



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-16- 42

TITLE: Resolution Setting Forth the Process By Which the Pinelands Commission will Review the Recommendation of its Executive Director Finding that the Portion of the 22-Mile, 24-Inch Natural Gas Pipeline Proposed by South Jersey Gas Company (Pinelands Application No. 2012-0056.001) in the State Designated Pinelands Area is Consistent with the Standards of the Pinelands Comprehensive Management Plan.

Commissioner Avey moves and Commissioner McGlinchey seconds the motion that:

WHEREAS, the Pinelands Commission (Commission) is an independent political subdivision of the State of New Jersey created pursuant to Section 4 of the Pinelands Protection Act (the Act), N.J.S.A. 13:18A-1, *et seq.*, and charged with the implementation of the Act and the Pinelands Comprehensive Management Plan (the CMP), N.J.A.C. 7:50; and

WHEREAS, the Commission is also the planning entity authorized under Section 502 of the National Parks and Recreation Act of 1978; and

WHEREAS, on November 7, 2016, the Appellate Division issued a decision in three consolidated appeals (A-1685-15, A-2705-15 and A-2706-15) all of which involved South Jersey Gas Company's (SJG's) petition to the Board of Public Utilities for preemption of municipal approvals pursuant to N.J.S.A. 40:55D-19 for a natural gas transmission line, 15 miles of which was proposed to be constructed within the State designated pinelands area (proposed pipeline project); and

WHEREAS, the decision remanded the Board of Public Utilities' approval of SJG's N.J.S.A. 40:55D-19 petition to the Board for entry of a modified order stating that the approval is conditioned upon the Commission's issuance of a final consistency determination; and

WHEREAS, the decision also remanded the Commission staff's consistency determination on SJG's Pinelands Development Application for the proposed pipeline project to the Commission for its review of same and issuance of a final decision as to the proposed project's consistency with the minimum requirements of the Pinelands CMP; and

WHEREAS, as part of the remand, the decision directs the Commission to develop a process pursuant to which the Commission shall review the staff's consistency determination for the proposed pipeline project; and

WHEREAS, as part of that review process, an opportunity for public notice and comment should be provided before the Commission renders its final decision; and

WHEREAS, the Commission intends in the future to consider amendments to the Pinelands CMP to amend the provisions pertaining to permitting coordination with other State agencies, N.J.A.C. 7:50-4.81 through 4.85, to clarify the process by which public utility projects which are the subject of a petition to the Board of Public Utilities for municipal preemption pursuant to N.J.S.A. 40:55D-19 will be reviewed by the Commission; and

WHEREAS, there are currently two such public utility projects that have either already been issued or are being reviewed for issuance a Certificate of Filing, which will contain Commission staff's determination as to the conformance of such project with the minimum requirements of the CMP; and

WHEREAS, pending the Commission's amendment of the Pinelands CMP and in order to ensure conformance with the Court's holding in the within matter going forward, the Commission plans to utilize the additional review process contained within this resolution for future public utility projects which are the subject of a petition to the Board of Public Utilities for municipal preemption pursuant to N.J.S.A. 40:55D-19; and

WHEREAS, pursuant to N.J.S.A. 13:18A-5h, no action authorized by the Commission shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to expiration of the review period the Governor shall approve same, in which case the action shall become effective upon such approval.

NOW, THEREFORE BE IT RESOLVED that, in conformance of the Appellate Decision's November 7, 2016 decision, the Commission will review the Commission staff's consistency determination for the proposed project and any other public utility application submitted to the Commission, which is also the subject of a petition to the BPU for municipal preemption in accordance with N.J.S.A. 40:55D-19, using the following process:

1. The Commission's review shall be based upon a review of the Commission's Regulatory Programs file for Pinelands Development Application, the record developed before the Board of Public Utilities and the staff's consistency determination.
2. The Commission staff shall provide notice of the public's opportunity to provide comments regarding the Commission staff's consistency determination by posting such notice on the Commission's website and by mailing it to the applicant; the parties to any litigation involving the proposed project's conformance with the Pinelands CMP, if applicable, and any person, organization or agency which has registered under N.J.A.C. 7:50-4.3(b)2i(2). Such notice shall also indicate that written comments may be provided until 5:00 p.m. on the date of the Commission meeting at which the opportunity for public comment will be provided.
3. The Commission staff, following the close of the public comment period, shall review the record and any public comment provided and shall prepare a recommendation as to whether its prior consistency determination should be affirmed.
4. Following the close of the public comment period, the Commission based on the record as delineated in paragraph 1 above, any public comments received and the Commission staff's recommendation, shall either approve or disapprove such recommendation.

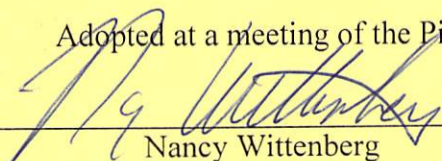
Record of Commission Votes

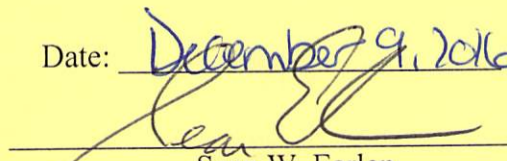
	AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*
Ashmun	X				DiBello	X				McGlinchey	X			
Avery	X				Galletta	X				Prickett	X			
Barr	X				Jannarone	X				Quinn	X			
Brown	X				Lloyd	X				Rohan Green	X			
Chila	X				Lohbauer	X				Earlen	X			

* A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: December 9, 2016


 Nancy Wittenberg
 Executive Director


 Sean W. Earlen
 Chairman