



STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

ENERGY

IN THE MATTER OF THE PETITION OF NEW JERSEY)
NATURAL GAS COMPANY FOR APPROVAL OF A)
MUNICIPAL FRANCHISE IN THE TOWNSHIP OF)
OCEAN, OCEAN COUNTY, STATE OF NEW JERSEY)

ORDER

DOCKET NO. GE13010049

Parties of Record:

Tracey Thayer, Esq., Wall, New Jersey, on behalf of Petitioner, New Jersey Natural Gas Company

Stefanie A. Brand, Esq., Director, Division of Rate Counsel,

BY THE BOARD:

New Jersey Natural Gas Company ("NJNG" or "Company"), a regulated utility subject to the jurisdiction of the 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 is presently providing natural gas service within the Township of Ocean ("Township") in Ocean County, New Jersey. According to the petition, its current Board approved franchise with the Township expired in January 21, 2011.¹

¹ The Board would note, as reflected in the record, that municipal consents often expire sometime prior to their formal 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 would also note that during the lapse of time between the expiration of the subject consent and its renewal, NJNG has continued to provide uninterrupted safe, adequate and proper gas service to its customers in the Township at rates set out in its tariff and previously approved by the Board.

On October 11, 2012, the Township Council adopted Ordinance 2012-5 renewing NJNG's franchise for a period of five (5) years from the date of the Ordinance, October 11, 2012. Ordinance at para. 1. A copy of this Ordinance is attached as Exhibit "A" to this Order. By letter dated January 9, 2013, a copy of which is attached as Exhibit "B" to this Order, NJNG accepted and agreed to the terms and conditions of the franchise.

On January 22, 2013, 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 Township. As required by law, and after public notice, a hearing in this matter was held on April 17, 2013, at the Board's Trenton offices. Appearances were made on behalf of the Company, the Board's Staff and the Division of Rate Counsel ("Rate Counsel"). No other party participated in the hearing or filed any written submission with the Board related to this proceeding.

Initially, in order to clarify what appears to be an historical inconsistency in the Ordinance which is the subject of this matter, the Board would note that in the first two clauses of the Ordinance, the Township indicates that it had last granted NJNG rights to continue to furnish gas service by resolution dated September 24, 2009 which had a term of five (5) years to expire on October 1, 2013. The Company's verified petition in the pending matter and past Board Orders, indicate, however, that the resolution of September 24, 2009, Resolution 2009-271, granted NJNG a one-year franchise to be effective through September 24, 2010. After accepting the terms of the consent by letter of September 24, 2009, in which it advised the Township that it would submit a filing with this Board for approval of the franchise, NJNG did file such a petition, designated as BPU Docket No. GE09100825, on October 1, 2009. After hearing, the Board issued an Order on January 21, 2010, approving the one-year franchise for the period between January 21, 2010 and January 21, 2011.

As indicated above, on October 11, 2012, the Township, by Ordinance 2012-5, which is the basis of the now pending matter, renewed the Company's franchise for a term of five (5) years from the date of the Ordinance. The Board notes the apparent confusion in the Ordinance on the expiration date of the 2009 grant, and in rendering its decision on the current grant is treating that reference as a typographical error. At the April 17, 2013 hearing, the Company relied on the testimony of John B. Wyckoff, its Manager of Engineering. Mr. Wyckoff testified that the Company continues to have sufficient capacity, staff and expertise to ensure its ability to continue to provide safe, adequate and proper service to its approximately 3,400 customers located within the Township in a manner that preserves the public interests. He stated that the customers in the Township would continue to be served by the Lakewood business office located at 775 Vasser Avenue, Lakewood, New Jersey 08701.

By letter April 30, 2013, Rate Counsel stated that it did not oppose the relief requested by NJNG in its petition, and recommended that the Board include in its Order the long-standing terms and conditions that have been traditionally been made part of such Orders. Rate Counsel further stated that it believes the petition in this matter is governed by two related statutes. Rate Counsel noted that N.J.S.A. 48:2-14 requires the Board's approval before a municipal consent to serve the municipality is valid. Rate Counsel also maintained that N.J.S.A. 48:3-11 governs a municipal grant to a utility for use of the municipality's streets and other places, and that N.J.S.A. 48:3-15 limits such a grant to a term not to exceed fifty (50) years. In this case, Rate Counsel does not object to the consent to provide service for a term of five (5)

years but recommends that the Board specifically limit the grant to use the streets to that same term.

After a full review of the entire record, the Board **HEREBY FINDS** that the municipal consent is necessary and proper for the public convenience and properly conserves the public interests, and that the Company continues to have the ability to provide safe, adequate and proper service to its customers located in the Township of Ocean. Accordingly, the Board, pursuant to N.J.S.A. 48:2-14, **HEREBY APPROVES** the consent granted to New Jersey Natural Gas Company by the Township of Ocean for the continued provision of gas utility service in the Township as sought in NJNG's petition, for a period of five (5) years from the date of the Ordinance. The Board **FURTHER FINDS** that there is no need to specifically limit the time period for the use of the streets as the consent granted to the Company does not exceed fifty (50) years.

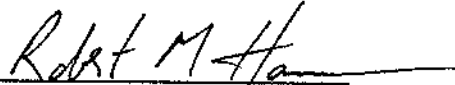
The approval granted hereinabove shall be subject to the following terms and conditions:


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 New Jersey Natural Gas Company.
2. This Order shall not effect 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 New Jersey Natural Gas Company.
3. In an appropriate subsequent proceeding, New Jersey Natural Gas Company shall have the burden of demonstrating whether, and to what extent, any of the costs associated with this petition shall be allocated to ratepayers.
4. The rates for service to NJNG's customers in the Township shall continue to be those set out in the Company's current tariff approved by and on file with the Board. These rates shall remain in effect until otherwise approved by the Board.
5. Approval of this municipal consent does not constitute Board approval of any costs or expenses associated with this petition. Any determination as to the appropriateness or reasonableness of the costs and expenses related to the franchise, including, but not limited to, cost of construction, contributions in aid of

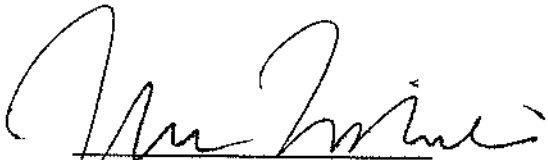
construction, depreciation on contributed plant, the cost of connection, or any related capital improvements, and the allocation of such costs and expenses, shall be made in an appropriate subsequent proceeding.

DATED: 5/31/13

BOARD OF PUBLIC UTILITIES
BY:


ROBERT M. HANNA
PRESIDENT


JEANNE M. FOX
COMMISSIONER

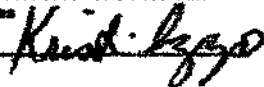

JOSEPH L. FIORDALISO
COMMISSIONER


MARY-ANNA HOLDEN
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities



**I/M/O THE PETITION OF NEW JERSEY NATURAL GAS COMPANY FOR APPROVAL OF A
MUNICIPAL FRANCHISE IN THE TOWNSHIP OF OCEAN, OCEAN COUNTY**

BPU DOCKET NO. GE13010049

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ORDINANCE 2012-5

ORDINANCE OF THE TOWNSHIP OF OCEAN, OCEAN COUNTY, NEW JERSEY, CONSENTING TO THE FRANCHISE RENEWAL RIGHTS FOR NEW JERSEY NATURAL GAS COMPANY TO LAY AND MAINTAIN GAS MAINS, PIPES, AND SERVICE PIPES, IN AND UNDER THE SURFACE OF ANY OR ALL OF THE ROADS, STREETS, AVENUES, HIGHWAYS AND PUBLIC PLACES, FOR THE PURPOSE OF FURNISHING NATURAL GAS TO THE TOWNSHIP OF OCEAN

WHEREAS New Jersey Natural Gas Company obtained the consent of this municipality to continue to exercise its franchise rights by resolution dated September 24, 2009, to lay and maintain gas mains, pipes and service pipes in and under the surface of any or all of the roads, streets, avenues, highways and public places, for the purpose of furnishing gas therein; and

WHEREAS said consent is limited to a period of five (5) years, and, by the terms thereof, expires October 1, 2013; and

WHEREAS, New Jersey Natural Gas Company is desirous of obtaining consent of the Municipality to continue service the Municipality;

NOW, THEREFORE, BE IT ORDAINED, by the Township Council of the Township of Ocean, in the County of Ocean, and State of New Jersey, as follows:

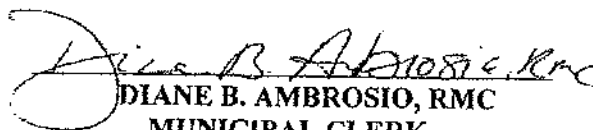
1. New Jersey Natural Gas Company be and is hereby authorized to lay, maintain and operate its conductors, mains, and pipes, together with the appurtenances thereto, in all the public streets, alleys squares and public places in this municipality which are under the control and jurisdiction of the Township of Ocean for the purpose of conducting, transmitting and distributing gas, or any mixture of gases of various types including natural gas, for a period of five (5) years from the date hereof, upon the following terms and conditions:
2. New Jersey Natural Gas Company shall agree that, in all cases in which street openings or excavations are made for the purposes aforesaid, the pavement and the surface of the streets, alley, squares or roadways shall be restored to the same condition as existed prior to the opening thereof; and
3. New Jersey Natural Gas company shall conduct the work or the laying or maintaining of gas pipes therein in a careful and prudent manner;
4. New Jersey Natural Gas Company shall file with the Clerk of this Municipality, within sixty (60) days form 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.

5. The terms of the franchise incorporated within this ordinance shall not become effective until approved by the Board of Public Utilities of the State of New Jersey.

BE IT FURTHER ORDAINED that prior to the beginning of any street openings or excavations for the purposes aforesaid, New Jersey Natural Gas Company shall apply, in writing, on forms to be supplied by New Jersey Natural Gas Company, to the Township Clerk, acting as agent of this governing body for permission to make any street opening or excavation.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced and passed by the Township Committee of the Township of Ocean on first reading at meeting held on the 11th day of October, 2012. The Ordinance will be considered for second and final reading at a meeting of the Township Committee which is scheduled for the 8th day of November, 2012 at 6:30pm or as soon thereafter as the matter may be reached, at the Municipal Building located at 50 Railroad Avenue, Waretown, New Jersey, at which time the public is invited to ask questions, raise objections, or provide public comment with regard to the proposed adoption of this Ordinance.


DIANE B. AMBROSIO, RMC
MUNICIPAL CLERK



January 9, 2013

Diane B. Ambrosio, RMC
Municipal Clerk
Township of Ocean
50 Railroad Avenue
Waretown, New Jersey 08758

**Re: Approval of Franchise
RESOLUTION #2012-5, Dated October 11, 2012**

Dear Ms. Ambrosio,

New Jersey Natural Gas Company ("NJNG") hereby accepts the terms and provisions of the Franchise Consent granted by the Township Council on October 11, 2012 and hereby agrees to be bound by the terms and provisions thereof.

Please be advised that NJNG will present the resolution to the New Jersey Board of Public Utilities (BPU) for approval. We will provide you with a copy of the final Decision and Order upon its issuance from the BPU.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Tracey Thayer', is written over a horizontal line.

Tracey Thayer, Esq.
Director, Regulatory Affairs Counsel

TT:fk