



STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
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ENERGY

IN THE MATTER OF THE ANNUAL FILING OF)
SOUTH JERSEY GAS COMPANY TO ADJUST)
ITS CAPITAL INVESTMENT RECOVERY)
TRACKER ("CIRT"))

DECISION AND ORDER
BPU DOCKET NO. GR09110907

Ira G. Megdal, Esquire (Cozen O'Connor, PC, attorneys) for South Jersey Gas Company ("Petitioner")

Felicia Thomas Friel, Esquire, Deputy Public Advocate, Henry M. Ogden and Judith B. Appel, Assistant Deputy Public Advocates, Department of the Public Advocate, Division of Rate Counsel (Ronald K. Chen, Esquire, Public Advocate, Stefanie A. Brand, Esquire, Director)

Caroline Vachier and Kerri Kirschbaum, Deputy Attorneys General, for the State of New Jersey Board of Public Utilities (Anne Milgram, Attorney General of New Jersey)

(SERVICE LIST ATTACHED)

BY THE BOARD:

On November 6, 2009, South Jersey Gas Company ("SJG," "Company," or "Petitioner") filed a petition with the New Jersey Board of Public Utilities ("Board") requesting approval for changes in its Capital Investment Recovery Tracker ("CIRT") effective as of January 1, 2010. By this Decision and Order, the Board considers a stipulation ("Stipulation") entered into by SJG, the Department of Public Advocate, Division of Rate Counsel ("Rate Counsel"), and Board Staff ("Staff") (collectively, the "Parties"), requesting Board approval of the increase in the CIRT on a provisional basis, subject to refund with interest as applicable to over collections as set forth in the April 28, 2009 Infrastructure Order ("April Order").¹

¹ I/M/O the Proceeding for Infrastructure Investment and a Cost Recovery Mechanism for All Gas and Electric Utilities and I/M/O the Petition of South Jersey Gas Company for Approval of a Capital Investment Recovery Tracker Pursuant to N.J.S.A. 48:2-21 and N.J.S.A. 48:2-21.1. Docket Nos. EO09010049 and GO09010051, Order dated April 28, 2009.

BACKGROUND AND PROCEDURAL HISTORY

On October 16, 2008, in response to the worldwide economic downturn and seeking to mitigate its effects on New Jersey, Governor Jon Corzine announced plans to provide immediate assistance for New Jersey residents and long term economic growth options through an "Economic Stimulus Plan." Governor Corzine called on the New Jersey Board of Public Utilities ("BPU" or "Board") and the State's public utilities to aid in that plan by implementing the policy changes to be proposed in the State's Energy Master Plan ("EMP").

SJG filed a petition on January 20, 2009, requesting that the Board approve an Infrastructure Investment Program ("Infrastructure Program") and simultaneously approve the recovery of costs for projects included within its proposed Infrastructure Program through the implementation of a CIRT charge, pursuant to N.J.S.A. 48:2-21 and 48:2-21.1. Subsequent to discovery and public hearings, the Company, Board Staff and Rate Counsel executed and submitted to the Board for consideration a stipulation dated April 8, 2009 ("April 8 Stipulation"), specifying the agreed-upon capital projects, their attendant costs and revenue requirements, applicable rate recovery mechanisms, anticipated job creation, and Company reporting and rate filing requirements.

By the April Order, the Board adopted the April 8 Stipulation in its entirety, thereby setting in motion eleven specific infrastructure investment projects, totaling \$103 million, which are designed to create 127 additional jobs while enhancing the provision of safe, adequate and proper service in the SJG service territory through capital investment in the Company's distribution system. The April Order requires that the Company file an annual petition ("Annual Filing") to adjust its CIRT rate on a calendar basis, with copies provided to the Parties, no later than each November 1st which is two months prior to the January 1 proposed implementation date.

THE COMPANY'S ANNUAL FILING

SJG states that its November 6, 2009 Annual Filing contains the information specified in the minimum filing requirements ("MFRs") set forth in Appendix D to the April 8 Stipulation as subsequently adopted by the Board in its April Order.

The initial CIRT rate, established by the April Order, was \$0.0094 per therm, including taxes (\$0.0088 without taxes). By the Annual Filing, the Company is proposing a CIRT rate of \$0.0224 per therm, including taxes (\$0.0208 per therm without taxes). Approval of this request would result in a \$9.9 million revenue requirement increase for the calendar year beginning January 1, 2010, increasing the gas bill of a typical residential customer using an average of 100 therms of gas during a month by \$1.30 or 0.9%. SJG has provided public notice of the proposed increases, and will conduct two public hearings in its service territory on Tuesday, December 29, 2009 in Mays Landing, New Jersey at 4:00 and 5:30 pm.

STIPULATION FOR PROVISIONAL RATES

Because the Company's Annual Filing will not be updated with actual revenues and expenses for 2009 until after the proposed effective date of January 1, 2010, and additional time is necessary to complete the review of proposed rates, the Parties entered into a stipulation for provisional CIRT rates to be implemented January 1, 2010, subject to refund with interest as defined in the April Order.

The Stipulation provides the following²:

1. The Company's CIRT tariff rate shall be provisionally increased from \$.0094 per therm to \$.0224 per therm, including taxes. It will increase the gas bill of a typical residential customer using an average of 100 therms during a month by \$1.30 or 0.9%. The impact on a typical general service customer using 500 therms during a month would be an increase of \$6.50 or 1.0%, including taxes. The impact for a large volume service sales customer using 63,000 therms in a month would be an increase of \$818 or 1.8%, including taxes. This rate change is on a provisional basis, subject to refund with interest, as calculated and defined in the April 28, 2009 Board Order. The Parties shall have an opportunity for a full review of the provisional rates as a contested case, if necessary, and shall be subject to final approval by the Board. The provisional rates shall be subject to final approval by the Board. The provisional rates shall be effective as of January 1, 2010, or the day after the last public hearing is held as required by law, whichever is later.
2. The company has proposed that the CIRT recover a return on and return of the investment in \$10.0 million of incremental projects, not included in the original CIRT filing. The stipulated rate, reflected in Revised Exhibit 2-D attached hereto and incorporated herein, does not include the impact of the proposed incremental projects.
3. This Stipulation will result in an increase in the revenue requirement of \$9.9 million over current levels.
4. In accordance with the April 28, 2009 Order, the Parties recognize that, in the context of the Company's next base rate case, the Qualifying Projects and the CIRT rate will be subject to a full and thorough examination. The Parties agree that, if required, full evidentiary hearings with respect to the Qualifying Projects and related costs will take place in that base rate case proceeding. Furthermore, during the Company's next base rate case, the net capitalized amounts of the Qualifying Projects, if deemed to be reasonable and prudent, will be rolled into the Company's rate base and the related CIRT charges will be terminated. Any Qualifying Project expenditures and CIRT charges not known and measurable at the conclusion of the required base rate case may be considered in a subsequent Phase Two proceeding, at which time the CIRT rate and tariff will terminate.

DISCUSSION AND FINDING

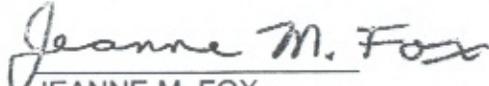
The Board has carefully reviewed the record to date in this proceeding and the attached Stipulation of the Parties. The Board **FINDS** that, subject to the terms and conditions set forth below, the Stipulation is reasonable, in the public interest, and in accordance with the law. Accordingly, the Board **HEREBY ADOPTS** the Stipulation as its own, as if fully set forth herein. The Board **HEREBY APPROVES**, on a provisional basis and subject to refund with interest as set forth in the April Order, the CIRT rates specified in Appendix D of the Annual Filing and referenced in the Stipulation. The subject CIRT rates shall become effective January 1, 2010 or the day after the public hearing, whichever is later.

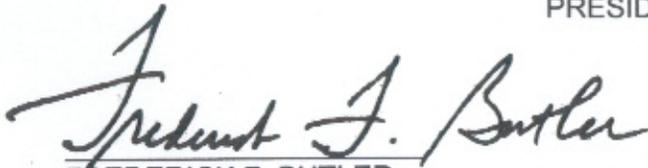
² Although described in this Order, should there be any conflict between this summary and the Stipulation of the Parties, the terms of the Stipulation shall control, subject to the findings and conclusions contained in this Order.

The Board **HEREBY ORDERS** SJG to file revised tariff sheets conforming to the terms of the Stipulation and this Order within five (5) days of the date of this Board Order.

DATED: 12/22/09

BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER


NICHOLAS ASSELTA
COMMISSIONER

DISSENT OF COMMISSIONER ELIZABETH RANDALL

At its December 17, 2009 Agenda Meeting, the Board was presented with requests to increase, on a provisional basis, the various capital infrastructure cost recovery charges for four of the electric and gas utilities whose Infrastructure Investment programs were approved in April 2009.³

These Orders provisionally approve increases in Public Service Electric and Gas Company's Capital Adjustment Charges ("CAC"); South Jersey Gas Company's Capital Investment Recovery Tracker ("CIRT"); Elizabethtown Gas Company's Utility Infrastructure Enhancement ("UIE") Rider rate; and Atlantic City Electric Company's Infrastructure Investment Surcharge ("IIS"), each for the period January 1, 2010 through December 31, 2010 and each effective as of January 1, 2010.

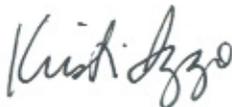
Having been opposed to the accelerated infrastructure programs at their inception, I oppose these requests for increases in rates that result from the Board's April 2009 approval of these programs.

From the outset, I have felt that it is not appropriate during a time of national economic recession to increase customers' gas and electric bills. While the rationale behind these programs is to create jobs, I believe that the usual and customary schedule of capital improvements sufficiently insures the safe and reliable delivery of gas and electricity services.



ELIZABETH RANDALL
COMMISSIONER

ATTEST:



KRISTI IZZO
SECRETARY

³ The remaining company whose plan was approved on April 28, 2009, New Jersey Natural Gas Company, did not make a filing at this time as its increases will be considered within the context of its base rate case.

IN THE MATTER OF THE ANNUAL FILING OF SOUTH JERSEY GAS COMPANY
TO ADJUST ITS CIRT RATE

BPU DOCKET NO. GR09110907

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STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES

IN THE MATTER OF THE ANNUAL)
FILING OF SOUTH JERSEY GAS)
COMPANY TO ADJUST ITS CAPITAL) STIPULATION FOR
INVESTMENT RECOVERY) PROVISIONAL RATES FOR
TRACKER RATE) INFRASTRUCTURE COST
) RECOVERY
)
) DOCKET NO. **GR09110907**

APPEARANCES:

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Caroline Vachier and Kerri Kirschbaum, Deputy Attorneys General, for the State of New Jersey Board of Public Utilities (**Anne Milgram**, Attorney General of New Jersey)

TO: THE BOARD OF PUBLIC UTILITIES

On November 6, 2009, South Jersey Gas Company ("South Jersey" or "the Company") filed its required Annual Filing pursuant to the New Jersey Board of Public Utilities ("Board") Decision and Order Approving Stipulation in Docket Nos. EO09010049 and GO09010051, dated April 28, 2009 ("2009 Order"), which approved the Company's Infrastructure Investment and Cost Recovery Mechanism filed as part of the Capital Economic Stimulus Infrastructure Investment Program ordered by the Board. Pursuant to the Annual Filing, the Company has proposed an adjustment to the Capital Investment Recovery Tracker ("CIRT") with rates effective on and after January 1, 2010, which indicates an increase in capital expenditures of \$12.45 million. Compared to the Company's existing Board approved CIRT rates, the resultant total net annual revenue requirement will increase by \$10.5 million to the Company's gas customers.

The Annual Filing is currently under review by Board Staff and the Department of Public Advocate, Division of Rate Counsel ("Rate Counsel") and discovery is

ongoing. Public Hearings have been scheduled for December 29, 2009 at 4:00 pm and 5:30 pm in Mays Landing, New Jersey. However, the Annual Filing will not be updated with actual revenues and expenses for 2009 until after the proposed effective date of the 2010 CIRT rates.

In light of the above, the Company, Board Staff and Rate Counsel (collectively the "Parties") have determined that additional time is needed to complete the review of the Company's Annual Filing and the proposed adjustment to the CIRT rates to ensure that the costs are adequately explained, reconciled and addressed and annual CIRT rates are reasonable pursuant to the 2009 Order. However, the Parties also agree that the adjustment to the Company's proposed CIRT rate as stipulated herein, on a provisional basis, is reasonable at this time and **HEREBY AGREE** to the terms of this Stipulation "Provisional Settlement" as follows:

1. The Company's CIRT tariff rate shall be provisionally increased from \$.0094 per therm to \$.0224 per therm, including taxes. It will increase the gas bill of a typical residential customer using an average of 100 therms during a month by \$1.30 or 0.9%. The impact on a typical general service customer using 500 therms during a month would be an increase of \$6.50 or 1.0%, including taxes. The impact for a large volume service sales customer using 63,000 therms in a month would be an increase of \$818 or 1.8%, including taxes. This rate change is on a provisional basis, subject to refund with interest, as calculated and defined in the April 28, 2009 Board Order. The Parties shall have an opportunity for a full review of the provisional rates as a contested case, if necessary, and shall be subject to final approval by the Board. The provisional rates shall be effective as of January 1, 2010, or the day after the last public hearing is held as required by law, whichever is later.
2. The Company has proposed that the CIRT recover a return on and return of the investment in \$10.0 million of incremental projects, not included in the original CIRT filing. The stipulated rate, reflected in Revised Exhibit 2-D attached hereto and incorporated herein, does not include the impact of the proposed incremental projects.
3. This Stipulation will result in an increase in the revenue requirement of \$9.9 million over current levels.
4. In accordance with the April 28, 2009 Order, the Parties recognize that, in the context of the Company's next base rate case, the Qualifying Projects and the CIRT rate will be subject to a full and thorough examination. The Parties agree that, if required, full evidentiary hearings with respect to the Qualifying Projects and related costs will take place in that base rate case proceeding. Furthermore, during the Company's next base rate case, the net capitalized amounts of the Qualifying Projects, if deemed to be reasonable and prudent, will be rolled into the Company's rate base and the related CIRT charges will be terminated. Any Qualifying Project expenditures and CIRT charges not known and measurable at the conclusion of the required base rate case may be considered in a

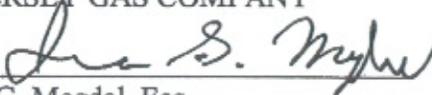
subsequent Phase Two proceeding, at which time the CIRT rate and tariff will terminate.

5. The Company shall provide an updated tariff sheet, subject to review by Board Staff and Rate Counsel reflecting the provisional rate agreed to by the Parties and conforming to the terms of the Stipulation and this Order within five (5) days of the Board Order approving this Stipulation.
6. The Parties agree that this Provisional Settlement contains mutually balanced and interdependent provisions and is intended to be accepted and approved in its entirety. In the event that any particular aspect of this Provisional Settlement is not accepted and approved by the Board, this Provisional Settlement shall be null and void, and the parties shall be placed in the same position that they were in immediately prior to its execution.
7. The Parties further **HEREBY AGREE** that this Provisional Settlement has been made exclusively for the purposes of this proceeding and that this Provisional Settlement, in total or specific item, is in no way binding upon them in any other proceeding, except to enforce the terms of this Provisional Settlement.

WHEREFORE, the Parties hereto do respectfully submit this Stipulation and request that the Board issue a Decision and Order approving it in its entirety, in accordance with the terms hereof, as soon as reasonably possible.

SOUTH JERSEY GAS COMPANY

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Dated: 12/16/2009

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