



Agenda Date: 12/16/15
Agenda Item: 2H

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)
STANDARD GAS SERVICE AGREEMENT (EGS-LV))
AND A STANDARD GAS SERVICE AGREEMENT)
(EGS-LV) ADDENDUM AND TO MODIFY RATE)
SCHEDULE EGS-LV.)
ORDER AND DECISION)
APPROVING GAS SERVICE)
AGREEMENT)
DOCKET NO. GO15010109)

Parties of Record:

Ira G. Megdal, Esq., Cozen O'Connor, for South Jersey Gas Company
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:¹

BACKGROUND AND PROCEDURAL HISTORY

On January 23, 2015, South Jersey Gas Company (“SJG” or “Company”) filed a petition with the New Jersey Board of Public Utilities (“Board”) requesting that the Board issue an Order approving a Standard Gas Service Agreement pursuant to its tariff Service Classification Electric Generation Service - Large Volume (“EGS-LV”) and a Standard Gas Service Agreement (EGS-LV) Addendum entered into between SJG and Vineland Municipal Electric Utility (“VMEU”) (collectively, the “Clayville Unit 1 Agreement”) to be effective as of May 1, 2015. The Company further requested that the Board issue an Order providing that the service volumes set forth in the Clayville Unit 1 Agreement may be modified by the mutual consent of SJG and VMEU without further approval of the Board, and that the petition and VMEU Agreement be treated as “Confidential”.

VMEU is a municipal utility and a department of the City of Vineland located at 640 East Wood Street, in Vineland, New Jersey that serves the electricity requirements of approximately 25,000 customers in Vineland. By Order dated October 13, 2011, in Docket No. GO11020063, the Board approved a Standard Gas Agreement (EGS-LV) and Standard Gas Service (EGS-LV) Addendum (collectively, “VMEU Agreement”) between SJG and VMEU, whereby SJG agreed to

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. Commissioner Joseph L. Fiordaliso was not present at the December 16, 2015 agenda meeting.

sell and deliver, and VMEU agreed to purchase and pay for, gas service under Rate Schedule EGS-LV.² The VMEU Agreement related to SJG's provision of service to VMEU's natural gas fired dual fuel simple cycle generating facility with a nominal 60 megawatt ("MW") capacity, also known as Unit 11, as well as the construction of approximately 1.9 miles of 12" inch diameter main that interconnected with SJG's existing transmission system. Vineland now intends to construct the Clayville Unit 1 Generating Station ("Clayville Unit 1"), a natural gas fired simple cycle generating facility with a nominal capacity of 64 MW. Clayville Unit 1 is being constructed at 4087 Lincoln Avenue, Vineland, New Jersey, adjacent to existing SJG distribution facilities and close to an interconnection with Atlantic City Electric Company's ("ACE") transmission facilities.

Clayville Unit 1 will be VMEU's second simple cycle gas turbine, and is being constructed to replace a retired coal-fired electric generation unit. Along with Unit 11, these 2 simple cycle units are designated in PJM Interconnection ("PJM") as "quick start units" and will be utilized to respond to daily peak energy demands when PJM energy prices are highest. Quick start units are also the first units called into service to aid in real time operational concerns in PJM, such as Reserve Margin Deficiencies and significant transmission constraints. According to the petition, Unit 11 and Clayville Unit 1, when it is constructed and operational, will serve to reduce the cost of electricity to the residents and businesses in Vineland, while contributing to the safe operation of the electric transmission grid. It is expected that the construction of Clayville Unit 1 will employ approximately 100 construction workers and contractors for approximately 8 months, and an additional 50 people will be employed to engineer, manufacture and install the components of the switch yard where the plant will interconnect with ACE's transmissions system. According to the petition, the Clayville Unit 1 project is consistent with the 2011 New Jersey Energy Master Plan, in that there will be 1,500 MW of Generation that is fueled by natural gas, a cleaner energy resource, rather than by coal.

VMEU and SJG entered into the Clayville Unit 1 Agreement, whereby SJG agreed to sell and deliver and VMEU agreed to purchase and pay for gas service under Rate Schedule EGS-LV. The VMEU project will utilize its own interstate pipeline capacity and gas supply.

To provide this service, SJG will (i) construct, own and operate a new pipeline improvement of approximately 900 linear feet in length and 8 inches in diameter, and (ii) install a new meter station that will interconnect with its existing transmission system. SJG represented that no upstream improvements would be required to serve the Clayville Unit 1 facility, and SJG plans to use public and private rights-of-way for the new pipeline and related facilities.

Stating that from time to time, VMEU's load requirement may change, necessitating a mutually agreeable change to the service volumes set forth in the Clayville Unit 1 Agreement, SJG further requested that the Board issue an order providing that the service volumes set forth in the Clayville Unit 1 Agreement may be modified by the mutual consent of the parties without further approval by the Board.

SJG has also requested that the petition and the Clayville Unit 1 Agreement be marked "Confidential". Specifically, the Company maintains that the D-1 charge applicable to VMEU is confidential information because it is competitively sensitive information. SJG maintains that if

² In re the Petition of South Jersey Gas Company for Approval of a Standard Gas Service Agreement (EGS-LV) and a Standard Gas Service Agreement (EGS-LV) Addendum and to Modify Rate Schedule EGS-LV, BPU Docket No. GO11020063, Order dated October 13, 2011.

its negotiated, reduced rates are disclosed to the public, future customers of SJG are made aware of the reduced or negotiated rates made available by SJG to VMEU, those rates will become a "floor" to future customers. Moreover, other generators who are competitors of VMEU could potentially impact VMEU's dispatchability if they acquire D-1 charge information since that information represents sensitive VMEU costing information that impacts the dispatchability of VMEU's Clayville Unit 1 facility.

2010 Discount Contract Proceeding

In 2010, the Board conducted and completed a proceeding in which it examined the standards applicable to gas distribution rate discounts and associated terms and conditions.³ Subsequently, the Board approved modifications to the Company's EGS-LV tariff to enable SJG to provide discount gas service rates in appropriate circumstances. The EGS-LV tariff requires Board review and approval of agreements that SJG enters into under that tariff.

Pursuant to its Rate Schedule EGS-LV, SJG provides firm and limited firm sales and/or transportation service to commercial and industrial electric generation facilities, prime movers, and all engine-driven equipment (whether or not used for electric generation) with a firm daily contract demand of 200 Mcf per day or more. Special Provision (e) of Rate Schedule EGS-LV provides that SJG may offer a D-1 Demand Charge and a C-3 Commodity Charge on a negotiated basis. According to this special provision, the D-1 charge, taken in combination with the Limited Firm C-3 charge, if applicable, may not be lower than an amount sufficient to generate a reasonable return on capital investments made by the Company, and recover all of the marginal and embedded costs, including depreciation, to provide service under Rate Schedule EGS-LV. Any such offer made by the Company must be based upon cost of service and value of service considerations including but not limited to such factors as: (1) proximity of customer to the Company's transmission lines; (2) whether the customer will utilize the Company's interstate pipeline capacity; (3) whether the customer will provide its own gas supply; and (4) other pertinent factors.

Furthermore, in the General Terms and Conditions Section of SJG's tariff for service, it states that customers may request a discounted rate for reasons other than physical bypass of SJG's system if there exists ample support for such requests, including whether the discounted rate is in the public interest, how the discounted rate would spur economic development, and/or how the discounted rate would benefit the Company's ratepayers.

Rate Counsel Comments

By letter dated October 26, 2015, the New Jersey Division of Rate Counsel ("Rate Counsel") submitted its comments on the proposed Clayville Unit 1 Agreement. Rate Counsel, based on its review, stated that the revenue emanating from the terms of the proposed agreement and the projected gas usage of the Clayville Unit 1 facility is not lower than an amount sufficient to generate a reasonable return on capital investments made the by Company and recovery of marginal and embedded costs, including depreciation. Rate Counsel further stated that while the project does not present a gas distribution system bypass situation, other factors weigh in favor of approving the agreement. Based on its review, Rate Counsel stated that it did not oppose the proposed Clayville Unit 1 Agreement. However, Rate Counsel requested that, if

³ In re a Generic Proceeding to Consider Prospective Standards for Gas Distribution Utility Rate Discounts and Associated Contract Terms and Conditions, Docket Nos. GR10100761 and ER10100762 (August 18, 2011) ("Discount Contract Order").

approved, the proposed Clayville Unit 1 Agreement be subject to certain conditions regarding firm contract demand volume changes. Specifically, Rate Counsel requests that Board approval be required for any proposed reductions in firm contract volume demands.

In addition, Rate Counsel argued that the Board should expressly subject the Clayville Unit 1 facility to the provisions of the "LCAPP Legislation", codified at N.J.S.A. 48:3-60.1, whereby gas not certified as used to generate electricity "sold for resale" is subject to the applicable Energy Efficiency Tracker ("EET") and Societal Benefits Charges ("SBC"). Finally, in the interest of transparency, Rate Counsel recommended that the Board impose limits on the term of the information contained in the Clayville Unit 1 Agreement should be treated as confidential, specifically 2 years following the date of a Board Order approving the agreement.

By letter dated November 23, 2015, SJG indicated that it did not object to Rate Counsel's proposed requirements.

DISCUSSION AND FINDINGS

After reviewing the petition, the Clayville Unit 1 Agreement and the comments submitted by Rate Counsel and SJG, the Board is satisfied that the Clayville Unit 1 Agreement will not have a financial impact on other ratepayers. The Board is also satisfied that the Clayville Unit 1 Agreement meets the requirements of the Board approved tariff for EGS-LV. Therefore, the Board **HEREBY FINDS** that coupled with the other benefits described in the petition that will result from this transaction including the production of power from a cleaner energy source to produce electricity for the residents of Vineland, and given the expected sufficient and reasonable return on capital investments made by SJG along with recovery of marginal and embedded costs, this project qualifies for Special Provision (e) of SJG's EGS-LV tariff.

With respect to the request to modify volumes with mutual consent of SJG and VMEU without Board approval, the Board agrees with Rate Counsel that any decrease in volumes may under undermine the projected rate of return to be earned on the incremental VMEU related investments and potentially shift costs to ratepayers in future base rate proceedings if future firm contract demand volumes were to be decreased. Accordingly, the Board **HEREBY FINDS** that any decrease in contract volumes will require further Board review, and such request(s) shall be filed with the Board at least thirty days prior to the proposed decrease.

With respect to the request for confidential treatment of certain information that is claimed to be commercially sensitive or proprietary, the Board **FINDS** that this issue should be decided by the Board's Custodian of Records pursuant to the Board's regulations, if and when a request for release of such data is made under the Open Public Records Act pursuant to N.J.A.C. 14:1-12. Until such time as the Board's Custodian of Records renders a decision, such information shall continue to be treated as confidential information pursuant to the agreement of the Parties.

The Board notes that pursuant to N.J.S.A. 48:3-60.1, electric generators that use natural gas and/or natural gas delivery service to generate electricity that is sold for resale are to be exempt from paying the SBC and any other charge designed to recover the costs for social, energy efficiency, conservation, environmental or renewable energy programs on the throughput used to generate electricity that is sold for resale. To determine the percentage of the throughput exempt from the SBC and other charges, a customer must provide a form of Annual Certification which will provide the percentage of the customer's throughput that will be exempt from the these charges. After reviewing the documents in this case, the Board **AGREES** that the volumes associated with the Clayville Unit 1 Agreement are subject to collection of the full

SBC and EET set forth in SJG's tariff, except for that portion of the gas service certified as attributable to "sale for resale" electric service. When received from VMEU, SJG will provide Staff and Rate Counsel with a copy of the Certification with respect to the Clayville Unit 1 generating facility.

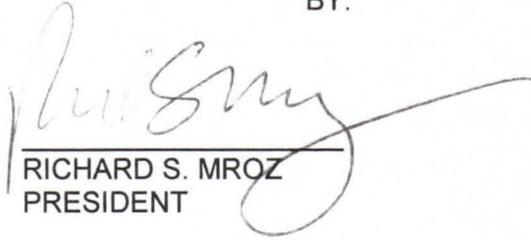
Accordingly, the Board **HEREBY APPROVES** the Clayville Unit 1 Agreement with the modifications described above, effective on the first day of the month following the effective date of this Order.

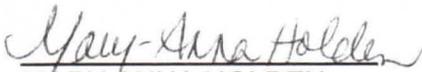
The Company's rates remain subject to audit by the Board. This Decision and Order does not preclude the Board from taking any actions deemed to be appropriate as a result of any Board audit.

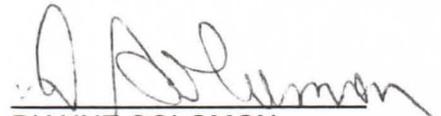
The effective date of this Order is December 26, 2015.

DATED: 12/17/15

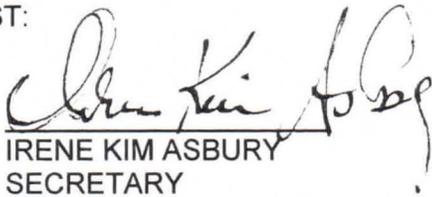
BOARD OF PUBLIC UTILITIES
BY:


RICHARD S. MROZ
PRESIDENT

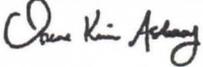

MARY-ANNA HOLDEN
COMMISSIONER


DIANNE SOLOMON
COMMISSIONER

ATTEST:


IRENE KIM ASBURY
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 STANDARD GAS SERVICE AGREEMENT (EGS-LV) AND A STANDARD GAS
SERVICE AGREEMENT (EGS-LV) ADDENDUM AND TO MODIFY RATE SCHEDULE
EGS-LV
DOCKET NO. GO15010109**

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South Jersey Gas

Steven R. Cocchi

Vice President, Rates & Regulatory Affairs

November 23, 2015

Irene Kim Asbury, Secretary
NJ Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P. O. Box 350
Trenton, NJ 08625-0350

**RE: In the Matter of the Petition of South Jersey Gas Company for Approval of a Standard Gas Service Agreement (EGS-LV) and Standard Gas Service Agreement (EGS-LV) Addendum; and to Modify Rate Schedule EGS-LV
BPU Docket No. GO15010109**

Dear Secretary Asbury:

With regard to the above captioned matter, South Jersey Gas Company ("SJG") is in receipt of the October 26, 2015 correspondence submitted on behalf of the New Jersey Division of Rate Counsel ("Rate Counsel") providing its analyses and conclusions regarding the proposed Standard Gas Service Agreement (EGS-LV) and Standard Gas Service Agreement (EGS-LV) Addendum (collectively, the "Agreement") between SJG and the Vineland Municipal Utilities Authority ("VMEU").

In its correspondence, Rate Counsel advised that it does not oppose the proposed Agreement and requested that, if approved by the Board of Public Utilities ("Board"), the Agreement be subject to the following conditions:

1. That Board approval be required for any proposed reductions in contract demand volume;
2. That the Board should expressly subject the Clayville Unit 1 facility to the provisions of the "LCAPP Legislation," codified at N.J.S.A. 48:3-60.1, whereby gas not certified as used to generate electricity "sold for resale" is subject to applicable Energy Efficiency Tracker ("EET and Societal Benefits Charge ("SBC") charges; and
3. That the pricing and term of the Agreement should remain confidential for a period of no longer than two years following the date of a Board Order approving the Agreement.

SJG has had the opportunity to review Rate Counsel's requests and has no objection to these requirements being reflected in a Board Order approving the Agreement.

Thank you for your attention to this matter. Should you have any questions, please do not hesitate to contact me.

Respectfully submitted,

Steven R. Cocchi, Esq.

SRC:lvk

cc: Service List

**IN THE MATTER OF THE PETITION OF SOUTH JERSEY GAS COMPANY FOR
APPROVAL OF A STANDARD GAS SERVICE AGREEMENT (EGS-LV) AND
STANDARD GAS SERVICE AGREEMENT (EGS-LV) ADDENDUM; AND TO
MODIFY RATE SCHEDULE EGS-LV
BPU DOCKET NO. GO15010109**

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RECEIVED
BY Case Mgmt

January 21, 2015

VIA UPS OVERNIGHT

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Re: **In the Matter of the Petition of South Jersey Gas Company for Approval of a Standard Gas Service Agreement (EGS-LV) and Standard Gas Service Agreement (EGS-LV) Addendum; and to Modify Rate Schedule EGS-LV**
BPU Docket No.: G015010109

Dear Secretary Sheehan:

On behalf of the Petitioner, South Jersey Gas ("South Jersey"), we hereby submit a Public Copy and Confidential Copy of the Petition in the referenced matter. Enclosed please find an original and ten (10) copies of the "Public Copy" Petition.

Please stamp the extra two copies of the Petition as "Received" and return them in the self-addressed stamped envelope.

Pursuant to N.J.A.C. 14:1-12.1 et seq., we hereby submit with this filing an unmarked envelope addressed to:

Records Custodian
Board of Public Utilities
44 South Clinton Avenue
P.O. Box 350
Trenton, NJ 08625

Therein, is another envelope marked "Confidential" which contains the "Confidential Copy" of the Petition and Exhibits. This too is addressed to:

Records Custodian
Board of Public Utilities
44 South Clinton Avenue
P.O. Box 350
Trenton, NJ 08625

CMS
LEGAL(2)
DITC
RPA
A. Bator
ENERGY(S) TEL

In lieu of an affidavit in substantiation of South Jersey's request for confidential treatment, South Jersey relies upon the enclosed verified Petition and the contents thereof to substantiate its

LEGAL1210014011

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CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

STEFANIE A. BRAND
Director

October 26, 2015

Via Electronic and Hand Delivery

Hon. Irene Kim Asbury, Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, New Jersey 08625

**Re: In the Matter of the Petition of South Jersey Gas Company
for Approval of a Standard Gas Service Agreement (EGS-LV)
and Standard Gas Service Agreement (EGS-LV) Addendum;
and to Modify Rate Schedule EGS-LV
BPU Docket No.: GO15010109**

Dear Secretary Asbury:

On January 21, 2015, South Jersey Gas Company ("South Jersey", "Company", "SJG" or "Petitioner") filed a redacted Public Copy and an unredacted Confidential Copy of a Petition ("Petition") with the New Jersey Board of Public Utilities ("Board", "BPU") seeking approval of a Standard Gas Service Agreement ("Agreement") under Petitioner's Electrical Generation Service – Large Volume ("EGS-LV") Rate Schedule and a Standard Gas Service Agreement EGS-LV Addendum ("Addendum"), with its customer, Vineland Municipal Electric Utility ("VMEU").

Background

VMEU is a municipal electric utility and a department of the City of Vineland. VMEU will construct a natural gas fired simple cycle generating facility ("Clayville Unit 1") with a nominal capacity of 64 MW to generate electricity for use within its service territory. Petition, p. 2. The Clayville Unit 1 facility will replace a coal-fired generation facility.¹ Petition, p. 2; RCR-RD-2.

VMEU will individually contract for the interstate pipeline capacity and gas supply (to be delivered to SJG's city gate) for Clayville Unit 1. RCR-RD-3. Gas distribution service for the Clayville Unit 1 facility will be provided by SJG. Pursuant to the Agreement, South Jersey agreed to sell and deliver and VMEU agreed to purchase and pay for gas service under South Jersey's Rate Schedule EGS-LV. In order to provide this service, SJG will (i) construct, own and operate a new pipeline of approximately 835 feet in length and 8" diameter and (ii) install a new meter station. Petition, p. 4; RCR-RD-7. Further, SJG represents that no upstream improvements will be required to serve the Clayville Unit 1 facility. RCR-RD-7. SJG plans to use public and private rights-of-way for the new pipeline and related facilities. Petition, p. 4.

Special Provision (e) of SDJG's EGS-LV Tariff

Pursuant to Special Provision (e) of South Jersey's EGS-LV Rate Schedule, South Jersey may offer a D-1 demand charge and C-3 commodity charge on a negotiated basis provided the D-1 charge taken in combination with the limited firm C-3 charge (if applicable) is not lower than an amount sufficient to generate a reasonable return on capital investments made by South Jersey and recovery of marginal and embedded costs, including depreciation, to provide service

¹ VMEU operates another gas turbine generator at this site, Unit 11, for which gas service under SJG's EGS-LV Rate Schedule was approved by way of a Board Order dated October 13, 2011 (BPU Dkt. No. GO11020063).

under Rate Schedule EGS-LV. More specifically, Special Provision (e) of SJG's EGS-LV Rate Schedule permits the Company to offer service at a negotiated D-1 Demand Charge and/or a C-3 Commodity Charge level(s), if such charges are "not lower than an amount sufficient to generate a reasonable return on capital investments made by the Company and recovery of marginal and embedded costs, including depreciation, to provide service under Rate Schedule EGS-LV."

Furthermore, any such offer must be based upon "cost of service and value of service considerations." Finally, customers may request a discounted rate for reasons other than physical bypass of SJG's system if there exists "ample support" for such requests, including "whether the discounted rate is in the public interest, how the discounted rate would spur economic development, and/or how the discounted rate would benefit the Company's ratepayers."

Analysis

Pursuant to Special Provision (e) of SJG's EGS-LV Rate Schedule, the Company proposes to provide firm delivery service to VMEU at negotiated rates for the duration of the Agreement. Petition, Exhibit A. The Agreement sets an initial contract demand volume level of 13,435 Mcf per day. Petition, Exhibit A. The Agreement specifies a negotiated D-1 (demand) charge and C-1 (volumetric) charge. Furthermore, per paragraph 17 of the Petition, SJG also requests authority to adjust VMEU's future contract demand volumes without further Board approval, upon the mutual consent of SJG and VMEU. RCR-RD-11.

Rate Counsel examined the supporting information provided by South Jersey and found that the revenue emanating from the terms of the proposed Agreement and the projected gas usage of the Clayville Unit 1 facility is not lower than an amount sufficient to generate a

reasonable return on capital investments made by the Company and recovery of marginal and embedded costs, including depreciation. RCR-RD-1, -4, -5, and -8.

While the Clayville Unit1 project does not present a gas distribution system bypass situation, other factors weigh in favor of approving the Agreement. Here, the Petitioner represents that, as a result of the proposed project, electricity will be produced more efficiently and cleanly to the benefit of the residents of Vineland and New Jersey. RCR-RD-2. The claimed benefits of VMEU's Clayville Unit 1 project include: (1) the positive environmental impact of replacing coal-fired generation with gas-fired generation; (2) availability as a "quick start" resource to meet peak electricity demand periods and support electric grid reliability in the area; (3) adding to the target of 1,500 MW of distributed generation set by the 2011 New Jersey Energy Master Plan; and (4) the creation of 150 construction, design, and engineering jobs during construction of the generating unit and the related electric switchyard. Petition, pp. 2-4.

Conclusion

Based on our analysis and the representations of SJG, Rate Counsel does not oppose the proposed Agreement. Rate Counsel's analysis found that the proposed Agreement would provide a positive return on investment, including recovery of SJG's incremental costs to serve VMEU. As such, Rate Counsel finds that the proposed service agreement would benefit SJG's ratepayers.

However, Rate Counsel respectfully submits that, if approved, the proposed Agreement be subject to certain conditions regarding firm contract demand volume changes. SJG's requests permission to adjust future VMEU contract demand volumes, from time to time, without further Board approval. Petition, p.17, RCR-RD-11. If approved, this provision has the potential to undermine the projected rate of return to be earned on SJG's incremental VMEU-related

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investment and, all else equal, shift costs to ratepayers in future base rate proceedings if future firm contract demand volumes were to be decreased. Therefore, Rate Counsel respectfully recommends Board approval be required for any proposed reductions in firm contract demand volume.

In addition, the Board should expressly subject the Clayville Unit 1 facility to the provisions of the "LCAPP Legislation", codified at N.J.S.A. 48:3-60.1, whereby gas not certified as used to generate electricity "sold for resale" is subject to the applicable EET and SBC charges. See RCR-RD-10.

Furthermore, in the interest of transparency and openness, the Board should impose limits on the term of the confidential information contained in the Agreement. The pricing and term of the Agreement should remain confidential for a period of no longer than two years following the date of a Board Order approving the Agreement.

Thank you for consideration of this matter.

Respectfully submitted,

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Maura Caroselli, Esq.
Assistant Deputy Rate Counsel

MC/kf
Enclosure
c: Service List

In the Matter of the Petition of South Jersey Gas Company for Approval of a Standard Gas Service Agreement (EGS-LV) and Standard Gas Service Agreement (EGS-LV) Addendum; and to Modify Rate Schedule EGS-LV
BPU Docket No.: GO15010109

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