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December 14, 2015

Paul Flanagan, Executive Director
New Jersey Board of Public Utilities
44 S. Clinton Avenue
Trenton, New Jersey 08625

Re: South Jersey Gas
Proposed Natural Gas Transmission Pipeline
Pinelands Application # 2012-0056.001

Dear Mr. Flanagan:

The Pinelands Protection Act, N.J.S.A. 13:18A-10(c). and the Pinelands Comprehensive Management Plan ("CMP"), N.J.A.C. 7:50-4.81(a), prohibit a State agency from issuing any approval for development within the Pinelands Area, unless such development is consistent with the minimum standards of the CMP. Because any order by the Board of Public Utilities ("BPU") granting the pending South Jersey Gas Company's N.J.S.A. 40:55D-19 petition would authorize development in the Pinelands Area, such approval must be consistent with the minimum standards of the CMP. Thus, and in accordance with N.J.A.C. 7:50-4.81 et seq., the Pinelands Commission staff has undertaken a review of all documentation submitted to the BPU as part of the public and evidentiary hearings conducted by the BPU for the South Jersey Gas Company's petition for a determination pursuant to the provisions of N.J.S.A. 40:55D-19 (BPU Docket Number GO13111049). The list of documents reviewed is attached. Based on Pinelands Commission staff expertise and experience administering the CMP and our review of the record, the prior finding of consistency with the CMP in the Certificate of Filing issued on August 14, 2015 remains unchanged. We submit this letter for BPU's consideration in its review of the pending application.

The Commission staff's review required that it evaluate of all the information submitted to the BPU to identify any information that raised issues regarding the proposed project's consistency with the Pinelands CMP. Issues that are new, different, or which had not been addressed by staff previously are discussed below. Issues that have been addressed as part of prior reviews (see Report on a Proposed Memorandum of Agreement Between the New Jersey Pinelands Commission and the New Jersey Board of Public Utilities Regarding Construction of a Proposed Approximately 15 Miles of a 22-Mile, 24-Inch Natural Gas Pipeline in the State Designated Pinelands Area {"Executive Director's Report"} dated January 3, 2014, and Certificate of Filing dated August 14, 2015) or which do not involve the standards of the Pinelands CMP, are not included in this review. This review was limited to only those items that are new, different or which had not been previously addressed.

Background

In July 2012, South Jersey Gas Company submitted an application to construct a natural gas pipeline to the B.L. England facility in Upper Township, New Jersey (Application # 2012.0056.001). That application was reviewed by Commission staff, and in August 2013 staff reported it had determined the project was inconsistent with the CMP because it did not meet the minimum standards established in N.J.A.C. 7:50-5.23. To address the inconsistency, the Commission and the BPU agreed to develop a Memorandum of Agreement (MOA) for the project in accordance with N.J.A.C. 7:50-4.52(c)2. This MOA, along with the Executive Director's report, was presented to the Commission for a vote in January 2014. The vote of the Commission on the MOA was 7-7. Given an action of the Commission requires 8 votes, the MOA did not advance.

In May 2015, South Jersey Gas Company submitted amendments to the July 2012 application. After Commission staff reviewed the information included in the amended application, the Commission issued a Certificate of Filing on August 14, 2015. Thereafter, the Commission made efforts to ensure that entities and individuals with interest in this project in relation to Pinelands CMP consistency were made aware of the BPU's process. This included posting a link to the BPU's public hearing notice on the Commission's website and announcing the date and location of the public hearing at various Commission and Committee meetings. Additionally, on August 2, 2015, Commission staff sent a letter to the staff of the BPU requesting that the Board provide the Commission with a copy of South Jersey Gas Company's N.J.S.A. 40:55D-19 petition; notice of any hearings, public meetings or other formal proceedings pertaining to the petition; and copies of any written reports or comments that the Board may receive that raise issues concerning the standards of the Pinelands CMP. The BPU provided the Commission with copies of the petition, transcripts from the prior December 13, 2013 public hearing and copies of prior Board Orders by letter dated October 1, 2015. The Board, subsequently sent the Commission on November 6, 2015, copies of the comments, transcripts and documents submitted as part of both the public and evidentiary hearings

Analysis of Comments Submitted Pertaining to the Pinelands Comprehensive Management Plan

Issues from the comments submitted to BPU and transmitted to Commission staff that are new, different or not previously addressed are categorized into four main areas, as summarized and addressed below.

I. The Commission staff's Prior Determination as to the Proposed Project's Inconsistency with the Forest Area Use Standards of the Pinelands CMP Should Stand, Because the Project Has Not Changed, No New Information Has Been Submitted by the Applicant With Regard to this Standard and the Executive Director's Determination Cannot be Reversed

Numerous commenters noted that the Commission had previously determined that the project was inconsistent with the Pinelands CMP because it did not meet the standard at N.J.A.C. 7:50-5.23 regarding permitted uses in a Forest Area. N.J.A.C. 7:50-5.23 allows public service infrastructure in Forest Areas when that infrastructure is intended to primarily serve only the needs of the Pinelands. The January 2014 Executive Director's Report for the proposed MOA identified this as an inconsistency with the Pinelands CMP. The commenters point out that the Executive Director's Report found the project to inconsistent with the Pinelands CMP because it failed to satisfy this provision. The commenters note that the Executive Director later determined that the project, in fact, did meet the Forest Area use standards and the project was primarily intended to serve the needs of the Pinelands. The commenters state that the Executive Director changed this position without any new information to support such a change. They claim the project reviewed as part of the MOA process is identical to the

current application. Additionally, some commenters stated that the Executive Director's determination in the January 2014 Executive Director's Report that the proposed project was inconsistent with the Forest Area use standards of the CMP cannot be reversed.

Response: These comments are based on an erroneous premise. The amended application submitted on May 21, 2015 included revisions to the project as well as new information. The revisions to the project, as reflected in the BPU Order dated July 22, 2015, Docket No. GO13030202, included moving the proposed interconnect and regulator station out of the Forest Area and into a Pinelands Village. Additionally, the Order included a provision limiting South Jersey Gas Company's ability to connect new customers in the Forest Area of the Pinelands Area, unless it received explicit authority and approval from the BPU or other authority with jurisdiction. The new information submitted by South Jersey Gas Company was: 1) a Pinelands Comprehensive Management Plan Compliance Statement, dated July 31, 2015, 2) the Standard Gas Service Agreement (FES) between South Jersey Gas Company and RC Cape May Holdings, LLC, dated September 17, 2010, and 3) the "Standard Gas Service Agreement Addendum, dated April 2013.

The new information, in particular the FES and FES addendum, provided detailed information regarding the supply of natural gas to the BL England facility that had not previously been available to the Commission. Specifically, the FES and FES addendum, both of which were approved by an Order of the BPU, require that the proposed pipeline be available to serve the BL England plant 95% of the time. The proposed project will also provide an ancillary benefit of providing redundant gas service to those customers of South Jersey Gas who live both inside and outside of the Pinelands Area during an operational upset. Given that the primary purpose of the proposed project is to provide gas to the BL England plant 95% of the time, a fact not available at the time of the Executive Director's initial decision, Commission staff found that the South Jersey Gas Company had demonstrated the project's consistency with the Forest Area use standards of the Pinelands CMP, i.e. that the proposed project primarily serves only the needs of the Pinelands by serving the needs of a facility located in the Pinelands 95% of the time.

II. The Pinelands Development Application for the Proposed Project Constitutes a Public Development Application Not a Private Application

Commenters stated that the Executive Director erred when she determined that the application was not a public application, but instead was a private application and issued a Certificate of Filing without any Commission or public input.

Response: The Pinelands CMP defines what applications constitute "public" development applications. N.J.A.C. 7:50-2.11 defines the term "public agency" to mean "the government of the United States of America; the State of New Jersey or any other state; their political subdivisions, agencies or instrumentalities and interstate and regional agencies exercising the sovereign powers of government." Public development is defined as any development by a public agency. See N.J.A.C. 7:50-4.51 to 4.58. All other development applications are considered to be private applications. South Jersey Gas Company does not meet the definition of a public agency. The application originally submitted in July 2012 was not a public application as defined by the CMP, nor was it a public application when it was amended by South Jersey Gas Company. The process for private applications is defined in the Pinelands CMP at N.J.A.C. 7:50-4.1-4.2 and 4.31-4.42 and does not include a public hearing or a Commission vote.

III. The Proposed Project Will Negatively Impact the Underlying Aquifer in the Event of a Gas Leak

Commenters questioned the potential impacts to the underlying aquifer resulting from the event of a gas leak.

Response: This issue was addressed as part of the prior review of this project and that response is included in the Executive Director's Report at pp. 24-25. The additional information provided in the report entitled "The Risks to Waters Within the Pinelands from the Proposed South Jersey Gas Pipeline," prepared by Dr. Emery A. Coppola and dated October 17, 2015 does not change that original determination. The report argues that in the event of a gas release there is a threat that under certain conditions the gas could migrate to and impact groundwater and/or surface water. As detailed in the Executive Director's Report, pipeline safety standards are implemented by the Division of Reliability and Security within the Board of Public Utilities. The Pipeline Safety Program within this Division monitors and inspects intrastate gas pipelines for compliance with both the federal and state pipeline safety standards. These programs are designed to ensure such releases do not occur and should they occur the emergency response will negate any potential impact. Dr. Coppola argues and takes issue with the Executive Director's report as it does not acknowledge "ANY potential risk from the proposed pipeline in the event of gas release". The analysis done at that time found that there were programs in place to ensure such releases would not occur and if they did the impact would be minimized. Dr. Coppola's report is theoretically based and provides no examples of such contamination occurring. The information provided in Dr. Coppola's Report does not provide any new information that indicates the proposed natural gas pipeline is inconsistent with the relevant sections of the CMP (Part VIII - Water Quality N.J.A.C. 7:50- 6.81 -6.83).

IV. The Proposed Project Is Not Intended to Primarily Serve to Repower BL England

A report entitled "Analysis of Costs and Benefits to the Pinelands of Repowering the BL England Plant", prepared by Christopher Cooper, JD and Benjamin Sovacool, Ph.D and dated October 2015 (the "Cooper/Sovacool Report") was submitted by the Pinelands Preservation Alliance as part of the public and evidentiary hearings before BPU. This report, among other things, argues that the proposed pipeline is not intended or designed to primarily supply gas to the BL England plant. The crux of the arguments advanced in this report is that the pipeline is primarily intend to serve the South Jersey Gas Company's existing customers and to provide capacity for future development and customers. The arguments advanced to support this position include: 1) South Jersey Gas Company must serve its "firm" customers over its non-firm/interruptible customer (i.e. BL England); 2) the pipeline line is oversized and is designed to serve more than five times the demand needed for BL England; 3) a 24" pipeline s not necessary to deliver adequate pressure to BL England and, therefore, indicates that the pipeline is intended to facilitate future development; 4) the proposed pipeline is intended to provide redundancy to customers located outside of the Pinelands; and 5) the proposed allocation of project costs shows that the proposed pipeline is not intended to serve BL England.

Response: The Pinelands CMP at N.J.A.C. 7:50- 5.23(b)12 permits the development of public service infrastructure, which includes natural gas transmission lines, within a Forest Area, if such infrastructure is intended to primarily serve only the needs of the Pinelands. The term "Pinelands" is defined by the Pinelands CMP at N.J.A.C. 7:50-2.11 as including both the Pinelands National Reserve and the Pinelands Area. Consequently, the term "Pinelands" is broader than the term "Pinelands Area", which is defined by the Pinelands CMP as the area designated as such by Section 10(a) of the Pinelands Protection Act.

As part of its amended application, as noted in the August 14, 2015 Certificate of Filing, the South Jersey Gas Company submitted its BPU-approved FES and FES Addendum to demonstrate that the proposed pipeline project was primarily intended to serve the BL England plant, which is located in the Pinelands. The Cooper/Sovacool Report purports to provide information to demonstrate that the proposed project is not intended to primarily serve the BL England plant, but rather is intended to provide service to the South Jersey Gas Company's existing and future customers.

The information submitted by the South Jersey Gas Company as part of the record for the evidentiary hearing rebuts the conclusion of the Cooper/Sovacool Report that the proposed pipeline is not intended to primarily serve BL England. Rather, as detailed in the South Jersey Gas Company's Post-Hearing Brief (the "PHB"), Reply Brief, and the testimony provided by its experts during the evidentiary hearing, the applicant has demonstrated that the proposed pipeline is intended to primarily provide gas to the BL England facility and is appropriately sized to serve the plant. An additional benefit achieved by the project is the ability to improve the reliability of and reinforce the Company's existing service system to provide service to its existing customers located both inside and outside the Pinelands in the case of an operational upset.

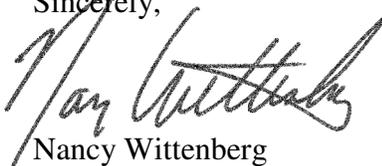
The Post-Hearing Brief and Reply Brief, as well as the testimony submitted by South Jersey Gas at the evidentiary hearing before the BPU demonstrate that the entirety of the proposed pipeline is necessary to serve the to-be-repowered BLE Station. Relevant information includes that South Jersey Gas Company's existing service system does not have the necessary transmission and distribution infrastructure to serve the BLE station. PHB p. 3-4, 16. In order to provide gas to the BL England plant, South Jersey Gas must construct an upstream transmission infrastructure improvement (i.e. the proposed project). Id. at p. 16 BL England will be South Jersey Gas Company's largest customer, with an annual gas load equal to more than an additional 210,000 residential customers. Thus, construction of the proposed project is necessary in order to serve the BL England plant. PHB, p. 16. Additionally, in accordance with its BPU approved FES and FES Addendum, during any year, BL England will have use of the proposed project to provide gas service to the BL England plant 350 days, i.e. more than 95% of the time. PHB p.16-17.

Conclusion

Based on the Executive Director's Report dated January 3, 2014, the Certificate of Filing dated August 14, 2015, and review of the additional information submitted to the BPU as part of its public and evidentiary hearings, the finding in the August 14, 2015 Certificate of Filing issued for the proposed project continues to be valid. Specifically, "the applicant has demonstrated that the proposed gas main is consistent with the permitted use standards of the CMP; i.e that the proposed pipeline is designed to primarily transport gas to an existing facility, the BL England plant (built in 1963), that is located in the

Pinelands". Thus, the proposed project is "intended to primarily serve only the needs of the Pinelands."
N.J.A.C. 7:50-5.23(b)12.

Sincerely,

A handwritten signature in black ink, appearing to read "Nancy Wittenberg". The signature is fluid and cursive, with a large initial "N" and "W".

Nancy Wittenberg
Executive Director

Encs.

c: Charles M. Horner, PP, Director, Regulatory Programs (w/ encs.)
Cynthia Covey, Chief Counsel (w/ encs.)