



Agenda Date: 1/20/10

Agenda Item: 2K

STATE OF NEW JERSEY

Board of Public Utilities

Two Gateway Center

Newark, NJ 07102

www.nj.gov/bpu/

ENERGY

IN THE MATTER OF THE PETITION OF	)	<u>DECISION AND ORDER</u>
NEW JERSEY NATURAL GAS COMPANY FOR	)	
APPROVAL OF A MUNICIPAL FRANCHISE IN	)	
THE TOWNSHIP OF OCEAN,	)	
OCEAN COUNTY	)	DOCKET NO. GE09100825

Tracey Thayer, Esq., and John B. Wyckoff, Wall, New Jersey, for Petitioner, New Jersey Natural Gas Company

Judith Appel, Esq., Assistant Deputy Public Advocate, on behalf of the Department of the Public Advocate, Division of Rate Counsel, Newark, New Jersey

BY THE BOARD:

New Jersey Natural Gas Company ("NJNG" or "Company"), a regulated utility subject to the jurisdiction of the Board of Public Utilities ("Board"), is a corporation duly organized under the laws of the State of New Jersey engaged in the distribution and transportation of natural gas. NJNG distributes natural gas and provides transportation service to over 487,000 residential, commercial and industrial customers located in Monmouth, Ocean and parts of Middlesex counties in New Jersey.

NJNG is currently providing natural gas service within the Township of Ocean ("Township") in Ocean County, New Jersey, to approximately 3,200 customers. According to the petition, the Company's current franchise with the Township expired on June 10, 2009 after a term of fifty (50) years. Either directly or through a predecessor company, NJNG has held a franchise in the Township since December 31, 1910.

On September 24, 2009, the Township Council adopted Resolution #2009-271 renewing NJNG's franchise for an additional period of one (1) year from the date of the resolution. A copy of this resolution is attached as Exhibit "A" to this Order. By letter dated September 30, 2009, a copy of which is attached as Exhibit "B" to this Order, NJNG accepted and agreed to the terms and conditions of the franchise..

On October 1, 2009, pursuant to N.J.S.A. 48:2-14 and N.J.A.C. 14:1-5.5, NJNG filed a petition requesting that the Board approve the consent adopted by the Township. As required by law, and after notice, a hearing in this matter was held on October 29, 2009, at the Board's Newark offices. By letter dated October 9, 2009, Tracy Thayer, Esq. provided notice of the hearing to the Township Clerk, as well as to the Clerk of the Monmouth County Board of Freeholders and the Ocean County Administrator. Appearances were made on behalf of the Company, the

Board's Staff and the Department of the Public Advocate, Division of Rate Counsel ("Rate Counsel"). No one from the Township or the County appeared or submitted comments for the record, and no written comments were submitted to the Board related to this proceeding.

At hearing, the Company relied on the testimony of John B. Wyckoff, Manager of Engineering. Mr. Wyckoff indicated that he represented NJNG during the negotiations with the Township to renew the consent, and testified as to its provisions. He further testified that the Company continues to have sufficient capacity, staff and expertise to ensure its ability to continue to provide safe, adequate and proper service to its customers located within the Township. He also indicated that customers in the Township would continue to be served by the local business office located in the Township of Stafford. Ms. Thayer added that the Company's bills and bill inserts would continue to advise customers of various other means of paying bills and accessing other information regarding their bills and getting answers to questions concerning the service provided by the Company.

Rate Counsel stated for the record that the Division did not object to the approval of the relief requested by NJNG other than the setting of the term at one (1) year. Rate Counsel's stated concerns are that such a short term is inappropriate financially due to the administrative costs involved in the petition process, and, more importantly, may well limit NJNG's ability to plan for future growth and necessary changes to its pipeline system. According to Rate Counsel, a one year term only makes the continuation of service questionable without providing any benefit to customers, and could allow the Township to "in effect, hold New Jersey Natural hostage in a way." Tr. at 11. Ms. Thayer stated that the Company would continue to provide service to its customers and maintain its system even without an active franchise.

N.J.S.A. 48:2-14 provides that no franchise granted by a municipality is valid until it is approved by the Board. Additionally, the Board may impose such conditions as to construction, equipment, maintenance, service or operation as the public convenience and interests may reasonably require.

After a review of the record, the Board HEREBY FINDS that the municipal consent, which is the subject of this matter, is necessary and proper for the public convenience and properly conserves the public interests, and that NJNJ continues to have the ability to provide safe, adequate and proper service to its customers located in the Township.

However, the Board agrees with Rate Counsel and is troubled by the short term of the municipal consent. NJNG or a predecessor has continuously provided gas service to the residents of the Township since 1910. Nothing was submitted to the Board that would lead us to conclude that the service has not been both safe and adequate as required by law. The Board notes that one year franchises are not commonplace and can well be problematic since such a short term is not conducive to long term planning and investment, leading the Board to believe that a one-year term neither serves the convenience of the public nor conserves the public interests.

Accordingly, the Board, pursuant to its broad jurisdiction and control over public utilities and their property including their franchises, to ensure that they carry out the provisions of Title 48, N.J.S.A. 48:2-13, and pursuant to N.J.S.A. 48:2-14, HEREBY APPROVES the consent granted to NJNG by the Township for the provision of gas utility service in the Township as a conditional franchise pending continued discussions between the Company and the Township for a term that more appropriately serves both the interests of the Company and of the public. Given the circumstances, including that the prior franchise has already lapsed, the Board finds it appropriate to grant a temporary franchise in this instance so that NJNG can continue to provide safe, adequate and proper service to the Township, and can continue to operate under a current municipal consent.

NJNG is HEREBY DIRECTED to report back to the Board within 60 days of the date of this Order as to the status of the negotiations with the Township with the goal of having a new municipal consent in place prior to the expiration of the current grant.

The approval granted herein shall be subject to the following provisions:

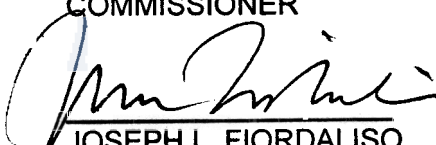
1. This Order shall not be construed as directly or indirectly fixing for any purposes whatsoever the value of any tangible or intangible assets now owned or hereafter to be owned by NJNG.
2. This Order shall not effect nor in any way limit the exercise of the authority of this Board or of this State in any future petition or in any proceedings with respect to rates, franchises, services, financing, accounting, capitalization, depreciation, or in any other matters affecting NJNG.
3. The rates for service to NJNG's customers in the Township shall continue to be those set in the Company's current tariff approved by and on file with the Board. These rates shall remain in effect until otherwise approved by the Board.
4. Approval of this municipal consent does not constitute Board approval of any costs or expenses associated with this petition. Any determination as to the appropriateness or reasonableness of the costs and expenses related to the franchise, including, but not limited to, cost of construction, contributions in aid of construction, depreciation on contributed plant, the cost of connection, or any related capital improvements, and the allocation of such costs and expenses, shall be made in an appropriate subsequent proceeding.

DATED: 1/21/10

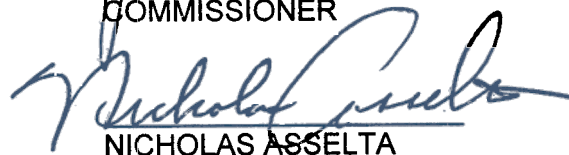
BOARD OF PUBLIC UTILITIES
BY:


ELIZABETH RANDALL
ACTING PRESIDENT

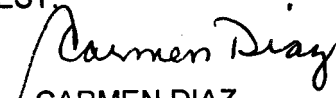

FREDERICK F. BUTLER
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER

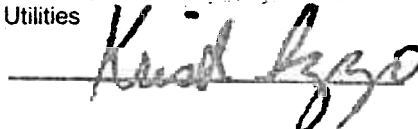

JEANNE M. FOX
COMMISSIONER


NICHOLAS ASSELTA
COMMISSIONER

ATTEST:


CARMEN DIAZ
ACTING SECRETARY

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



**I/M/O THE PEITTION OF NEW JERSEY NATURAL GAS COMPANY FOR APPROVAL OF A
MUNICIPAL FRANCHISE IN THE TOWNSHIP OF OCEAN, OCEAN COUNTY**

BPU DOCKET NO. GE09100825

SERVICE LIST

Tracey Thayer, Esq.
Director, Regulatory Affairs Counsel
New Jersey Natural Gas Company
1415 Wyckoff Road
P.O. Box 1464
Wall, New Jersey 07719

Jerome May, Director
Ricky John, PhD
Division of Energy
Board of Public Utilities
Two Gateway Center
Newark, New Jersey 07102

Babette Tenzer, DAG
Division of Law
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07102

Judith Appel, Esq.
Division of Rate Counsel
31 Clinton Street
P.O. Box 46005
Newark, New Jersey 07101

RESOLUTION 2009-271
TOWNSHIP OF OCEAN

WHEREAS New Jersey Natural Gas Company obtained the consent of the Township of Ocean ("Municipality") municipality to exercise its franchise rights by ordinance dated June 11, 1959, to lay and maintain gas mains, pipes and service pipes, in and under the surface of any or all of the roads, streets, avenues, highways and public places, for the purpose of furnishing gas therein; and

WHEREAS said consent is limited to a period of one (1) year, and, by the terms thereof, expires June 10, 2009; and

WHEREAS, New Jersey Natural Gas Company is desirous of obtaining consent of the Municipality to continue serving the Municipality;

NOW, THEREFORE, BE IT RESOLVED, that New Jersey Natural Gas Company be and is hereby authorized to lay, maintain and operate its conductors, mains, and pipes, together with the appurtenances thereto, in all the public streets, alleys, squares and public places in this Municipality which are under the control and jurisdiction of the Township for the purpose of conducting, transmitting and distributing gas, or any mixture of gases of various types including natural gas, for a period of one (1) year from the date hereof, upon the following terms and conditions:

New Jersey Natural Gas Company shall agree that, in all cases in which street openings or excavations are made for the purposes aforesaid, the pavement and the surface of the streets, alleys, squares or roadways shall be restored to the same condition as existed prior to the opening thereof; and

New Jersey Natural Gas Company shall conduct the work or the laying or maintaining of gas pipes therein in a careful and prudent manner.

BE IT FURTHER RESOLVED that New Jersey Natural Gas Company shall file with the Clerk of this Municipality, within sixty (60) days from the date hereof, its acceptance of the terms and provisions of the franchise consent herein granted and its agreement to be bound by the terms and provisions thereof.

BE IF FURTHER RESOLVED, that this resolution shall not become effective until it is approved by the Board of Public Utilities of the State of New Jersey.

BE IT FURTHER RESOLVED that prior to the beginning of any street openings or excavations for the purposes aforesaid, New Jersey Natural Gas Company shall apply, in writing, on forms to be supplied by New Jersey Natural Gas Company, to the Township Clerk, acting as agent of this governing body for permission to make any street opening or excavation.

This is to certify that the attached is a true copy of the Resolution adopted by the Township Council of the Township of Ocean at a meeting held on September 24, 2009.


Diane B. Ambrosio, RMC
Township Clerk



September 30, 2009

Diane B. Ambrosio, RMC
Municipal Clerk
Township of Ocean
50 Railroad Avenue
Waretown, New Jersey 08758

**Re: Approval of Franchise
RESOLUTION #2009-271, Dated September 24, 2009**

Dear Ms. Ambrosio,

New Jersey Natural Gas Company ("NJNG") hereby accepts the terms and provisions of the Franchise Consent granted by the Township Council on September 24, 2009 and hereby agrees to be bound by the terms and provisions thereof.

Please be advised that NJNG will present the resolution to the New Jersey Board of Public Utilities (BPU) for approval. We will provide you with a copy of the final Decision and Order upon its issuance from the BPU.

Very truly yours,

A handwritten signature in black ink that reads "Tracey Thayer".

Tracey Thayer, Esq.
Director, Regulatory Affairs Counsel

TT:fk