



Agenda Date: 11/10/10
Agenda Item: IIA-2

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)
MIDDLETOWN, MONMOUTH COUNTY)
DOCKET NO. GE10080523

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 Middletown ("Township") in Monmouth County, New Jersey and its current franchise with the Township expired on May 11, 2010, after a term of fifty (50) years.

On May 17, 2010, the Township Council adopted Resolution No. 10-147 renewing NJNG's franchise for a period of ten (10) years. A copy of this Resolution, including the terms set out therein, is attached as Exhibit "A" to this Order. By letter dated August 3, 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 August 9, 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.¹ 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 21,100 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 Wall Township business office located at 1415 Wyckoff Road, Wall, New Jersey 07719 or at the Company's satellite office in the Borough of Atlantic Highlands.

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 Middletown. 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 Middletown 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.

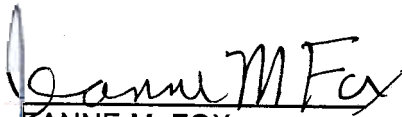
¹ At hearing, counsel for NJNG requested an amendment to its petition noting that, while the consent granted by the Township correctly set out a term of ten (10) years, the Company's petition contained a typographical error in that a term of fifty (50) years was indicated.

4. 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.
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


EANNE M. FOX
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER

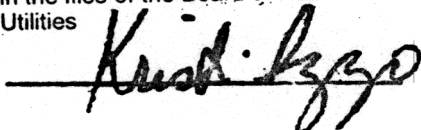

NICHOLAS ASSELTA
COMMISSIONER


ELIZABETH RANDALL
COMMISSIONER

ATTEST:


KRISTI IZZO
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 PETITION OF NEW JERSEY NATURAL GAS COMPANY FOR APPROVAL OF A
MUNICIPAL FRANCHISE IN THE TOWNSHIP OF MIDDLETOWN, MONMOUTH COUNTY**

BPU DOCKET NO. GE10080523

SERVICE LIST

Tracey Thayer, Esq.
Director, Regulatory Affairs Counsel
New Jersey Natural Gas
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

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

RESOLUTION NO. 10-147

**TOWNSHIP OF MIDDLETOWN
COUNTY OF MONMOUTH**

**RESOLUTION CONSENTING TO NEW JERSEY NATURAL
GAS'S CONTINUED EXERCISE OF ITS FRANCHISE
RIGHTS WITHIN THE TOWNSHIP OF MIDDLETOWN**

WHEREAS, on May 24, 1910, the Township of Middletown provided the then-Atlantic Highlands Gas Company, and its successors and assigns, consent to exercise its franchise rights to lay and maintain gas lines, mains, pipes, etc. under the surface of any or all roads, streets, avenues, highways and public places for the purposes of providing gas service to Township residents; and

WHEREAS, upon expiration of the first fifty (50) authorization, on May 11, 1960, the Township reauthorized the successor to the Atlantic Highlands Gas Company, namely the New Jersey Natural Gas Company, to exercise its franchise rights for the same purposes; and

WHEREAS, said consent from 1960 is limited to a period of fifty (50) years, and, by the terms thereof, expires on May 11, 2010; and

WHEREAS, New Jersey Natural Gas Company is desirous of obtaining consent of the municipality to continue serving the Municipality with the provision of its services; and

WHEREAS, it is in the best interest of the public health, safety and welfare of the residents of the Township of Middletown to maintain such service.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Middletown 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 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 (10) years from the date hereof, upon the following terms and conditions:

- 1 New Jersey Natural Gas Company shall agree that, but for in emergencies, adequate notice of any work on Township owned and/or controlled property shall be provided to the Township Administrator and Engineer; and
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 subject to the approval of the Township Engineer; and

- 3 That the New Jersey Natural Gas Company shall conduct the work of 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 IT 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.

MIDDLETOWN TOWNSHIP COMMITTEE

| Committee Member | Approved | Opposed | Abstain | Absent |
|----------------------|----------|---------|---------|--------|
| P. Brightbill | | | | X |
| S. Bynes | X | | | |
| A. Fiore | X | | | |
| S. Massell | X | | | |
| Mayor Scharfenberger | X | | | |

CERTIFICATION

I, Lauren E. Kirkman, Deputy Township Clerk of the Township of Middletown, hereby certify the foregoing to be a true copy of a resolution adopted by the Middletown Township Committee at their meeting held May 17, 2010.

WITNESS, my hand and the seal of the Township of Middletown this 17th day of May, 2010.


LAUREN E. KIRKMAN
DEPUTY TOWNSHIP CLERK



August 3, 2010

Heidi R. Brunt
Municipal Clerk
Middletown Township
1 Kings Highway
Middletown, NJ 07748

**RESOLUTION NO. 10-147
Authorizing the Extension of
Franchise Rights to NJNG**

Dear Ms. Brunt,

New Jersey Natural Gas Company ("NJNG") hereby accepts the terms and provisions of the Franchise Consent granted by the Township Committee on May 17, 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 light gray rectangular background.

Tracey Thayer, Esq.
Director, Regulatory Affairs Counsel