



Agenda Date: 4/15/15
Agenda Item: IIH

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

ENERGY

IN THE MATTER OF THE PETITION OF SOUTH)
JERSEY GAS COMPANY FOR APPROVAL OF A)
MUNICIPAL CONSENT IN THE CITY OF BRIDGETON,)
CUMBERLAND COUNTY, NEW JERSEY)

DECISION AND ORDER

DOCKET NO. GE14091054

Parties of Record:

Stacy A. Mitchell, Esq., Cozen O'Connor, P.C. on behalf of Petitioner, South Jersey Gas Company

Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD¹:

South Jersey Gas Company ("SJG" 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 business of transmission and distribution of natural gas to approximately 360,000 customers within its service territory.

SJG currently provides natural gas service within the City of Bridgeton ("City") to approximately 4,264 residential, 570 commercial, and 18 (eighteen) industrial customers. The Company's consent to use the streets within the City for the provision of gas service expired on August 1, 2000,² pursuant to the fifty (50) year statutory limitation set forth in N.J.S.A. 48:3-15. On August 5, 2014, the City adopted Ordinance No. 14-3 which granted SJG (1) continued exclusive and perpetual consent and permission to furnish gas for light, heat, and power in the City; and (2) continued permission to lay and construct its pipes, mains, and related appurtenances and facilities within the streets, alleys, squares and public places within the City for a period of ten (10) years. By letter dated August 13, 2014, the Company accepted and agreed to the terms of the consent. Copies of the Ordinance and the letter of acceptance are attached to this Order as Exhibits "A" and "B," respectively.

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.

² The Board notes that municipal consents often expire some time prior to their renewal even when the Company initiates the renewal process prior to the expiration of the previous term. This is primarily the result of the time necessary for a municipality to fulfill the legal requirements that attend to all formal actions it must take along with the additional time for hearing and Board approval as required by law. The Board has been assured that pending review of its petition, SJG has continued to provide service to its customers within the City in an uninterrupted manner.

On September 25, 2014, pursuant to N.J.S.A. 48:2-14 and N.J.A.C. 14:1-5.5, SJG filed a petition requesting that this Board approve the consent adopted by the City. As required by law and after notice, a hearing in this matter was held on December 2, 2014 before William Agee, Esq., the Board's duly appointed hearing officer. Appearances were made on behalf of the Company, the Division of Rate Counsel ("Rate Counsel") and Board Staff. No other party participated in the hearing or filed any written submission with the Board related to this proceeding.

At the hearing, the Company relied on its petition and exhibits filed with the Board, and presented the testimony of Joseph Schneider, its General Manager of System Engineering and Planning. According to Mr. Schneider's testimony, SJG anticipates growth in its defined service territory to be approximately one (1) percent annually for the next three (3) to five (5) years. According to the Company, it has the capacity to ensure continuation of its natural gas service and does not foresee any concerns regarding its ability to meet the existing and future demands of the City.

Rate Counsel, in its revised written comments to the petition dated February 13, 2015, does not object to the Board's approval of the municipal consents. However, it recommended that the Board condition its approval on the limitation of the consent as to the furnishing of service to a reasonable period not to exceed fifty (50) years, and that any Order approving the consents reserve ratemaking issues for future proceedings. Rate Counsel maintains that grants in perpetuity are not favored under New Jersey law, and under N.J.S.A. 48:2-14, the Board can impose conditions on its approvals, including limiting the consent to a reasonable term.

The Company via correspondence dated February 17, 2015, objected to Rate Counsel's proposed limitation and/or modification of the duration of the consent to serve. SJG argued that the imposition by the Board of any limitation on the duration of the consent to serve would be contrary to the expressed intent of the City, was unsupported by the record in the proceeding and inconsistent with existing law.

After a full review of the entire 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 interest, and that SJG has the ability to continue to provide safe, adequate and proper service. The Board **FURTHER FINDS** that the Company has the necessary experience, financial capability, capacity and facilities in the City to continue to provide adequate and appropriate service to its existing customers, as well as expected future customers, and that the ten (10) year duration of the municipal consent to use the streets is consistent with N.J.S.A. 48:3-15. Accordingly, the Board, pursuant to N.J.S.A. 48:2-14, **HEREBY APPROVES** the consent granted to SJG by the City for the continued provision of gas service in the Borough as sought in the Company's petition, and **HEREBY APPROVES** the consent to use the public streets for a period of ten (10) years for the provision of gas service in the City which right has also been renewed by the City 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 SJG.
2. This Order shall not effect nor in any way limit the exercise of the authority of this Board of the 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 SJG.

3. In an appropriate subsequent proceeding, SJG 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 the Company's customers in the City 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.
6. The Company has agreed to a ten (10) year limitation on the consent for the use of the streets. The term of the consent as to the right to provide service is not limited by this Order and shall be effective as granted by the City.

This Order shall be effective as of April 24, 2015.

DATED: 4/15/15

BOARD OF PUBLIC UTILITIES
BY:



RICHARD S. MROZ
PRESIDENT



JOSEPH L. FIORDALISO
COMMISSIONER



MARY-ANNA HOLDEN
COMMISSIONER



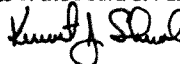
DIANNE SOLOMON
COMMISSIONER

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 PETITION OF SOUTH JERSEY GAS COMPANY FOR APPROVAL
OF A MUNICIPAL CONSENT IN THE CITY OF BRIDGETON, CUMBERLAND COUNTY,
NEW JERSEY - DOCKET NO. GE14091054

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Exhibit A

ORDINANCE NO. 14-3

AN ORDINANCE GRANTING CONSENT AND PERMISSION TO SOUTH JERSEY GAS COMPANY TO FURNISH GAS FOR LIGHT, HEAT AND POWER AND FOR USE OF THE PUBLIC STREETS TO PROVIDE GAS SERVICE IN THE CITY OF BRIDGETON

WHEREAS, South Jersey Gas Company, a corporation of the State of New Jersey, provides natural gas service to the City of Bridgeton pursuant to the municipal consent first granted to South Jersey Gas Company's predecessor, The Bridgeton Gas Light Company in that certain Ordinance 590 passed on August 1, 1950; and

WHEREAS, South Jersey Gas Company now seeks the consent of the City of Bridgeton to renew Ordinance 590, in its entirety by adopting the following Ordinance;

NOW, THEREFORE, BE IT ORDAINED by City Council of the City of Bridgeton, County of Cumberland and State of New Jersey as follows:

Section 1. The exclusive and perpetual consent and permission to furnish gas for light, heat and power in the City of Bridgeton, Cumberland County, New Jersey, is hereby renewed and granted to South Jersey Gas Company, subject to approval of such consent and permission of the New Jersey Board of Public Utilities.

Section 2. That exclusive consent and permission is hereby renewed and granted to South Jersey Gas Company to lay and construct its pipes and mains and related appurtenances and facilities within the streets, alleys, squares and public places within the City of Bridgeton in the manner prescribed by N.J.S.A. 48:9-21, for a period of ten (10) years from the date of final adoption of this Ordinance as prescribed by N.J.S.A. 48:3-15, and subject to reasonable regulations imposed by ordinance or resolution with respect to the opening of streets and public places, subject to approval of such consent and permission by the New Jersey Board of Public Utilities.


Section 3. The South Jersey Gas Company shall within thirty (30) days after the passage of this ordinance file with the City Clerk an irrevocable bond in the amount of Ten Thousand Dollars (\$10,000) conditioned for the restoration of any street or public place which may be opened by it, as provided by ordinance or resolution, and restored in a manner satisfactory to the City Engineer and the Director of Public Works.

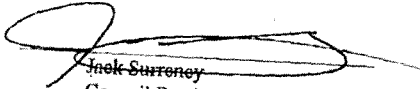
Section 4. This consent is granted for the entire geographical area of the City of Bridgeton and extends to the boundaries of the City of Bridgeton.

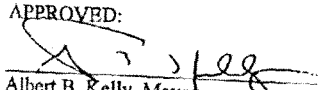
Section 5. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by any Court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.


Section 6. This Ordinance shall take effect immediately upon posting, publication, final passage in the manner prescribed by law, and acceptance by South Jersey Gas Company.

ADOPTED at a regular meeting of the City Council of the City of Bridgeton held on the 5 day of AUGUST, 2014.

ATTEST:

Darlene J. Richmond, RMC
City Clerk


Jack Surrency
Council President

APPROVED:

Albert B. Kelly, Mayor

CERTIFIED TO BE A TRUE AND CORRECT COPY
OF ORDINANCE 14-3
ADOPTED BY BRIDGETON CITY COUNCIL
DATE CERTIFIED 8-25-14

CITY CLERK

LEGAL167976971

PERFORMANCE AND MAINTENANCE SURETY

KNOW ALL BY THESE PRESENTS, that SOUTH JERSEY GAS COMPANY, a corporation of the State of New Jersey, hereinafter called "Obligor" is held and firmly bound unto the CITY OF BRIDGETON, municipal corporation in COUNTY OF CUMBERLAND, and State of New Jersey, hereinafter called "Obligee", in the sum of TEN THOUSAND DOLLARS (\$10,000.00), lawful money of the United States of America, for the payment whereof said Obligor binds itself and its successors, firmly by these presents for the period of one (1) year from January 1, 2014 through December 31, 2014.

THE CONDITION OF THIS OBLIGATION IS SUCH that if the Obligor shall properly and in a good workmanlike manner restore any street or public place which may be opened by it in a manner satisfactory to the Obligee, then this obligation shall be null and void; otherwise to be and remain in full force and effect.

IN WITNESS WHEREOF, said Obligor has caused its corporate seal to be hereto affixed and this Bond to be signed by its Vice President and attested by its Secretary, this 28th day of April 2014.

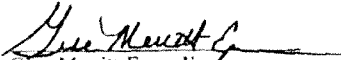
SOUTH JERSEY GAS COMPANY

By: _____

Bob Fatzinger

Sr. Vice President, Engineering Services & System Integrity

ATTEST


Gina Merritt-Epps, Esq.
General Counsel & Corporate Secretary

SEAL

I, Clerk of said Obligee, do hereby certify that the foregoing is a true copy of the Bond filed on the _____ day of _____, 2014, by said Obligor with said Obligee in compliance with the issuing of a street opening permit in the city of Bridgeton, New Jersey.

By: _____

Clerk of Obligee

Dated: _____

Exhibit B



South Jersey Gas

*Where we put all of our energy**

Gina Merritt-Epps, Esq.
Office of General Counsel and Corporate Secretary
General Counsel and Corporate Secretary

August 13, 2014

(Via email: goodreaud@cityofbridgeton.com)

Dale Goodreau, Business Administrator
City of Bridgeton
181 East Commerce Street
Bridgeton, NJ 08302

Re: Acceptance of Ordinance No. 14-3 Granting Municipal Consent to South Jersey Gas
Company to Use the Streets for the Provision of Natural Gas Service

Dear Mr. Goodreau:

I am writing on behalf of South Jersey Gas Company ("SJG") to advise that we received a fully executed copy of Ordinance No. 14-3 (copy attached) granting municipal consent for SJG to provide gas and lay its mains and pipes in the City of Bridgeton. Pursuant to the requirements of N.J.S.A. 48:3-16, SJG hereby accepts Ordinance No. 14-3, as passed.

I have also enclosed a copy of the Performance and Maintenance Surety in the amount of \$10,000.00 which covers the period of January 1, 2014 through December 31, 2014. This was provided to Ms. Mimi Garcia on May 13, 2014.

Please do not hesitate to call if you have any questions. Thank you.

Very truly yours,

Gina Merritt-Epps
gmerritt@sjindustries.com

Enclosure

cc: John Stanziola, Director, Regulatory Affairs
Sherri Ramos, Supervisor, Revenue Analyst Permits
Abbey Greenberg, Public Affairs Specialist
Stacy A. Mitchell, Esq.

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