



May 3, 2013

VIA FEDERAL EXPRESS AND ELECTRONIC DELIVERY

Kristi Izzo, Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, New Jersey 08625-0350

Re: *In the Matter of the Board's Review of the Applicability and Calculation of a Consolidated Tax Adjustment, Docket No. EO12121072*

Dear Ms. Izzo:

New Jersey Natural Gas Company (NJNG or the Company) is providing this letter in response to the questions in the "Notice of Opportunity to Comment" issued by the New Jersey Board of Public Utilities (the Board or BPU) and dated March 6, 2013 in the above referenced docket. An additional ten copies of this letter are enclosed. An electronic copy of these comments has been provided to rule.comments@bpu.nj.state.us

NJNG appreciates the Board's examination of this issue and the provision of this initial opportunity to comment. We look forward to working further with all interested parties on this matter.

- 1. Please explain your company or organization's position on whether the Board should utilize Consolidated Tax Adjustment (CTA).**

RESPONSE: NJNG does not support the utilization of a mandatory CTA in rate setting proceedings. In a review of the use of the CTA nationwide, it appears that New Jersey is part of a small and shrinking minority of states that apply the CTA in the ratesetting process. Additionally, the current approach in New Jersey can result in very large adjustments that may result in unintended consequences and negative impacts on utility credit quality and cost of capital.

- 2. If the Board continues the use of CTA, please describe and detail what changes to CTA methodology, if any, should be adopted by the Board.**

RESPONSE: If the Board does consider the use of a CTA, NJNG posits that the following elements should be taken into consideration in the review:

- The financial harm imposed from any form of CTA on a regulated entity's standing in the financial community and the negative impacts any such CTA adjustment may

have from the financial community and rating agencies. In a recent base rate case¹, BPU Staff pointed out the following concerns in response to a Rate Counsel position based on what has been designated as the Board's current policy.

- “However, Staff believes that the application of consolidated Tax Savings Adjustment proposed by Rate Counsel would produce financial results inconsistent with sound financial management policy and could ultimately produce higher costs to ratepayers, as a result of investor's reluctance to supply capital to New Jersey-based utilities on reasonable terms.” (Pages 35-36).
 - “Rate Counsel's proposed adjustment” could result in a “reduction in earnings ...so large as to possibly be considered a ‘taking’ by investors.” (Page 36).
 - “The end result of Rate Counsel's Consolidated Tax Savings Adjustment in this case could be lower stock prices, lower credit ratings, higher capital costs and damage to investors' view of the Board. This could result in ratepayers ultimately paying higher rates for utility service.” (Page 36).
 - “The investment community would be shocked given the magnitude of the proposed ACE Consolidated Tax Adjustment...” (Page 37).
 - “In addition to the deleterious impact on shareholder value, bond investors and ratepayers would be impacted as a result of the likely credit rating downgrade.” (Page 37).
 - “In addition, because of the magnitude of the adjustment for Consolidated Income Taxes, the investment community could downgrade New Jersey's investment climate as it pertains to utilities as well as their perception of the quality of regulation in New Jersey.” (Pages 37-38).
- The appropriate time frame (less than the current look-back to 1991) over which any CTA should be considered and calculated.
 - The exclusion of inactive companies.
 - The exclusion of utility operations not regulated by the Board, such as transmission operations regulated by FERC.
 - The applicability for some companies of other methods for consideration, such as the pour-over method.

3. Please calculate a CTA for your company utilizing the current Board methodology set forth in the Board's April 20, 2004 order, *I/M/O the Verified Petition of Rockland Electric Company for the Recovery of its Deferred Balances and the establishment of*

¹ In the Matter of the Petition of Atlantic City Electric Company for Approval of Amendments to Its Tariff to Provide for an Increase in Rates and Charges for Electric Service Pursuant to *N.J.S.A. 48:2-21* AND *N.J.S.A. 48:2-21.1* and for Other Appropriate Relief, BPU Docket No. ER11080469

Non-Delivery Rates Effective August 1, 2003 and I/M/O the Verified Petition of Rockland Electric Company for Approval of Changes in Electric Rate, its Tariff for Electric Service, its Depreciation Rates, and for Other Relief, BPU Docket Nos. ER02080614 and ER02100724.

RESPONSE: A calculation of the impact of a CTA based on the above mentioned Rockland proceeding was provided in confidential discovery responses to the relevant parties in NJNG's most recent base rate case. As such, that is the most recently calculated CTA information. That information was not representative of the Company's position concerning the applicability or accuracy of a CTA and was only provided in response to a discovery request.

- NJNG – Docket No. GR07110889, Response S-RREV-89

4. If applicable, please provide the actual amount of the CTA included in your company's last base rate case.

RESPONSE: NJNG's recent base rate case was resolved through settlement. As one aspect of the overall settlement in that case and in order to resolve the matter in a timely manner, NJNG accepted but did not necessarily agree with a rate base adjustment of approximately \$5.2 million related to CTA.

CONCLUSION

In closing, NJNG appreciates the Board's focus on developing a fair policy for setting a reasonable income tax expense in the rate setting process. We look forward to the next steps in this proceeding.

Sincerely,



Tracey Thayer
Director, Regulatory Affairs Counsel

TT:jpc