



Agenda Date: 9/1/21  
Agenda Item: IIA

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 1<sup>st</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

ENERGY

IN THE MATTER OF NEW JERSEY NATURAL GAS ) DECISION AND ORDER  
FOR APPROVAL FOR A MUNICIPAL FRANCHISE )  
IN THE TOWNSHIP OF BERKELEY, OCEAN )  
COUNTY ) DOCKET NO. GE21040722

**Parties of Record:**

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

BY THE BOARD:

New Jersey Natural Gas Company ("NJNG" or "Company"), a regulated 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 and engaged in the business of transmission and distribution of natural gas to approximately 560,000 residential, commercial, and industrial customers in Monmouth and Ocean Counties, and parts of Middlesex, Burlington, and Morris Counties in New Jersey.

NJNG currently provides natural gas service within the Township of Berkeley to approximately 20,157 residential and 1,687 commercial customers. The Company's franchise to use the streets within the Township for the provision of gas service expired on December 31, 2020.<sup>1</sup> On March 25, 2021 by Resolution No. 21-148-R, the Township renewed NJNG's franchise for a period of 10 years 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 Township. A copy of the Resolution is attached to this Order as Exhibit "A". By letter dated March 31, 2021, NJNG accepted and agreed to the terms of and conditions of the Resolution consistent with N.J.S.A. 48:3-16. Copies of the letter of acceptance and the hearing notice are attached to this Order as Exhibits "B" and "C", respectively.

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<sup>1</sup> 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, NJNG represents that it has continued to provide service to its customers within the Township in an uninterrupted manner.

On April 23, 2021, NJNG filed a petition with the Board, pursuant to N.J.S.A. 48:2-14 and N.J.A.C. 14:1-5.5, seeking approval of the franchise renewal agreement granted by the Township. As required by law and after notice, a hearing in this matter was held on June 22, 2021. Heather Weisband, 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 Joseph Puglisi, Managing Engineer. According to Mr. Puglisi's testimony and discovery responses, NJNG anticipates growth in the Township over the next five (5) years of approximately 25 to 50 customers annually. Mr. Puglisi also testified that the Company has the capacity to meet the anticipated level of growth within the municipality and does not plan any significant changes in its gas distribution system within the Township.

Rate Counsel, in its written comments to the petition dated July 20, 2021, indicated that it does not object to the Company's petition since the Company represented that it has the capacity necessary to continue to provide natural gas service to the Township. The term of the municipal consent related to the use of streets is limited to a term of 10 years. However, Rate Counsel requests that the approval of the petition include certain restrictions, which are incorporated in this Order.

### **DISCUSSION AND FINDINGS**

After careful review and consideration of the petition and exhibits submitted in this matter, the Board **HEREBY FINDS** that the renewal of the franchise agreement granted to NJNG by the Township of Berkeley 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 Township to continue to provide adequate and appropriate service to its existing customers, as well as expected future customers, and that the 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 NJNG by the Township to continue to provide gas service, and for the continued use of its public streets for that purpose for a period of 10 years.

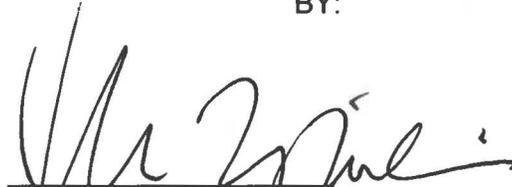
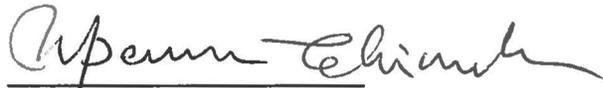
The approval granted hereinabove shall be subject to the following provisions:

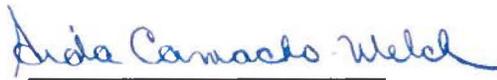
1. As required by N.J.S.A. 48:3-15, and limited by the Resolution, the municipal consent to construct, maintain and operate gas lines in the streets and other public places in the Township is limited to a term not exceeding 10 years.
2. This Order shall not be construed as directly or indirectly fixing for any purposes whatsoever the value of any tangible or intangible assets now owned or hereafter to be owned by NJNG.
3. This Order shall not affect 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 NJNG.

This Order shall be effective as of September 7, 2021.

DATED: September 1, 2021

BOARD OF PUBLIC UTILITIES  
BY:

  
\_\_\_\_\_  
JOSEPH L. FIORDALISO  
PRESIDENT  
\_\_\_\_\_  
MARY-ANNA HOLDEN  
COMMISSIONER  
\_\_\_\_\_  
DIANNE SOLOMON  
COMMISSIONER  
\_\_\_\_\_  
UPENDRA J. CHIVUKULA  
COMMISSIONER  
\_\_\_\_\_  
ROBERT M. GORDON  
COMMISSIONER

ATTEST:   
\_\_\_\_\_  
AIDA CAMACHO-WELCH  
SECRETARY

IN THE MATTER OF NEW JERSEY NATURAL GAS FOR APPROVAL FOR A MUNICIPAL  
FRANCHISE IN THE TOWNSHIP OF BERKELEY, OCEAN COUNTY

BPU DOCKET NO. GE21040722

SERVICE LIST

<p><b><u>Board of Public Utilities</u></b> 44 South Clinton Avenue, 1<sup>st</sup> Floor Post Office Box 350 Trenton, NJ 08625-0350</p> <p>Aida Camacho-Welch, Board Secretary <a href="mailto:board.secretary@bpu.nj.gov">board.secretary@bpu.nj.gov</a></p> <p>Robert Brabston, Esq., Executive Director <a href="mailto:Robert.brabston@bpu.nj.gov">Robert.brabston@bpu.nj.gov</a></p> <p>Stacy Peterson, Deputy Executive Director <a href="mailto:Stacy.peterson@bpu.nj.gov">Stacy.peterson@bpu.nj.gov</a></p> <p><u>Counsel's Office</u></p> <p>Heather Weisband, Esq., Senior Counsel <a href="mailto:heather.weisband@bpu.nj.gov">heather.weisband@bpu.nj.gov</a></p> <p><u>Energy</u></p> <p>Christopher Oprysk <a href="mailto:christopher.oprysk@bpu.nj.gov">christopher.oprysk@bpu.nj.gov</a></p> <p><b><u>Division of Law</u></b> 25 Market Street Post Office Box 112 Trenton, NJ 08625</p> <p>Terel Klein, DAG <a href="mailto:terel.klein@law.njoag.gov">terel.klein@law.njoag.gov</a></p> <p>Matko Ilic, DAG <a href="mailto:matko.ilic@law.njoag.gov">matko.ilic@law.njoag.gov</a></p> <p>Pamela L. Owen, Esq. Assistant Section Chief <a href="mailto:pamela.owen@law.njoag.gov">pamela.owen@law.njoag.gov</a></p>	<p><b><u>Berkeley Township</u></b> Beverley M. Carle Township Clerk Post Office Box B Bayville, NJ 08721 <a href="mailto:townshipclerk@twp.berkeley.nj.us">townshipclerk@twp.berkeley.nj.us</a></p> <p><b><u>NJNG</u></b> 1415 Wycoff Road Post Office Box 1464 Wall, NJ 07719</p> <p>Andrew K. Dembia, Esq. Regulatory Affairs Counsel <a href="mailto:ADembia@njng.com">ADembia@njng.com</a></p> <p>Susan Fastuca <a href="mailto:SFastuca@njng.com">SFastuca@njng.com</a></p> <p><b><u>Division of Rate Counsel</u></b> 140 East Front Street, 4<sup>th</sup> Floor Post Office Box 003 Trenton, NJ 08625-0003</p> <p>Stefanie. A. Brand, Esq., Director <a href="mailto:sbrand@rpa.nj.gov">sbrand@rpa.nj.gov</a></p> <p>Brian Lipman, Esq., Litigation Manager <a href="mailto:blipman@rpa.nj.gov">blipman@rpa.nj.gov</a></p> <p>Brian Weeks, Esq. <a href="mailto:bweeks@rpa.nj.gov">bweeks@rpa.nj.gov</a></p> <p>Shelly Massey, Esq. <a href="mailto:smassey@rpa.nj.gov">smassey@rpa.nj.gov</a></p>
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Exhibit A:  
Resolution

Exhibit A  
Page 3 of 4

**RESOLUTION NO. 21-148-R**

**A RESOLUTION AUTHORIZING RENEWAL OF THE FRANCHISE AGREEMENT WITH  
NEW JERSEY NATURAL GAS COMPANY**

March 22, 2021

**WHEREAS**, New Jersey Natural Gas Company has heretofore been granted a franchise and consent to lay, maintain and operate gas facilities in the Township of Berkeley; and

**WHEREAS**, New Jersey Natural Gas Company is desirous of extending and renewing the period of the consent to this municipality to exercise its franchise rights in the Township of Berkeley for the purpose of furnishing gas therein.

**NOW, THEREFORE, BE IT RESOLVED**, that New Jersey Natural Gas Company be and it 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, including natural gas, or any mixture of gases of various types and 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. That New Jersey Natural Gas Company shall agree that, in all cases in which street openings or excavations are made for the purposes aforesaid, that restoration of same will be conducted in accordance with the requirements of the Township Ordinances in existence at the time of said excavation; and
2. That New Jersey Natural Gas Company shall conduct the work or the laying or maintaining of gas pipes therein in a careful and prudent manner; and
3. That New Jersey Natural Gas Company shall safeguard the public interest in continuous and uninterrupted service at and after the expiration of the term of the grant; and
4. That New Jersey Natural Gas Company shall maintain its property in good order throughout the full term of the grant; and
5. That New Jersey Natural Gas Company shall continuously afford safe, adequate and proper service at just and reasonable rates.

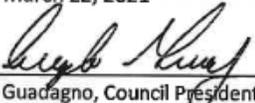
**BE IT FURTHER RESOLVED**, that this franchise consent, upon approval of the Board of Public Utilities of the State of New Jersey, shall supersede the Resolution granted by the Township of Berkeley on December 31, 2010; and

**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; and

**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.

**DATED:** March 22, 2021

  
\_\_\_\_\_  
Angelo Guadagno, Council President  
James J. Byrnes, Council Vice President

**CERTIFICATION**

I, Beverly M Carle, do hereby certify the foregoing is a true and accurate copy of a resolution adopted by the Governing Body of the Township of Berkeley at a meeting held on the 22<sup>nd</sup> day of March, 2021.

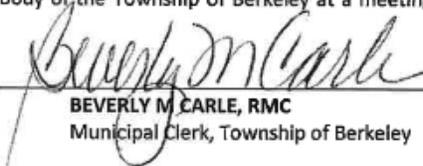
  
\_\_\_\_\_  
BEVERLY M CARLE, RMC  
Municipal Clerk, Township of Berkeley

Exhibit B:  
Letter of Acceptance



March 31, 2021

Via Electronic Mail

Honorable Beverly M. Carle, RMC  
Berkeley Township Clerk  
627 Pinewald/Keswick Road  
P.O. Box B  
Bayville, NJ 08721

**Re: Resolution No. 21-148-R of the Township of Berkeley,  
County of Ocean, New Jersey, Authorizing Renewal of the  
Franchise Agreement with New Jersey Natural Gas  
Company**

Dear Ms. Carle:

New Jersey Natural Gas Company ("NJNG") hereby accepts the terms and provisions of the franchise agreement granted by the Berkeley Township Council on March 25, 2021 and hereby agrees to be bound by the terms and provisions thereof. See Resolution No. 21-148-R attached hereto.

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

Respectfully submitted,

A handwritten signature in blue ink that reads 'Andrew K. Dembia'.

Andrew K. Dembia, Esq.  
Regulatory Affairs Counsel

AKD:sf

Exhibit C:  
Hearing Notice



June 1, 2021

**BY ELECTRONIC MAIL**

Honorable Beverly M. Carle, RMC  
Administrator/Municipal Clerk  
Township of Berkeley, Ocean County  
627 Pinewald/Keswick Road  
P.O. Box B  
Bayville, NJ 08721

Honorable Scott M. Colabella  
County Clerk  
Ocean County Clerk's Office  
PO Box 2191  
Toms River, NJ 08754-2191

Honorable Mary Ann Cilento  
Clerk of the Board  
Ocean County Board of Freeholders  
Administration Building, Rm 328  
PO Box 2191

Honorable Carl W. Block  
Ocean County Administrator  
101 Hooper Ave.  
Administration Bldg  
Toms River, NJ 08754

**RE: In the Matter of the Petition of New Jersey Natural Gas Company for the Approval of a Municipal Franchise in the Township of Berkeley, Ocean County BPU Docket No. GE21040722**

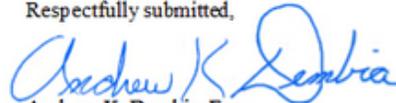
Dear the Parties Addressed:

Pursuant to the provisions of N.J.S.A. 48:2-14, New Jersey Natural Gas Company ("NJNG") has applied to the New Jersey Board of Public Utilities ("Board") for approval of the Township of Berkeley's ("Township") Resolution No. 21-148-R, which granted NJNG permission to continue to provide natural gas service in the Township as provided in said Resolution. Please be advised that the Board has set June 22, 2021 at 10:00am-11:00am EST, as the date and time for the Municipal Consent Hearing. Due to the COVID-19 pandemic, this Municipal Consent Hearing will be held via Zoom. The Zoom log-in information is as follows:

<https://zoom.us/j/2458136397?pwd=S1pxamxGV3RNdHJ0T3A0UGVFOHFkQT09>  
Passcode: 871017

My assistant, Susan Fastuca is the Zoom meeting organizer. A Zoom meeting invitation will be sent to you in advance of the scheduled date for this Municipal Consent Hearing. You are welcome to participate in the Zoom meeting to put your views on the record if you so desire. Also, notice of the hearing is posted on the Company's web site, [njng.com](http://njng.com), so interested members of the public may view the hearing.

Respectfully submitted,

  
Andrew K. Dembia, Esq.  
Regulatory Affairs Counsel

AKD:sf  
C: Service List