



Agenda Date:11/10/10
Agenda Item: IIA-1

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center, Suite 801
Newark, NJ 07102
www.nj.gov/bpu/

ENERGY

IN THE MATTER OF THE PETITION OF NEW JERSEY)
NATURAL GAS COMPANY FOR APPROVAL OF A)
MUNICIPAL FRANCHISE IN THE TOWNSHIP OF)
TOMS RIVER, OCEAN COUNTY) DOCKET NO. GE10040290

Tracey Thayer, Esq., Wall, New Jersey, on behalf of Petitioner, New Jersey Natural Gas Company

Babette Tenzer, DAG, Division of Law, and Ricky John, PhD, Division of Energy, Newark, New Jersey, on behalf of the Staff of the Board of Public Utilities

Henry M. Ogden, Esq., and James W. Glassen, Esq., Assistant Deputy Rate Counsels, Newark, New Jersey, on behalf of the Division of Rate Counsel

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 and Ocean counties and parts of Middlesex, Burlington and Morris counties in New Jersey.

NJNG is presently providing natural gas service within the Township of Toms River ("Township") in Ocean County, New Jersey and its current franchise with the Township expired on February 25, 2010, after a term of fifty (50) years.

On March 25, 2010, the Township Council adopted Ordinance 4247 10 renewing NJNG's franchise for a period of ten (10) years. A copy of this Ordinance, including the terms therein, is attached as Exhibit "A" to this Order. By letter dated April 19, 2010, 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 April 22, 2010, 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 public notice, a hearing in this matter was held on October 7, 2010, at the Board's Newark offices. Appearances were made on behalf of the Company, the Board's Staff and the Division of Rate Counsel ("Rate Counsel"). No other party participated in the hearing or filed any written submission with the Board related to this proceeding.

At hearing, the Company relied on the testimony of John B. Wyckoff, its Manager of Engineering. Mr. Wyckoff 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 approximately 46,400 customers located within the Township in a manner that preserves the public interests. He stated that he did not anticipate any significant customer growth in the Township and noted that customers in the Township would continue to be served by the Lakewood business office located at 775 Vassar Avenue, Lakewood, New Jersey 08701.

Rate Counsel recommended that the Board approve the consent granted by the Township and that the Board include in its Order the terms and conditions that are standard in matters of this type.

After a full review of the entire record, the Board HEREBY FINDS that the municipal consent is necessary and proper for the public convenience and properly conserves the public interests and that the Company continues to have the ability to provide safe, adequate and proper service to its customers located in the Township of Toms River. Accordingly, the Board, pursuant to N.J.S.A. 48:2-14, HEREBY APPROVES the consent granted to New Jersey Natural Gas Company by the Township of Toms River for the provision of gas utility service in the Township as sought in NJNG's petition.

The approvals granted hereinabove shall be subject to the following terms and conditions:

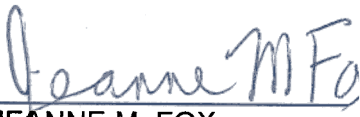
- 1 This Order shall not be construed as directly or indirectly fixing for any purposes whatsoever the value of any tangible or intangible assets now owned or hereafter to be owned by New Jersey Natural Gas Company.
- 2 This Order shall not effect nor in any way limit the exercise of the authority of 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 New Jersey Natural Gas Company.
- 3 In an appropriate subsequent proceeding, New Jersey Natural Gas Company shall have the burden of demonstrating whether, and to what extent, any of the costs associated with this petition shall be allocated to ratepayers.
- 4 The rates for service to NJNG's customers in the Township shall continue to be those set out 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.
- 5 Approval of this municipal consent does not constitute Board approval of any costs or expenses associated with this petition. Any determination as to the

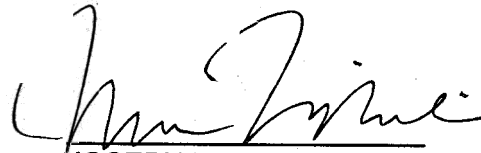
appropriateness or reasonableness of the costs and expenses related to the franchise, including, but not limited to, cost of construction, contributions in aid of construction, depreciation on contributed plant, the cost of connection, or any related capital improvements, and the allocation of such costs and expenses, shall be made in an appropriate subsequent proceeding.

DATED: 11/10/10

BOARD OF PUBLIC UTILITIES
BY:


LEE A. SOLOMON
PRESIDENT


JEANNE M. FOX
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER

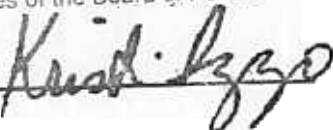

NICHOLAS ASSELTA
COMMISSIONER


ELIZABETH RANDALL
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY

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 PETITION OF NEW JERSEY NATURAL GAS COMPANY FOR APPROVAL OF A
MUNICIPAL FRANCHISE IN THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY**

BPU DOCKET NO. GE10040290

SERVICE LIST

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Henry M. Ogden, Esq., Assistant Deputy Rate Counsel
James W. Glassen, Esq., Assistant Deputy Rate Counsel
Division of Rate Counsel
31 Clinton Street
P.O. Box 46005
Newark, New Jersey 07101

ORDINANCE OF THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY,
NEW JERSEY, CONSENTING TO THE FRANCHISE RENEWAL
RIGHTS TO NEW JERSEY NATURAL GAS COMPANY 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 NATURAL GAS TO THE
TOWNSHIP OF TOMS RIVER

4247 10

WHEREAS, the New Jersey Natural Gas Company obtained the consent of this municipality to exercise its franchise rights by ordinance dated December 22, 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 fifty (50) years, and by the terms thereof, expires on February 25, 2010; and

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

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Toms River, in the County of Ocean, and State of New Jersey, as follows:

1 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 of Toms River for the purpose of conducting gas, or any mixture of gases of various types, including natural gas, for the purpose of transmitting and distributing such gas in this municipality for a period of ten years from the date hereof, upon the following terms and conditions:

2. 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

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

#13
FIRST

#10
9/11/10

J. Marie M. H.
Township Clerk, RMC

4. New Jersey Natural Gas Company shall file with the Clerk of the Township of Toms River, 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.


5. This Ordinance shall not become effective until it is approved by the Board of Public Utilities of the State of New Jersey.

6. If any clause, sentence, paragraph, section or part of this ordinance or any other codes or ordinances incorporated herein shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder hereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which said judgment shall have been rendered.

7. This ordinance shall take effect following its final passage by the Township Council, approval by the Mayor, and twenty days after publication as required by law.

8. This ordinance is not legislative in nature, and it does not need to be codified in the Code of the Township of Toms River, New Jersey.

L10100309

Approved: 
Thomas F. Kelaher
Date: March 25, 2010
Not Approved: _____
Thomas F. Kelaher
Date: _____



APPROVED 
NOT APPROVED _____

COU

PAID

TOMS RIVER TOWNSHIP NOTICE

ORDINANCE OF THE TOWNSHIP OF TOMS RIVER, OCEAN COUNTY, NEW JERSEY, CONSENTING TO THE FRANCHISE RENEWAL RIGHTS TO NEW JERSEY NATURAL GAS COMPANY 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 NATURAL GAS TO THE TOWNSHIP OF TOMS RIVER

PURPOSE: Consenting to the franchise renewal rights to New Jersey Natural Gas Company, 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 natural gas to the Township of Toms River, for a period of ten years.

NOTICE IS HEREBY GIVEN that the ordinance published herewith was introduced and passed upon first reading at a meeting of the Township Council of the Township of Toms River, in the County of Ocean, New Jersey, held on March 9, 2010 at 3:00 p.m. It will be further considered for final passage at a public meeting to be held in the L. Manuel Hirshblond Meeting Room of the Municipal Building in said Township on March 23, 2010 at 6:00 p.m., or as soon thereafter as this matter can be reached, at which time all persons interested shall be given an opportunity to be heard concerning this ordinance. Prior to the second reading, a copy of this ordinance shall be posted on the bulletin board in the Municipal Building and copies shall be made available at the Township Clerk's Office in said Municipal Building to members of the general public who shall request such copies.

J. MARK MUTTER
TOWNSHIP CLERK

APPROVED AS TO FORM:



KENNETH B. FITZSIMMONS
TOWNSHIP ATTORNEY
MUNICIPAL BUILDING
33 WASHINGTON STREET
TOMS RIVER, N.J. 08753



April 19, 2010

J. Mark Mutter
Township of Toms River
33 Washington Street
Toms River,
New Jersey 08754

**Re: Ordinance 4247 10
Authorizing the Extension of
Franchise Rights to NJNG**

Dear Mr. Mutter,

New Jersey Natural Gas Company ("NJNG") hereby accepts the terms and provisions of the Franchise Consent granted by the Borough Council on March 25, 2010 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, appearing to read 'Tracey Thayer', is written over a horizontal line.

Tracey Thayer, Esq.
Director, Regulatory Affairs Counsel

TT:fk