returns with forecasted data. This study indicated that a proper return using a comparable earnings analysis is in the range of 8.5 to 10.0 percent for companies that are in general risker than JCP&L.

Mr. O'Donnell's specific recommendation for JCP&L's return on equity is 8.9 percent. This figure is at the high end of the DCF results and within the low end of the range of results for the comparable earnings analysis.

Walmart presented the testimony of Stephen W. Chriss, who maintained that the Company's proposed return on equity is excessive in light of current economic conditions faced by the Company's customers. The Company's request to implement its proposed AREP mechanism outside of base rates is unwarranted for similar reasons. According to Mr. Chriss, the fact that the Board had to order JCP&L to file a base rate case indicates that the Company found the return on equity of 9.75 percent approved in its last base rate case sufficient for its operations.

Staff reviewed the testimony and exhibits in the record, and based upon its analysis, Staff recommends a return on equity of 9.75 percent. Staff noted that the Board has approved a return on equity of 9.75 percent for several other utilities in recent years, e.g., In the Matter of the Petition of Atlantic City Electric Company for Approval of Amendments to Its Tariff to Provide for an Increase in Rates and Charges for Electric Service Pursuant to N.J.S.A. 48:2-21 and N.J.S.A. 48:2-21.1 and Other Appropriate Relief, ER11080469 (October 23, 2012). Further, the Staff relied on data from SNL Financial showing that in recent years the average return on equity authorized by regulatory commissions for investor-owned utilities was 9.98 percent, that the range of reported authorized rates of return for that period was 9.00 percent to 10.50 percent with a mid-point of 9.75 percent, that the median authorized rate of return was 10.00 percent and that the average reported return on equity for distribution only utilities was 9.72 percent. Additionally, interest rates have fallen since the Board approved a return on equity of 9.75 percent in the Company's last base rate case, indicating that Staff's recommendation is better than the same return on equity that the Company was awarded in its last base rate case.

Each method has multiple factors, and the parties have offered numerous criticisms of the choices made by opposing expert witnesses. A key consideration concerns the time period used by the experts in selecting a dividend yield under the DCF model or the risk-free rate under the CAPM method due to the fact that interest rates have been at historic lows in recent years. For example, with the CAPM method, Ms. Ahern used interest rates on thirty-year Treasury bonds going as far back as 1926 producing an average of 5.32 percent, which led to a risk free rate of 4.17 percent. As Mr. Kahal points out, rates on thirty-year Treasury bonds have been closer to 3.00 percent in recent years. In contrast, Mr. Kahal based the dividend yield under his DCF analysis on results from the six months ending April 2013. Development of the dividend yield from data during a period of historically low interest rates may produce a result which is lower than will prevail when the new rates are in effect. Mr. O'Donnell's analysis in this respect is similar to that of Mr. Kahal.

Ms. Ahern's contention that there should be an adjustment for flotation costs is unpersuasive. FirstEnergy has not had an issuance of equity in ten years, and there is no showing of any connection between the size of the adjustment and the amount of the costs. Likewise, Ms. Ahern's contention that there should be a credit risk adjustment of 0.33 percent for her electric group and 0.25 percent for her electric and gas group is also unpersuasive. As Mr. Kahal points out, Ms. Ahern's proxy groups which include companies with generation operations are likely riskier than JCP&L.

The various criticisms indicate that a fair return on equity is lower than Ms. Ahern's recommendation and higher than those of Mr. Kahal and Mr. O'Donnell. On balance, the criticism of Ms. Ahern's presentation seemed more telling. Under the circumstances, Staff's position is the most reasonable position supported by the record. Therefore, I **FIND** that a return on equity of 9.75 percent for JCP&L is fair and reasonable and should be approved.

Capital Structure/Cost of Long-Term Debt

To develop an appropriate capital structure for ratemaking purposes, the Company began by eliminating balances of short-term debt and securitized debt. These changes are not in dispute and produced a capital structure composed of 39.2 percent debt and 60.8 percent equity as of June 30, 2012.

The Company next adjusted the capital structure to reflect the issuance of $500 million in long-term debt in August 2013. The purpose of the adjustment was to reflect the capital structure during the first full year when the rates will be in effect. As a result of the adjustment, the overall embedded cost of long-term debt decreased from 6.26 percent to 5.82 percent, which was later updated to 5.93 percent.

Rate Counsel opposes this adjustment to the capital structure for two reasons. First, this issuance is too far beyond the end of the historic test year to be incorporated into the ratemaking capital structure. Second, a major portion of JCP&L's actual capital structure is goodwill, which is an accounting adjustment to the Company's balance sheet that occurred in conjunction with the GPU/FirstEnergy merger approximately a decade ago. According to a data response, "the first $1.8 billion in goodwill on [JCP&L's] books represents a premium over book value that FirstEnergy paid for GPU." In effect, by including goodwill in the ratemaking capital structure, FirstEnergy is seeking cost recovery, in the form of a return on rate base, of its merger acquisition premium.

According to Mr. Kahal, this is improper for two reasons. First, the merger acquisition premium should not be considered to be part of the cost of providing utility delivery service. Second, the Board's Order approving FirstEnergy's indirect acquisition of JCP&L specifically disallowed recovery of transaction costs and, in particular, goodwill "in all subsequent rate cases" and "shall not be included in JCP&L's test-year cost of service or otherwise charged to JCP&L's customers for ratemaking purposes." FirstEnergy Merger Order, p.22. According to Mr. Kahal, under JCP&L's proposed capital structure ratepayers would be charged for goodwill and the FirstEnergy acquisition premium contrary to the Board's Order.

Without the adjustment to include the additional $500 million in long-term debt, JCP&L's capital structure would be composed of 39.2 percent debt and 60.8 percent equity. This capital structure would be too costly from the ratepayer's perspective. Conversely, elimination of goodwill would produce a capital structure that is overleveraged and too risky. Instead, Mr. Kahal recommended a hypothetical capital structure of 50.0 percent long-term debt and 50.0 percent common equity. The 50/50 capital structure would be roughly in line with companies in Mr. Kahal's and Ms. Ahern's proxy groups. Moreover, the 50/50 hypothetical capital structure is the midpoint of the 45.0 to 55.0 percent target equity ratio range that the Company has recognized as reasonable for credit quality and ratemaking purposes. Mr. O'Donnell also recommended a 50/50 hypothetical capital structure for similar reasons. Staff supports the proposed hypothetical capital structure of 50.0 percent debt and 50.0 percent equity.

The Company maintains that it is not the composition of book equity that is relevant for ratemaking purposes. Rather, the question is whether the utility's capital structure ratios fall within a reasonable range of expected values and will enable the utility to maintain a financial profile deserving of solid investment grade ratings. Further, the Company maintains that it is not requesting to recover the acquisition premium, or goodwill, associated with the FirstEnergy/GPU merger.

Rate Counsel's arguments in regard to this issue are persuasive. Approval of the Company's proposed adjustment to include the $500 million in long-term debt would violate the matching principle in that the issuance in August 2013 was too far outside the 2011 test year. It follows that the proposed adjustment is unreasonable and should not be approved.

Without the adjustment, the capital structure is unreasonable in that the equity component is too large at 60.8 percent. Rate Counsel's proposed hypothetical capital structure with 50.0 percent equity and 50.0 percent debt is at the midpoint of the range considered reasonable. Therefore, I **FIND** that a hypothetical capital structure with 50.0 percent equity and 50.0 percent debt is reasonable and should be approved.

Reflecting its proposed adjustment to include $500 million in long-term debt issued in August 2013, the Company's embedded cost of long-term debt was originally 5.82 percent, which was updated to 5.93 percent. Without the adjustment, Rate Counsel calculated the embedded cost of debt to be 6.26 percent. Staff supports the 50/50 hypothetical capital structure without taking an explicit position on the debt issuance of $500 million in August 2013. Nonetheless, Staff bases its recommendation on the Company's proposed embedded cost of long-term debt. Similarly, Gerdau proposed a 50/50 hypothetical capital structure without taking a position on the August 2013 debt issuance. However, Gerdau evidently continued to use the original embedded cost of long-term debt of 5.82 percent.

The Company's proposed adjustment to include $500 million in long-term debt issued in August 2013 in the capital structure was not approved herein. Therefore, both the amount of the debt issuance and its cost should not be included in the calculation of the embedded cost of long-term debt. Therefore, I **FIND** that an embedded cost of long-term debt of 6.26 percent is reasonable and should be approved.

C. Pro Forma Operating Income

Revenue Annualization

The Company proposed a weather normalization adjustment which reduces pro forma test year revenues by $27,520,031 to $577,462,693. Rate Counsel does not dispute this adjustment.

Rate Counsel proposed a separate adjustment due to the fact that the Company based pro forma revenues on the average number of customers during the 2011 test year. Rate Counsel would re-state the test year sales level based on the number of customers as of June 30, 2012, rather than the average number for 2011. The rationale for the adjustment relates to the fact that the Company re-stated its rate base based on actual balances as of June 30, 2012, which is six months beyond the end of the 2011 test year. In addition, the Company's proposed depreciation expenses have been annualized based on the depreciable plant in service balances as of June 30, 2012. Rate Counsel maintains that the proposed adjustment will properly match revenues with the Company's rate base and depreciation expense. The adjustment would increase pro forma revenues by $823,138. Staff supports Rate Counsel's proposed adjustment.

The Company points out that it does not annualize most expenses based on test year-end levels. As a result, Rate Counsel's adjustment matching revenues with rate base and depreciation expense as of June 30, 2012, creates a mismatch with most operating expenses. Therefore, the Company opposes the proposed adjustment.

In JCP&L's 2002 base rate case, the Company used the year-end plant-in-service balance and annualized its depreciation expense based on year-end plant. In response, Rate Counsel proposed an adjustment based on the test year-end number of customers. In that case, the Board approved Rate Counsel's adjustment to match the test year-end number of customers with test year-end rate base and annualized depreciation expense.

This case differs in that the Company adjusted rate base and depreciation expense to the levels at June 30, 2012, which is six months beyond the end of the test year, as opposed to the test year-end level. Under the circumstances, there is a greater timing difference between rate base and depreciation adjusted to June 30, 2012, and all other expenses. Nonetheless, on balance, Rate Counsel's proposed adjustment is more similar to Board precedent than the Company's position. Therefore, I **FIND** that Rate Counsel's proposed adjustment increasing pro forma revenues by $823,138 is reasonable and should be approved.

BPU and Rate Counsel Assessments

BPU and Rate Counsel assessments are based on the Company's gross operating revenues. N.J.S.A. 48:2-60; N.J.S.A. 52:27EE-52. To reflect the impact of its revenue annualization, Rate Counsel proposes an adjustment to increase BPU and Rate Counsel assessments. Despite opposing Rate Counsel's revenue normalization adjustment, the Company agrees that any adjustment to pro forma revenues flow through the assessment adjustment. Therefore, I **FIND** that Rate Counsel's adjustment increasing the pro forma assessments is reasonable and should be approved.

Net Loss on Reacquired Debt

The reclassification of the amortization of the net loss on reacquired debt from interest charges to operating expense was discussed above with respect to its impact on the Company's rate base. This amortization also impacts operating expenses.

The Company originally quantified the amortization of the net loss on reacquired debt at $1,772,706. As with rate base, Rate Counsel noted that the amortization amount represents the Company's total electric amortization expenses rather than only the distribution-related amortization expense portion. The distribution portion of the total electric amortization expense for the net loss on reacquired debt is 78.78 percent. As a result, Rate Counsel proposes a reduction in the amount of the amortization to 78.78 percent of $1,772,707, or by $376,169, to $1,396,538. Staff supports Rate Counsel's position, and the Company does not dispute the adjustment. Therefore, I **FIND** that Rate Counsel's adjustment decreasing pro forma operating expenses by $376,169 is reasonable and should be approved.

Rate Case Expenses

The Company's original filing included a detailed estimate of rate case expenses in the aggregate amount of $2,348,000. The Company proposed to amortize this amount over four years producing an annual expense of $587,000 to serve as a proxy for the normal level of ongoing rate and regulatory expenses. In its rebuttal testimony, the Company updated the total estimated rate case expenses to $3,208,101, which is the actual level of rate case expenses incurred for its 2002 base rate case. With a four-year amortization, the updated annual expense is $802,025.

Rate Counsel proposes two adjustments to the Company's proposal. The first adjustment reduced the expense by fifty percent such that shareholders and ratepayers would share responsibility for rate case expenses. In response, the Company argues that the 50/50 sharing of rate case expenses should not apply where the utility was specifically ordered to file a base rate case. Since the Company was ordered to file this base rate case, petitioner contends that sharing of rate case expenses is not appropriate.

Rate Counsel's second adjustment would extend the amortization period to six years. The basis for this adjustment is that the rates from the Company's last base rate case became effective August 1, 2003. With any rate changes from this case likely to become effective in or after 2014, a period in excess of ten years expired since the Company's 2002 base rate case. Under the circumstances, Rate Counsel viewed the recommended six-year amortization as appropriate. In response, the Company maintains that a normal level of expense associated with rate and regulatory proceedings has traditionally been recognized by the Board for recovery in base rates. Further, the four-year amortization proposed by the Company for rate case expenses is a reasonable proxy for a normal regulatory expense level and the usual passage of time between base rate cases.

Rate Counsel's proposed adjustment would reduce the annual rate case expense from $802,025 to $267,342. Additionally, Rate Counsel maintains that the Company's projected expenses should be adjusted at the conclusion of the case to reflect actual rate case expenses through the completion of the case. Staff supports Rate Counsel's position.

The Company's current filing and its 2002 base rate case are similar in that the earlier case was in effect mandated in connection with restructuring and unbundling. Further, the 2002 filing came ten years after the Company's prior base rate case which was filed in late 1991. In its decision in the 2002 base rate case, the Board determined that the circumstances did not warrant a deviation from the Board's long-standing policy to share rate case expenses on a 50/50 basis between ratepayers and shareholders. Further, the Board approved a four-year amortization of rate case expenses.

In view of the Board's determination in the Company's 2002 base rate case, the fact that the Company was ordered to file this case should not make a difference. Further, despite the fact that both of the Company's most recent base rate cases were filed ten years after the previous filings, the periods seem unusually long and that a four-year amortization would be more reasonable. Finally, the Company should update its actual expenses for this proceeding.

Based upon the above, I **FIND** that an annual rate case expense of $401,013, representing a 50/50 sharing of rate case expenses between ratepayers and shareholders and a four-year amortization is reasonable and that the Company should file an update to its actual rate case expenses in this proceeding with its replies to exceptions for the Board's consideration.

Costs to Achieve Merger Synergy Savings

On February 11, 2010, FirstEnergy, the parent of JCP&L, announced its intent to acquire Allegheny Energy, Inc., based in Greensburg, Pennsylvania. The merger was completed on February 25, 2011. In April 2010, merger transition teams were formed with employees from both companies and given the assignment to integrate the business processes and information technology systems of the two companies. During this process, the teams identified potential synergy savings from efficiencies and cost savings that may be realized by the combined FirstEnergy through the merger. The Company maintains that costs related to materials, outside services and employee separation were incurred in connection with achieving synergy savings and now seeks recovery thereof.

In support of the adjustment, the Company argues that the combination of the two companies produced savings in administrative and general ("A&G") expenses for corporate activities, a portion of which is allocated to JCP&L. Further, the increase in the number of companies receiving corporate or central services reduces the allocation to JCP&L. The indirect cost allocation to JCP&L declined from 17.62 percent in 2009 to 16.40 percent in 2010 and 14.83 percent in 2011. The allocation of indirect corporate costs to the Allegheny Energy companies will lower JCP&L's share beyond the test year and into the future. The calculation also captures variances in indirect corporate cost allocations from initiatives not related to the merger, but the Company maintains that it is reasonable to conclude that any initiatives that were not merger related would likely not contribute materially to the variation. The Company quantified the savings in the test year in cost allocated to JCP&L at $6,422,161.

Further, customers of JCP&L received other benefits from the merger. As part of a Stipulation in the merger case, JCP&L agreed to reduce the deferred balance of its Non-Utility Generation Charge ("NGC") on its books by $13,125,595, including carrying costs. This amount represents a portion of the JCP&L net merger synergy savings. Under the Stipulation, JCP&L reserved the right to seek recovery through rates of costs incurred to achieve merger synergy savings or to integrate the two organizations following the consummation of the transaction, and Board Staff and Rate Counsel reserved the right to challenge any costs.

JCP&L is requesting recovery of $14,466,766, amortized over three years at $4,822,255 per year. According to the Company, the merger resulted in benefits to JCP&L and its customers of approximately $19.5 million in the test year, inclusive of the NGC credit. Further, these benefits would not have been possible if the costs to achieve the merger savings had not been incurred.

Rate Counsel opposes this proposed adjustment for several reasons. First, Rate Counsel maintains that other factors could have caused the reduction in the indirect cost allocator. From 2005 to 2011, the actual JCP&L indirect cost allocator percentages declined from 20.15 percent to 14.83 percent compared to 16.40 percent to 14.83 percent from 2010 to 2011. During most of those years, there was a decline in the percentage with no merger. In Rate Counsel's view, the assumption that the reduction of the indirect cost allocator by 1.57 percent from 2010 to 2011 was solely or predominantly caused by the Allegheny merger is completely unsupported and unreliable. As a result, Rate Counsel recommended rejection of the entire proposed adjustment.

In response to this argument, the Company provided a schedule which shows that without the Allegheny companies, the allocation of indirect costs to JCP&L would have been 17.1 percent as opposed to 14.8 percent with those entities.

Second, Rate Counsel maintains that the merger has also resulted in detriment to the ratepayers. Rate Counsel notes that the Board's Order approving the merger includes a statement to the effect that credit downgrades for FirstEnergy occurred as a direct result of announcement of the merger and had a detrimental impact on the financial integrity of JCP&L.

Third, Rate Counsel maintains that the $14.5 million cost to achieve merger savings allocated to JCP&L has already been flowed through the Company's income statement and is no longer on the Company's books. Additionally, Rate Counsel points out that there is nothing in the record of this proceeding detailing exactly what costs are included in this amount, when the costs were incurred, and by whom. Further, in the Stipulation, the Company agreed that no merger transaction costs, as opposed to costs to achieve, would be passed on the ratepayers. Staff supports Rate Counsel's contention that the amortization expense of $4.288 million should not be permitted.

Finally, Rate Counsel contends that in the event that recovery is permitted, the amortization period should be six years rather than the three years proposed by the Company. With an amortization period as short as three years, if the Company's rates remain in effect for longer than three years, JCP&L could inappropriately over-collect the annual amortization expense of $4.8 million after three years when the rates were in effect.

The main difficulty with respect to this proposed adjustment to recover costs totaling $14.5 million is that the Company has said nothing more specific than that the costs to achieve "are related to materials, outside services and employee separation necessary to produce the synergy savings." As noted by Rate Counsel, the Company has failed to provide necessary information regarding exactly what costs are included in this amount, when the costs were incurred, and by whom. In the absence of this information, a determination cannot be made that the proposed recovery of these costs is reasonable. Under the circumstances, I **FIND** that the Company has failed to establish that the requested recovery of these costs is reasonable. It follows that the proposed adjustment should not be approved. Alternatively, in the event that recovery of these costs is permitted, the amortization period should be six years to prevent an overrecovery which would occur if the new rates remain in effect for more than three years.

Net Salvage and Cost of Removal

In the Company's 2002 base rate case, the Board accepted a recommendation to exclude estimated net salvage and cost of removal costs from depreciation rates and instead allow a separate recovery of these costs based on a five-year historical average of actual net salvage and removal costs. In directing JCP&L to use a five-year average, the Board stated, "a five year average of actual salvage expense in depreciation expense is reasonable as it more closely aligns the amount recovered in base rates with the historical level of expenses incurred." 2004 JCP&L Order.

Nonetheless, in this proceeding, the Company proposes to use a two-year average of historical costs for 2010 and 2011 in the amount of $4,762,102. This figure represents a downward adjustment of $1,717,374 relative to the 2011 test year amount of $6,479,476. In support of its position, the Company argues that the two-year average is more appropriate. Further, the 2012 amount of $5,142,016 excluding major storms confirms an upward trend.

Rate Counsel opposes use of a two-year historical average mainly based upon the view that this period is not a long enough time span to derive a reliable normalized net cost level. Rate Counsel maintains that a five-year historical rolling average has been implemented for Public Service Electric and Gas Company and Atlantic City Electric Company and a ten-year historical average for Rockland Electric Company. JCP&L's five-year historical average of actual net salvage and removal costs is approximately $2.4 million. Staff and AARP support Rate Counsel's position.

The Board has approved a five-year average based upon the view that it more closely aligns the amount recovered in base rates with the historical expense level in JCP&L's last base rate case as well as those of Public Service Electric and Gas Company and Atlantic City Electric Company. At this point, it is not clear whether the recent data presented by JCP&L represent a trend or aberrations. If there is a new trend, it will soon be reflected in each year of the five-year average. Meanwhile, the five-year average from 2007 to 2011 reflects actual historical experience during that period without distortion by a shorter term aberration. Therefore, I **FIND** that Rate Counsel's adjustment reducing the Company's two-year historical average of $4,762,102 by $2,346,633 to $2,415,469 is reasonable and should be approved.

Storm Damage Cost Amortization

In its petition and direct testimony, the Company requested of $89,504,499 in O&M costs for the 2011 major storms with a return on the unamortized balance equal to the overall rate of return. In the Storm Costs Proceeding, the Board approved a Stipulation which provides that the Company may recover from ratepayers $81,912,314 in deferred O&M costs associated with the 2011 major storms. The issues to be decided in this proceeding concern the amortization period for the recovery of the deferred O&M costs and the appropriate carrying charge on the unamortized balance.

In support of its requested three-year amortization period, the Company points out that the Board approved a three-year amortization period for deferred storm costs in the Company's last base rate case. Additionally, the Board approved a three-year amortization period for Atlantic City Electric Company's deferred storm costs for both the 2011 and 2012 major storms. Further, the Company maintains that a three-year amortization strikes an appropriate balance between JCP&L's need to recover the costs on a timely basis and the need to ameliorate the rate impact of such recovery.

With respect to the return on the unamortized balance, the Company argues that as the result of two devastating storms in a two-month period it had to rebuild significant sections of its distribution system in a matter of days to restore service to hundreds of thousands of impacted customers. The Company incurred real and significant costs to finance the O&M expenses. Therefore, the Company argues that the overall rate of return is the appropriate carrying charge.

Rate Counsel recommends a six-year amortization for deferred O&M related to 2011 storm damage. In support of this position, Rate Counsel points out that the proposed annual amortization amount for the 2011 deferred storm damage costs based on a three-year amortization is almost $30 million per year. If the new rates stay in effect for a period longer than three years, then the ratepayers run the risk of the Company overrecovering its storm damage cost at a rate of $30 million per year. This risk is very real in view of the fact that the rates from the Company's last two base rate cases remained in effect for ten years.

With respect to the return on the unamortized balance, Rate Counsel recommends the rate used for the Societal Benefits Charge (SBC), which is equivalent to the seven-year constant maturity Treasury rate plus sixty basis points, now equaling approximately four percent. The net effect is an annual deferred O&M cost amortization of $14,621,075, consisting of $13,652,052 for the deferred storm damage costs and $969,023 for the return on the unamortized balance during the six-year amortization period. Staff and AARP support Rate Counsel's position.

Rate Counsel's argument is persuasive that the amortization should be six years. An amortization of three years is too short in that it would create a risk of a substantial overrecovery if the new rates remained in effect for a longer period. In view of the fact that the rates from each of the Company's last two rate cases remained in effect for ten years, the risk of an overrecovery is very real.

The Company's arguments are more persuasive with respect to the return on the unamortized balance of deferred O&M costs. In fact, Rate Counsel offered no rationale for use of the SBC rate. Particularly with the longer amortization period, the Company should receive an adequate return so that it does not suffer a loss from delay in recovery of costs which were incurred of necessity to rebuild significant sections of its distribution system in a short period of time. Therefore, I **FIND** that recovery of $81,912,314 in deferred O&M costs related to the 2011 major storms by means of a six-year amortization with carrying charges equal to the overall rate of return is reasonable and should be approved.

Forestry Maintenance Expense

The Company proposes an adjustment to normalize its tree trimming expense under its forestry maintenance program. According to the Company, the amount of this expense in the 2011 test year is abnormally low for two reasons. First, the Company lost eight weeks of planned tree trimming work due to the impacts of Hurricane Irene and the October 2011 snow storm. The result was under-spending of O&M funds with respect to the planned trimming cycle. Second, the Company had a corridor widening initiative in effect for several years ending during the 2011 test year. As this initiative winds down, funds will shift from the capital spending associated with corridor widening back to O&M spending associated with the traditional four-year cycle of vegetation management.

The Company quantified the adjustment in two ways. First, the actual normalization adjustment was calculated by subtracting the actual expense of $9,340,147 for the 2011 test year from the budgeted annual expense of $14,449,113 for the cycle commencing 2013, producing an adjustment of $5,108,966. Second, in a more specific analysis, the Company estimates the component related to the lost eight weeks of planned tree trimming work based on approximately 416 miles of additional O&M trimming work at an average cost per mile of $6,000 to be $2.5 million. The second component which related to the shift back from capital to O&M to reflect completion of the trim corridor widening initiative amounts to $2.6 million based on approximately 433 miles representing the average number of miles that the Company estimates were successfully widened each year and will now be included in on-going O&M vegetation management, less an estimate for increased opportunities for ongoing capital work at the same average cost per mile. These figures total $5.1 million.

Rate Counsel opposes the proposed adjustment for two main reasons. First, the adjustment is based on data for calendar year 2013, which represents a time period falling two years beyond the end of the 2011 test year. An adjustment based on data two years beyond the end of the test year would violate the Board's post-test year ratemaking policy that allows only expense changes occurring within nine months after the end of the test year to be recognized for ratemaking purposes. Second, the fully projected financial numbers from the Company's 2013 operating budget cannot be considered known and measurable changes to the test year that are carefully quantified through proofs which manifest convincingly reliable data as required by Board policy for post-test year adjustments.

The Company's argument is persuasive that unusual events impacted its tree trimming expense during the 2011 test year. Nonetheless, the fact remains that unusual events impacted the last three years of the five-year period from 2007 to 2011 suggesting that the estimated expense is not very firm under any circumstances. Further, the Company's budgeted annual expense of $14,449,113 is higher than any year during the period from 2007 to 2012 and considerably higher than the six-year average of $9.1 million.

The proposed adjustment cannot be considered a known and measurable change. The Company's figure of $14,449,113 is nothing more than a budgeted figure, and the Company's more specific analysis is actually based on estimates as well. Under the circumstances, I **FIND** that the Company's proposed adjustment is unreasonable and should not be approved.

Production-Related Regulatory Asset Amortization

The Company proposes an adjustment to accelerate the amortization of two production-related regulatory assets. One asset consists of the balance of deferred Oyster Creek design basis documentation costs in the amount of $3,407,101. The other asset consists of the balance of deferred TMI-1 design basis documentation costs in the amount of $1,481,760. The 2011 test year includes $83,004 for an amortization of the Oyster Creek design basis documentation costs over a period which will not be complete until forty-one years after 2011. The 2011 test year also includes $26,004 for an amortization of the TMI-1 design basis documentation costs over a period which will not be complete until fifty-seven years after 2011. The test year total for these two amortizations is $109,008. The Company proposes to amortize the balance of these production-related regulatory assets over three years to eliminate them from its balance sheet.

In support of the proposed adjustment, the Company traced the history of these two regulatory asset amortizations. According to the Company, these amortizations date back to the time when it had an ownership interest in the Oyster Creek and TMI-1 nuclear generation plants. Initially, the amortization was based only on the study costs incurred during the 1989 test year and represented only a portion of the total. The amortization periods were designed to coincide with the plants' operating lives. In its 1992 base rate case, the Company updated the balance for Oyster Creek and the amortization was set at $83,004. The Company updated the balances in its 2002 base rate case for Oyster Creek and TMI-1.

The Company maintains that it no longer has an ownership interest in Oyster Creek or TMI-1 and that except for the Yards Creek pumped storage hydroelectric facility is no longer in the generation business. The Company contends that under the circumstances the amortization periods are too long and that a three-year amortization would be more appropriate. The three-year amortization would produce an annual expense of $1,629,650 and an adjustment increasing pro forma operating expenses by $1,520,642.

Rate Counsel opposes the proposed adjustment, as there is no compelling reason to change the present amortizations. As recently as its 2002 base rate case, the Company proposed to reduce the length of the amortization to four years. In rejecting the Company's proposal, the Board stated that "without re-evaluating the issues previously decided by the Board in the prior proceeding where these amortization periods were approved, the delicate balance struck between the competing interest of ratepayers and shareholders might be upset." 2004 JCP&L Order. Staff and AARP support Rate Counsel's position.

There has been no change of circumstances related to this issue, since the Board rejected a similar proposal in the Company's 2002 base rate case. Therefore, I **FIND** that the proposed adjustment is unreasonable and should not be approved.

Account 935 Normalization

FERC Account 935 is entitled "Maintenance of General Plant." Rate Counsel notes that during the five-year period from 2007 to test year 2011 the actual Account 935 expenses were $1.55 million, $1.50 million, $1.56 million, $1.27 million and $2.74 million. Relative to the five-year average of approximately $1.72 million, the actual test year expense level of $2.74 million appears to be abnormally high. Therefore, Rate Counsel proposes to use the five-year historic average of $1.72 million as a normalized expense level for Account 935. This adjustment reduces the Company's test year expenses for Account 935 by $1,018,802.

The Company opposes Rate Counsel's adjustment for several reasons. First, the adjustment is based on stale data going back as far as 2007. Second, for Account 935, which is a subset of overall O&M expense for an electric distribution utility, it is inappropriate to single out one category of maintenance expense for "normalization" while ignoring the overall level of O&M for the relevant time period. According to a Company witness, the distribution O&M expense in 2011 is actually lower than the 2012 level.

In response, Rate Counsel contends that the Company's analysis mixed distribution only data with total Company data. Based on distribution only data, the 2011 O&M expenses were substantially higher than those for 2012, indicating that the Company's analysis supports the proposed adjustment. Staff agrees with Rate Counsel's proposed adjustment.

Rate Counsel's arguments in support of the proposed adjustment are persuasive. The test year level of expense of $2.74 million was substantially higher than the average of $1.47 million for the four-year period from 2007 to 2010. With respect to the Company's argument that the data from 2007 was stale, the expense from that year was substantially the same as 2009, which was higher than both 2008 and 2010. In fact, the 2011 test year expense of $2.74 million more than doubled the level of $1.27 million in 2010. Those circumstances indicate that the test year amount for this expense was abnormally high. The Company's argument that the overall level of distribution O&M expense was lower in 2011 than in 2012 is unpersuasive, because it is based on a mix of distribution only and total Company data. Under the circumstances, I **FIND** that Rate Counsel's proposed adjustment reducing Account 935 expense by $1,018,802 is reasonable and should be approved.

Incentive Compensation

Petitioner includes $8,418,907 in its test year expenses to reflect the cost of two incentive compensation programs. This figure includes $6,657,938 for the Short-Term Incentive Plan and $1,760,969 for the Long-Term Incentive Plan. These amounts represent incentive compensation included in the test year distribution expenses for both JCP&L direct charges and those allocated from FirstEnergy Service Company ("Service Company"). Petitioner proposes to charge the full amount of these incentive compensation expenses to ratepayers.

The Short-Term Incentive Plan provides annual cash incentive awards to employees whose efforts support the successful achievement of FirstEnergy's financial and operational goals. Forty percent of the incentive awards paid out under the Short-Term Incentive Program are tied to the achievement of certain FirstEnergy corporate financial criteria such as earnings per share and the debt-to-capitalization ratio, while sixty percent of the awards paid out are dependent on the achievement of certain FirstEnergy operational goals. Payment of the short-term incentive awards is contingent upon FirstEnergy achieving an earnings-per-share threshold level, after accounting for the cost of the payout. This provision makes 100 percent of the short-term incentive compensation dependent upon FirstEnergy's corporate financial performance during the award year.

The Long-Term Incentive Plan is designed to reward executives for achievement of FirstEnergy goals that are intended to increase shareholder value. This plan consists of the performance share program and the performance-adjusted restricted stock unit ("RSU") program. The performance share program is tied 100 percent to the achievement of FirstEnergy's total shareholder return. The incentive compensation paid out under the RSU program is dependent upon achievement of criteria with respect to earnings per share, safety and operational performance. The RSU program is tied partially to corporate financial performance and partially to operational performance measures.

Rate Counsel proposes an adjustment to remove the entire $8,418,907 from pro forma expenses. Rate Counsel advances several arguments in support of the adjustment. First, the incentive compensation expenses are dependent upon the achievement of FirstEnergy's improvements in earnings per share and total shareholder return, of which FirstEnergy's shareholders are the primary beneficiaries. Second, the Company's proposed incentive compensation expenses are not known and measurable. Third, during a time when employees in other industries have not had wage/salary increases as a result of the Great Recession and associated budget crises, JCP&L's employees that are eligible for incentive compensation have continued to receive base salary increases. Fourth, the Company has not presented any evidence in this case showing the specific benefits that accrue to ratepayers opposed to shareholders as a result of the incentive compensation plans for which these same ratepayers are asked to pay 100 percent of the costs. Fifth, there is no incentive for management to control the level of the incentive compensation cost if 100 percent of these costs can be flowed through to ratepayers. Sixth, "bonus compensation" should not be charged to ratepayers during the current difficult economic times. Staff supports Rate Counsel's position.

In rebuttal, the Company maintains that these plans, which it describes as "pay-at-risk" as opposed to "bonuses," produce costs which are reasonable and prudent and should be recovered in rates. In support of this position, petitioner maintains that it targets its overall compensation package including the incentive plans at the fiftieth percentile of the market median base salary. Without the incentive compensation, the total package would not be sufficient to attract qualified personnel necessary to meet the needs of all stakeholders. Secondly, the amounts for the two incentive programs reflect actual results from the test year and are therefore known and measureable. Third, Rate Counsel's argument concerning the Great Recession is not based on generally accepted ratemaking principles. Without such basis, the argument could justify the disallowance of any expenses. Fourth, the operational incentives are designed to improve the productivity of JCP&L employees and benefit customers with respect to service. Fifth, management must control its expenses because the Company must demonstrate the reasonableness and prudence of its costs in a base rate case. Lastly, the Company notes that in its last base rate case, the Board allowed the portions of its incentive compensation that were part of its collective bargaining agreements with its unions. In this case, the corresponding amount would be $2,677,949.

In addressing this issue in the 2004 JCP&L Order, the Board stated as follows:

> In accordance with long-standing Board policy on the issue of management incentive compensation, the Board **HEREBY FINDS** the recommendations of the Ratepayer Advocate and Staff to disallow $4,818,000 of the Company's total incentive compensation expenses to be reasonable for two reasons. First, as was the case at the time of the Board's findings in JCP&L's 1993 Order, today's economic conditions also do not justify passing the cost of incentive compensation through to ratepayers for programs that primarily benefit shareholders, especially when it is evident that many ratepayers, homeowners, and businesses alike, are having difficulty paying their utility bills or otherwise remaining profitable. Secondly, the treatment recommended by the Staff and the Ratepayer Advocate is fair and reasonable given that it recognizes that incentive compensation plans have been made available to a wider array of employees since was the case in 1993 and such plans cover union employees and include specific operational measures that have been specifically negotiated between the union and management.

The only difference in this case is that Rate Counsel and Staff did not advocate for the allowance of any portion of petitioner's incentive compensation expense. Nonetheless, the Board's reasoning is equally persuasive in this case. Under the circumstances, I **FIND** that with the exception of $2,677,949, representing the portion of the incentive compensation that is part of JCP&L's collective bargaining agreements with its unions, Rate Counsel's proposed adjustment is reasonable and should be approved.

This adjustment increases pro forma operating expenses by $5,740,958. I **FURTHER FIND** that a corresponding adjustment decreasing pro forma operating expenses by $401,867 should be made to reflect the payroll tax impact of the incentive compensation adjustment.

Supplemental Executive Retirement Plan Expenses

The Supplemental Executive Retirement Plan (SERP) provides supplemental retirement benefits to key employees such as senior executives in addition to the normal retirement programs. SERP benefits generally exceed various limits imposed on retirement programs by the Internal Revenue Service and are therefore referred to as "non-qualified" plans. In the 2011 test year, only nine active employees are eligible for a SERP benefit upon retirement. These individuals are employees of JCP&L or the Service Company. The amounts for JCP&L and Service Company employees are $193,230 and $215,346, respectively, for a total of $408,576.

Rate Counsel proposes an adjustment to eliminate the entire pro forma expense of $408,576. In support of the adjustment, Rate Counsel argues that ratepayers are already paying for the regular retirement benefits of these top executives and should not be forced to fund these SERP amounts. If the Company wants to provide additional retirement benefits to those key employees, then the shareholders should bear the expense.

On rebuttal the Company contends that in order to maintain a competitive benefit package that permits attraction and retention of skilled employees, SERP is necessary in a limited number of situations. In supporting Rate Counsel's position, Staff points out that the Company has presented no evidence that specific benefits are accruing to the ratepayers, that there is any appreciable difference in the productivity level of JCP&L's employees or that the ratepayers are receiving more efficient service at reduced overall costs as a result of SERP funding.

The arguments of Rate Counsel and Staff are persuasive. Therefore, I **FIND** that Rate Counsel's adjustment eliminating SERP expense and reducing pro forma operating expenses by $408,576 is reasonable and should be approved.

Miscellaneous Operations and Maintenance Expenses

Rate Counsel proposes an adjustment to remove miscellaneous pro forma operating expenses including $1,387 for employee clubs, $5,707 for "Celebrate Success" expenses, $37,875 for service award expenses, $8,140 for institutional and goodwill advertising, $25,295 for civic membership expenses and $854 for private club expenses. In its rebuttal testimony, petitioner agreed to remove the amounts related to employee clubs, advertising expense and private club expenses.

A Company witness described the "Celebrate Success" expense as payments in the amount of $5,707 made to provide timely recognition to employees for noteworthy contributions normally in situations where the employee does not receive overtime compensation. Generally, the awards are in the form of modest gifts. Further, the expense of $37,875 relates to service awards allocated to JCP&L from the Service Company. Those awards recognize certain service anniversaries.

Rate Counsel points to a discovery response which indicates that the expenses are for employee awards, parties, outings and gifts that are incurred by JCP&L directly or allocated to JCP&L from the Service Company. Staff supports Rate Counsel's proposed adjustment.

These expenses include items such as parties, outings and gifts which should not be borne by ratepayers, and petitioner has not provided a breakdown to identify items that might appropriately be recovered through rates. Under the circumstances, these items should not be included in pro forma operating expenses.

The Company maintains that $25,295 in civic memberships are appropriate O&M expenses. According to a Company witness, these civic memberships were paid primarily to chambers of commerce of various municipalities. These civic memberships provide a forum to promote communication between the Company and the municipalities which it serves and therefore relate to the provision of safe and reliable service.

Rate Counsel argues that the Company has failed to identify the local organizations that were favored by these memberships. Further, the costs are discretionary and discontinuance of the practice would have no impact on the Company's provision of safe, adequate and reliable service. Staff supports Rate Counsel's position.

The arguments of Rate Counsel are persuasive. The Company has not demonstrated that it cannot establish channels of communication to accomplish the same purposes without paying membership fees. It follows that this item should not be included in pro forma operating expenses.

Based upon the above, I **FIND** that Rate Counsel's proposed adjustment removing $79,258 from pro forma operating expenses is reasonable and should be approved.

Interest Synchronization

The Company proposes an adjustment to synchronize the income tax savings associated with the deductibility of interest expense with the percentage amount and weighted cost of debt implicit in the capital structure and rate of return used to support rate base. The Company has calculated the synchronized cost of debt using its proposed weighted cost of debt component of its test year-end adjusted capital structure multiplied by its test year-end adjusted rate base.

Rate Counsel and Staff agree with the concept of an interest synchronization adjustment but disagree as to the amount. Rate Counsel and Staff have calculated adjustments reflecting their own positions on the various issues in this proceeding.

It is undisputed that an interest synchronization adjustment is appropriate in this proceeding. The amount of the adjustment should reflect the determination as to various components of the rate determination. Therefore, I **FIND** that an interest synchronization adjustment reflecting the determinations approved herein is reasonable and should be approved. It is also undisputed that the calculations of federal and state income taxes should be adjusted to reflect the determinations in regard to the various rate components.

Werner Plant Amortization

The Company includes in the 2011 test year an amortization expense of $562,500 for the Werner Plant. This amortization ceased in April 2013. Rate Counsel did not remove this amortization from pro forma expenses, because it ended too far beyond the end of the test year. The rationale is based on the Board's practice of limiting adjustments for out-of-period changes in expenses to nine months beyond the end of the test year.

Rate Counsel points out that the Company has proposed adjustments for changes that occurred more than nine months beyond the end of the test year, e.g., tree trimming expense based upon the budget for 2013 and inclusion of a planned long-term debt issuance in August 2013. Rate Counsel contends that if the Company's adjustments for changes more than nine months beyond the test year are approved, then other changes should also be reflected in pro forma expenses such as the cessation of the Werner Plant amortization.

The Company's out-of-period adjustments for changes more than nine months beyond the end of the test year have not been approved herein. It follows that there is no need to consider out-of-period changes such as the cessation of the Werner Plant amortization.

Pension Expense and OPEB

In 1986, Statement of Financial Accounting Standards No. 87, "Employer's Accounting for Pensions" ("SFAS 87"), became effective. The change related to the timing of cost recognition of actuarial gains and losses with respect to pension and other post-retirement employee benefits (OPEB). Since the implementation of SFAS 87 in 1986, FirstEnergy and JCP&L amortized actuarial gains and losses over future periods. An actuarial gain or loss represents the net gain or loss resulting from a change in value of plan assets or obligations due to experience which differs from assumptions that were used to estimate the end-of-year asset and obligation balances.

Under GAAP, companies have the option to recognize actuarial gains and losses immediately or delay recognition by amortizing gains or losses over future periods. In SFAS No. 87, the Financial Accounting Standards Board expressed a preference from an accounting perspective for immediate recognition.

Effective for 2011, FirstEnergy implemented an accounting change related to the timing of the cost recognition of the actuarial gains and losses component with respect to FirstEnergy's and JCP&L's pension plans. The same change was made with respect to OPEB.

With the accounting change in 2011, the companies retroactively applied immediate recognition of the gains and losses to each year. As a result of the different accounting method as well as any changes in assumptions that may have been made, the net actuarial losses increased dramatically from 2010 to 2011 and 2012. The accounting treatment was applied consistently to the separate pension and OPEB funds maintained by JCP&L and FirstEnergy's other subsidiaries. Petitioner maintains that the Board should use the GAAP accounting figures for 2011 for ratemaking purposes.

Rate Counsel contends that the new accounting treatment produces wide fluctuations in annual expenses which are not acceptable for ratemaking purposes. In this case, the actuarial losses during the test year that result from this change should not form the basis for the Company's rates going forward as they do not accurately reflect the Company's ongoing pension expenses. According to Rate Counsel, a method which mitigates the impact of volatility in actuarial gains and losses from year to year would be much more appropriate.

To achieve this objective, Rate Counsel proposed adjustments to pension expense and OPEB. The pension adjustment is based on a concept known as "Preliminary Pension Expense," which for any year after 2011 is based on the service cost, plus interest cost, less the expected return on assets. The final pension expense for any year after 2011 is equal to the preliminary pension expense adjusted for actuarial gains and losses. According to Rate Counsel's witness, if the actual rial assumptions are reasonable, then over a long time frame, the median of future gains and losses will tend toward zero. Although gains and losses are erratic, they will ultimately cancel themselves out. Rate Counsel proposes a similar adjustment for OPEB. Rate Counsel's adjustments decrease pro forma pension expense by $37,664,418 and OPEB expense by $814,905. Staff supports Rate Counsel's proposed adjustments.

Petitioner criticizes the calculation of Rate Counsel's adjustments in various respects. Most importantly, the proposed adjustments capture only a portion of these expenses in that they exclude entirely the component for actuarial gain or loss. Additionally, the amounts of the adjustments are calculated incorrectly in that Rate Counsel's witness estimated the expense by allocating a portion of FirstEnergy's total costs. The correct method would be to add JCP&L's cost with an allocation of the expense for shared employees. As an alternative, JCP&L presented in its reply brief a method to "smooth" actuarial gains and losses over a multi-year time period.

Rate Counsel's arguments are persuasive that the Company's original proposal to use the GAAP expense for the test year is not suitable for ratemaking purposes. The main concern is that the results for the test year may introduce volatility and aberrations into the ratemaking process. The Company produced results for two years using the new accounting method. The results for pension expense were about the same in 2011 and 2012 but much higher than 2010. In contrast, the OPEB was much higher in 2012 than in 2011. The situation creates the risk that the test year results will be too high or too low and not representative of the conditions that will exist while the new rates are in effect.

A method which eliminates volatility would certainly be preferable for ratemaking purposes. The Company seems to have had a perfectly good method prior to the implementation of the accounting change for 2011. On a going-forward basis, the Company should be required to maintain records to implement that method for ratemaking purposes.

For present purposes, Rate Counsel's proposal may be imperfect, but it presents a stable means to estimate pension and OPEB expenses. It is noteworthy that the pension expense and the actual funding of the pension expense are separate and distinct. It follows that approval of Rate Counsel's adjustment will not necessarily delay recovery of an expense actually paid currently by the Company. The Company's alternative method which was presented for the first time in its reply brief comes too late in the proceeding for consideration, since it was not subject to review during the hearings.

Based upon the above, I **FIND** that the Company's proposed pension and OPEB expenses are unreasonable and should not be approved. I **FURTHER FIND** that Rate Counsel's proposed adjustments decreasing pro forma operating expenses by $37,664,418 for pensions and $814,905 for OPEB are reasonable and should be approved.

<u>Depreciation</u>

Pursuant to a Board Order dated March 20, 2013 in this proceeding, the Company filed a new depreciation study prepared by John J. Spanos. In accordance with the results of this study, the Company requested an annual depreciation expense of $80,188,903, representing a decrease of approximately $5.8 million relative to the Company's original filing. The Company calculated accrued depreciation of $1,502,324,772 as of June 30, 2012.

The Company developed its proposed depreciation rates using the straight line remaining life method. The average service lives were established by a comprehensive service life study. As required by the Board's Order in the Company's last base rate case, the depreciation rates do not reflect any allowance for net salvage.

Rate Counsel sponsored the testimony of Michael J. Majoros, who maintains that the Company has understated the service lives of many of its asset categories. Understated service lives result in depreciation rates which are too high. Over time, this leads to an excessive depreciation reserve. To correct this situation, Mr. Majoros is proposing $13.9 million of annual negative amortization of JCP&L's depreciation reserve excess in addition to a decrease in depreciation rates.

Mr. Majoros proposes longer service lives for four distribution plant accounts and seven general plant accounts based upon Iowa-type curves which best fit the Company's actual experience. In view of his belief that the Company's depreciation rates have been excessive for a long time, Mr. Majoros proposes to use whole life instead of remaining life depreciation. Assuming that his longer service lives were correct since the Company's assets were first put in place, Mr. Majoros calculates a depreciation reserve excess of $662 million. The entire excess would be reclassified from accumulated depreciation to Account 256 – Other Regulatory Liabilities. Mr. Majoros further proposes a separate remaining life amortization of the reserve excess over forty-eight years. The result is an annual negative amortization of $13.9 million. The unamortized balance would remain as a reduction to rate base.

Mr. Spanos's main contentions on rebuttal were that his service life analysis was appropriate and that Mr. Majoros's reliance strictly on historical data was inappropriate. First, reliance on mathematical fitting to all historical data is unsound, because the results for some years are based on far fewer retirements than others and therefore are less reliable. More specifically, the tail end of the experience may be based on far fewer retirements and should be given relatively little weight. Mr. Spanos would give greater weight in choosing an Iowa-type curve to the middle portion of the data when there were far more retirements. According to Mr. Spanos, by giving equal weight to data based on a relatively small number of retirements near the end of the experience, Mr. Majoros developed estimated service lives which were far too long.

Second, in addition to reviewing the historical data, it is necessary to use judgment in choosing Iowa-type curves. A sound analysis should consider a number of factors that impact the lives of utility plant including a utility's plan for the future, technical and economic obsolescence, regulatory and customer requirements, and the impact of growth.

Third, the results of the analysis should pass the common-sense test. Mr. Spanos states that some of Mr. Majoros's estimated service lives are so long that they are totally unrealistic.

Mr. Spanos's second point on rebuttal is that the remaining life method of depreciation is superior to the whole life method for ratesetting purposes. According to Mr. Spanos, the remaining life technique achieves a result that is more accurate, transparent and administratively simple. Most importantly, the remaining life technique is superior in that it inherently adjusts the depreciation rate to achieve the goal of recovering the investment in an asset over the period when the asset is providing service to customers. The whole life technique in itself is not capable of achieving this important goal.

Finally, Mr. Spanos asserts that the amortization of an "excess" depreciation reserve is unnecessary. The reason for the "excess" is that Mr. Majoros uses totally inappropriate and excessively long service lives for a number of accounts. With the use of appropriate service lives from Mr. Spanos's study, the excess reserve would shrink by $291 million.

On surrebuttal, Mr. Majoros states that the best fit life resulting from the historical retirement rate studies is the controlling test. As for Mr. Spanos's use of judgment, Rate Counsel notes that it overwhelmingly favors the Company. Further, even with the shorter estimated lives, Mr. Spanos calculated a depreciation reserve excess of $371 million.

Staff supports a depreciation reserve of $371 million based on Mr. Spanos's application of the calculation performed by Mr. Majoros using the service life estimates from the Company's depreciation study. Staff further supports the amortization of that amount as a regulatory liability over forty-eight years. The annual amortization would be $7.73 million with the full $371 million treated as a rate base deduction until fully amortized. In Staff's view, this treatment represents a fair and balanced compromise between the positions of the parties.

Further, the Company's pro forma depreciation expense based on distribution plant balances as of December 31, 2011, adjusted for post-test year distribution plant additions from January 2012, through June 2012, including minor adjustments is $83.827 million. Staff also supports the Company's continued use of the remaining life method and the remaining life rates that supports the depreciation expense of $83.827 million.

Mr. Spanos and Mr. Majoros differed with respect to the average service lives in regard to four distribution plant accounts and seven general plant accounts. Mr. Spanos discussed two distribution plant accounts, Account 361.1, Structures and Improvements, and Account 362, Station Equipment, and two general plant accounts, Account 396, Power Operated Equipment, and Account 397, Communication Equipment, in detail. The detailed explanations of Mr. Spanos with respect to these accounts are persuasive that his estimates of average service lives, based upon historical experience along with his judgment as to the weight to be given to particular data and other factors, are reasonable. Therefore, the positions of the Company and Staff as to estimates of average service life are reasonable and should be approved.

The witnesses differed as to whether the remaining life technique or the whole life technique should be used to set the Company's depreciation rates in this proceeding. Mr. Spanos's argument is persuasive that in the context of ratesetting the remaining life method is better because it seamlessly addresses possible reserve imbalances as an inherent part of the process of determining remaining life depreciation rates without the need to create a seperate vehicle, external to the determination of depreciation rates, to amortize imbalances. Therefore, the positions of the Company and Staff with respect to this issue are reasonable and should be approved.

Under the remaining life method, imbalances in the depreciation reserve are addressed inherently in the process of determining depreciation rates. In contrast, a separate amortization is necessary under the whole life method to correct imbalances. As the Company argues, Staff's proposal to use the remaining life method with a separate amortization of $371 million would correct the existing imbalance twice. This approach is unreasonable and should not be approved.

In view of the above, I **FIND** that the Company's positions in regard to the issues related to depreciation are reasonable and should be approved.

RATE DESIGN

A. Cost of Service

The Board addressed issues related to rate design and cost of service in each of the Company's last three base rate cases. The first of these cases was In the Matter of the Petition of Jersey Central Power & Light Company for Approval of an Amendment to Its Tariff, 93 N.J.A.R.2d (BRC) 39 with the Order dated April 9, 1992 ("1992 JCP&L Order"), Docket No. ER89110912J. The other two cases are the previously cited 1993 JCP&L Order and the 2004 JCP&L Order.

It is longstanding policy of the Board to set electric rates based upon the cost to provide the service. As the Board stated in its 1992 JCP&L Order, "Rates should be based upon the cost of providing service as identified by a proper cost of service study, mitigated only by compelling policy considerations and rate design gradualism, which serves to limit adverse bill impacts to customer classes and subclasses." The cost of service study serves as a guide for interclass revenue allocation and intraclass tariff design. In its 2004 JCP&L Order, the Board directed the Company in its next base rate case to fully comply with the 1992 and 1993 JCP&L Orders and to submit the appropriate cost of service study.

In this proceeding which is the referenced "next base rate case," the Company presented a cost of service study which was designed to assign the revenue requirement to rate schedules based upon principles of cost causation consistent with other rate design principles recognized by the Board. For purposes of the cost of service study, the Company combined similar rate schedules and assigned or allocated total costs to the following: Residential Service (RS), Residential Time-of-Day Service (RT), General Service Secondary (GS), General Service Secondary Time-of-Day (GST), General Service Primary (GP), General Service-Transmission (GT) and Lighting

(LTG). The Company followed the normal three-step process including functionalization, classification and allocation.

Two issues in this proceeding concern modifications by the Company to the methodology previously approved by the Board. The first modification relates to the classification and allocation of costs recorded in Account 368, Line Transformers. The Company changed the classification from demand-related and energy-related to customer-related and demand-related. The second modification relates to the classification and allocation of costs recorded in Account 370, Meters. The Company changed the classification from customer-related and demand-related to customer-related only.

Gerdau maintains that JCP&L's cost of service study is flawed in that it allocates a disproportionate amount of administrative and general (A&G) and related support costs to SC-GT customers that are served directly from the bulk transmission system at 230 kv. These customers are served under Special Provision (b), High Tension Service, and Special Provision (d).

Staff recommends the rejection of JCP&L's cost of service study as a guide for interclass revenue allocation and intraclass ratesetting in this proceeding. Staff also proposes replacement of non-coincident demand ("NCD") as an allocator under the average and excess methodology with coincident peak demand ("CP").

The more detailed arguments of the parties cite various Board Orders including those in the Company's last three base rate cases. Review of those three Orders in advance will facilitate an understanding of the arguments of the parties. On November 17, 1989, JCP&L petitioned the Board for authority to revise its base rates for electric service. The parties stipulated the revenue requirement issues in that case, and on April 9, 1992, the Board issued an Order related to cost of service and rate design issues. 1992 JCP&L Order. In regard to the classification and allocation of distribution and customer costs, the Board stated in part as follows:

b. TRANSMISSION AND DISTRIBUTION SYSTEM COST ALLOCATION

. . . .

The same reasoning which in the past led this Board to reject use of an exclusive coincident peak demand allocation of production plant applies here with regard to transmission and distribution system cost allocation. We AGREE with Staff and Rate Counsel that there is a dual demand and energy dimension to transmission and distribution system planning and operation which should henceforth be reflected in cost allocation.

. . . .

Accordingly, we FIND that there is both a demand and energy component of transmission and distribution system costs and ORDER a further examination of their classification and allocation in the Company's currently pending base rate proceeding.

c. CUSTOMER COST CLASSIFICATION

The classification of customer costs is the foundation for the design of customer charges contained in each of the Company's rate schedules. The determination of what costs are properly classified as customer related is at issue in this proceeding, reflecting again the continuing evolution of cost allocation since the Board's Order in the PURPA proceeding. The objective of this evolutionary refinement of customer cost classification has been the exclusion of demand and energy costs from the customer charge, as well as costs which are not clearly classifiable to any cost component. The practical consequence of this evolution has been a narrowing for all New Jersey electric utilities of costs and expenses deemed customer related, consistent with this Board's policy that customer costs are those which vary linearly and directly with the number of customers, unaffected by either demand or energy consumption.

The Company, Rate Counsel and the Staff have each proferred a position regarding customer costs. The three recommendations are consistent in their inclusion of a minimum size component of the Services rate base account (Acct. 369) in the customer component. Rate Counsel and JCP&L have classified 100 percent of the Meters rate base (Acct. 370) and Expense (Accts. 586 and 597) accounts as customer related, while the Staff has argued for the inclusion of only a minimum size component of these accounts for Rate Schedules RT, RS and GS-Secondary, consistent with the above cited theory of customer costs and with the Board's 1987 Order in *IMO Public Service Electric and Gas Company*, Dkt. No. 85121163.

. . .

[The] ALJ . . . adopted the Staff's approach to the classification of customer costs. Based upon our review of the record and the policy of this Board that the customer charge should recover only those costs that

> vary directly and linearly with the number of customers on the system, we ADOPT the finding of the Initial Decision on this issue and ORDER the Company to file customer charges consistent with this approach in its current base rate proceeding. [1992 JCP&L Order, 93 N.J.A.R.2d (BRC) at 65-66]

On December 20, 1991, JCP&L filed a petition with the Board, seeking approval of an increase in base rates and other tariff charges for electric service. On June 15, 1993, the Board issued the 1993 JCP&L Order. With respect to cost of service, the Board stated in part as follows:

> The selection of a proper cost allocation methodology represents the fundamental first step in the process of rate design. The cost of service study identifies the degree to which customer, demand and energy consumption drive the overall level of cost in a particular utility system; and the degree to which each customer class is responsible for those costs. The result is a measurement of the actual cost imposed on the system by each customer class, expressed in terms of class unitized rates of return which serve to guide the interclass allocation of the overall revenue requirement. Additionally, the cost study generates output data utilized to set the specific customer, demand and energy charges within each customer class. The ultimate objective of interclass and intraclass rate design is the establishment of rates which reflect the utility's cost of providing customer, demand and energy service to its ratepayers.
>
> . . . .
>
> Both the Initial Decision and this Order reaffirm the Board's policy regarding cost of service as enunciated in our April 9, 1992, Order in the last JCP&L base rate proceeding.
>
> . . . .
>
> *b. SUBTRANSMISSION/DISTRIBUTION COST ALLOCATION*
>
> The record in this proceeding contains two distinct approaches to the classification and allocation of non-production transmission, subtransmission and distribution system (hereafter "T&D") costs. The DOD/FEA approach classifies plant costs functionalized in accounts 360-368 on an exclusive demand basis, allocating them based upon voltage specific non-coincident peaks. The other approach is a voltage level specific average and excess method advocated by Rate Counsel . . . .
>
> Accordingly, we CONCUR with the Initial Decision that the voltage level specific average and excess method is the appropriate basis for the classification and allocation of T&D costs and ORDER that it be employed in this and future JCP&L proceedings until such time that a more precise methodology is developed. We REJECT the exclusive demand approach

> . . . based upon its failure to reflect the aforementioned dual demand/energy dimension of T&D system planning and operation.
>
> *c. CUSTOMER COST CLASSIFICATION*
>
> The issue of the proper classification of customer costs was at issue in the instant proceeding as it has been in numerous prior proceedings. As set forth in our determinations in those proceedings, notably in our Order in the Company's last base rate proceeding, we herein reaffirm our policy that the classification of customer costs should be limited to those costs which are demonstrated to vary directly and linearly with the number of customers on the system, unaffected by either demand or energy consumption.
>
> . . . .
>
> [T]he Order . . . details at length the particular FERC accounts found to demonstrably vary directly and linearly with the number of customers on the system. In particular, we found for the following composition of the customer cost component: the minimum size component of the Service (acct. 369) and Meters (acct. 370) and a proportionate share of their related Operations and Maintenance expense (accts. 586 and 597); and that portion of Customer Accounting and Services expense associated with Meter Reading (acct. 902) and Customer Records (acct. 903). [1993 JCP&L Order, 94 N.J.A.R.2d (BRC) at 54-56.]

On August 1, 2002, JCP&L filed a petition with the Board seeking approval of changes to its unbundled rate schedules. This petition was filed in response to the Board's directive in its March 7, 2001 Final Decision and Order resolving JCP&L's Restructuring, Stranded Costs and Unbundled Rates filings. In the Matter of Jersey Central Power & Light Company d/b/a GPU Energy – Rate Unbundling, Stranded Costs and Restructuring Filings, BPU Dkt. Nos. EO97070458, EO97070459 and EO97070460 ("Final Restructuring Order"). In regard to cost of service in the 2004 JCP&L Order, the Board stated in part as follows:

> With regard to allocating the $222.7 million base rate decrease to the various customer classes and developing the appropriate rate design, there is no disagreement that the Average and Excess Methodology (with the excess defined as each customer class's contribution toward the overall system peak) was the preferred method of the Company, Staff and the RPA. However, there was disagreement about certain aspects of the Average and Excess Methodology, all of which focused on the Company's deviation from the Board's policy on the allocation of distribution-related costs.

> Absent a cost of service study that fully complies with the Board's most recent findings on the Average and Excess Methodology (with the excess defined as each customer class's contribution toward the overall system peak), Staff recommends that the distribution only revenue decrease (after adjustment for the proposed increase of $4.2 million allocated to the lighting class) be distributed on an across-the-board basis to the rest of the rate classes. The Board reiterates its full support of the Average and Excess Cost of Service Study Methodology as prescribed in JCP&L's 1992 and 1993 Orders and S-22 (which is S-50 from Dkt. ER91121820J) supported by the Board in those cases and **DIRECTS** JCP&L in its next base rate case to fully comply with those orders and submit the appropriate cost of service study.

A three-step process is commonly used to assign costs to each rate schedule based on cost causation. The three steps are functionalization, classification and allocation. Following the restructuring of the electric industry in New Jersey, the Company ceased to own or operate generating facilities used to provide jurisdictional retail service in the state. Additionally, the Company's transmission facilities are under FERC jurisdiction and under the operational control of the PJM Interconnection LLC ("PJM") as the FERC-approved Regional Transmission Organization ("RTO") for the Company's control area. As a result, the generation and transmission functions are excluded from the New Jersey jurisdictional costs that are used to determine the Company's distribution rates. Therefore, the only function that is relevant for functionalizing costs in this proceeding is distribution.

The Company's first modification to the cost of service methodology previously approved by the Board relates to the classification and allocation of the costs of line transformers recorded in Account 368. In its last base rate case, the Company used engineering studies to separate Account 368 into primary and secondary components. These sub-functions were then classified into demand-related and energy-related components. In this case, the Company classified such costs as both customer-related and demand-related. The rationale for this treatment is that as the number of customers increase, the number of line transformers installed must also increase to avoid excessive voltage drop. The Company used a minimum grid study to assist in classifying line transformers. The minimum grid study indicates that 26.20 percent of the costs in Account 368 are customer-related and 73.80 percent are demand-related.

Rate Counsel and Board Staff oppose the use of a minimum grid study and the classification of costs in Account 368 as customer-related. Staff offered a detailed analysis of evidence in the record to show that the Company failed to demonstrate that increased voltage drop is a function of the number of customers served on the system. The Company also failed to demonstrate that system planners resort to the installation of additional transformers every time a new customer is added to the system. Rather, system planners have multiple ways to deal with voltage drop. It follows that the number and cost of line transformers do not vary directly and linearly with the number of customers on the system. Therefore, the Company has failed to establish that its treatment of Account 368 meets the standards for a customer-related cost.

According to Rate Counsel's witness, the minimum grid study does not give appropriate consideration to JCP&L's actual system design, construction and operation. Without consideration of these important factors, the minimum grid study fails to reflect JCP&L's cost of service. With respect to the statement by JCP&L's witness that as the number of customers increases, the number of line transformers installed also must increase to avoid excessive voltage drop, Rate Counsel's witness maintained that there is no direct, linear relationship between the two. Rate Counsel's witness noted that a minimum grid study limited to transformers does not have a significant impact on the costs of most customer classes, but he would object to any attempt to expand the use of a minimum grid study to any other distribution accounts.

In its 1993 JCP&L Order, the Board reaffirmed its policy that the classification as customer-related should be limited to those costs which are demonstrated to vary directly and linearly with the number of customers on the system, unaffected by either demand or energy consumption. Staff has demonstrated that the Company's proposed classification of some costs for line transformers in Account 368 does not meet this standard. Therefore, I **FIND** that the proposed classification of some costs for line transformers as customer-related is unreasonable and should not be approved.

Staff also criticizes the sub-functionalization of accounts 364 to 367. Staff leveled two main criticisms against JCP&L's segmentation study, which employs geographic information system ("GIS") data identifying installed primary voltage poles, overhead and underground conductors and underground conduit, along with customer accounting and billing data contained in its Customer Care System ("CCS") data to identify primary voltage customers and the primary voltage electrical equipment in service connecting these customers back to specific substations. Staff notes that data on secondary voltage equipment is not available and that therefore the validity of the study rests entirely on the reliability of the primary voltage customer traces.

The Company maintains that "power flows from the primary system to the secondary system so in fact all customers that take power at the secondary level are using the primary level as well." Staff contends that electric distribution systems are complicated, interwoven complexes of circuits designed to ensure that customers have electrical energy when they choose to use it. Further, the paths of electrical current are rarely convenient and linear and cannot reliably be traced backward from 429 meters to particular substations. In Staff's view, the Company's GIS-based segmentation methodology should be rejected for use in the instant proceeding.

The Company's main assertion in support of its GIS-based segmentation methodology may or may not be true, but it is certainly not supported by the testimony of a qualified expert. Under the circumstances, the Company's segmentation study should not be accepted for use in this proceeding.

The Company's second modification relates to the classification and allocation of the costs of meters recorded in Account 370. In the cost of service study from JCP&L's last base rate case, these costs were classified as containing both customer-related and demand-related components. In this case, the Company has classified the cost of meters as customer-related. The rationale for this classification is that each customer needs its own meter regardless of the amount of energy that the customer consumes and that these costs should be allocated based on the number of customers or customer accounts. In furtherance of its treatment of meters, the Company recognized that different customer classifications employ different types of meters which vary in costs and conducted a study to develop allocators so that meter costs could be divided among the rate schedules.

Staff points out that the Company's analysis is inconsistent with existing Board policy to treat as customer-related only those costs that vary directly and linearly with the number of customers on the system. Application of this policy to meters means that customer costs are those associated with the cost of a minimum size meter, meaning the investment associated with the smallest size meter capable of connecting a customer to the distribution system, absent considerations of customer energy and demand consumption. Staff notes that in the Company's last base rate case, meter investment was classified as fifty-seven percent customer-related and forty-three percent demand-related. For Rate Schedule RS, Staff determined that the average cost of a meter was \$22.68 but that the cost of a minimum size meter was \$15.14. Therefore, the customer component for RS meters would be sixty-seven percent (\$15.14/\$22.68) with the balance of thirty-three percent classified to the demand component. On a system basis, this approach results in a fifty-two/forty-eight customer/demand classification split of the cost of meters compared to the 100 percent customer classification advanced by JCP&L.

The Company contends that \$15.14 is the lowest cost for any individual meter in the RS class as opposed to the average cost of the smallest size meter connecting customers to the system. According to the Company, the average cost of the smallest size meter is \$22.68. Further, Staff's use of an amount per meter as low as \$15.14 is clearly improper and inaccurate because it reflects the cost of a small population of meters installed many years ago and fails to account for the effect of inflation over time.

Staff's argument that the Company's proposed treatment of meter costs is inconsistent with the Board's policy to treat as customer-related only those costs that vary directly and linearly with the number of customers on the system is persuasive. The Company questions Staff's use of \$15.14 as to the cost of the smallest size meter for the RS Rate Schedule. Nonetheless, in view of the inconsistency with Board policy, I **FIND** that the Company's proposed classification of meters in Account 370 as only customer-related is unreasonable and should not be approved.

Staff urges reconsideration and replacement of an allocator used for decades within the average and excess methodology. Specifically, non-coincident demands

("NCD") have been used to allocate demand-related costs within the average and excess methodology. In view of the development of the voltage level specific average and excess method, Staff questions whether it would be more appropriate to use coincident peak ("CP") demands as opposed to NCD. Staff is of the opinion that JCP&L sizes and operates its primary voltage distribution system to meet primary voltage CP and sizes and operates its secondary voltage system to meet secondary voltage CP. According to Staff, voltage level specific CP rather than NCD represents the maximum demand imposed on the system and should therefore be used to allocate demand related costs within the currently approved average and excess methodology.

JCP&L maintains that it is using the same average and excess allocation method that was approved by the Board in the Company's last base rate case. JCP&L notes that despite criticizing the Company's modifications and urging virtual lock-step consistency with prior cost of service study methods and procedures, the Staff is proposing a change of its own relative to well-established Board precedent. Further, CP is not a relevant criterion when designing and sizing either the primary or secondary voltage portions of the Company's distribution system, as distribution facilities are installed primarily to meet localized area loads.

The Board has previously stated that "distribution system planning and operation is tailored to local area demand and energy requirements." 1992 JCP&L Order, 93 N.J.A.R.2d (BRC) at 65. This observation led to a finding that there are both demand and energy components of distribution system costs. In the 1993 JCP&L Order, the Board approved the voltage level specific average and excess method for classification and allocation of distribution costs. 94 N.J.A.R.2d (BRC) at 56. Then in its 2004 JCP&L Order, the Board referred to its "most recent findings on the Average and Excess Methodology (with the excess defined as each customer class's contribution toward the overall system peak)."

The difficulty with Staff's position is that the proposed change was made at the briefing stage of the proceeding. As a result, the other parties have not had the opportunity to address Staff's position through testimony and exhibits during the hearing. Under the circumstances, Staff's position should not be approved in this proceeding. Rather, the parties should be directed to address this issue in JCP&L's next base rate case.

Staff proposes an alternative cost of service study which is designed to track Board precedent more closely than the Company's proposal. Staff's cost of study was produced by the Company in response to discovery requests. The rationale for Staff's position is that the Company's cost of service study contains a number of significant modifications which both contradict prior Board policy determinations and serve to skew the proper allocation of costs to the rate classes. Staff proposes the adoption of various modifications to the JCP&L cost of service study, employing the results of the Staff-modified study as the proper guide to a cost-based interclass revenue allocation and for setting specific customer, demand and energy charges within each rate schedule.

In Staff's view, the principal defects in the Company's cost of service study are as follows: (1) an unsatisfactory method of sub-functionalizing to primary and secondary segments costs booked to Accounts 364 through 367; (2) the classification of a substantial portion of line transformers in Account 368 to the customer-cost component; (3) an exclusive customer-related classification of investment in meters booked to Account 370; and (4) the use of class non-coincident peak demand ("NCD") rather than class contributions to coincident peak demand ("CP") to allocate demand-classified costs.

JCP&L maintains that Staff's cost of service study was not supported by the testimony of a witness and was not subject to the same type of scrutiny as the one produced by the Company. As a result, the Company maintains that Staff's position should be disregarded for this reason alone. In addition, the Company maintains that the Staff's position suffers from serious flaws. Without the opportunity to explore Staff's analyses more thoroughly, Rate Counsel is unable to endorse or support Staff's proposed alternative cost allocation method.

This issue raises a question as to why it is necessary for Staff to develop a cost of service study that more closely tracks Board precedent. In its 2004 JCP&L Order, the Board observed that there was no cost of service study that fully complied with its most recent findings on the average and excess methodology. As a result, the Board ordered that for the most part the revenue change be applied on an across-the-board basis to various rate classes. The Board reaffirmed its full support of the average and excess cost of service methodology as prescribed in JCP&L's 1992 and 1993 Orders and directed JCP&L in its next base rate case to fully comply with those orders and submit the appropriate cost of service study.

Nonetheless, in this proceeding, which is the referenced "next base rate case," the Company submitted a cost of service study with significant modifications relative to Board precedent. In prefiled testimony, a Company witness stated, "These modifications are entirely consistent with the Board's previously expressed position that it is willing to accept refinements to more accurately reflect cost causation."

The Company's interpretation raises several concerns. First, the so-called refinements are directly contrary to Board policy as set forth in Staff's analysis. Second, while the modifications are not particularly significant quantitatively, they tend to undermine the Board's policies in regard to customer-related costs, e.g., customer costs are limited to those which vary directly and linearly with the number of customers on the system. Third, the Company's interpretation fails to provide the Board with a cost of service study that it can simply adopt without extensive changes. To prevent this situation from occurring again, the Company should be ordered to submit with its next base rate case a cost of service study, which except to the extent absolutely unavoidable fully complies with the 1992, 1993 and 2004 JCP&L Orders with no modifications whatsoever. To the extent that the Company sees fit, it may submit a second cost of service study which contains proposed modifications.

Gerdau operates an integrated steel manufacturing facility in Sayreville, New Jersey, and takes service from the bulk transmission system at 230 kilovolts (kv). Gerdau receives electric service under a Rate Schedule entitled "Service Classification GT General Service Transmission" ("SC-GT"). More specifically, Gerdau receives service pursuant to Special Provision (d), which pertains to Service Classification GTX, which closed effective April 1, 2004. Gerdau is now the only customer receiving electric service pursuant to Special Provision (d).

Gerdau maintains that the Company's cost of service study is flawed because it allocates a disproportionate amount of administrative and general (A&G) and related support costs to SC-GT customers that are served directly from the bulk transmission system at 230 kv. These customers are served on the SC-GT rate schedule under Special Provisions (b) and (d).

Gerdau contends that JCP&L has only minimal distribution investment to serve SC-GT 230 customers and that therefore distribution costs including administrative and general should be assigned directly. Using the direct assignment methodology, the demand charge in SC-GT Special Provision (d) should be reduced to $0.55 kw to properly reflect the actual cost of providing distribution service. While not applicable to Gerdau, the demand charge in SC-GT Special Provision (b) should also be reduced using the direct assignment methodology. Staff supports Gerdau's position.

In regard to administrative and general costs, Rate Counsel's witness did not accept the Company's or Gerdau's analysis. Rate Counsel's witness agreed with Gerdau's witness that JCP&L's allocation procedures result in excessive A&G costs being allocated to the GT230 rate class. On the other hand, Gerdau's analysis may result in insufficient A&G costs being allocated to GT230 service. Rate Counsel's witness relied on the effects of gradualism to mitigate any excessive allocation to the GT230 service rate class.

None of the positions of the parties is genuinely persuasive that it treats A&G and related support costs in an appropriate manner. Under the circumstances, Rate Counsel's position comes closest to a fair result. Gerdau should be given the largest percentage rate reduction as tempered by gradualism as discussed below.

Under present circumstances, the Staff's cost of service study most closely tracks Board precedent and therefore should not create an unfair surprise for any party. Therefore, except with respect to A&G costs and replacement of NCD as an allocator with CP as discussed above, I **FIND** that the Staff's alternative cost of service study is reasonable and should be approved.

B. Interclass Revenue Allocation

The next step after completion of the cost of service study is the allocation of the revenue increase or decrease to the various customer classes. This step is known as interclass revenue allocation. The general objectives of the interclass revenue allocation are to recover the Company's overall revenue requirement from the rate classes, to provide proper price signals to customers and to avoid significant cross-subsidy among the rate classes.

This process involves the calculation of unitized rates of return for each customer class by dividing the rate of return for that particular class by the rate of return for the entire system. An important objective of cost-based ratemaking is to move the unitized rate of return for each class to unity. In the context of a rate increase, customer classes with unitized rates of return less than unity are not covering their costs and should receive a percentage increase which is greater than the overall percentage increase. Customer classes with unitized rates of return greater than unity are producing revenues greater than their costs and should receive a rate adjustment which is less than overall percentage increase. Based upon the concept of gradualism, movement of rates toward unity may be tempered in a particular case to prevent an excessive impact on a particular customer class.

The Company developed distribution rates which were designed to recover its proposed revenue requirement and move rate classes toward to a unitized rate of return of 1.00, while balancing the overall customer impact in accordance with the principle of gradualism. The Company applied three general criteria. First, no rate class would receive a net decrease. Second, for those customer classes with unitized rates of return less than 1.0, the individual class increase would be capped at seven percent based upon a proposed Company-wide distribution revenue increase of 5.46 percent, or approximately 1.3 times the Company-wide increase. Third, classes with unitized rates of return above 1.0 were not moved below unity.

JCP&L's cost of service study indicates that Rate Schedules RS, GST and LTG are earning less than the overall rate of return proposed by the Company. Rate Schedules RT and GS are slightly above, and Rate Schedules GP and GT are well above the overall rate of return proposed by the Company.

Rate Counsel is in general agreement with the principles followed by the Company to spread its requested revenue increase among the various rate classes. Casting its position in terms of a rate reduction, Rate Counsel proposed a ten percent larger-than-average revenue reduction for the GP and GT classes because their unitized rates of return are significantly above 1.0. The RT class would receive a one percent larger-than-average revenue reduction because that class's unitized rate of return is slightly above 1.0. The other rate classes would receive a percentage rate reduction which was less than the average, because their unitized rates of return are less than one.

Staff based its analysis primarily on the assumption of a revenue increase but also set forth its position in the event of a decrease. In view of the recommendation herein of a revenue decrease, only the latter will be set forth in detail. If a revenue decrease is ordered for JCP&L, Staff urges that it be effectuated by employing the same Board-approved principle of moving classes toward unity with each successive rate change, that all classes receive a decrease as a consequence and that the degree of over-collection in current rates drives the relative class decreases.

The Company, Rate Counsel and Staff followed essentially the same principles in developing their positions as to interclass revenue allocation. Drawing from the positions of those parties and applying them to the revenue reduction recommended herein, the interclass revenue allocation should be based on the following: (1) no rate class should receive a net increase; (2) for the GP and GT classes, the revenue decrease should be 1.3 times the Company-wide decrease; (3) the LGT class, which has by far the lowest unitized rate of return, should receive a rate decrease equal to seventy-five percent of the Company-wide decrease; and (4) the other rate classes should receive an equal percentage rate reduction. I **FIND** that this interclass revenue allocation is reasonable and should be approved.

C. Intraclass Tariff Design

Customer Charges

The Company proposes to increase monthly customer charges by $1.00 for customers served under Service Classifications RS (Residential Service), RT (Residential Time-of-Day Service) and RGT (Residential Geothermal & Heat Pump Service). The Company also proposes to increase the supplemental monthly customer charge for off-peak and controlled water heating provisions under Service Classification RS by $1.00. Similarly for customers served under Service Classifications GS (General Service Secondary) and GST (General Service Secondary Time-of-Day), the Company is proposing to increase the monthly customer charge by $1.00. The Company also proposes to increase the supplemental monthly customer charge for off-peak and controlled water heating provisions by $1.00. In support of this proposal, the Company argues that the current monthly customer charges and supplemental customer charges were approved by the Board in 1993 and have not changed for twenty years. The Company does not propose increases in customer charges served under other Service Classifications including GP (General Service Primary), GT (General Service Transmission) and the lighting classes.

Rate Counsel opposes the proposed increases in customer charges. Rate Counsel argues that in view of its proposed large reduction in JCP&L's existing revenues, this case does not present an appropriate circumstance in which to consider an increase in existing rates.

Rate Counsel's argument is persuasive. In view of the revenue reduction recommended herein, I **FIND** that this is not an appropriate time for increases in customer charges.

Demand and Energy Charges

Demand and energy charges are expressed on per kw and per kwh bases, respectively. For purposes of intraclass rate design, the Company refers to the energy components as distribution charges. Residential customers pay only distribution charges. Commercial and industrial customers pay both demand and distribution charges.

The Company proposes to increase current demand and energy charges by an equal percentage within each rate class. Rate Counsel would reduce the demand and energy charges by an equal percentage within each rate class. Staff recommends adoption of an intraclass rate design based on its position in regard to cost of service and interclass revenue allocation including the impact on lighting classes and industrial customers served under Special Provision (d) of Service Classification GT.

Staff's position would create an intraclass rate design which more accurately tracks the approved treatment of cost of service and interclass revenue allocation. More specifically, the reductions in demand and distribution charges for the Service Classifications GP and GT should be larger than the Company-wide reduction, and the distribution charges for the lighting classes should be less than the Company-wide reduction in the same proportions as the interclass revenue allocation. Under the circumstances, I **FIND** that for demand and energy charges, percentage reductions which track the changes in interclass revenue allocation are reasonable and should be approved.

Miscellaneous Service Charges

Rate Counsel disputes three of four increases to miscellaneous service charges as proposed by the Company. One change would increase the current returned payment fee of $10 to $15. The purpose of this proposed increase is to provide a disincentive to issuing checks and making electronic payments that are returned or dishonored and that the costs associated with this behavior should be borne by the customers engaging therein. While acknowledging that the proposed fee is higher than associated costs, the Company believes that the greater amount provides an additional disincentive for customers.

Rate Counsel's witness points out that the Company's analysis indicates that the cost of a returned payment is $12.04. Rate Counsel argues that there is no sound economic justification for pricing service above cost. Further, the returned payment charge should be limited to JCP&L's costs, which were rounded to $12.

Rate Counsel's arguments are persuasive. Therefore, the returned payment fee should be set at $12.

The Company proposes to increase the charge for reconnection at the meter from $22 to $45. According to the Company, the underlying cost for this service is $68.57, but the increase was limited to $45 to mitigate the full impact. Rate Counsel notes that the Company's proposal still represents an increase of 104 percent in this fee. Rate Counsel views this percentage as excessive and would further mitigate the increase in this fee to $30, which still represents an increase of thirty-six percent.

The Company's proposed reconnection fee of $45 is well below the cost of $68.57. The difference represents substantial mitigation of the impact on customers. Therefore, the Company's arguments are persuasive that this reconnection fee should be increased to $45.

The Company proposes a convenience fee of $1 for processing a check or savings withdrawal over the telephone requiring the direct assistance of a customer service representative. Customers would still be able to make a payment without a fee by using the Company's interactive voice response system or the Company's website, which require no interaction with a customer service representative. The Company hopes to encourage customers to increase the use of free self-service bill payment options while at the same time continuing to provide, for a nominal fee, availability of a customer service representative for such transactions.

The Company offered no cost justification for this proposed fee, and as Rate Counsel argues, JCP&L should encourage all forms of customer payment, regardless of how they are processed, to alleviate the burden caused by late paying customers and uncollectible accounts. Therefore, the proposed convenience fee for payment by telephone should not be approved.

Con Edison Development Proposed Modification

Con Edison Development is engaged in the development, ownership and operation of renewable energy infrastructure projects including six solar development projects in New Jersey. Four of these projects are grid-connected solar facilities located in JCP&L's service territory. The solar projects convert sunlight into energy during daylight hours and inject electricity directly into the JCP&L electric grid. Solar projects can produce electricity on rainy or cloudy days, but they generate the most power during clear, sunny days, when demand for electricity is particularly high. Solar projects do not produce any electricity between sunset and sunrise.

Solar projects do not normally require Con Edison Development to purchase any electricity from JCP&L during daylight hours. Between sunset and sunrise, the solar projects require minimal "station power" to run various auxiliary equipment including monitoring and communications systems. Con Edison Development purchases this station power from JCP&L at rates set forth in its current tariff.

JCP&L charges Con Edison Development for station power at its GP rates for one facility and at its GT rates for the other three solar projects. The GP and GT rate schedules have several components including a customer charge, a non-utility generation charge, a societal benefits charge and a kw demand charge. Demand charges in the GP and GT rate schedules compensate JPC&L for building and maintaining the transmission and distribution infrastructure necessary to deliver electricity to customers serviced on the GP and GT rate schedules.

Demand charges are applied to a customer's on-peak usage from the hours of 8:00 a.m. to 8:00 p.m. Monday through Friday. There is no demand charge for GP and

GT customers' usage during all other times including weekend hours. JCP&L determines the monthly on-peak and off-peak demand charges by calculating the maximum demand for each customer in each billing month using the maximum fifteen-minute integrated kilowatt demand consumed by the customer between 8:00 a.m. and 8:00 p.m. Monday through Friday. The customer's monthly demand is multiplied by the applicable kw rate to determine the customer's demand charge for each monthly billing period.

JCP&L's peak demand occurs during summer afternoons. For 2012, JCP&L's peak usage occurred between 2:00 p.m. and 3:00 p.m. on July 18. For 2011, JCP&L's peak usage occurred between 2:00 p.m. and 3:00 p.m. on July 22.

Con Edison Development maintains that its solar projects have not used any power coincident with JCP&L's peak demand. On July 18, 2012, the four solar projects injected approximately 10,000 kwh into the JCP&L system between 2:00 p.m. and 3:00 p.m. Solar projects occasionally use some minimal station electric power during the fringes of the on-peak hours before sunrise and after sunset, which can occur during the hours of 8:00 a.m. to 8:00 p.m.

Con Edison Development argues that imposing on-peak demand charges on solar projects is fundamentally unfair, because they do not contribute to JCP&L's required transmission and distribution system upgrades. As relief, JCP&L's tariff should be modified by eliminating on-peak demand charges for all grid-supply solar projects.

In response, the Company asserts that three of Con Edison Development's four solar projects registered their maximum demand requirements from JCP&L's system between 4:15 p.m. and 4:45 p.m. during the afternoon of July 18, 2012, which was the date of the Company's system peak in 2012. This maximum occurred within two hours from the Company's system peak during daylight hours. Further, JCP&L's third highest system peak occurred during the hours from 3:00 p.m. to 4:00 p.m. on July 18, 2012, when the coincident demand from three of the four solar projects also peaked within minutes of the system peak. Con Edison Development responds that its demand on

July 18, 2012, was caused by the unusually severe thunderstorms that afternoon, and the Company counters that the reason for the demand does not matter.

The arguments of Con Edison Development are unpersuasive for several reasons. First, irrespective of the reason, solar projects of Con Edison Development had their highest demand within two hours of JPC&L's coincident peak demand for 2012 and within minutes of JCP&L's third highest coincident peak for 2012. It follows that the assertion of Con Edison Development that its highest demand does not coincide with JCP&L's system peak is not factually accurate.

Second, Con Edison Development has not established that the system coincident peak is the proper reference point for distribution service. Distribution rates are often set on the basis of non-coincident peak demand. The peak demands for Service Classifications GP and GT may well be different from the coincident peak demand. A determination in favor of Con Edison Development cannot reasonably be made without consideration of the peak demands of the Service Classifications GP and GT. Indeed, the measurement of on-peak demand between 8:00 a.m. and 8:00 p.m. clearly implies that consideration was given to one or more factors other than the hourly coincident peak for JCP&L.

Third, Con Edison focuses solely on its use of JCP&L's distribution system to supply station power to the solar projects. Adequate consideration has not been given to its use of JCP&L's distribution system to deliver the electric power generated by its facilities.

Finally, Con Edison Development requests relief which is grossly excessive. The circumstances certainly do not warrant elimination of on-peak demand charges for solar projects. At most, an adjustment to the hours of the on-peak period for solar projects may be warranted after further analysis in a future proceeding. Under the circumstances, I **FIND** that the tariff modification requested by Con Edison Development is unreasonable and should not be approved.

OTHER TARIFF REVISIONS

The Company has proposed modifications to portions of its tariff including Part I (General Information), Part II (Standard Terms and Conditions) and Part III (Service Classifications and Riders). With respect to Part III, the Company is eliminating Service Classification GTX (Experimental Transmission Service) and Rider BE (Business Enhancement Incentive) consistent with the Board's decision in JCP&L's 2004 base rate case. The Company is proposing to revise the terms of Service Classification OL (Outdoor Lighting Service), which includes rates for both mercury vapor (MV) area lighting and sodium vapor (SV) flood lighting. Because MV area lighting equipment is no longer commercially available to replace or support existing MV equipment that fails, the Company is proposing to revise the terms of Service Classification OL such that MV area lighting service will be removed when MV lighting fixtures fail or otherwise become inoperable. In regard to Rider QFS (Cogeneration and Small Power Production Service), the Company proposes to replace outdated terminology, clarify that payments to QF installations would not exceed the revenues that the Company receives from PJM and increase the monthly service charge from $30 to $40.

With respect to Part I of its tariff, the Company proposes to add to the definition of "Tampering" cross-references to other sections. In addition, the Company proposes new definitions of the terms "Beneficiary" and "End user." The Company proposes an update to Subpart H of Part I concerning customer contact information and a revision to Subsection 3.19 of Part II related to a monthly late payment charge to remove references to Service Classification GTX.

Part II of JCP&L's tariff contains Standard Terms and Conditions. Subsection 2.04 entitled "Modification or Rejection of Application" provides the Company with a revenue protection tool for addressing attempts to circumvent payment of indebtedness owed to the Company through the use of other household members and business associates. The Company proposes to add landlords as another applicant or customer who may be subject to the application of Subsection 2.04. The Company also proposes to insert the new definitions of "Beneficiary" and "End User" in Subsection 2.07 entitled "Unauthorized Use." This revision clarifies that the receipt, use or consumption of service, or financially benefitting from such service, creates liability for the service rendered during the period of unauthorized use.

The Company proposes to revise the text of Subsection 3.06 entitled "Billing Adjustments." The proposed revision would update the cross-reference to the appropriate section of Title 14 of the New Jersey Administrative Code to reflect the recodification of the Board's regulations related to billing adjustments for meter errors now found at N.J.A.C. 14:3-4.6. The proposed revision also clarifies the text of this subsection to distinguish between billing adjustments for meter error as opposed to other legitimate reasons.

The Company proposes to revise the text of Subsection 3.18 entitled "Return Payment Charge" by changing the word "check" to "payment" and to insert a reference to forms of electronic payments and electronic funds transfers, which are returned dishonored. This revision is intended to update Subsection 3.18 to adapt to the increased use of electronic payments.

The Company proposes to add a parenthetical clarification providing some non-exclusive examples of "other equipment" as used in Subsection 7.04 entitled "Tampering." The purpose of this clarification is to assist in efforts to combat unauthorized use of service by making clear that the Company makes use of such equipment and that interference with or removal or damaging of such equipment is itself tampering under this subsection.

The Company also proposes to revise the text of Subsection 7.06 entitled "Service Disconnection and Meter Removal Authorized" by adding cross-references to Subsections 7.07 and 7.08. The purpose of these revisions is to help electricians to appreciate the interplay between those sections and to highlight the need for prior Company authorization before disconnecting and reconnecting service for their clients.

In addition to the miscellaneous service charges discussed above, the Company proposes to increase the field collection charge from $20 to $25. This proposed increase was not opposed by any other party. The Company also proposes to eliminate the after business hours fee of $54 for reconnection at the meter applicable to Service Classifications GS and GST. This change is also unopposed by any party.

Section 13 of Part II relates to net metering installations. The Company proposes to update this section to reflect rule adoptions associated with customer-generator net metering. The proposed tariff revisions are intended to lend additional clarity to the process of becoming a qualified customer-generator and various other details related to net metering.

Appendix A to Part II of the tariff pertains to unit costs for residential electrical underground extensions. The proposed charges set forth in Appendix A are updated to reflect the Company's current costs. The updated charges reflect current labor and material costs and vehicle rates. The proposed changes are unopposed by any party to this proceeding.

Staff maintains that a review of the Company's current and proposed tariff reveals a lack of the specificity required by pertinent provisions of the New Jersey Administrative Code. Further, some of the Company's proposed and current tariff provisions are in contravention of the relevant code provisions and to the tariff provisions of similar utilities. There are also inconsistencies with the Company's website, which offers customers access to a November 2009 guide titled "Information and Guidance for Customer Electric Service" ("2009 Guide"). Staff recommends that JCP&L be ordered to conduct a review of the standard terms and conditions included in its current and proposed tariffs and the 2009 Guide and to make all necessary changes to ensure conformance with the New Jersey Administrative Code, standard utility business practices, consistency with the 2009 Guide and the tariff, and the maximization of customer comprehension.

The Company points out that the Staff position provides no citation to a statute, regulation or case law; that it contains no analysis; and that it refers to the 2009 Guide, which is completely outside the record. Under the circumstances, the Company requests approval of its proposed tariff revisions.

Staff has questioned JCP&L's proposed tariff revisions, but Staff's position offers no basis for evaluation of the Company's specific proposals. The Company's proposals appear to be reasonable, and there is no specific opposition to any tariff revision. Therefore, I **FIND** that the Company's proposed tariff revisions as summarized in this section entitled "Other Tariff Revisions" are reasonable and should be approved.

OTHER PROPOSALS

A. Accelerated Reliability Enhancement Program

JCP&L proposes to implement an Accelerated Reliability Enhancement Program ("AREP") rider and an associated cost recovery mechanism. According to JCP&L's witness, the Company is proposing the AREP rider at this time to address increasing expectations of customers for higher service levels following the extraordinary storm events of 2011. Under the AREP rider, the Company would accelerate capital investments in its distribution systems to provide enhanced service quality and reliability.

The general types of work that the Company would consider for the AREP rider would include reliability-related capital investments such as technology deployment and process enhancements to improve storm response; equipment deployment that exceeds the Company's normal operating practice to provide a higher level of system reliability; costs associated with implementing the Board's directives arising from the recommendations in the Emergency Preparedness Partnerships (EPP) Report; pilot projects to explore the benefits of smart-grid technologies; and concentrated right-of-way corridor improvements, whereby the Company receives permission to trim vegetation beyond its normal operating practice specifications, including removal of identified danger trees outside of the right-of-way corridor. According to the Company's witness, JCP&L would not undertake those projects as part of its planned course of capital investment. The specific projects and time frame for the AREP rider will be developed collaboratively with Board Staff. These investments will have ancillary benefits such as stimulating economic activity in New Jersey to the benefit of employees, contractors and suppliers of material and equipment. In addition, investments in utility plant also produce additional tax revenues for local, county and state governments.

The associated cost recovery mechanism is designed to provide rate treatment of AREP investments in exactly the same manner as investments included in rate base. The AREP rider only eliminates regulatory lag between the time that the investments are placed in service and the next base rate case. Recovery of the Company's costs would be more closely aligned with the accelerated investment.

JCP&L proposes to recover costs associated with AREP programs and projects including: (1) depreciation expense; (2) return on investment net of accumulated depreciation and accumulated deferred income taxes, based on the weighted average cost of capital granted in this case, including income tax effects; and (3) cost of removal expense, as applicable.

The Company's proposal provides that the initial AREP rider charges would be based on projected revenue requirements for calendar year 2014, and the AREP rider rates would go into effect beginning with service rendered on January 1, 2014. In subsequent years, AREP rider charges would be adjusted on March 1st of each calendar year during which the AREP rider is in effect to reflect: (1) an annual reconciliation of the twelve-month actual revenue requirement to the pro forma revenue requirement from the prior calendar year; and (2) an increment/decrement attributable to the change in the projected annual revenue requirement for the forthcoming year. Carrying charges at one twelfth of the annual weighted average cost of capital would be applicable to any over/under-recovered balance and applied on a monthly basis. The Company's pro forma revenue requirements associated with the capital infrastructure investments would be subject to monthly deferred accounting treatment, assuming a monthly distribution of one twelfth of the pro forma annual revenue requirement, subject to true-up in conjunction with the annual reconciliation.

In regard to rate design, the AREP rider would provide for a rate schedule-specific rate per kwh. The pro forma revenue requirement, including any adjustments as a result of the annual reconciliation, will be allocated to each rate schedule based on the ratio of the distribution base rate revenue billed under each rate schedule to the total distribution base rate revenue billed for all rate schedules. The kwh charge will be determined by dividing the revenue requirement allocated to each respective rate schedule by the kwh billing units under each respective schedule. The AREP costs would be rolled into base rates in a subsequent base rate proceeding.

Rate Counsel maintains that provision of reliable service is a fundamental obligation of any electric distribution company. Consistent with this obligation, JCP&L makes the types of investments mentioned by the Company's witness for recovery through the AREP rider on a regular basis. However, the Company has not committed to undertake any specific level of investment or demonstrated that any such expenditure is incremental to those that would otherwise be made in the normal course of business.

Rate Counsel notes that while the Company has not demonstrated that the AREP rider will actually accelerate reliability projects, the AREP rider will undoubtedly speed recovery of costs from ratepayers. First, through AREP the Company will be able to recover costs that would not otherwise be recoverable until the Company filed a base rate case. Second, the AREP rider would require ratepayers to pay not only for actual expenditures but also for projected expenditures as the AREP rider would be based on forecasted investment.

In regard to Staff's participation in selecting the projects to be undertaken under the AREP rider, Rate Counsel argues that this process would inappropriately interject Staff into a management role for reliability concerns. It is the Company's responsibility to manage its business and maintain system reliability. The collaborative process moves management responsibility for reliability projects from the Company, where it belongs, to Staff.

Further, the proposed AREP rider will increase shareholder return while significantly reducing risk through accelerated recovery of costs and the true-up mechanism. Under traditional ratemaking, shareholders are awarded a risk-adjusted return and given the opportunity, but not a guarantee, to earn that return. Under the proposed true-up mechanism, shareholders will be guaranteed to recover both the return on, as well as the return of, this investment. This mechanism effectively eliminates all shareholder risk involving recovery of projects funded through the AREP rider. This mechanism would shift risk to ratepayers without any commensurate reduction in the Company's return on equity.

In Rate Counsel's view, the Company's proposal would constitute single-issue ratemaking, since the AREP rider would increase rates based upon one component of the ratemaking equation without consideration of others. AARP supports Rate Counsel's position.

Intervenors Gerdau and Wal-Mart oppose the AREP rider for essentially the same reasons as Rate Counsel. In addition, Gerdau and Wal-Mart are concerned about the proposed rate design in that the entirety of the costs would be recovered with a kwh charge. According to these intervenors which pay both demand and energy charges, the proposal would be unfair to customers with high load factors.

In response, the Company points out that many of the criticisms of the AREP rider would be true of all adjustment clauses. JCP&L also maintains that the rate design for all other riders in its tariff utilize per-kwh charges and that an AREP charge with customer, demand and energy components would create a needlessly complicated rate design.

Staff agrees with Rate Counsel that the AREP proposal should be rejected. Staff notes that in previous accelerated infrastructure programs approved by the Board, specific projects were identified prior to the Board's approval of the programs. Further, the Board has directed all regulated utilities in the Storm Costs Proceeding to submit detailed proposals to protect utility infrastructure from future major storm events. Staff states that the more appropriate venue to review the Company's AREP proposal would be the generic proceeding established by the Board.

Under traditional ratemaking, the Board uses historical costs adjusted for known and measurable changes. The Board has adopted various adjustment clauses as exceptions to the traditional approach but only for specific reasons under clearly defined circumstances. Here, the cost recovery mechanism is very specific, but the details of the AREP rider are ill-defined. In addition, the proposed AREP rider with a collaborative role for Staff in choosing projects for inclusion inappropriately shifts management responsibility from the Company to Staff. Under the circumstances, I **FIND** that the AREP proposal is unreasonable and should not be approved. A more clearly defined proposal may be appropriate for consideration in another proceeding.

B. BGS-CIEP Meter Costs

In In the Matter of the Review of the Basic Generation Service Procurement Process, Docket No. ER12020150 (Decision and Order, June 18, 2012), the Board directed that the Basic Generation Service – Commercial and Industrial Energy Pricing ("BGS-CIEP") threshold be lowered from 750 kw to include those customers with a peak load of 500 kw beginning June 1, 2013. In order to accommodate CIEP meter reading and billing for these additional customers, it is necessary to install interval meters on the facilities associated with this new group of CIEP accounts. Therefore, the Board directed all of the electric distribution companies, including JCP&L, to install interval meters on all BGS eligible accounts with a peak load share equal to or above 500 kw. The Board further directed that the recovery of the costs associated with the installation of these meters should be addressed in the context of each electric distribution company's next rate proceeding. In this proceeding, the Company is requesting recovery of the costs associated with 254 interval meters required for CIEP-eligible customers between 500 kw and 750 kw.

In its Decision and Order, the Board indicated that it will continue to investigate a further lowering of the CIEP threshold. As a result, the Company has submitted a schedule setting forth the costs associated with interval meters for 511 customers within the range from 300 kw to 500 kw. The Company is not seeking recovery of these costs in this base rate proceeding. Rather, the Company is seeking approval in this case to adjust rates automatically to recover such costs through an additional $177,846 increase in the revenue requirement, if the Board issues an order expanding CIEP eligibility to these lower-usage customers. Alternatively, the Company requests authority in this proceeding to defer such expenditures, with carrying costs, for recovery in a future base rate proceeding, if the Board issues an order further expanding CIEP eligibility.

Rate Counsel opposes the Company's request to include "automatically" any cost related to potential future action by the Board. According to Rate Counsel, it would be more appropriate to address the treatment of these costs if or when the Board makes a decision to lower the current CIEP threshold.

Rate Counsel's arguments are persuasive. It would be more appropriate for the Board to address this subject if it decides to reduce further the CIEP threshold. Therefore, the Company's proposal should not be approved.

C. Ring Fencing

Rate Counsel's rate of return witness, Mr. Kahal, reviewed JCP&L's credit ratings and the reports by Standard & Poors, Moody's and Fitch Ratings. All three credit rating agencies depict a company with a very favorable business risk profile. Nonetheless, JCP&L's credit rating is impaired and weakened by its affiliation with FirstEnergy operations.

Mr. Kahal recommends that the Board require JCP&L to investigate whether it could improve its credit quality by implementing "ring fencing" measures, which he describes as follows:

> "Ring fencing" refers to corporate structural protections and business practices that can help separate the utility subsidiary from its riskier parent and corporate affiliates. These measures, if properly designed, could help the utility avoid becoming involved in a bankruptcy in the event of a parent (or affiliate) bankruptcy and/or reduce the likelihood that the utility subsidiary would be downgraded by credit rating agencies due to the parent being downgraded. Properly designed ring fencing measures can help to protect the financial health of the utility, avoid unwarranted credit downgrading, and provide reassurance to utility bond investors.

Mr. Kahal acknowledges that JCP&L already has ring fencing measures in place, but he asserts that the comments by credit rating agencies indicate that they are not sufficient. Mr. Kahal recommends that within ninety days of the final Board order in this case, JCP&L should report back on the costs, benefits and feasibility of potential ring fencing measures that it might take to further separate itself from credit risks associated with the FirstEnergy non-utility operations as a means of strengthening its credit ratings.

The Company presented rebuttal testimony by Steven R. Staub, who is employed by the FirstEnergy Service Company as Vice President and Treasurer, in regard to this recommendation. According to Mr. Staub, JCP&L's credit ratings are typical of a situation where an EDC's parent company and/or affiliates have a riskier business profile. Further, Mr. Staub maintains that Mr. Kahal has provided no support for the assumption that additional ring fencing measures would have any impact on JCP&L's credit ratings. Finally, there is no need for the Board to launch an investigation into the adequacy of JCP&L's ring fencing measures because that issue is periodically reviewed during the Board's regular management audits of the Company with the most recent one conducted by Schumaker & Company in 2011.

It is apparent that in the view of credit rating agencies FirstEnergy's non-utility operations continue to have a negative impact on JCP&L's credit ratings. Therefore, the study recommended by Mr. Kahal is warranted under present circumstances.

SERVICE

In defining the scope of this proceeding in its July 31, 2012 Order, the Board referred to reliability concerns and operations. The Company submitted testimony concerning organizational effectiveness, operational efficiency, adequacy of capital investments, sufficiency of O&M expenditures, system performance and tree trimming. Rate Counsel submitted testimony in regard to system performance and tree trimming as well as storm-related public communications, credit and collection, access to Company personnel and billing accuracy. The Company presented rebuttal testimony as to each topic addressed by Rate Counsel's witness.

A. Reliability

Organizational Effectiveness and Operational Efficiency

Steven E. Strah is employed by FirstEnergy Service Company as Vice President Distribution Support. Mr. Strah described: (1) the capital and operational maintenance as well as the overall budgeting process for FirstEnergy system utilities; (2) the various centralized support services provided to FirstEnergy utilities including JCP&L; and (3) programs that JCP&L has implemented since FirstEnergy acquired GPU, Inc. According to Mr. Strah, FirstEnergy has a vigorous capital budgeting process that is used by all of its operating utilities including JCP&L. The annual capital budgeting process is not only uniform for all FirstEnergy utilities but also incorporates peer review by the FirstEnergy utilities to select and prioritize well-conceived, cost-justified capital projects that provide incremental benefits to customers and align with FirstEnergy's financial and operational objectives. FirstEnergy corporate leadership makes the final decision on the total capital expenditure and its allocation among the FirstEnergy utilities, but the operating utilities are not competing against each other for access to funds. JCP&L leadership makes the final decision concerning the prioritization of projects and programs so as to maximize the benefit of capital investment.

Mr. Strah also explained the corporate assistance that Distribution Support provides to JCP&L. The operational support includes the outage management system, various training programs, a wide range of technical engineering support, and distribution vegetation management program oversight and transmission vegetation management expertise. Distribution Support employees are also available to provide assistance with respect to severe weather including leadership and office and field support. JCP&L has access to restoration personnel from other FirstEnergy operating utilities.

JCP&L's local distribution organization is divided into two major functional areas, Operations and External Affairs. The Operations Leadership Team and the Vice President of External Affairs report to the President of JCP&L, as do the support functions of Manager of Human Resources and Manager Regulated Commodity

Sourcing. The Operations Leadership Team is comprised of Operations Services, Operations Support and Operations Support Services Groups. Operations Services includes the work performed by JCP&L's fourteen local line shops, JCP&L's local Engineering Department and the Company's Small Claims Department. Operations Support includes the Substation Department and two Regional Dispatch Offices. Operations Support Services includes the Distribution Forestry, Fleet, Meter Services, Meter Reading, Facilities and local Environmental Departments.

According to Mr. Strah, JCP&L has a sufficient workforce in place to reliably operate its electric system. JCP&L effectively manages its day-to-day work obligations with its own employees and contractor personnel. The Company requires assistance for major storm restoration and has an established process to acquire assistance from both FirstEnergy and non-affiliated utilities.

Mr. Strah's testimony indicates that JCP&L has established a reasonable degree of organizational effectiveness and operational efficiency. No party has challenged this portion of Mr. Strah's testimony.

<u>Adequacy of Capital Investments</u>

Mr. Strah addressed the level of JCP&L's capital investments in its distribution system and associated equipment. From 2003 through June 30, 2012, JCP&L has invested approximately $1.2 billion in new electric distribution plant and utility services equipment. Mr. Strah described the types of capital improvements. In 2011, JCP&L's capital expenditures were $191 million including storm-related capital repairs.

The Company also presented the testimony of Jeffrey W. Cummings, who presented a benchmark study of JCP&L's infrastructure investment levels as well as its service and staffing levels and its O&M expenditures. The study involved a comparison with other electric distribution companies ("EDCs") within New Jersey, within the FirstEnergy system and among similarly situated EDCs in the broader Untied States.

Based upon his comparative analysis, Mr. Cummings determined that overall the Company's investment rates have been strong and much higher than the industry median level. JCP&L's investment patterns have been very similar to those of other FirstEnergy electric distribution companies with an emphasis on maintaining and improving existing systems as opposed to new customer additions. JCP&L's investment patterns are typical of the investment rates of the other New Jersey EDCs. Further, the overall levels of investment have consistently risen throughout the time period from 2004 to 2011 despite decreasing new customer growth rates. The Company has been strongly and consistently committed to its core capital investment needs and opportunities.

Additionally, the Company's core capital expenditures are reflective of sound practices in regard to asset management and, more specifically, capital investment portfolio organization. JCP&L is effectively managing its capital portfolio to achieve optimum balance between supporting short-term system performance mandates and revitalizing the infrastructure for long-term sustainability. Mr. Cummings concluded that JCP&L's capital investment levels have been strong and above that of the industry median, while comparing favorably with other FirstEnergy electric utilities and others within the state of New Jersey. Further, the investments have been well-directed in balancing trade-offs between supporting short-term system performance mandates and long-term investments geared towards ensuring the sustainability of said performance.

The testimony of the Company's witnesses indicates that JCP&L is maintaining an adequate level of capital expenditures. No party has challenged this aspect of the Company's presentation.

<u>Sufficiency of O&M Expenditures</u>

Mr. Cummings next provided an analysis of the Company's O&M practices and spending. Mr. Cummings determined that JCP&L's portion of the total FirstEnergy O&M expenditures within the total FirstEnergy system has always been greater than its corresponding share of customers. JCP&L's distribution O&M costs per customer historically have been higher than the industry median. Further, JCP&L's staffing levels are consistent with those required to meet the day-to-day requirements and to support emergency restoration.

JCP&L's spending levels have been stable or rising since FirstEnergy's merger with GPU and are notably higher on a per customer basis than those of other FirstEnergy affiliates. The Company has been successful in managing operating expenses and reinvesting the savings resulting from a streamlined management structure towards maintenance-related activities while introducing automation to more directly address and improve system performance.

Mr. Cummings' testimony indicates that the Company is maintaining a sufficient level of O&M expenditures. No party has challenged this portion of Mr. Cummings' testimony.

System Performance

Standards for electric distribution service reliability and quality are set forth in N.J.A.C. 14:5-8.1 to -8.12. The purpose of these rules is to establish a uniform methodology for measuring reliability and ensuring quality of the electric distribution service that is being delivered to New Jersey customers by EDCs operating in New Jersey. N.J.A.C. 14:5-8.1(a). Each EDC is required to have reasonable programs and procedures necessary to maintain minimum reliability levels for its respective operating areas. N.J.A.C. 14:5-8.3(a). Each EDC must submit to the Board an Annual System Performance Report (the "Annual Report") by May 31 of each year. N.J.A.C. 14:5-8.7(a).

The two main metrics for evaluating the reliability performance level are the System Average Interruption Frequency Index ("SAIFI") and the Customer Average Interruption Duration Index ("CAIDI"). SAIFI is defined in N.J.A.C. 14:5-1.2 as follows:

> "System Average Interruption Frequency Index" (SAIFI) represents the average frequency of sustained interruptions per customer during the reporting period. SAIFI is defined as:

total number of sustained customer interruptions per reporting period

SAIFI= --

total number of customers served per reporting period

CAIDI is defined in N.J.A.C. 14:5-1.2 as follows:

> "Customer Average Interruption Duration Index (CAIDI)" represents the average time in minutes required to restore service to those customers that experienced sustained interruptions during the reporting period. CAIDI is defined as follows:

sum of sustained customer interruption durations per reporting period

CAIDI= --

total number of sustained customer interruptions per reporting period

A sustained interruption is "an interruption of electric service to one or more customers that is not classified as a momentary event interruption and which is longer than five minutes in duration." N.J.A.C. 14:5-1.2. Interruptions which occur during a "major event" in one or more operating areas shall not be included in the EDC's SAIFI and CAIDI calculations. N.J.A.C. 14:5-1.2. The term "major event" is defined in N.J.A.C. 14:5-1.2 in part as follows:

> "Major event" means any of the following:
>
> 1. A sustained interruption of electric service resulting from conditions beyond the control of the EDC, which may include, but is not limited to, thunderstorms, tornadoes, hurricanes, heat waves or snow and ice storms, which affect at least 10 percent of the customers in an operating area. Due to an EDC's documentable need to allocate field resources to restore service to affected areas when one

> operating area experiences a major event, the major event shall be deemed to extend to those other operating areas of that EDC, which are providing assistance to the affected areas. The Board retains authority to examine the characterization of a major event;

The performance levels for SAIFI and CAIDI are based on a benchmark standard and a minimum reliability level. An operating area's CAIDI benchmark standard is set at the five-year average CAIDI for the years 2002 to 2006, N.J.A.C. 14:5-8.9(a)1; the operating area's SAIFI benchmark standard is set at the five-year average SAIFI for the years 2002 to 2006, N.J.A.C. 14:5-8.9(a)2. The minimum reliability level for each operating area is attained when its annual CAIDI and SAIFI are no higher than the CAIDI and SAIFI five-year benchmark standard plus 1.5 standard deviations. N.J.A.C. 14:5-8.9(a)3.

When the CAIDI and SAIFI of an EDC or its operating area do not meet the minimum reliability performance level, further review, analysis and corrective action are required. N.J.A.C. 14:5-8.9(b). Performance worse than the minimum reliability level is unacceptable and may be subject to a penalty. N.J.A.C. 14:5-1.2. Each EDC must include in its Annual Report extensive data related to SAIFI and CAIDI and a summary of each major event. N.J.A.C. 14:5-8.7. The minimum reliability performance level to be assigned to an EDC and/or its operating area may be adjusted by Board order for subsequent years. N.J.A.C. 14:5-8.9(c).

The first set of issues with respect to system performance concerns whether the Company is currently providing reliable electric distribution service. The second set of issues relates to whether the current regulatory standards for reliable service should be modified as proposed by Rate Counsel. The third set of issues involves the Company's tree trimming practices.

Mr. Strah and Mr. Cummings presented JCP&L's position in regard to performance levels. According to the Company's witnesses, JCP&L's reported reliability has shown a pattern of improvement since 2002 and, since 2007, has reached a point where all of the Company's reported reliability metrics are now better than the benchmark targets established under N.J.A.C. 14:5-8.9.

Mr. Cummings developed two groups for comparison with other EDCs across the industry. One group is a thirty-two member regional panel with service territories located in seven states in close proximity to JCP&L. The other is a fifteen-member peer group panel with system configurations and characteristics that are most comparable to JCP&L. With respect to SAIFI and CAIDI, Mr. Cummings concluded that JCP&L is positioned between the industry median and top quartile in both comparisons.

Mr. Cummings also considered JCP&L's performance with respect to the two major storms in 2011. To perform a comparative review, Mr. Cummings developed a twelve-member major storm comparison peer group and performed an analysis based on mobilization, which was described as time to reach peak staffing, and customers restored, which was expressed as ninety-five percent of customers restored. Despite being relatively severely affected by Hurricane Irene on August 29th, JCP&L achieved ninety-five percent restoration by September 2nd , which was comparable to, or better than, the performance of four EDCs in the comparison group. With respect to mobilization, Mr. Cummings acknowledged an opportunity for improvement. Nonetheless, JCP&L mobilized significantly more crews than all but one other utility in response to Hurricane Irene. The changing forecast regarding the path of the hurricane created delays in FirstEnergy requesting mutual assistance for line and service crews outside FirstEnergy, but JCP&L did expedite the mobilization of tree crews to achieve peak staffing by August 31st.

In regard to the October 30th snow storm, JCP&L was relatively severely affected compared to the other members of the comparison group. Nonetheless, JCP&L achieved ninety-five percent restoration by November 4th, which was comparable to, or better than, the performance of four other EDCs in the comparison group. With respect to mobilization, JCP&L was ahead of all the utilities in reaching maximum staffing in tree crews and mobilized the line crews at a slightly slower pace.

The number of major events increased during the period from 2008 to 2011. Mr. Cummings attributed this circumstance to a significant increase in weather events during this time frame.

Rate Counsel presented the testimony of Peter J. Lanzalotta in regard to electric service reliability. Mr. Lanzalotta acknowledged that JCP&L's electric service reliability performance as measured by SAIFI and CAIDI without major events is well within the levels set forth in the Board's regulations. Nonetheless, while also acknowledging that weather is a major driver of electric service interruptions, Mr. Lanzalotta expressed the view that reliability indices that include all customer interruptions, including those that occur during major events, are important, particularly because JCP&L has shown a pattern of increasing major event days ("MEDs"). If MEDs are included in the analysis, reliability performance has not been steadily improving. Rather, reliability performance during major storms has deteriorated badly, particularly in the years 2011 and 2012. As a result, Mr. Lanzalotta included the major storms of 2011 and 2012 in his analysis. Using data that included those major storms, Mr. Lanzalotta observed a trend toward deteriorating service performance particularly with respect to CAIDI. Further, the majority of customer interruption minutes are now occurring during major events. As a result, most customer interruptions are excluded from the Company's reliability benchmarks and minimum reliability levels for SAIFI and CAIDI under the Board's regulations. Mr. Lanzalotta also expressed the view that the Company's tree-trimming practices contributed to service reliability problems, particularly during the October 2011 snow storm.

According to Mr. Lanzalotta, the current regulations fail to address adequately electric service reliability in several respects. First, the current regulations fail to address reliability performance during major storms. Mr. Lanzalotta recommends that the Board require the EDCs to report SAIFI and CAIDI both with and without major events. Second, Mr. Lanzalotta recommends a tightening of the standard for exclusion of a major event from an EDC's reliability indices. The criterion of ten percent of electric customers in an area being out of service makes larger outages less onerous to the EDC's reported reliability performance, thus encouraging electric system practices that make such larger outages more likely.

Mr. Lanzalotta also recommends use of the benchmark rather than the minimum reliability standard as the pertinent performance level. According to Mr. Lanzalotta, the target should be to maintain average reliability performance as the benchmark. The current minimum reliability standard is deficient in that the EDC is always permitted to be 1.5 standard deviations above the benchmark. Rate Counsel takes the related position that the five-year period from 2002 to 2006 should not be included in the standard because it covers a time of unacceptably poor performance by JCP&L, thus setting the bar too low.

The Company has a program which focuses attention on its worst performing circuits. According to Mr. Lanzalotta, there has been a high rate of repeat distribution circuits in this program, indicating that it is not working well. According to Mr. Lanzalotta, the Company needs to consider other approaches for improving reliability on those circuits. Further, Mr. Lanzalotta recommends that the Board should consider regulations which put more emphasis on improving reliability on these circuits or which penalize the Company for failure to improve reliability on its worst-performing distribution circuits.

Finally, Mr. Lanzalotta expressed concern about pockets of poor reliability that may exist on the distribution system that are smaller than an entire distribution circuit. As a first step, Mr. Lanzalotta mentioned use of a metric called "customers experiencing multiple interruptions" ("CEMI"). If reported annually by each EDC, this metric will provide data on the existence of smaller groups of customers experiencing high numbers of sustained interruptions.

The Company presented rebuttal testimony from Mr. Strah and Mr. Cummings. Mr. Strah first addressed Mr. Lanzalotta's testimony to the effect that New Jersey regulations do not cover electric service reliability performance during major storms and thereby provide incentives which help undermine reliability. According to Mr. Strah, while the pertinent regulations do not establish specific performance metrics with respect to major storms, EDCs are required by N.J.A.C. 14:3-3.7 to "exercise reasonable diligence to avoid interruptions, curtailments or deficiencies . . . of service and, when interruptions occur, [to restore] service . . . as promptly as possible consistent with safe practice." Major storm events present variability of circumstances regarding the cause, nature and extent of the interruptions and require a case-by-case determination as to whether restoration was effectuated as promptly as possible consistent with safe practice. The Board requires major event reports to review these types of situations. Additionally, the Board may use its investigative powers to review restoration efforts related to extraordinary storm events. Thus, the Board's regulations address the entire spectrum of service interruptions to customers. Further, the pertinent regulations do not create incentives undermining reliability. Mr. Strah noted that any interruption of delivery service results in a loss of revenue contrary to the Company's financial interest and would be contrary to regulatory requirements. Thus, the incentive posited by Mr. Lanzalotta does not exist in practice. In addition to major event reports, the EDCs file Annual Reports which include data on major events.

Mr. Strah stated that JCP&L's reliability performance metrics for CAIDI and SAIFI with major events in 2011 and 2012 were the result of three catastrophic storms in 2011 and 2012 that were the worst in Company history. Each of those storms had a devastatingly destructive impact on the Company's distribution system. These circumstances do not mean that there was a deterioration in the Company's performance during these years. Rather, the higher figures for CAIDI and SAIFI were the result of these major storms despite the proper execution of the Company's emergency storm restoration plan. Each major event must be analyzed on the basis of its unique circumstances.

Mr. Strah disagrees with Mr. Lanzalotta's recommendation that EDCs should be required to report SAIFI and CAIDI both with and without major events. According to Mr. Strah, meaningful statistical reporting of reliability performance should focus on average system performance that is within the reasonable control of the reporting utility. Inclusion of aberrational events in statistical reporting would serve no purpose other than to negatively skew the utility's performance. Aberrational events should be reviewed on a case-by-case basis.

Mr. Strah disputes Mr. Lanzalotta's testimony to the effect that there has been a high level of repeat distribution circuits in the Highest Priority Circuit Program and that the program is not adequately addressing reliability of those poorly performing circuits. According to Mr. Strah, only sixty-one out of 1,190 circuits, or approximately five percent, are repeat circuits. Additionally, the repeat could occur at any time over a full nine-year period. Further, it is necessary to consider the particular circumstances of each circuit. Some circuits in question have many miles of poles, equipment and wires that are exposed to potential damage from trees, vehicle accidents and weather impacts. Finally, in view of initiatives to augment the worst performing circuit program in accordance with the Board's Order dated February 20, 2013, in BPU Docket No. EO12070650, Mr. Strah sees no constructive benefit to encumbering the current priority program with additional regulations and penalties.

With respect to Mr. Lanzalotta's comments to the effect that the Board should require EDCs to report the CEMI metric, Mr. Strah states that system-wide data would not be helpful. JCP&L already uses circuit-specific CEMI performance measurement data as a tool when designing highest priority circuit action items. The existing priority circuit program provides exactly the type of actionable information needed to address those circuits and/or subcircuits with smaller groups of customers.

Mr. Cummings acknowledged that JCP&L has experienced a noted increase in the number of major event days since 2004, but he attributed this circumstance to weather events. JCP&L has been responding to these major events in an appropriate way. Electric utilities develop normalized staffing models, and for extraordinary weather events they have contingency plans for mutual assistance and other support mechanisms.

Further, exclusion of major events is an appropriate element of proper electric system planning and analysis. In effect, experience is normalized to eliminate differing climates and weather patterns as well as other events that are outside the control of an electric utility. Excludable events are not ignored but rather are monitored and often reported in substantial detail. The three extraordinary storm events of 2011 and 2012 were anomalous in nature and should be viewed outside the purview of normal reliability performance measurement. Rather, they should be considered on a case-by-case basis. Finally, by excluding major events, electric utility executives can more accurately benchmark their performance against industry norms, challenge existing practices to improve their comparative performance and properly hold themselves and their subordinates accountable to perform at challenging but achievable levels.

Ralph C. Hillmer testified on behalf of JCP&L concerning its distribution vegetation management program. This program encompasses distribution and sub-transmission lines and is designed to assist JCP&L in meeting its obligation to provide safe and reliable service. The vegetation along JCP&L's electric distribution and sub-transmission circuits is inspected on a four-year cycle and, if necessary, such vegetation is removed, pruned or otherwise controlled. Additionally, on a spot basis outside the regular four-year cycles the Company also inspects and trims vegetation, as necessary, to address specific circuits and substation reliability issues or concerns, including for purposes of maintaining access, making repairs, restoring service and protecting the safety of the general public. The program is operated in compliance with the pertinent New Jersey regulations, N.J.A.C. 14:5-9.1 to -9.10. The degree and type of vegetation clearance required for electric distribution and subtransmission lines to function effectively is dependent on a variety of factors such as the voltage and height of the conductor and the kind of tree.

According to Mr. Hillmer, the current clearance requirements are adequate and strike an appropriate balance between cost and reliability benefit. From a vegetation management perspective, most reliability challenges are non-preventable and relate to off-corridor trees. The worst-performing circuits are scheduled for priority vegetation management earlier in the cycle year. A "tree cause" of an outage is a tree-related incident that results in an outage because a tree or other vegetation has grown into, or otherwise contacted, a Company circuit. Vegetation related outages are considered to be "preventable" when the outage is caused by vegetation that is within the right-of-way or trim corridor that is ordinarily addressed through the cyclical vegetation management program. The clearance or trim corridor is typically fifteen feet from all sides of the conductor. This includes a height of fifteen feet above the conductor. The clearance or trim corridor can vary depending on the tree species and growth rate.

In contrast, a non-preventable tree cause is a tree-related incident resulting in an outage where a tree or limb falls or is forced into a Company line, typically due to wind, storm or accident, from outside the right-of-way or trim corridor. In practice, this means that JCP&L tracks vegetation related outages in such a manner as to consider as non-preventable those outages caused by overhang which is more than fifteen feet above the conductor or trees and limbs that are outside of the right-of-way or trim corridor and which fall into the Company's electric facilities.

In 2009, the Company decided to pursue a corridor-widening initiative in an attempt to widen the traditional trimming corridors for the Company's distribution circuits where practical and to remove overhang on selected circuits. As a result of this initiative, while the planned cycle mileage for 2009 and 2010 was all visually inspected, some of the necessary trimming work was deferred and had to be addressed during subsequent cycle years. As of December 31, 2011, the necessary tree trimming of all JCP&L cyclical mileage has been completed, except for 416 miles, which had been scheduled for completion during 2011 but were subsequently deferred into the first quarter of 2012 as a result of Hurricane Irene and the October 2011 snow storm.

Mr. Lanzalotta testified that tree-related events caused 34.5 percent of outages during Hurricane Irene, 57.0 percent during the October 2011 snowstorm and 21.3 percent during Superstorm Sandy. The terms "preventable" and "unpreventable" do not accurately describe the nature of tree-related interruptions in that "unpreventable" refers to tree-related faults from limbs or tree trunks located outside the normal trimming zone, including branches from the canopy directly over the wires but outside the normal fifteen-foot trim zone. The Company follows a practice of allowing the tree canopy to grow above the circuits. According to Mr. Lanzalotta, it should come as no surprise when branches located directly above the circuit break and fall onto the wires during snow, ice or heavy wind conditions. Those situations are unpreventable only in the sense that the Company chooses not to try to prevent them by restricting the trimming of the canopy. Further, any deferrals of tree trimming, for whatever reason, make the distribution system more vulnerable to major weather events.

The October 2011 snow storm struck while foliage remained on the trees. Branches which were weighed down by snow broke and fell onto the wires. This is one reason that the October 2011 snow storm was so destructive. In high winds, branches in the canopy are subject to breakage with a similar result.

Mr. Lanzalotta noted that the Company's corridor-widening initiative began in 2009 and continued for four years. Mr. Lanzalotta recommends that the Company should implement regular, cyclical corridor widening and regular cyclical full canopy removal over at least the most critical backbone portions of its distribution circuits.

The Company presented rebuttal testimony of two witnesses in regard to tree-trimming. Mr. Hillmer stated that during Hurricane Irene, the October 2011 snow storm and Superstorm Sandy, the percentage of vegetation-related interruptions caused by non-preventable trees were 98.4, 97.0 and 99.0, respectively. Most of the damage was caused by large, healthy trees that were uprooted. This problem could not be addressed by cycle-based vegetation management. During the October 2011 snow storm, most trees were still foliated, resulting in large healthy branches becoming heavily laden with snow, which eventually caused them to break.

Mr. Cummings disputed Mr. Lanzalotta's testimony that the effect of deferred tree trimming manifested itself during the October 2011 snow storm. According to Mr. Cummings, no prudent or economically viable vegetation management plan would have anticipated the combined effect of a severe hurricane and an unseasonal blizzard, nor would it have been able to widen these corridors to a point where otherwise healthy trees, which fell under the force of extreme wind or snow loading, could not possibly have made contact with a power line.

JCP&L has adopted industry-accepted terminology by characterizing outage events as "preventable" or "non-preventable." A "preventable" outage could have been avoided with proper implementation of its trimming specification. Such classifications provide invaluable data for past-event and system-level analysis to identify opportunities for improvement.

With respect to continuation of the corridor-widening initiative, Mr. Hillmer made the point that there are limitations on the Company's ability to trim trees dictated by the limited rights it has under easements and other rights-of-way documents and as potentially limited by municipal ordinances and shade tree commissions. According to Mr. Cummings, the Company should take a balanced approach aimed at improving system performance where capital investments and O&M spending programs address, among a number of competing priorities, service interruption mitigation, infrastructure revitalization and system automation.

The first set of issues relates to whether the Company is in compliance with current reliability performance standards. Rate Counsel requests that the Board acknowledge JCP&L's poor performance with respect to reliability. With the Company in compliance with the performance standards in the current regulations for SAIFI and CAIDI, it is unreasonable to assess JCP&L's performance with respect to reliability as poor.

Rate Counsel's witness sees a trend toward deteriorating performance based upon CAIDI including major events in 2011 and 2012. It is more likely that the major storms of 2011 and 2012 will prove to be aberrations rather than a trend toward deteriorating performance. At present, Rate Counsel's position appears to be unreasonable. As additional data becomes available, it should be evident whether there is a trend toward deteriorating performance. It follows that based upon current standards the Company is providing reliable electric distribution service.

The second set of issues with respect to system performance concerns whether the current regulations should be modified to provide higher standards of reliability. Rate Counsel recommends several changes in regard to SAIFI and CAIDI. First, Rate Counsel maintains that JCP&L's performance during the period 2002 to 2006, as referenced in N.J.A.C. 14:5-8.9, was unsatisfactory as reflected in the fact that the Board reduced the Company's return on equity by twenty-five basis points in the 2004 base rate case. 2004 JCP&L Order. Further, it is evident that JCP&L's figures for SAIFI and CAIDI were generally higher during the period from 2002 to 2006 than from 2007 to 2011. According to Rate Counsel, use of the SAIFI and CAIDI results from

2002 to 2006 establishes unsatisfactory performance as the standard for evaluation of service reliability in the future.

Rate Counsel's argument is persuasive. The results for SAIFI and CAIDI for 2002 to 2006 reflect a period of poor performance with respect to service reliability. It is unreasonable to use those results as the standard for future evaluation of service reliability. The SAIFI and CAIDI figures for JCP&L for 2007 to 2011 would constitute a more reasonable standard for evaluation of the Company's reliability performance in the future.

Referring to N.J.A.C. 14:5-8.9(a), Rate Counsel's witness recommended use of the benchmark as opposed to the minimum reliability standard for evaluation of JCP&L's system performance. This proposal would have some appeal with the use of data from 2002 to 2006 to set the benchmark. With the use of SAIFI and CAIDI results for 2007 to 2011 to set the benchmark, it is reasonable to allow some latitude in regard to the minimum reliability standard.

Rate Counsel maintains that SAIFI and CAIDI should be reported both with and without major events. The Company's arguments in opposition to this position are persuasive. The results during the major storms of 2011 and 2012 are totally out of proportion to the figures with major storms excluded and cannot serve as a basis for comparison. It is more useful to evaluate the results for each major storm on an individual basis.

Rate Counsel contends that there should be a tightening of the standard for exclusion of major events. This position is based on a trend to a larger number of major events during the period from 2004 to 2011. While the trend in the number of major event days is undisputable, JCP&L maintains that the higher number of major event days from the 2008 to 2011 is the result of weather conditions.

The high number of major event days from 2008 to 2011 may well be the result of aberrations in weather conditions. Additional data for several years should be considered before making a determination as to whether to change the definition of major event days.

Mr. Lanzalotta stated that the Company's approach to enhancing reliability on poor-performing circuits is not working very well. According to Mr. Lanzalotta, the Company needs to consider the costs and benefits of other approaches for improving reliability on these circuits, including more equipment replacements, more aggressive tree trimming, selective use of undergrounding, more advanced circuit protection and sectionalizing, and other potential approaches. Further, the Board should consider regulations which put more emphasis on improving reliability on these circuits or which penalize the Company for failure to improve reliability on its worst performing circuits.

As the Company points out, the Board issued an Order on February 20, 2013, in In the Matter of the Board's Initiative to Revise Reporting Requirements and Improve Reliability Programs by the Electric Distribution Companies Operating in New Jersey, BPU Docket No. EO12070650, and initiated a pilot project for its worst performing circuit program, where the number of circuits that are to be identified by the EDCs each year increased from four percent to eight percent. In addition, beginning in the third quarter of 2013, the EDCs will report quarterly to the Board regarding outages on all circuits. Under the circumstances, the effectiveness of this new program should be evaluated prior to consideration of other measures.

Rate Counsel maintains that the Company should be required to report customers experiencing multiple interruptions ("CEMI") to provide information about pockets of poor reliability on JCP&L's system. According to Rate Counsel, CEMI data would enable the Company and the Board to better understand the areas most in need of maintenance and investments.

The Company maintains that it already uses circuit-specific CEMI performance measurement data as a tool when designing highest priority circuit action items. In contrast, system-wide CEMI is a summary statistic that does not provide useful data about circuits or sub-circuits that are experiencing frequent interruptions. The concept of multiple interruptions could be applied informally to identify priority circuits, but it would be counterproductive to replace engineering judgment with regulatory mandates.

Rate Counsel's arguments are persuasive that the Company should be required to measure and report CEMI in an appropriate form. After the Company reports CEMI for a period of time, it will be possible to develop an appropriate response to the circumstances revealed by the data.

In regard to tree trimming, the Company uses the terms "preventable" and "non-preventable" to describe outages caused by trees. According to the Company's witness, the term "preventable" is a term of art and does not mean that the outage could or should be avoided through implementation of vegetation management practices. A "preventable" outage is one caused by vegetation that is within the right-of-way or trim corridor that is ordinarily addressed through the cyclical vegetation management program. The clearance is typically fifteen feet from all sides of the conductor. This includes a height of fifteen feet above the conductor. In contrast, a "non-preventable" tree cause is a tree-related incident resulting in an outage where a tree or limb falls or is forced into a Company line from outside the right-of-way or trim corridor.

Rate Counsel's witness questions the use of the term "non-preventable" to describe outages caused by branches that are within the right-of-way but are also within the canopy directly over the wires. According to Mr. Lanzalotta, it should come as no surprise that branches located fifteen feet directly above the conductors would break and fall onto the wires during snow, ice or heavy wind conditions. These outages are "non-preventable" only in the sense that the Company chooses not to try to prevent them by restricting its trimming of the canopy.

The Company responds that most of the tree-related damage in the three major storms of 2011 and 2012 was caused by the uprooting of large, healthy trees. During the October 2011 snow storm, most trees were still foliated and broke when they became heavily laden with snow.

Rate Counsel's point is well taken in that branches and foliage above the conductors, even if fifteen or more feet away, will sometimes break and fall onto the wires. This is an area where the Company could expand its tree trimming to prevent outages. At a minimum, it should be recognized that the term "non-preventable" like "preventable" is a term of art and should not be taken literally.

Rate Counsel maintains that the outages during the major storms of 2011 were to some extent the result of deferrals of tree trimming. In response, Company witness Hillmer acknowledged that there have been deferrals from one year to another, but he stated that this is not done without a reasonable basis. For example, the corridor widening initiative during the period from 2009 to 2012 caused some deferrals. Nonetheless, the deferred tree trimming was completed by 2012.

Based upon the evidence presented in this proceeding, it is evident that there were deferrals of regular cyclical tree trimming as of Hurricane Irene in August 2011 and the October 2011 snow storm. Nonetheless the deferrals were caused by the beneficial corridor-widening initiative. It would be unreasonable to expect the Company to anticipate the major storms of 2011 so as not to engage in the corridor-widening initiative at that time.

Rate Counsel maintains that JCP&L should implement cyclical corridor widening. The Company maintains that there are practical constraints on trimming such as property rights but does not oppose continued corridor widening as part of a balanced approach aimed at improving system performance.

The Company implies that it has taken advantage of the available opportunities for corridor widening during the period from 2009 to 2012. Nonetheless, the Company should continue to take advantage of opportunities for corridor widening as they present themselves.

B. Operations

Rate Counsel presented the testimony of Roger Colton, who addressed several topics including storm-related public communications, credit and collections, access to Company personnel and accurate bills. With respect to storm-related public communications, Mr. Colton offered recommendations in regard to local municipal officials, estimated times for restoration, planning and follow-up, vulnerable residential populations and controlling storm-related messaging.

In regard to credit and collection, Mr. Colton stated that JCP&L has a growing collection problem in its oldest arrears. Mr. Colton recommended that JCP&L offer reasonable deferred payment agreements. Mr. Colton also asserted that the Company fails to provide clear and believable disconnect notices by repeatedly issuing disconnect notices when it has no intention of following up with the actual disconnection of service.

A third concern relates to access to Company personnel and accurate bills. Access to Company personnel refers to the time to answer telephone calls and reach a customer service representative. The concern about accurate bills relates to billing without an actual meter reading. Mr. Colton offered recommendations as to each of these concerns.

The Company presented the rebuttal testimony of Mark A. Jones in regard to storm-related communications. In essence, Mr. Jones asserted that the Company has improved storm communications with each successive event. The recommendations of Mr. Colton have either been implemented or are unnecessary.

JCP&L also presented rebuttal testimony from Gary W. Grant, Jr., in regard to credit and collection practices, customer access to Company personnel and estimated bills. With respect to collection of the Company's oldest arrearages, Mr. Grant attributes the problem to the recession as opposed to any action by the Company. On behalf of the Company, Mr. Grant expressed a willingness to clarify its policies with respect to deferred payment agreements and to provide training for its call center staff. With respect to termination notices, Mr. Grant stated that approximately thirty percent of customers who receive disconnection notices make payment as a result, demonstrating their effectiveness as a way of resolving arrearages.

Mr. Grant denied that customers are unable to contact the Company in a timely manner. Mr. Grant maintained that increases in various time metrics were small and actually reflected to some extent the removal of customers who successfully resolved their concerns with the interactive voice response system.

Mr. Grant noted that estimated bills are permitted by the Board's regulations and the Company's tariff. An increase in the percentage of estimated bills in 2011 and 2012 was likely due to major storms.

Rate Counsel maintains that a public utility has an obligation to provide safe, adequate and proper service to its customers, citing N.J.S.A. 48:2-23 and N.J.A.C. 14:3-3.1(a). Further, the quality of service provided by a public utility may impact a determination by the Board in regard to a request for a rate increase. In re Valley Road Sewerage Co., 285 N.J. Super. 202, 211 (App. Div. 1995), aff'd, 154 N.J. 224 (1998). Indeed, the Board ordered a reduction in JCP&L's return on equity in the Company's 2004 base rate case. 2004 JCP&L Order.

The Company maintains that the concerns raised by Mr. Colton are normally addressed in proceedings other than a base rate case and do not suggest any circumstances approaching the type of conditions that have impacted rate determinations. Further, the concerns raised by Mr. Colton have been addressed previously in Board Staff's Hurricane Irene Electric Response Report dated December 14, 2011, and the September 2012 report by EPP (Performance Review of EDCs in 2011 Major Storms).

The Company's argument is persuasive. While all aspects of service provided by a public utility are important, the concerns raised by Rate Counsel are not sufficiently serious to impact the determinations as to the revenue requirement. Rate Counsel's concerns in regard to operations should be addressed in another proceeding.

CONCLUSION

Based upon the above findings, I **CONCLUDE** as follows:

1. Petitioner's rate base is $1,901,376,452.
2. Petitioner's fair rate of return is 8.01 percent.
3. Petitioner's allowed operating income is $152,205,185.
4. Petitioner's pro forma operating income at present rates is $215,785,137.
5. Petitioner's operating income deficiency is a negative $63,579,952.
6. A reduction in annual revenues of $107,489,352 will provide petitioner with a reasonable opportunity to earn its fair rate of return.
7. The rate design approved herein is reasonable.

Accordingly, it is **ORDERED** that:

1. The rates proposed by petitioner are denied.
2. Petitioner's request for approval of the proposed AREP rider is denied.
3. Within ten days, petitioner shall file for the Board's consideration revised tariff sheets designed to implement a revenue reduction of $107,489,352, consistent with the rate design approved herein, to become effective on a date to be determined by the Board.

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.

Jan. 8, 2015
DATE

RICHARD McGILL, ALJ

Date Received at Agency: ______________________

Date Mailed to Parties: ______________________

ljb

APPENDIX

WITNESS LIST

For petitioner:

Mark A. Mader
James I. Warren
Gary W. Grant, Jr.
Mark A. Jones
Jeffrey W. Cummings
Steven E. Strah
Ralph C. Hillmer
Pauline M. Ahern
Steven R. Staub
Richard A. D'Angelo
Carol Pittavino
Meghan C. Moreland
Sally J. Cheong
Kevin Connelly
Dennis Pavagadhi
Jeffrey Adams
Harvey L. Wagner
John J. Spanos

For Rate Counsel:

Andrea C. Crane
Roger D. Colton
Peter J. Lanzalotta
Matthew I. Kahal
Robert J. Henkes
David E. Peterson

Mitchell I. Serota
Michael J. Majoros, Jr.

For Gerdau:

Kevin W. O'Donnell
Jeffry Pollock

For Con Ed Development:

Stephen B. Wemple

EXHIBIT LIST

For Petitioner:

JC-2	Direct Testimony of Mark A. Mader
JC-2 Supp2	Direct Testimony of Mark A. Mader, Supplemental No.2
JC-2R	Rebuttal Testimony of Mark A. Mader
JC-3	Direct Testimony of Susan D. Marano
JC-3 Supp2	Direct Testimony of Susan D. Marano, Supplemental No. 2
JC-3R	Rebuttal Testimony of Susan D. Marano
JC-4	Direct Testimony of Carol Pittavino
JC-4 Supp2	Direct Testimony of Carol Pittavino, Supplemental No. 2
JC-4R	Rebuttal Testimony of Carol Pittavino
JC-5	Direct Testimony of Steven R. Staub
JC-5A	Schedule SRS-3R (Updated Schedule SRS-3)
JC-5R	Rebuttal Testimony of Steven R. Staub
JC-5R1	Schedule SRS-4R1 (Updated Schedule SRS-4R)
JC-6	Direct Testimony of Pauline M. Ahern
JC-6R	Rebuttal Testimony of Pauline M. Ahern
JC-6R1	Corrected Schedule PMA-4R to Rebuttal Testimony of Pauline M. Ahern
JC-7	Direct Testimony of Meghan C. Moreland
JC-7 Supp2	Direct Testimony of Meghan C. Moreland, Supplemental No. 2
JC-7R	Rebuttal Testimony of Meghan C. Moreland (Confidential Version)

JC-7R	Rebuttal Testimony of Meghan C. Moreland (Redacted Version)
JC-8	Direct Testimony of Sally J. Cheong
JC-8 Supp2	Direct Testimony of Sally J. Cheong, Supplemental. No. 2
JC-8R	Rebuttal Testimony of Sally J. Cheong
JC-9	Direct Testimony of Kevin F. Connelly
JC-9R	Rebuttal Testimony of Kevin F. Connelly
JC-10	Direct Testimony of Marlene A. Barwood
JC-11	Direct Testimony of James I. Warren
JC-11R	Rebuttal Testimony of James I. Warren
JC-12	Direct Testimony of Jeffrey L. Adams
JC-12R	Rebuttal Testimony of Jeffrey L. Adams
JC-13	Direct Testimony of Donald M. Lynch
JC-14	Direct Testimony of Steven E. Strah
JC-14R	Rebuttal Testimony of Steven E. Strah
JC-15	Direct Testimony of Jeffrey W. Cummings
JC-15R	Rebuttal Testimony of Jeffrey W. Cummings
JC-16	Direct Testimony of Ralph C. Hillmer
JC-16R	Rebuttal Testimony of Ralph C. Hillmer
JC-17	Direct Testimony of Dennis Pavagadhi
JC-18	Direct Testimony of John J. Spanos
JC-18R	Rebuttal Testimony of John J. Spanos
JC-19R	Rebuttal Testimony of Harvey L. Wagner
JC-20R	Rebuttal Testimony of Gary W. Grant, Jr.
JC-21R	Rebuttal Testimony of Mark A. Jones
JC-22R	Rebuttal Testimony of Christine L. Walker
JC-23R	Rebuttal Testimony of James F. Pearson
JC-24	Response to JC-RC-3
JC-25	Response to JC-RC-11 Including Attachment
JC-26	Response to JC-RC-12 Including Attachment
JC-27	Response to JC-RC-121
JC-28	Response to JC-RC- 124
JC-29	Excerpt from Board Order to Implement Recommendations, EO11090543, January 23, 2013

JC-30	Board Order to Implement Recommendations, EO12111050, May 29, 2013
JC-31	Response to JC-RC-35
JC-32	Response to JC-RC-36
JC-33	Response to JC-RC-57
JC-34	Response to JC-RC-63
JC-35	Response to JC-RC-65
JC-36	Response to JC-RC-69
JC-37	Response to JC-REL-39
JC-38	Response to JC-RC-79
JC-39	Response to JC-RC-82
JC-40	Response to JC-RC-72
JC-41	Response to JC-RC-80
JC-42	Response to JC-RC-81
JC-43	Response to JC-RC-84
JC-44	Response to JC-RC-88
JC-45	Response to JC-RC-87
JC-46	Response to JC-RC-92
JC-47	Excerpt from Direct Testimony of Matthew I. Kahal before Maryland Public Service Commission
JC-48	Schedule entitled "Current Credit Ratings"
JC-49	Schedule entitled "Recent Gerdau Witness O'Donnell Appearances"
JC-50	Board Decision in In Re Elizabethtown Water Company Rate Case, WR8504330, May 23, 1985
JC-51	Response to JC-RC-143
JC-52	Response to JC-RC-146
JC-53	Response to JC-RC-150
JC-54	Response to JC-RC-152
JC-55	Response to JC-RC-154
JC-56	Response to JC-RC-159
JC-57	Response to JC-RC-160
JC-58	Response to RCR-A-150
JC-59	Response to RCR-A-31

JC-60	JCP&L Comment Letter dated September 23, 2011, on Shumaker Management Audit Report
JC-61	JCP&L Comment Letter dated June 23, 2004, on Booth Focused Audit Report

For Rate Counsel:

RC-1	Response to RCR-A-74
RC-2	Board Order Opening Generic Proceeding in_I/M/O Board's Review of the Application and Calculation of a Consolidated Tax Adjustment, Docket No. EO12121032, January 23, 2013
RC-3	Response to RCR-CIT-18
RC-4	Response to RCR-CIT-19
RC-5	Response to RCR-CIT-20
RC-6	Response to RCR-CIT-39
RC-7	Response to RCR-CIT-58
RC-8	Response to S-JCTS-9
RC-9	Response to RCR-CIT-49 (Confidential
RC-10	Response to RCR-CIT-66 (Confidential)
RC-11	Response to S-JCTS-7 (Confidential)
RC-12	Memorandum dated September 9, 1991, from Internal Revenue Service
RC-13	Direct Testimony of Andrea C. Crane
RC-14	Response to RCR-CS-1 with attachments
RC-14S	Response to RCR-CS-1 Supplemental with attachments
RC-15	Response to RCR-CS-10 with attachments
RC-16	Response to RCR-CS-12 with attachment
RC-17	Response to RCR-CS-13 with attachments
RC-18	Response to RCR-CS-17
RC-19	Response to RCR-CS-20
RC-20	Response to RCR-CS-21
RC-21	Response to RCR-CS-22
RC-22	Response to RCR-CS-27
RC-23	Response to RCR-CS-24
RC-24	Response to RCR-CS-25

RC-25	Response to RCR-CS-27 with Attach. 1 (Excerpt)
RC-26	Response to RCR-CS-30
RC-27	Response to RCR-CS-31[Corrected Response]
RC-28	Response to RCR-CS-37 Attach. 15 & 18 (Excerpt)
RC-29	Response to RCR-CS-43 with attachment
RC-30	Response to RCR-CS-60
RC-31	Response to RCR-CS-67 with attachments
RC-33	Response to BCR-CS-98 with attachments
RC-34	Response to RCR-CS-102 with attachment
RC-35	Response to RCR-CS-106
RC-36	Response to RCR-CS-107 with attachments and References RCR-CS-105 and RCR-CS-96
RC-37	Response to RCR-CS-110 with Reference RCR-CS-103
RC-38	Response to RCR-CS-114
RC-39	Response to RCR-CS-118
RC-40	Response to RCR-CS-119
RC-41	Response to RCR-CS-120 with attachments
RC-42	Response to RCR-CS-124 with attachments
RC-43	Response to RCR-CS-123
RC-44	Response to RCR-CS-125 with attachments
RC-45	Response to RCR-CS-133
RC-46	Response to RCR-CS-138 with References RCR-CS-93, RCR-CS-131 and RCR-CS-139
RC-47	Response to RCR-CS-151 with attachments
RC-48	Response to RCR-CS-157 with attachment
RC-49	Response to RCR-CS-159 with attachment
RC-50	Response to RCR-CS-160 with attachments
RC-51	Response to RCR-CS-171 with attachment
RC-52	Response to RCR-CS-172
RC-53	Response to RCR-CS-173
RC-54	Response to RCR-CS-174
RC-55	Response to RCR-CS-178
RC-56	Response to RCR-CS-179 with attachment

RC-57	Response to RCR-CS-181 with attachment
RC-58	Response to RCR-CS-182 with attachment
RC-59	Response to RCR-CS-183
RC-60	Response to RCR-CS-184
RC-61	Board Order Accepting Staff's Report and Requiring Electric Utilities to Implement Recommendations, In The Matter Of The Boards Review Of New Jersey's Utilities' Response To Hurricane Irene, Docket EO11090543 dated December 15, 2011
RC-62	Hurricane Irene Electric Response Report, BPU Staff Report, December 14, 2011
RC-63	Board Order Accepting Consultant's Report and Additional Staff Recommendations and Requiring Electric Utilities to Implement Recommendations, Docket EO11090543, January 23, 2013
RC-64	Response to RCR-REL-18, with attached Final Report entitled "Performance Review of EDCs in 2011 Major Storms" by Emergency Preparedness Partnerships ("EPP Report"), dated August 9, 2012
RC-65	Excerpt from Schumaker & Company, Jersey Central Power and Light, Final Report, June 2011, provided in response to RCR-REL-13
RC-65A	Schumaker & Company, Jersey Central Power and Light, Final Report, June 2011
RC-72	Direct Testimony of Roger Colton
RC-73	Response to RCR-REL-93
RC-74	Booth Report dated June 22, 2004
RC-75	BPU Order Accepting Booth Report, EX02120950 and EX03070503, July 23, 2004
RC-76	Stipulation of Settlement, EX02120950 and EX03070503, June 8, 2004
RC-77	Response to BUR-ENG-35
RC-78	Response to RCR-REL-22
RC-79	Response to RCR-REL-1 with attached 2011 Annual System Performance Report
RC-79A	Annual System Performance Reports for 2009, 2010 and 2011
RC-80	Response to RCR-REL-1 Supplemental with attached 2012 Annual System Performance Report

RC-81	Response to RCR-REL-21 (Confidential)
RC-82	Response to RCR-REL-66
RC-83	Response to S-J-CAPOM-1
RC-84	Response to RCR-CS-92 (Confidential)
RC-85	Response to RCR-CS-92 Supplemental
RC-86	Response to BUR-ENG-49
RC-87	Direct Testimony of Peter J. Lanzalotta
RC-88	Response to RCR-ROR-14
RC-89	Response to RCR-ROR-15
RC-90	Response to RCR-ROR-26
RC-91	Response to RCR-ROR-27
RC-92	Response to RCR-A-2
RC-93	Response to RCR-ROR-5
RC-94	Response to RCR-ROR-7
RC-95	Response to RCR-ROR-8
RC-96	Response to RCR-ROR-10
RC-97	Response to RCR-ROR-13
RC-98	Response to RCR-ROR-17
RC-99	Response to RCR-ROR-20
RC-100	Response to RCR-ROR-21 (Confidential)
RC-101	Response to RCR-ROR-35
RC-102	Response to RCR-ROR-36
RC-103	Response to RCR-ROR-37
RC-104	Response to RCR-ROR-38
RC-105	Response to RCR-ROR-39
RC-106	Response to RCR-ROR-43
RC-107	Response to RCR-ROR-44
RC-108	Response to RCR-ROR-45
RC-109	Response to RCR-ROR-46
RC-110	Letter dated February 13, 2013, from Rate Counsel to Kristi Izzo, Secretary
RC-111	Direct Testimony of Matthew I. Kahal
RC-112	Updated Dividend Yields, September 30, 2013

RC-113	Schedule MIK-2, Update 9/13
RC-114	Schedule MIK-6, p. 1 of 2, Update 9/13
RC-115	Schedule MIK-6, p. 2 of 2, Update 9/13
RC-116	Response to RCR-A-57
RC-117	Response to RCR-A-110
RC-118	Response to RCR-A-152
RC-119	Response to RCR-A-153
RC-120	Response to RCR-A-145
RC-121	Response to S-JREV-1
RC-122	I/M/O the Board's Establishing a Generic Proceeding to Review the Prudency of Costs Incurred by New Jersey Utility Companies in Response to Major Storm Events in 2011 and 2012, Dkt. No. AX13030196, Order dated March 20, 2013
RC-123	Response to RCR-A-15
RC-124	I/M/O the Petition of Public Service Electric and Gas Company for Approval of an Increase in Gas Rates, Depreciation Rates for Gas Property and For Changes in the Tariff for Gas Service, BPU Dkt. No. GR05100845 dated November 9, 2006
RC-125	Response to RCR-A-147
RC-126	Excerpt from I/M/O Petition of Rockland Electric Company, BPU Dkt. Nos. ER02080614 and ER02100724, Final Decision and Order dated April 20, 2004
RC-127	I/M/O JCP&L, BPU Dkt. No. ER02080506, May 17, 2004
RC-128	Response to RCR-ROR-2
RC-129	Response to RCR-A-12
RC-130	Response to RCR-A-14
RC-131	Response to RCR-A-18
RC-132	Response to RCR-A-92
RC-133	Response to RCR-A-102
RC-134	Response to RCR-A-106
RC-135	Response to RCR-A-126
RC-136	Response to RCR-A-128
RC-137	Response to RCR-A-47

RC-138	Response to RCR-A-56
RC-139	Response to RCR-A-34
RC-140	Response to RCR-A-85
RC-141	Response to RCR-A-86
RC-142	Response to RCR-A-87
RC-143	Response to RCR-A-119 (Supplemental)
RC-144	Response to RCR-A-149
RC-145	Direct Testimony of Robert J. Henkes
RC-146	Supplemental Direct Testimony of Robert J. Henkes
RC-147	Response to S-JREV-66
RC-148	Response to RCR-RD-3
RC-149	Response to RCR-RD-6
RC-150	2013 IRS 1120-W Tax Form
RC-151	Excerpt from FirstEnergy 2011 SEC Form 10-K
RC-152	Direct Testimony of David E. Peterson
RC-153	Rebuttal Testimony of David Peterson
RC-154	Response to RCR-A-63
RC-155	Response to RCR-A-64 (Supplemental)
RC-156	Response to RCR-A-132
RC-157	Response to RCR-DEP-58
RC-158	Direct Testimony of Mitchell I. Serota (Confidential)
RC-159	Response to JC-RC-135
RC-160	Response to JC-RC-136
RC-161	Response to JC-RC-137
RC-162	Response to RCR-DEP-13
RC-163	Response to RCR-DEP-19
RC-164	Response to RCR-DEP-51
RC-165	Response to RCR-DEP-75
RC-166	Direct Testimony of Michael J. Majoros, Jr.
RC-167	Michael J. Majoros Surrebuttal Exhibit “Spanos’s Excess Reserve”

For Staff:

S-1	Response to RCR-CIT-16 (Confidential)

S-2	Response to RCR-CIT-20
S-3	Response to RCR-CIT-47 (Confidential)
S-4	Response to RCR-CIT-49 (Confidential)
S-5	Response to RCR-CIT-55
S-6	Response to S-JCTS-5
S-7	Response to BUR-ENG-39
S-8	Response to BUR-ENG-41
S-9	Response to RCR-REL-33
S-10	Response to RCR-REL-35
S-11	Response to RCR-REL-34
S-12	Response to RCR-REL-36
S-14	Response to RCR-REL-106
S-15	Response to BUR-ENG-CAPITAL-01
S-16	Response to BUR-ENG-CAPITAL-03
S-17	Response to BUR-ENG-CAPITAL-04 (Confidential)
S-19	Response to BUR-ENG-RELI-001
S-20	Response to BUR-ENG-RELI-002
S-20A	Response to BUR-ENG-RELI-003
S-21	Response to RCR-I-1 (Confidential)
S-24	Response to RCR-REL-20 (Confidential)
S-26	Response to RCR-REL-25
S-27	Response to RCR-REL-28
S-28	Response to RCR-REL-29
S-29	Response to RCR-REL-45
S-30	Response to RCR-REL-62
S-31	Response to RCR-REL-64
S-32	Response to RCR-REL-68
S-33	Response to RCR-REL-85
S-34	Response to RCR-REL-86
S-35	Response to RCR-REL-91
S-36	Response to RCR-REL-94 (Confidential)
S-37	Response to RCR-REL-102
S-38	Response to BUR-ENG-44

S-39	Response to BUR-ENG-46
S-40	Response to BUR-ENG-48
S-41	Response to BUR-ENG-47
S-42	Response to BUR-ENG-VEG-01
S-43	Response to BUR-ENG-VEG-02
S-44	Response to RCR-REL-2
S-45	Response to RCR-REL-5
S-46	Response to RCR-REL-5 Revised
S-47	Response to RCR-REL-7
S-48	Response to RCR-REL-9
S-49	Response to RCR-REL-10
S-50	Response to RCR-REL-44
S-51	Response to RCR-REL-75
S-52	Response to RCR-REL-78
S-53	Response to RCR-REL-88
S-54	Response to RCR-REL-90
S-55	Response to RCR-REL-92
S-57	Response to RCR-REL-6
S-58	I/M/O JCP&L, BPU Dkt. No. ER91121820J, Final Decision and Order (June 15, 1993)
S-59	I/M/O JCP&L, BPU Dkt. No. ER89110912J, Order (April 9, 1992)
S-60	Response to S-J-ERD-INF-8
S-61	Request S-J-ERD-41
S-61A	Response to S-J-ERD-41 and S-J-ERD-42
S-62	Response to S-ERD-INF-15
S-63	Response to S-J- ERD-8
S-63A	Response to RCR-RD-11
S-64	Response to S-J-ERD-21
S-65	Response to S-J-ERD-22
S-66	Response to S-J-ERD-INF-11
S-67	Response to S-J-ERD-25
S-68	Response to S-J-ERD-INF-6
S-69	Response to S-J-ERD-INF-10

S-70	Response to S-J-ERD-INF-4
S-71	Response to S-J-ERD-23
S-72	Response to S-J-ERD-24
S-73	Response to S-J-ERD-5
S-74	Response to S-J-ERD-INF-9
S-75	Response to S-J-ERD-26
S-76	Response to Staff Informal-2
S-77	Response to Staff Informal-3
S-78	Response to S-J-ERD-11
S-79	Response to S-J-ERD-INF-12
S-80	Response to S-J-ERD-4 (Revised)
S-81	Response to S-J-ERD-27
S-82	Response to S-J-ERD-16
S-83	Response to S-J-ERD-12
S-84	Response to RCR-RD-7 Revised
S-85	Response to S-J-ERD-INF-5
S-86	Response to S-JCPL-T-5
S-87	Response to S-JCPL-T-6
S-88	Response to S-JCPL-T-11
S-89	Response to S-JCPL-T-15
S-90	Response to S-JCPL-T-34
S-91	Response to S-JCPL-T-37
S-92	Response to S-JCPL-T-38
S-93	Response to S-JCPL-T-20
S-94	Response to S-J-ERD-3 (Confidential)
S-95	Response to S-J-ERD-20
S-96	Response to S-JCPL-T-26
S-97	Response to S-JCPL-T-27
S-98	Response to S-JCPL-T-28
S-99	Response to S-JCPL-T-29
S-100	Response to S-JCPL-T-39
S-101	Response to S-JCPL-T-40
S-102	Response to S-JCPL-T-41

S-103	Response to S-JCPL-T-42
S-104	Staff's Transcript Request 6

For Gerdau:

Gerdau-1	Direct Testimony of Kevin W. O'Donnell
Gerdau-2	Response to Gerdau 3 -3
Gerdau-3	Response to Gerdau Set 1 -11
Gerdau-4	Direct Testimony of Jeffry Pollock
Gerdau-5	Responses to Gerdau 2-2 through 2-6
Gerdau-6	Direct Testimony of Mark Quiring

For Wal-Mart:

WM-1	Direct Testimony of Stephen W. Chriss

For Con Ed Development:

CED-1	Responses to CED-JCP&L 1 through 6
CED-2	Document entitled "Quality Controlled Local Climatological Data (final)"
CED-3	Newspaper article entitled "Severe thunderstorms moving through N.J., as temperature soars to 103 degrees"
CED-4	Direct Testimony of Stephen B. Wemple

Transcript Requests

TR-1	Response to Transcript Request 1
TR-2	Response to Transcript Request 2 (confidential)
TR-3	Response to Transcript Request 3
TR-4	Response to Transcript Request 4
TR-5	Response to Transcript Request 5
TR-6	Response to Transcript Request 6
TR-7	Response to Transcript Request 7