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January 25, 2022

**VIA ELECTRONIC MAIL**

Honorable Aida Camacho-Welch, Secretary  
NJ Board of Public Utilities  
44 South Clinton Avenue, 1st Floor  
P.O. Box 350  
Trenton, New Jersey 08625-0350

**Re: In the Matter of the Petition of South Jersey Gas Company for Authorization to Construct and Operate a 16-Inch Distribution Pipeline Pursuant to N.J.A.C. 14:7-1.4 Camden Country Reliability Project Phase II  
BPU Docket No.: GE20090600**

Dear Secretary Camacho-Welch:

Please accept for filing these comments being submitted on behalf of the New Jersey Division of Rate Counsel ("Rate Counsel") in the above-referenced matter. In accordance with the Order issued by the New Jersey Board of Public Utilities ("Board" or "BPU") in connection with I/M/O the New Jersey Board of Public Utilities' Response to the COVID-19 Pandemic for a Temporary Waiver of Requirements for Certain Non-Essential Obligations, BPU Docket No. EO20030254, (March 19, 2020), this document is being electronically filed. No paper copies will follow. Please acknowledge receipt of these comments.

Thank you for your consideration and attention to this matter.

## **PROCEDURAL HISTORY AND STATEMENT OF FACTS**

On September 21, 2020, South Jersey Gas (“SJG” or “Company”), a New Jersey public utility that supplies natural gas to approximately 402,007 customers in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester and Salem Counties, filed the above-referenced petition with the Board seeking authorization to construct and operate a high-pressure 16-inch distribution main (“Project”).

According to the petition, some of SJG’s customers in Burlington and Camden Counties will not receive adequate service at some point in the future without the additional pipeline. The Company further alleges that the gas is currently not flowing in the system as originally intended. *Petition, par. 12-14.* The Company represents that, in order to ensure its overall system reliability, it must reinforce its distribution system to allow for adequate system pressures at design day conditions within all of the Company’s delivery systems. SJG previously received Board approval to replace approximately five miles of 12-inch gas distribution line, known as the Lawnside Line, with a maximum allowable operating pressure (“MAOP”) of 250 psig with 16-inch pipe with a MOAP of 600 psig, commencing from its Lawnside Gate Station and ending in the Borough of Pine Hill (“Phase I”). See I/M/O the Petition of South Jersey Gas Company for Authorization to Construct and Operate a 16-Inch Distribution Pipeline Pursuant to N.J.A.C. 14:7-1.4, Docket No. GO17030188 (June 30, 2017).

By way of this petition, the Company is requesting authorization replace an additional 6.3 miles of the existing 12-inch Lawnside Line with a new 16-inch line, having a MOAP of 600 psig and a normal operating pressure of 250 psig (“Phase II”). SJG alleges that the Project will increase the supply capacity of natural gas from the Lawnside Gate Station into Camden and Burlington Counties, which reduces the risk of customer interruptions and removes the overall

burden on the remainder of its distribution system. *Petition, par. 17.* The Project will be placed completely in the existing county and municipal rights-of-way (“ROW”) and have an alignment that runs through the Borough of Pine Hill, Gloucester Township and Winslow Township. The Project will be placed under County CR 706 and Little Mill Road in the Borough of Pine Hill and Gloucester Township. *Petition, par. 21, 26.*

The Company seeks approval pursuant to N.J.A.C. 14:7-1.4, since the Project will be above 250 psig at a MAOP of 600 psig and will be located within 100 feet of 174 buildings which are intended for human occupancy. *Petition, par. 33-34.* The Company also requested expedited treatment of the petition so the Project would be completed prior to the 2021-2022 winter season. *Petition, par. 40.*

Rate Counsel and Board Staff propounded limited discovery. A public hearing was held on December 9, 2021. There was no evidentiary hearing. In order to provide the Board with a more complete record, Rate Counsel is submitting with these comments (1) a Certification prepared by Rod Walker, an expert engineer retained by Rate Counsel to review this matter, which is attached hereto as Exhibit A, and (2) the Company’s responses to Rate Counsel’s discovery requests, which are attached hereto as Exhibit B. As explained in detail below and in Mr. Walker’s Certification, the Company’s discovery responses raise substantial issues of fact which require further consideration by the Board after a full evidentiary record.

**ARGUMENT  
POINT I**

**ACTION ON THE PETITION SHOULD BE DEFERRED UNTIL THE BOARD HAS  
AFFORDED RATE COUNSEL AN OPPORTUNITY FOR FULL DISCOVERY AND A  
HEARING ON THE NECESSITY FOR THE PROPOSED PROJECT**

As noted, SJG's petition was filed pursuant to N.J.A.C. 14:7-1.4, which requires prior Board approval for the construction or operation of any natural gas pipeline with a MAOP in excess of 250 psig within 100 feet of any building intended for human occupancy. In considering such applications the Board applied the following standards:

- 1) The construction and installation of the Proposed Pipeline is necessary and is in the public interest;
- 2) The Board is satisfied that the proposed construction cannot be reasonably avoided;
- 3) The Board has not received any objections from persons whose homes or business establishments are located within 100 feet of the Proposed Pipeline; and
- 4) The standards that Petitioner will use in the design, construction and testing of the Proposed Pipeline will comply with all applicable State and Federal Codes, and inspections of the pipelines will be performed by personnel of the Board's Bureau of Pipeline Safety.

I/M/O the Petition and Report of New Jersey Natural Gas Company for Authorization and Approval of the Installation of a Transmission Pipeline Pursuant to N.J.A.C. 14:7-1.4, Docket No. GE03070515 (December 18, 2003) at 2. As the agency charged with representing the interests of ratepayers in matters involving utility rates and utility service, Rate Counsel is a statutory intervenor in this proceeding. N.J.S.A. 48:2-21.24 and N.J.S.A. 52:27EE-48.

It is fundamental that due process is a flexible concept that calls for procedural protections as fairness requires. The amount of process that is due varies based on the circumstances of each case, taking into account the interest of those affected. See Matthews v. Eldridge, 424 U.S. 319, 334-335 (1976). An opportunity to be heard is an essential component of fundamental due process. Mettinger v. Globe Slicing Mach. Co., 153 N.J. 371, 389 (1998)

(citing Mullane v. Central Hanover Bank and Trust Co., 339 U.S. 306, 313 (1950); Doe v. Poritz, 142 N.J. 1, 106 (1995)). To satisfy the requirements of procedural due process a party must, at a minimum, be provided with adequate notice, a chance to know the opposing evidence, and to present evidence and argument in response. High Horizons Dev. Co. v. Dep't of Transp., 120 N.J. 40, 53 (1990). See also, In re Amico Tunnel Carwash, 371 N.J. Super. 199, 215 (App. Div. 2004) (finding on remand that appellants should be afforded an opportunity to review and comment upon any evidence or recommendations the agency may consider in reaching its decision).

A statement of the reasons for an agency's action is another minimum requirement of due process. "The orderly functioning of the process of review requires that the grounds upon which the administrative agency acted be 'clearly disclosed and adequately sustained.'" Plainfield-Union Water v. Mountainside, 11 N.J. 382, 396 (1953) (quoting Sec. and Exch. Comm'n v. Chenery Corp. 318 U.S. 80, 63 (1943)). Similarly, it is well-established that, at a minimum, an agency's decision must be based on "sufficient credible evidence present in the record." Close v. Kordulak Bros., 44 N.J. 589, 599 (1965) (citing State v. Johnson, 42 N.J. 146, 162 (1964)).

Based on the present record, the BPU cannot rule on the petition in accordance with the above standards. While the petition in this matter appears on its face to justify the proposed project, the limited discovery provided to Rate Counsel to date makes it apparent that there are significant issues of fact relating to the necessity of the Project that require an opportunity for full discovery, an evidentiary hearing and briefing.

As an initial matter, it is not clear that the installation of a new six-mile, 16-inch pipeline is necessary or in the public interest at this time. As noted above, the Project is the second phase of a proposed two (2) phase project to upgrade a total of 13 miles of pipe on the Lawnside Line.

The Company claims the Project is necessary to increase supply in order to provide adequate operating pressures to the localized area on even the coldest day, and without Phase II of this Project, two outlying problem areas will experience lower than desirable pressure under Design Day conditions. However, as Mr. Walker indicates in his Certification, it appears the primary purpose and benefit of Phase II is to support the Company's unsubstantiated future growth projections and expansion, rather than to improve reliability in response to more reasonable growth projections. *Walker Certification, par. 4.*

In fact, there is minimal need for expansion to serve the Company's future reliability needs. In the recent gas capacity report conducted by London Economics International ("LEI") ("LEI Report") at the request of the Board, the Company's customer growth is assumed by SJG in its territory to be 1.7% on average annually from 2020-2024 due to residential and commercial conversions from oil, and for residential customers. *Walker Certification, par. 4.* The data the Company provided in its discovery responses, relying on much higher average annual load growth, suggests that pressure will drop 26%-37% by 2023-2024. This projected drop in pressure (and increase in load) is inconsistent with the low growth rate of the system driven by primarily low-volume residential customers referenced in the LEI report. *Ibid.; RCR-ENG 1.1.* Moreover, these pressures are derived through modeling based on the Company's Design Day criteria, which are not based on recent weather conditions. Those criteria are based on a weather event that happened in New Jersey in 1994 (often referred to as a one-in-30-year weather event). *Walker Certification, par. 5.* To the contrary, the data supplied by the Company indicates that pressures at these problem points are resolved at Design Day conditions with the completion of Phase I only. *Ibid.; RCR-ENG 1.1.*

Likewise, the Company has not provided any evidence demonstrating that its system experienced reliability issues and/or outages in the proposed location of the Project. When Rate Counsel asked the Company to provide the number of outages and/or identify reliability issues that occurred since 2016 in the area where the Project is proposed, the Company stated that no outages have occurred. *RCR-ENG 16d*. Accordingly, the Company has not demonstrated that the Project will improve reliability other than in future growth scenarios. Moreover, Phase II would only have the potential for a noticeable impact on reliability in winter conditions which have not occurred in New Jersey since 1994. *Walker Certification, par. 6*. Even in the case of an extreme winter weather event, there are temporary, non-pipeline solutions to avoid short-term pressure drops or potential reliability issues and outages that the Company can utilize, including portable liquefied natural gas (“LNG”) vaporizers at low points of its system. *Ibid*. The September 2016 report prepared by Black and Veatch (“Black and Veatch Report”) relied on by the Company notes that, while the Company considered the use of LNG, it was only in the context of constructing an entirely new LNG plant in the vicinity of the Lawnside Line; therefore Black and Veatch and the Company concluded that a new LNG plant would be cost and time prohibitive. *RCR-ENG 1.1 at 29*. There is nothing in the record suggesting that the Company considered the use of LNG vaporizers as an alternative, which are not only portable but are less cost-intensive. *Walker Certification, par. 6*.

Since the Black and Veatch Report is outdated, as a result it has led to poor conclusions regarding the necessity of this Project. *Walker Certification, par. 7*. One reason why the Black and Veatch Report is no longer relevant is that energy consumption, including the use of natural gas, in the United States has continued to drastically decrease since 2020 due to the COVID-19 pandemic. *Ibid*. For example, the Black and Veatch Report concluded in 2016 that the total

growth from Design Day 2016-2017 to Design Day 2023-2024 will increase by 2,150 thousand cubic feet per hour (or 8.14% ), which is contrary to more recent analyses. *RCR-ENG 1.1 at Appendix J; RCR-ENG 26.* According to the United States Energy Information Administration's Annual Energy Outlook 2021, the current natural gas supply is largely sufficient for all but the most significant events—including the 2023-2024 Design Day scenario. *Ibid.* The 2021 LEI Report also reaches this same conclusion, while also considering the capacity needed during Design Day conditions. *Ibid.*

In summary, the Company has not shown that the Project is necessary to address reliability concerns in its distribution system; rather the need for the Project is premised on the Company's unsubstantiated growth projections. Based on the substantial issues identified on the limited review that has been possible to date, Rate Counsel respectfully submits that the Project should not be approved at this time. The Board should allow Rate Counsel and Staff an opportunity for full discovery and, if necessary, an evidentiary hearing and briefing.

## **POINT II**

### **IN THE ALTERNATIVE, IF THE PROPOSED PROJECT IS APPROVED, THE BOARD SHOULD LIMIT ITS DECISION TO SAFETY AND RELATED ISSUES AND SHOULD RESERVE THE PARTIES' RIGHTS TO ADDRESS PRUDENCY AND RATEMAKING ISSUES IN A BASE RATE PROCEEDING**

In the alternative, if the Board should decide to approve the construction and operation of the proposed new six-mile, 16-inch pipe, its decision should be limited to the safety and related issues that are relevant to its determination under N.J.A.C. 14:7-1.4. Rate Counsel has some major concerns regarding the necessity and therefore the prudence and cost of the Project, as further addressed in Mr. Walker's Certification. Issues related to the prudence and potential inclusion of the costs of the new pipeline in SJG's rates for utility service may be more properly



considered in a base rate proceeding. N.J.S.A. 48:2-21, 48-2-21.1. Accordingly, all issues concerning the prudence of the Project and the ratemaking treatment of the related costs should be reserved for determination in a future base rate case. The Board's Order should preserve the rights of Rate Counsel and other interested parties to address issues concerning SJG's rates in a base rate proceeding.

### **CONCLUSION**

For the foregoing reasons, the Board should not approve the Project at this time. Rate Counsel and Staff should be provided with an opportunity for full discovery, and, if necessary, evidentiary hearings and briefings to create a complete record concerning the necessity of the Project as proposed. In the alternative, the Board's Order should preserve all parties' rights to address the prudence and costs of the Project, and other ratemaking issues in a base rate case.

Respectfully submitted,

Brian O. Lipman, Esq.  
Director, Division Of Rate Counsel

By: /s/ Maura Caroselli  
Maura Caroselli, Esq.  
Deputy Rate Counsel

cc: Attached Service List

In the Matter of the Petition of South  
Jersey Gas Company for Authorization  
to Construct and Operate a 16-Inch  
Pipeline Pursuant to N.J.A.C. 14:7-1.4  
Camden County Reliability Project  
Phase II  
BPU Docket No. GE20090600

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