



Agenda Date: 10/20/17  
Agenda Item: IIA

**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/](http://www.nj.gov/bpu/)

ENERGY

IN THE MATTER OF THE PETITION OF NEW JERSEY )  
NATURAL GAS COMPANY FOR APPROVAL OF A ) DECISION AND ORDER  
MUNICIPAL FRANCHISE IN THE BOROUGH OF )  
LINCOLN PARK, MORRIS COUNTY, NEW JERSEY ) DOCKET NO. GE17060680

**Parties of Record:**

**Andrew K. Dembia, Esq.**, on behalf of Petitioner, New Jersey Natural Gas Company  
**Stefanie A. Brand, Esq.**, Director, New Jersey Division of Rate Counsel

**BY THE BOARD:**<sup>1</sup>

New Jersey Natural Gas Company ("NJNG" or "Company"), a regulated public utility subject to the jurisdiction of the New Jersey 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 500,000 residential, commercial and industrial customers located in Monmouth and Ocean counties, and parts of Middlesex, Burlington and Morris counties in New Jersey.

NJNG currently provides natural gas service within the Borough of Lincoln Park ("Borough"). The Company's ten (10) year consent to use the streets within the Borough for the provision of gas service expires on October 25, 2017. On May 7, 2017 pursuant to Ordinance No. 3-17, the Borough renewed its consent and granted NJNG continued permission to lay and construct its pipes, mains, and related appurtenances and facilities within the streets, alleys, squares and public places within the Borough for a period of twenty (20) years to furnish gas service in the Borough. By letter dated June 6, 2017, 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.

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<sup>1</sup> Commissioner Dianne Solomon did not participate.

On June 22, 2017, 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 Borough. As required by law and after notice, a hearing in this matter was held on August 17, 2017. William Agee, Esq., the Board's duly appointed hearing officer, presided over the hearing. Appearances were made on behalf of the Company, the New Jersey 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 John Wyckoff, its Director of Engineering. According to Mr. Wyckoff, NJNG does not anticipate any significant growth in the Borough for the next ten (10) to twenty (20) years. Mr. Wyckoff testified that the Company has the capacity to service the present level of growth within the Borough.

Rate Counsel, in its written comments to the petition dated September 11, 2017, indicated that it does not oppose approval of the petition. It notes that the ordinance limits the consent to a period of twenty (20) years, and states that it is consistent with the applicable statutory provisions. However, Rate Counsel requests that approval of the petition include certain restrictions which are incorporated in this Order.

After a full review of the entire record, the Board **HEREBY FINDS** that the municipal consent for use of the streets, which is the subject of this matter, is necessary and proper for the public convenience and properly serves the public interest, and that NJNG 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 Borough to continue to provide adequate and appropriate service to its existing customers, and that the twenty (20) 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 NJNG by the Borough to continue to provide gas service, and for the continued use of its public streets for that purpose for a period of twenty (20) years.

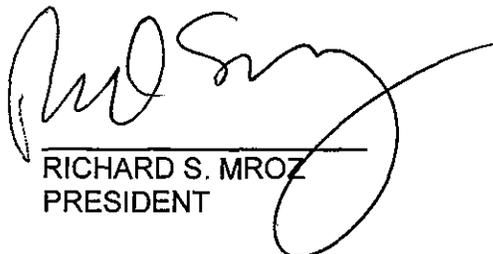
The approval granted hereinabove shall be subject to the following provisions:

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 NJNG.
2. This Order shall not effect nor in any way limit the exercise of the authority of this Board or 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 NJNG.

This Order shall be effective as of October 30, 2017.

DATED: 10/20/17

BOARD OF PUBLIC UTILITIES  
BY:



RICHARD S. MROZ  
PRESIDENT



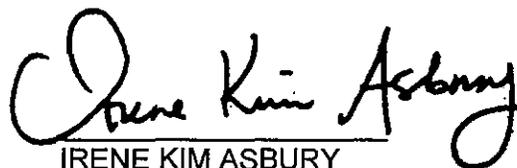
JOSEPH L. FIORDALISO  
COMMISSIONER



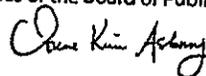
MARY-ANNA HOLDEN  
COMMISSIONER



UPENDRA J. CHIVUKULA  
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 NEW JERSEY NATURAL GAS COMPANY FOR  
APPROVAL OF A MUNICIPAL FRANCHISE IN THE BOROUGH OF LINCOLN PARK,  
MORRIS COUNTY, NEW JERSEY - DOCKET NO. GE17060680

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**Borough of Lincoln Park:**

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Morris County Board of Chosen Freeholders  
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# Exhibit A

Ordinance: #1,568  
Introduced: 03/20/17  
Adopted: 04/17/17  
Effective: 05/07/17

**ORDINANCE 3-17**

**AN ORDINANCE GRANTING PERMISSION AND CONSENT TO NEW JERSEY NATURAL GAS COMPANY TO LAY, MAINTAIN AND OPERATE GAS FACILITIES IN THE BOROUGH OF LINCOLN PARK, COUNTY OF MORRIS, STATE OF NEW JERSEY, AND PRESCRIBING THE MANNER OF DOING SO**

WHEREAS the Borough of Lincoln Park passed Ordinance 15-07 (adopted May 21, 2007 – effective June 10, 2007) granting permission and consent to New Jersey Natural Gas Company to lay, maintain, and operate gas facilities within the Borough; and

WHEREAS Ordinance 15-07 was for a period of ten (10) years and that the aforementioned time period is due to expire on or about October 2017; and

WHEREAS the Borough of Lincoln Park has determined that it is appropriate and in the best interests of the Borough to continue the franchise relationship with New Jersey Natural Gas Company; and

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of Lincoln Park, County of Morris, State of New Jersey, as follows:

**SECTION ONE:** Subject to the provisions of applicable Borough Ordinances, permission and consent is hereby granted to New Jersey Natural Gas Company, to erect, construct, re-construct, remove, inspect, maintain and operate its mains and pipes, together with all appurtenances thereto, in, through, upon, along, over and under all the various public streets, alleys, squares and public places in the Borough of Lincoln Park for the purpose of conducting, transmitting and distributing natural gas upon the terms and conditions hereinafter provided.

**SECTION TWO:** Underground conduits shall be placed below the surface of said streets, roads, avenues, and highways and parts thereof and, with the exception of service branches to curb lines and other facilities, said conduits shall not be constructed more than five (5') feet from the curb line, unless obstructions make it necessary to deviate from such course or unless the parties mutually agree to another location. All underground conduits shall be placed at least eighteen (18") inches below the surface.

All conduits shall be located underground and shall be so constructed as to conform to the cross-sectional and longitudinal grade of the surface so as not to interfere with the safety or convenience of persons or vehicles.

**SECTION THREE:** All lines, underground conduits, together with all associated equipment, fixtures and appurtenances (hereinafter "FACILITIES"), shall be located, installed and maintained so as not to interfere with any public water, sanitary, sewer, storm drainage or other public facilities, fixtures and appurtenances (hereinafter "PUBLIC FACILITIES")

New Jersey Natural Gas Company further agrees to remove and relocate, at its sole expense, all FACILITIES heretofore or hereafter located and installed, that reasonably interfere with construction, re-construction and maintenance of any PUBLIC FACILITY.

New Jersey Natural Gas Company shall indemnify and save harmless the Borough of Lincoln Park from all claims or suits for damages arising from the location, construction, re-construction or maintenance of any FACILITY.

**SECTION FOUR:** Before proceeding with any of the work under this Ordinance, New Jersey Natural Gas shall file with the Mayor and Governing Body of this Borough, a map or plan showing the location and size of any such FACILITIES, which map or plan shall be first approved by said Mayor and Governing Body or their authorized representatives.

New Jersey Natural Gas Company shall further strictly comply with the provisions of Chapter 185, Article II of the Municipal Code and any amendments thereto, dealing with street openings and excavation, and shall, except in the case of emergency, provide to the Borough at least ten (10) days prior notice of any street openings or excavations.

**SECTION FIVE:** The surface of the streets, roads, avenues and highways and any pavement flagging taken up or soil and/or planting disturbed by New Jersey Natural Gas Company in constructing, re-constructing or maintaining its FACILITIES shall be restored to as good condition as it was before the commencement of work thereon at no cost to the Borough of Lincoln Park. No streets, roads, avenues and highways shall be encumbered for a longer period than shall be necessary to execute the work. Such restoration shall be subject to the approval of the Mayor and Governing Body after an inspection by its authorized representative upon completion of the work and submission of duly approved as-built drawings.

**SECTION SIX:** The use of all streets, roads, avenues and highways by New Jersey Natural Gas Company shall be subject to such policy and other regulations and restrictions as may be Adopted by the Governing Body of the Borough of Lincoln Park.

Exhibit A  
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**SECTION SEVEN:** Following Adoption and final passage of this Ordinance, and acceptance thereof by New Jersey Natural Gas Company, the permission and consent granted therein shall continue and be in force for a period of twenty (20) years from the date of its approval by the New Jersey Board of Public Utilities, as required by law. Throughout the full term of this Ordinance, New Jersey Natural Gas Company, its successors and assigns, shall furnish safe, adequate and proper service within this Borough and keep and maintain its property and equipment in such condition as to enable it to do so.

**SECTION EIGHT:** Nothing herein contained shall be construed to grant unto New Jersey Natural Gas Company, its successors and assigns, an exclusive right, or to prevent the granting of permission and consent to other companies for like purposes of any streets, roads, avenues or highways of the Borough of Lincoln Park.

**SECTION NINE:** The term "BOROUGH," as used in this Ordinance, shall be held to apply to and include any form of municipality or government into which this Borough, or any part thereof, may, at any time hereafter be changed, annexed or merged, and the term "BOROUGH" or any other term herein used in referring to the Governing body of this Borough shall be held to apply to, and include, the Governing Body of such other form of municipality.

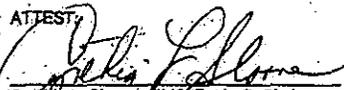
**SECTION TEN:** New Jersey Natural Gas Company shall pay the expenses incurred for advertising done in connection with the passage of this Ordinance within thirty (30) days after the effective date thereof.

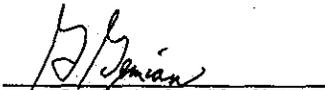
**SECTION ELEVEN:** Upon Passage of this Ordinance, in accordance with the law, the Borough Clerk shall provide New Jersey Natural Gas Company with written notice thereof by Certified Mail. New Jersey Natural Gas Company shall file with the Borough Clerk its written acceptance of said Ordinance within thirty (30) days of the receipt of said notice.

**SECTION TWELVE:** If any section, paragraph, subdivision, clause or provision of this Ordinance shall be judged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged, and the remainder of this Ordinance shall be deemed valid and effective.

**SECTION THIRTEEN:** All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency only.

**SECTION FOURTEEN:** This Ordinance shall take effect until the Borough of Lincoln Park receives notice that it has been approved by the Board of Public Utilities.

ATTEST:  
  
Cynthia L. Sloane, RMC, Borough Clerk

  
Gary Gamian Council President

Dr. David Runfeldt, Mayor

<u>INTRODUCED:</u>	March 20, 2017
<u>PUBLISHED IN DAILY RECORD:</u>	March 28, 2017
<u>PUBLIC HEARING AND ADOPTION:</u>	April 17, 2017
<u>PUBLISHED IN DAILY RECORD:</u>	April 23, 2017
<u>EFFECTIVE DATE:</u>	May 7, 2017

# Exhibit B



June 6, 2017

*Via Federal Express Overnight Delivery (7793-0935-3434)*

Honorable Cynthia L. Sloane, RMC, CMR, Clerk  
Borough of Lincoln Park  
34 Chapel Hill Road,  
Lincoln Park, New Jersey 07035

**Re: AN ORDINANCE GRANTING PERMISSION AND CONSENT TO NEW JERSEY NATURAL GAS COMPANY TO LAY, MAINTAIN AND OPERATE GAS FACILITIES IN THE BOROUGH OF LINCOLN PARK, COUNTY OF MORRIS, STATE OF NEW JERSEY, AND PRESCRIBING THE MANNER OF DOING SO ORDINANCE 3-17**

Dear Ms. Sloane:

New Jersey Natural Gas Company ("NJNG") hereby accepts the terms and provisions of the franchise consent granted by the Mayor and Borough Council on April 17, 2017 with an effective date of May 7, 2017 and hereby agrees to be bound by the terms and provisions thereof. See Ordinance 3-17 attached hereto.

Please be advised that NJNG will submit the Ordinance to the New Jersey Board of Public Utilities for approval.

Respectfully submitted,

A handwritten signature in black ink that reads "Andrew K. Dembia".

Andrew K. Dembia, Esq.  
Regulatory Affairs Counsel

AKD:jpc

Attachment