



Agenda Date: 12/12/16  
Agenda Item: 2D

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**44 South Clinton Avenue, 3<sup>rd</sup> Floor, Suite 314**  
**Post Office Box 350**  
**Trenton, New Jersey 08625-0350**  
**www.nj.gov/bpu/**

ENERGY

IN THE MATTER OF THE PETITION OF SOUTH ) AMENDED ORDER UPON  
JERSEY GAS COMPANY FOR A DETERMINATION ) REMAND FROM THE SUPERIOR  
PURSUANT TO THE PROVISIONS OF N.J.S.A. ) COURT, APPELLATE DIVISION<sup>1</sup>  
40:55D-19 )  
)  
)  
) DOCKET NO. GO13111049

**Parties of Record:**

**Ira Megdal, Esq.**, Cozen O'Connor, P.C., on behalf of South Jersey Gas Company  
**Stefanie A. Brand, Esq., Director**, Division of Rate Counsel  
**Barbara L. Young, Municipal Clerk**, Upper Township  
**Linda Costello, Acting Clerk**, Maurice River Township  
**Fern A. Brown, Acting City Clerk**, City of Estell Manor

BY THE BOARD:<sup>2</sup>

On November 4, 2013, South Jersey Gas Company ("SJG") filed a petition ("Petition") with the New Jersey Board of Public Utilities ("Board") pursuant to N.J.S.A. 40:55D-19, a section of the New Jersey Municipal Land Use Law ("MLUL"). In the Petition, SJG requested that the Board issue an order finding that the construction of a twenty-four (24) inch natural gas transmission pipeline ("Pipeline" or "Project") with an approximate 21.6 mile alignment through Maurice River Township in Cumberland County, City of Estell Manor in Atlantic County and Upper Township in Cape May County, is reasonably necessary for the service, convenience or welfare of the public and, therefore, the zoning, site plan review and all other municipal land use ordinances and regulations promulgated under the authority of the MLUL shall not apply to the Project.

<sup>1</sup> This Order supersedes the Order entered on December 16, 2015 to further reflect the Board's action.

<sup>2</sup> 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.

The affected municipalities are located in land use management areas under the jurisdiction of the New Jersey Pinelands Commission ("Pinelands Commission"), and are subject to the Commission's Comprehensive Management Plan ("CMP"), set forth in N.J.A.C. 7:50-1, et seq.

The Board issued an Order on December 16, 2015 ("December 16, 2015 Order"), which found that SJG met its burden of proof, and demonstrated that the Project is reasonably necessary for the service, convenience or welfare of the public pursuant to N.J.S.A. 40:55D-19. In re the Petition of South Jersey Gas Company for a Determination Pursuant to the Provisions of N.J.S.A. 40:55D-19, Docket No. GO13111049 (Order dated December 16, 2015) at 50. The Board further mandated in the December 16, 2015 Order that neither N.J.S.A. 40:55D-1 et seq., nor any other government ordinances or regulations, permits or license requirements made under the authority of N.J.S.A. 40:55D-1 et seq. shall apply to the siting, installation, construction, or operation of the Project. December 16, 2015 Order at 50. The December 16, 2015 Order contains the extensive procedural history of this matter, which is incorporated herein by reference.

On December 23, 2015, the Pinelands Preservation Alliance ("PPA") filed a notice of appeal of the Board's December 16, 2015 Order with the Superior Court of New Jersey, Appellate Division ("Appellate Division"), Docket No. A-1685-15T1. On December 24, 2015, PPA filed a Motion for a Stay Pending Resolution of Claims on Appeal, which was denied by the Board by Order dated January 28, 2016. In re the Petition of South Jersey Gas Company for a Determination Pursuant to the Provisions of N.J.S.A. 40:55D-19, Docket No. GO13111049 (Order dated January 28, 2016).

On January 27, 2016, the New Jersey Sierra Club and Environment New Jersey (collectively, "Sierra Club") filed notices of appeal with the Appellate Division, Docket Nos. A-2705-15T1 and A-2706-15T1. The Appellate Division consolidated the appeals by Order dated April 22, 2016. In a decision issued on November 7, 2016, the Appellate Division affirmed the Board's December 16, 2015 Order, but remanded the matter to the Board for entry of a modified Order, adding the following: "the approval of SJG's petition under N.J.S.A. 40:55D-19 is conditioned upon the [Pinelands] Commission's issuance of a final determination finding that the pipeline project meets the minimum standards of the CMP." In re South Jersey Gas Co., \_\_\_ N.J. Super. \_\_\_, 2016 N.J. Super. LEXIS 141, 34 (App. Div. 2016).

### **DISCUSSION AND FINDINGS:**

Accordingly, based upon the above, and in conformance with the Appellate Division's ruling, on remand, and pursuant to N.J.S.A. 40:55D-19, the Board **HEREBY AMENDS** the Board's Order of December 16, 2015 to include the following language:

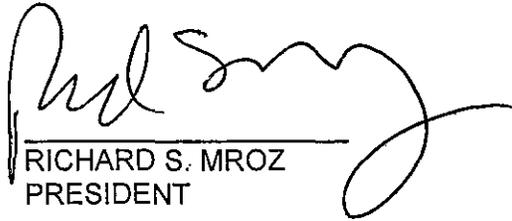
The Board's approval of SJG's petition under N.J.S.A. 40:55D-19 is conditioned upon the Pinelands Commission's issuance of a final determination finding that the Pipeline meets the minimum standards of the CMP; and

The Board **FURTHER ORDERS** that the terms and conditions of the Board's prior order, which are incorporated herein by reference, shall remain in effect, except as modified by this order.

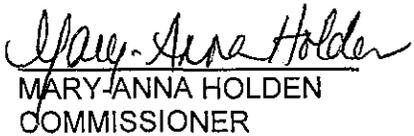
This Order shall be effective on December 22, 2016.

DATED: 12/12/16

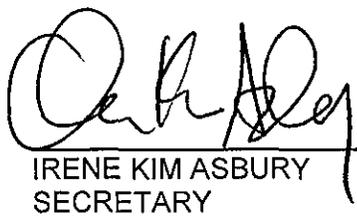
BOARD OF PUBLIC UTILITIES  
BY:

  
RICHARD S. MROZ  
PRESIDENT

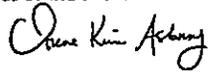
  
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MARY-ANNA HOLDEN  
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DIANNE SOLOMON  
COMMISSIONER

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 A  
DETERMINATION PURSUANT TO THE PROVISIONS OF N.J.S.A. 40:55D-19.  
DOCKET NO. GO13111049

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