

**STATE OF NEW JERSEY  
BOARD OF PUBLIC UTILITIES**

**IN THE MATTER OF THE PETITION OF NEW :  
JERSEY NATURAL GAS COMPANY FOR A :  
DETERMINATION CONCERNING THE : DOCKET NO. GO15040403  
SOUTHERN RELIABILITY LINK PURSUANT TO :  
N.J.S.A. 40:55D-19 AND N.J.S.A. 48:9-25.4 :**

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**PETITIONER NEW JERSEY NATURAL GAS COMPANY'S POST-HEARING BRIEF**

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**MARINO, TORTORELLA & BOYLE, P.C.  
437 Southern Boulevard  
Chatham, New Jersey 07928  
(973) 824-9300  
Attorneys for Petitioner  
New Jersey Natural Gas Company**

**On the Brief:  
Kevin H. Marino  
John A. Boyle**

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## **PRELIMINARY STATEMENT**

New Jersey Natural Gas Company (“Petitioner,” “NJNG,” or the “Company”) filed a petition with the New Jersey Board of Public Utilities (the “Board” or “BPU”) on April 2, 2015, as amended on June 5, 2015, requesting, pursuant to N.J.S.A. 40:55D-19 and N.J.S.A. 48:9-25.4, that the Board (a) determine that the proposed Southern Reliability Link Project (the “SRL Project”)—a new transmission line that will connect NJNG’s southern territory to a different interstate supply source and thus act as a major redundant gas feed—is reasonably necessary for the service, convenience or welfare of the public; (b) order that the zoning, site plan review and all other Municipal Land Use Ordinances or Regulations promulgated under the auspices of Title 40 of the New Jersey Statutes and the Municipal Land Use Act of the State of New Jersey (the “MLUL”) shall not apply to the SRL Project; and (c) designate the route for the SRL Project through certain municipalities.<sup>1</sup>

To obtain the requested relief—and thereby exempt the SRL Project from local zoning ordinances and regulations—NJNG must make two showings under the well settled standard established by N.J.S.A. 40:55D-19 and the cases interpreting it. First, the Company must demonstrate that the SRL Project is reasonably necessary (but not absolutely or indispensably necessary) for the service, convenience or welfare of the entire public served by NJNG, taking into account the affected municipalities’ zone plans and zoning ordinances and the physical characteristics of the affected land and surrounding neighborhoods (and the effect of the SRL

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<sup>1</sup> NJNG also hereby requests that the Board authorize it to construct, lay, maintain and use facilities, conductors, mains and pipes, with the appurtenances thereto, in, through and beyond the public streets, roads, highways and/or places of the counties and municipalities described in its petition, for the purpose of transmitting through the same natural gas for use in its business.

Project on that land and those neighborhoods). Second, NJNG must demonstrate that the route chosen for the SRL Project is the best available, and thus that its use is reasonably necessary, based on consideration of alternative routes and their comparative advantages and disadvantages to all interests involved. As NJNG has presented significant evidence overwhelmingly establishing both of these criteria, the Board should grant the requested relief.

NJNG is a “gas public utility” as that term is defined in N.J.S.A. 48:2-13 and N.J.S.A. 48:3-15, and is therefore subject to regulation by the BPU. The Company is a local natural gas distribution company providing regulated retail natural gas service to approximately 510,000 customers within Monmouth and Ocean counties, as well as portions of Burlington, Middlesex and Morris counties. It is committed to providing safe, adequate and proper service in accordance with N.J.S.A. 48:2-23. Consistent with industry practice and its ordinary capital spending planning cycle, NJNG is continuously engaged in the construction, operation and maintenance of its public utility infrastructure, including the property, plant, facilities and equipment that comprise the natural gas distribution and transmission system utilized to serve its customers. That includes the replacement, reinforcement and expansion of its infrastructure, including its property, plant, facilities and equipment, to maintain the reliability of its distribution and transmission system and to ensure the continuation of safe, adequate and proper service. The SRL Project is consistent with and in furtherance of these important activities.

As to the reasonable necessity element of N.J.S.A. 40:55D-19, the SRL Project is needed to support the reliability and system integrity of NJNG’s intrastate transmission system by providing a redundant transmission feed because currently more than 85% of NJNG’s winter season peak day gas supply is provided by one supplier, which delivers to NJNG’s city gate in

Middlesex County. That supplier is located northwest of NJNG's service area and outside of its franchise area. Because the majority of the natural gas NJNG delivers is supplied through this location, the customers in the Central and Ocean Divisions—and, in particular, those at the southern end of NJNG's system, in Ocean, Burlington and southern Monmouth counties—could be adversely affected by a supply interruption or system failure in the interstate pipelines, the gate station or NJNG's transmission backbone system. The SRL Project would connect the natural gas system that serves these customers to a new interstate supply point in Chesterfield Township in Burlington County and would terminate in Manchester Township in Ocean County. By creating a new major feed connecting to the southern portion of NJNG's service area, the SRL Project supports the safe, reliable, and resilient delivery of natural gas to NJNG customers in Ocean, Burlington and Monmouth counties.

Accordingly, NJNG has demonstrated that the SRL Project is reasonably necessary for the service, convenience or welfare of the public. Indeed, all but one of the intervenors in this matter, including Burlington County, have conceded the reasonable necessity of the SRL Project. And while one municipality argues that NJNG has not demonstrated that the SRL Project is necessary because it has not identified an actual instance of widespread NJNG system failure that would have been minimized by a redundant feed, it would surely be irresponsible for NJNG to await such a catastrophic event rather than prevent one through an appropriate proactive measure such as the SRL Project. Moreover, recent incidents involving the delivery system of NJNG's current supplier strongly suggest that a large-scale failure is a realistic possibility.

As to the best available route element of the N.J.S.A. 40:55D-19 standard, NJNG, with the help of outside experts, conducted an extensive and exhaustive project route alternatives

analysis in order to determine the best route for the SRL Project. That analysis considered potential impacts of each alternative route from three perspectives: (1) protection of the built environment (which addresses human and cultural resources, including residential neighborhoods, other community-valued buildings, and historic sites); (2) protection of the natural environment (which addresses plants, animals, aquatic resources, ecological resources, and natural habitat); and (3) engineering considerations (which addresses maximizing collocation and minimizing cost and schedule challenges for the SRL Project by seeking the shortest path or using existing rights of way while avoiding areas that pose significant construction obstacles). Importantly, the route alignment selected by NJNG was based in part on input from local elected officials, private property owners, Department of Environmental Protection representatives, New Jersey Pinelands Commission Staff, and the Joint Base McGuire-Dix-Lakehurst leadership. As a result of that analysis, NJNG identified and selected the route that will best and most effectively minimize combined impacts to communities and the environment while still being practicable to construct.

Accordingly, NJNG has demonstrated that the route chosen for the SRL Project is the best available based on consideration of alternative routes and their comparative advantages and disadvantages to all interests. Critically, the only two alternative routes that have been suggested by any of the intervenors are indisputably not feasible. NJNG cannot use one of those proposed routes because it would traverse preserved farmland that NJNG is prohibited as a matter of law from utilizing. The second proposed route would travel through the Joint Base McGuire-Dix-Lakehurst (the “Joint Base”) in a manner that the Joint Base leadership has advised is not feasible for various reasons, including that it would cross active firing ranges. At the evidentiary

hearing conducted on December 7, 2015, Burlington County expressed its agreement with the conclusion that these two proposed routes are not feasible. Moreover, NJNG has considered and taken steps to minimize the SRL Project's potential impact on an historic district and military cemetery that animate the Township of North Hanover's opposition to the Project.

For the reasons outlined above and amplified below, the BPU should determine that the SRL Project is reasonably necessary for the service, convenience or welfare of the public; order that it is exempt from local zoning regulations and ordinance; and designate the route for the SRL through certain municipalities.

### **STATEMENT OF FACTS**

#### **A. NJNG's Delivery System.**

NJNG serves approximately 510,000 retail customers in Monmouth, Ocean, Morris, Middlesex and Burlington counties; its operations are separated into four Divisions: Northern, Bay, Central and Ocean. (Lynch Direct Test. (Ex. A to Ex. P-1) at 2:16-19.) The Company's service areas include both inland areas and the barrier islands and other waterfront communities. (Id. at 2:18-20.)

The Company operates a network of 227 miles of large diameter transmission lines, approximately 6,930 miles of distribution mains, and approximately 473,400 service lines that exceed 7,100 miles in total length. (Id. at 3:2-4.) NJNG's distribution system consists of distribution mains (ranging in diameter from 1.25 to 16 inches) and various other components, including line valves, pressure regulators and meter stations. (Id. at 3:4-7.) The network operates in various pressure configurations depending on a variety of factors, including usage, material type and vintage. (Id. at 3:8-12.) NJNG's transmission system consists of mains up to a

diameter of 30 inches. Portions of the NJNG transmission system operate at a maximum allowable operating pressure (“MAOP”) of 722 pounds per square inch gauge (“psig”) (transmission mains), while other portions of the system operate at lower pressures utilized for distribution mains. (Id.)

The Company’s distribution system also includes two liquefied natural gas (“LNG”) peaking facilities. (Id. at 3:15-17.) Those facilities provide important pressure support, in addition to serving as storage locations for LNG supplies. (Id.)

NJNG’s system has been designed based on engineering requirements and design day criteria in order to provide safe and reliable service to NJNG customers throughout the entire year. (Id. at 3:12-14.) Indeed, the safe and reliable operation of NJNG’s system is the Company’s primary operational goal because safety and reliability are essential to the health and well-being of both the residents and businesses in the communities NJNG serves and the employees responsible for operating the system. (Id. at 3:19-22.) Reliability requires planning to meet the needs of customers during extreme cold weather when demand escalates and peaks, as well as during other times when unplanned major storm events or system disruptions occur. (Id. at 3:22-4:2.) Critically, the Company seeks to achieve the safe and reliable operation of its system in an environmentally sound, cost-effective and efficient manner. (Id. at 4:3-5.)

#### **B. The SRL Project.**

The SRL Project is a new transmission line consisting of a 30-inch outside diameter steel pipe with a 0.500 inch wall thickness, which will be manufactured in accordance with the applicable American Petroleum Institute Standard 5L, with specified minimum yield strength of 60,000 pounds per square inch (“psi”) and minimum tensile strength of 75,000 psi. (Ex. P-2,

Am. Petition, ¶ 12.) The proposed transmission line (a) will be constructed in full accordance with N.J.A.C. 14:7 and the Federal Regulations for the Transportation of Natural and Other Gas by Pipeline, Part 192, Title 49 of the Code of Federal Regulations; and (b) is designed for Class 4 Location and to accommodate future in-line inspection devices. (Id.; see also Wyckoff Direct Test. (Ex. B to Ex. P-1) at 2:14-3:2.)

The SRL Project will extend approximately 30 miles from the Township of Chesterfield, New Jersey (“Chesterfield”), where it will proceed eastward, eventually ending in the Township of Manchester, New Jersey (“Manchester”). (Ex. P-2, Am. Petition, ¶ 13; see also Lynch Direct Test. (Ex. A to Ex. P-1) at 6:11-23.) The proposed route for the Project will pass through six municipalities, beginning in Chesterfield in Burlington County, proceeding east through the Township of North Hanover (“North Hanover”) and continuing through the Township of Upper Freehold in Monmouth County (“Upper Freehold”). (Ex. P-2, Am. Petition, ¶ 13.) The proposed route will then turn southeasterly through the Township of Plumsted in Ocean County (“Plumsted”) before resuming an eastward course through the Township of Jackson (“Jackson”) and continuing into Manchester where it will terminate. (Id.) More than 85% of the SRL Project will be within existing road rights-of-way (“ROWS”) and the roads of the Joint Base. (Id.)

More specifically, the route for the SRL Project will start in Chesterfield at a proposed Transcontinental Pipe Line Co. (“Transco”) compressor station to be located at 14 Bordentown-Chesterfield Road (Block 204; Lot 1), which is adjacent to the New Jersey Turnpike. (Ex. P-2, Am. Petition, ¶ 14; see also Lynch Direct Test. (Ex. A to Ex. P-1) at 6:11-15.) From that starting point, the route will follow Bordentown-Chesterfield Road (CR 528), Chesterfield-Crosswicks Road (CR 677), Mathews Lane, private easements through three properties, and Arneytown-

Chesterfield Road (CR 528) in Chesterfield. (Ex. P-2, Am. Petition, ¶ 14.) When it crosses into North Hanover, the route will follow Arneytown-Chesterfield Road (CR 528), Arneytown-Chesterfield Road (CR 664), private easements through two properties, and Arneytown-Chesterfield Road (CR 664). (Id.) Once in Upper Freehold Township, the route will follow Province Line Road (also known as Ellisdale Arneytown Road) to Monmouth Road (CR 537), which it then follows to Plumsted. (Id.) Through Plumsted (and until it travels into Jackson), the route will follow Monmouth Road (CR 537), Hornerstown Road (CR 26), Pinehurst Road (CR 539), Lakewood Road (CR 528), Fisher Road (CR 24), W. Colliers Mills Road (CR 640), and Pinehurst Road (CR 539). (Id.) In Jackson, the route will continue along Pinehurst Road (CR 539), which turns into Whiting-New Egypt Road (CR 539). (Id.) Just before the border between Jackson and Manchester, the route will turn into the fenced portion of the Joint Base and follow the Base's southern fence line along access roads, East Boundary Road, East Clubhouse Lake Road, Lakehurst Naval Air Center Taxiway, Broome Road, Lakehurst Naval Air Center Access Road, and Lakehurst-Whitesville Road, before exiting the base at CR 547. (Id.) At that point, the route will cross CR 547, continue through several easements through private properties, and then follow Lowell Road and Route 70 before ultimately terminating by tying into NJNG's existing transmission system on Colonial Drive south of NJ State Route 70 in Manchester. (Id.; see also Lynch Supp. Direct Test. (Ex. A to Ex. P-2) at 2:1-3:3.)

The SRL Project will be located both within the public right-of-way and in easements across private property as follows: 17.5 miles (58%) in public roads; 8.7 miles (29%) in Joint Base roads; 2.1 miles (7%) in private property easements (not under roads); and 1.7 miles in Joint Base easements (not under roads). (Ex. P-2, Am. Petition, ¶ 16.) Across private property,

the Project will be located within newly acquired pipeline easements, which pass through parking lots, municipally owned undeveloped “paper” streets,<sup>2</sup> and privately owned undeveloped property. (Id., ¶ 17.)

### **C. Approvals for the SRL Project.**

NJNG has obtained or is in the process of obtaining all approvals necessary for the SRL Project.

Specifically, the SRL Project pipeline alignment in Manchester runs through the coastal zone, which is within the jurisdiction of the New Jersey Department of Environmental Protection (“DEP”) Land Use Regulations Program (“LURP”). (Ex. P-2, Am. Petition, ¶ 21.) NJNG has met with the DEP to discuss its LURP Application, which includes, for the portions of the SRL Project under DEP Land Use Regulation jurisdiction, (a) either a Freshwater Wetlands General Permit or Individual Permit, pursuant to N.J.A.C. 7:7A; (b) confirmation of field wetlands delineations; (c) a Coastal Area Facilities Review Act (“CAFRA”) application, pursuant to N.J.A.C. 7:7; and (d) verification of Flood Hazard Area Permits-by-Rule, pursuant to N.J.A.C. 7:13. (Id., ¶ 22.) These discussions have also addressed Threatened and Endangered Species protection, and Archeological issues. (Id.)

The SRL Project also runs through the Joint Base within the “Military & Federal Installation Area” of the New Jersey Pinelands National Reserve. (Id., ¶ 23.) As an initial matter, the Base Commander has signed the owner’s authorization. (Id.) Further, the portion of the route that passes through the Pinelands will require approvals from DEP and the New Jersey

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<sup>2</sup> A paper street is a street shown on a recorded plan but never built on the ground. (Ex. P-2, Am. Petition, ¶ 17 n.2.)

Pinelands Commission, including (a) a Certificate of Filing; (b) Freshwater Wetlands General Permit or Individual Permit; (c) a Flood Hazard Area Control Act Permit; (d) a CAFRA Individual Permit; (e) and a Certificate of Appropriateness. (Id., ¶¶ 22.) On April 9, 2015, NJNG submitted an application (File No. 2014-0045.001) to the New Jersey Pinelands Commission for a determination that the SRL Project conforms to the requirements of the New Jersey Pinelands Commission Comprehensive Management Plan (the “CMP”), N.J.A.C. 7:50-4.22. (Ex. P-2, Am. Petition, ¶ 21.) On December 9, 2015, the Pinelands Commission issued a Certificate of Filing as a result of NJNG’s completion of its application. The Application demonstrates in detail that the SRL Project complies with the CMP as reviewed by the Pinelands Commission.

Further, NJNG intends to submit all necessary applications for Utility Highway Occupancy/Road Opening Permits from the New Jersey Department of Transportation, Burlington, Monmouth and Ocean Counties, Chesterfield, North Hanover, Upper Freehold, Plumsted, Jackson, and Manchester. (Id., ¶ 24.) In addition, NJNG intends to submit an application for Certification of its Soil Erosion and Sediment Control Plan to the Burlington, Ocean and Freehold Soil Conservation Districts. (Id., ¶ 25.)

### **PROCEDURAL HISTORY**

NJNG filed its Petition and Exhibits (the “Original Petition”) on April 2, 2015, requesting, inter alia, that the BPU order that the zoning, site plan review and all other municipal land use ordinances or regulations promulgated under the auspices of the MLUL shall not apply to the SRL Project. The Petition (Ex. P-1) was verified by Mark R. Sperduto, NJNG’s Senior Vice President, Regulatory Affairs. Attached to the Original Petition were (1) the Prepared Direct

Testimony of Craig A. Lynch (Exhibit A), which included as Exhibit 1 a project map route for the SRL Project and as Exhibit 2 a letter dated February 13, 2015, from Colonel James C. Hodges, Commander of the Joint Base; (2) the Prepared Direct Testimony of John B. Wyckoff (Exhibit B); and (3) the Prepared Direct Testimony of Barry A. Baker (Exhibit C), which included as Exhibit 1 a copy of Baker's curriculum vitae and as Exhibit 2 the Southern Reliability Link Project Alternatives Analysis.

On June 5, 2015, NJNG filed an Amended Petition (the "Amended Petition," and together with the Original Petition, the "Petition"), which was likewise verified by Sperduto. Attached to the Amended Petition (Ex. P-2) are (1) the Prepared Supplemental Direct Testimony of Craig A. Lynch (Exhibit A), which included as Exhibit 1 a copy of a Resolution of the Township of Upper Freehold designating a route through that municipality for the SRL Project, pursuant to N.J.S.A. 48:9-25.4, as Exhibit 2 an amended project route map, and various letters of support for the SRL Project (Exhibits 3 through 26); and (2) a Report entitled "The Economic Impacts of the Southern Reliability Link," by Michael Lahr and Nancy Mantell of the Edward J. Bloustein School of Planning and Public Policy, Rutgers, The State University of New Jersey (Exhibit B).

On May 19, 2015, the Board issued an Order (1) designating Commissioner Dianne Solomon as the Presiding Officer in this matter; (2) authorizing Commissioner Solomon, as the Presiding Officer, to establish and modify schedules, decide all motions, and otherwise control the conduct of this case within the need for full Board approval and subject to subsequent Board ratification; and (3) directing all entities seeking to intervene or participate in this case to file appropriate applications with the Board by June 30, 2015.

On June 18, 2015, Commissioner Solomon issued a prehearing order, which included the following prehearing schedule: (a) June 30, 2015, deadline for motions to intervene or participate; (b) July 10, 2015, deadline for responses to motions to intervene or participate; (c) July 17, 2015, deadline for service of the first round of discovery requests; (d) late July 2015, public hearings; (e) August 3, 2015, deadline for responses to the first round of discovery requests and for delivery of all previous discovery responses to current parties; (f) August 10, 2015, deadline for service of the second round of discovery requests; (g) August 25, 2015, deadline for responses to the second round of discovery requests; (h) September 2, 2015, technical conference; (i) September 7 and 11, 2015, discovery conference and settlement discussions; (j) September 18, 2015, deadline for Rate Counsel and Intervenors to file direct testimony; (k) September 28, 2015, deadline for discovery regarding Rate Counsel's and Intervenors' direct testimony; (l) October 13, 2015, deadline for responses to discovery regarding Rate Counsel's and Intervenors' direct testimony; (m) October 28, 2015, deadline for rebuttal testimony by NJNG; (n) November 12, 2015, deadline for discovery regarding rebuttal testimony; (o) November 27, 2015, deadline for responses to discovery regarding rebuttal testimony; (p) late November 2015, settlement conferences; and (q) December 1 and 7, 2015, evidentiary hearings in Trenton, New Jersey with live sur-rebuttal (with additional dates to be scheduled if needed).

Burlington County, North Hanover and Chesterfield each filed motions to intervene; Plumsted filed a motion to participate; and the Pinelands Preservation Alliance ("PPA") filed a motion to intervene or, in the alternative, to participate. NJNG opposed PPA's motion but did not oppose the motions of the government entities. The Board granted Burlington County, North

Hanover, and Chesterfield (“Intervenors”) intervenor status, and granted Plumsted and PPA participant status.

The first round of discovery requests concluded on July 17, 2015. The second round of discovery requests concluded on August 25, 2015. Chesterfield did not serve discovery requests in the first or second round.

On July 28, 2015, two public hearings were held (one at 3:00 p.m. and one at 6:00 p.m.) in the Manchester Township Municipal Building. At the request of Burlington County (to which NJNG consented), a third public hearing was held on August 26, 2015, at Rowan College in Burlington County.

A technical conference was held on September 2, 2015; Chesterfield did not attend. A settlement conference was held on September 10, 2015. All parties and participants attended the settlement conference.

Without filing a motion or request for leave, Chesterfield served discovery on NJNG on September 23, 2015, nearly one and one-half months after the deadline for the second round of discovery. While it objected to Chesterfield’s late discovery, in the interest of moving the matter towards settlement, NJNG agreed to answer Chesterfield’s seventy-seven discovery requests. NJNG answered those requests by October 20, 2015.<sup>3</sup>

On or about October 16, 2015, Commissioner Solomon approved a revised procedural schedule as follows: (a) October 23, 2015, deadline for Rate Counsel and Intervenors to file direct testimony; (b) October 26, 2015, deadline for service of discovery regarding Rate Counsel

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<sup>3</sup> On October 23, 2015, NJNG provided courtesy copies of all public discovery responses to all participants in this matter, thereby mooting a prior motion by the PPA for a declaration regarding discovery.

and Intervenors testimony; (c) November 10, 2015, deadline for responses to discovery regarding Rate Counsel and Intervenors' testimony; (d) November 12, 2015, deadline for the Company to file rebuttal testimony; (e) November 19, 2015, deadline for discovery regarding NJNG's rebuttal testimony; (f) November 27, 2015, deadline for responses to discovery regarding rebuttal testimony; and (g) late November 2015, settlement conferences; (h) December 1 and 7, 2015, evidentiary hearings in Trenton, New Jersey with live sur-rebuttal (with additional dates to be scheduled if needed).

On or about October 23, 2015, (a) North Hanover filed the Prepared Direct Testimony of Mayor James Durr; (b) Burlington County filed the Prepared Direct Testimony of Joseph T. Brickley, P.E., which included as Exhibit A an undated article from CourierPostOnline.com entitled "Joint Base to review pipeline through Burlington County;" (c) Chesterfield filed the Prepared Direct Testimony of Mayor Jeremy Liedtka; and (d) Rate Counsel filed the Prepared Direct Testimony of Edward A. McGee, which attached McGee's credentials, a table of schedules and a copy of the Alternatives Analysis. NJNG timely served discovery requests on Burlington County, Chesterfield and North Hanover regarding their direct testimony. Chesterfield served responses to NJNG's discovery requests on November 12, 2015, two days after the deadline (without requesting or receiving an extension of time). North Hanover served responses to NJNG's discovery requests on November 25, 2015 (after obtaining NJNG's consent to an extension of the time to respond). Burlington County did not respond to NJNG's discovery requests.

On November 11, 2015, NJNG filed and served (a) the Rebuttal Testimony of Craig A. Lynch, which included as Exhibit 1 a Resolution of the Monmouth County Board of Chosen

Freeholders in support of the SRL Project; (b) the Rebuttal Testimony of Barry A. Baker, which included as Exhibit 1 a map depicting operational areas of the Joint Base; and (c) the Prepared Rebuttal Testimony of John B. Wyckoff, which attached as Exhibit 1 a letter dated November 6, 2015, from Colonel Frederick D. Thaden, Commander of the Joint Base. On November 24, 2015, Rate Counsel served discovery requests regarding NJNG's rebuttal testimony, to which NJNG timely responded on December 2, 2015.

By letter dated November 17, 2015, Chesterfield requested that the deadline to serve discovery regarding NJNG's rebuttal testimony be extended to November 25, 2015, and the deadline to serve responses to such discovery be extended to December 4, 2015. Chesterfield also requested postponement of the hearings scheduled for December 1 and 7, 2015.

Commissioner Solomon granted Chesterfield an extension, extending the deadline to serve rebuttal discovery to November 24, 2015, and the deadline for NJNG to respond to December 2, 2015; Commissioner Solomon also cancelled the evidentiary hearing scheduled for December 1, 2015. Chesterfield thereafter served discovery in response to NJNG's rebuttal testimony on November 24, 2015. The Company timely responded to Chesterfield's "rebuttal" discovery on December 2, 2015. On December 4, 2015, Chesterfield sent NJNG a letter outlining what Chesterfield claimed to be several deficiencies in the Company's responses to Chesterfield's "rebuttal" discovery and purporting to reserve its right to contest NJNG's objections to its discovery. That day, Chesterfield also sent a letter to Commissioner Solomon (a) complaining that a "substantial portion" of NJNG's responses to Chesterfield's rebuttal discovery was "wholly deficient"; and (b) requesting that its "right to compel answers from the [Company] . . . be preserved."

An evidentiary hearing was held on December 7, 2015, at the Board's Offices in Trenton, New Jersey. At the hearing, the following exhibits were received in evidence: (a) Exhibit P-1, the Original Petition, which included, inter alia, the Direct testimony of Craig A. Lynch, John B. Wyckoff and Barry A. Baker; (b) Exhibit P-2, the Amended Petition, which included, inter alia, the Prepared Supplemental Direct Testimony of Craig A. Lynch; (c) Exhibit P-3, the Rebuttal Testimony of Craig A. Lynch; (d) Exhibit P-4, the Rebuttal Testimony of Barry A. Baker; (e) Exhibit P-5, the Rebuttal Testimony of John B. Wyckoff; (f) Exhibit P-6, NJNG's Proof of Publication, Certification and Verification of Mailing; (g) Exhibit RC-1, the Direct Testimony of Edward A. McGee; (h) Exhibit BC-1, the Direct Testimony of Joseph Brickley; (i) Exhibit CHES-1, the Direct Testimony of Jeremy Liedtka; (j) Exhibit Staff-1, all of NJNG's, Burlington County's, Chesterfield's and North Hanover's discovery responses in this matter; and (k) the Direct Testimony of James Durr.<sup>4</sup> (12/7/15 Tr. at 8-12, 104.)

Also at the December 7, 2015 evidentiary hearing, NJNG, Chesterfield, North Hanover, Plumsted, Burlington County and the PPA made opening statements. Further, all parties—including Intervenors—were afforded the opportunity to cross-examine NJNG's witnesses (Lynch, Wyckoff and Baker); Chesterfield and North Hanover availed themselves of that opportunity. Also during the evidentiary hearing, Chesterfield Mayor Liedtka and North Hanover Mayor Durr supplemented their direct testimony; NJNG did not cross-examine Liedtka or Durr.

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<sup>4</sup> Although Durr's testimony was admitted into the record, it was not assigned an exhibit number. (12/7/15 Tr. at 106:19-25.)

At the conclusion of all testimony at the December 7, 2015 hearing, the record was closed. (12/7/15 Tr. at 130:4-5.) In an Order dated December 10, 2015, Commissioner Solomon entered a briefing schedule, pursuant to which initial Post-Hearing Briefs would be due on January 15, 2016 and Reply Briefs would be due on January 29, 2016.

On December 21, 2015, Chesterfield filed with the BPU a motion to compel NJNG to provide more complete responses to certain of its rebuttal discovery demands. On December 29, 2015, NJNG filed with the Board a letter in opposition to the motion to compel. In that opposition, NJNG noted that Chesterfield had not raised the discovery dispute during the December 7, 2015 evidentiary hearing and that, at the conclusion of the hearing, DAG Tenzer had noted that the record was closed. In an Order dated January 6, 2016, Commissioner Solomon granted in part and denied in part Chesterfield's motion to compel, directing NJNG to provide more complete answers to certain of Chesterfield's discovery requests while not requiring NJNG to answer other requests. Commissioner Solomon also modified the briefing schedule by adjourning the deadline to file initial post-hearing briefs by one week to January 22, 2016, while leaving the deadline for reply briefs as January 29, 2016. On January 11, 2016, NJNG provided more complete answers to Chesterfield's discovery requests as directed in Commissioner Solomon's January 6<sup>th</sup> Order.

## LEGAL ARGUMENT

### I. LEGAL STANDARD.

With the Petition, NJNG requests, pursuant to N.J.S.A. 40:55D-19 and N.J.S.A. 48:9-25.4, that the Board (a) determine that the SRL Project is necessary to maintain system integrity and reliability, supports Governor Christie’s 2011 Energy Master Plan (the “2011 EMP”), and is reasonably necessary for the service, convenience or welfare of the public; and (b) as a result, order that the zoning, site plan review and all other Municipal Land Use Ordinances and Regulations promulgated under the auspices of the MLUL shall not apply to the SRL Project. The Petition also requests that the BPU designate the route for the SRL Project through North Hanover and Chesterfield as described in the Petition.<sup>5</sup>

N.J.S.A. 40:55D-19 provides that:

[the MLUL] or any ordinance or regulation made under authority thereof, shall not apply to a development proposed by a public utility for installation in more than one municipality for the furnishing of service, if upon a petition of the public utility, the Board of Public Utilities shall after hearing, of which any municipalities affected shall have notice, decide the proposed installation of the development in question *is reasonably necessary for the service, convenience or welfare of the public.*

(Emphasis added.) As the Appellate Division has explained, this statutory provision “authorizes the Board to exempt a public utility’s development that spans multiple municipalities, from local

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<sup>5</sup> N.J.S.A. 48:9-25.4 provides (a) that a gas company “may construct, lay, maintain and use facilities, conductors, mains and pipes, with the appurtenances thereto, in, through and beyond any municipality or municipalities, for the purpose of transmitting through the same natural gas . . . for use in its business” if the gas company first obtains “a designation by the governing body or official having control thereof, of the public street, road, highway or place, which may be occupied by such corporation for such purpose;” and (b) if a municipality “fails or refuses to make such a designation or to designate a practicable route,” the Board, upon application by the gas company and after a hearing on notice to the municipality, “shall make such a designation.”

zoning ordinances and regulations if the Board deems the development ‘reasonably necessary for the service, convenience or welfare of the public.’” In re Public Serv. Elec. & Gas Co., No. A-4536-09T3, 2013 N.J. Super. Unpub. LEXIS 304, at \*24 (App. Div. Feb. 11, 2013).

That standard (as set forth in a predecessor statute) was first interpreted by the Appellate Division in In re Hackensack Water Co., 41 N.J. Super. 408 (App. Div. 1956), which concluded that the legislative intent was to empower the BPU to approve projects that are in the public interest, even when those projects conflict with local interests as “expressed through prohibiting provisions of a municipal zoning ordinance.” Id. at 419-20. The Appellate Division explained that while municipal ordinances are important to the public welfare, “such regulation is basically from the local aspect for a local public purpose,” and “the legislative intent is clear that such local regulation, however beneficent and important, is of secondary importance to the broader public interest involved in assuring adequate [] service to a much larger area.” Id. at 423. In Petition of Monmouth Consol. Water Co., 47 N.J. 251 (1966), the New Jersey Supreme Court summarized the policies underlying the standard set forth in N.J.S.A. 40:55D-19 (again in the context of the predecessor statute) as follows:

In enacting this section the Legislature recognized that local municipal authorities are ill-equipped to comprehend adequately the needs of the actual and potential users of the utility’s services beyond as well as within their territorial limits. The lawmakers knew that if the zoning power of a municipality were paramount, it would probably be exercised with an eye toward the local situation and without consideration for the best interests of the consumers at large in other communities whose convenience and necessity require service. The exemption [from local zoning regulation] also signifies an awareness that if the local authorities were supreme the Board of Public Utility Commissioners could not compel a utility to provide adequate service if the zoning ordinance conflicted with the need for expansion or extension of its facilities within the municipality.

Id. at 258.

Soon after Hackensack Water, the New Jersey Supreme Court, in In re Public Service Electric & Gas Co., 35 N.J. 358 (1961) (“PSE&G”), announced a series of guiding principles for application of the standard set forth in N.J.S.A. 40:55D-19.<sup>6</sup> First, the Supreme Court held that “[t]he statutory phrase, ‘for the service, convenience and welfare of the public’ refers *to the whole ‘public’ served by the utility* and not the limited local group benefited by the zoning ordinance.” PSE&G, 35 N.J. at 376-77 (emphasis added). Second, the Court held that “[t]he utility must show that the proposed use is reasonably, not absolutely or indispensably, necessary for public service, convenience and welfare at some location.” Id. at 377. Third, “[i]t is the ‘situation,’ *i.e.*, the particular site or location . . . which must be found ‘reasonably necessary,’ so the Board must consider the community zone plan and zoning ordinance, as well as the physical characteristics of the plot involved and the surrounding neighborhood, and the effect of the proposed use thereon.” Id. Fourth, “[a]lternative sites or methods and their comparative advantages and disadvantages to all interests involved, including cost, must be considered in determining such reasonable necessity.” Id. Fifth, “[t]he Board’s obligation is to weigh all interests and factors in the light of the entire factual picture and adjudicate the existence or non-existence of reasonable necessity therefrom,” and, “[i]f the balance is equal, the utility is entitled to the preference, because the legislative intent is clear that the broad public interest to be served is greater than local considerations.” Id.

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<sup>6</sup> The Appellate Division has held that while Hackensack Water and PSE&G analyzed a predecessor statute, the holdings and principles announced in those cases are applicable to N.J.S.A. 40:55D-19, which contains the same standard. In re Public Serv. Elec., 2013 N.J. Super. Unpub. LEXIS 304 at \*25-26.

In sum, to obtain an order from the Board exempting a multi-municipality infrastructure project from local zoning ordinances and regulations, a public utility must demonstrate two things. **First**, the public utility must demonstrate that the proposed project is reasonably—but not absolutely or indispensably—necessary for the service, convenience or welfare of the entire public served by the public utility, taking into account the affected municipalities’ zone plans and zoning ordinances and the physical characteristics of the affected land and surrounding neighborhood (and the effect of the proposed use on that land and neighborhood). **Second**, the public utility must demonstrate that the site, method or route chosen for the proposed project is the best available, and thus its use is reasonably necessary, based on consideration of alternative sites, methods and routes and their comparative advantages and disadvantages to all interests involved, including costs. As demonstrated below, NJNG has presented evidence overwhelmingly satisfying both of these criteria.

## **II. THE SRL PROJECT IS REASONABLY NECESSARY FOR THE SERVICE, CONVENIENCE OR WELFARE OF THE PUBLIC SERVED BY NJNG.**

As explained above, to prevail on its Petition, NJNG must demonstrate that the SRL Project is reasonably necessary for the service, convenience or welfare of the entire public served by the Company. The record before the Board more than amply makes that showing.

As detailed in the Amended Petition (the substance of which has been verified as true and accurate by Mark R. Sperduto, NJNG’s Senior Vice President, Regulatory Affairs), the SRL Project is needed to support the reliability and system integrity of NJNG’s intrastate transmission system by providing a redundant transmission feed. (Ex. P-2, Am. Petition, ¶ 18.) Currently, more than 85% of NJNG’s winter season peak day gas supply is provided by the Texas Eastern Transmission System (“TETCO”), which delivers to NJNG’s city gate in Middlesex County.

(Id.) TETCO is located northwest of NJNG’s service area and outside of its franchise area. (Id.)  
(See also Lynch Direct Test. (Ex. A to Ex. P-1) at 1:23-2:4.)

Because the majority of NJNG’s natural gas is supplied through that single location, the customers in the Central and Ocean Divisions—particularly those at the southern end of NJNG’s system in Ocean, Burlington and southern Monmouth counties—could be adversely affected by a supply interruption or system failure in the interstate pipelines, the gate station or NJNG’s transmission backbone system. (Ex. P-2, Am. Petition, ¶ 18.) The SRL Project would connect the natural gas system that serves these customers to a new interstate supply point in Chesterfield, adjacent to the New Jersey Turnpike. (Id.) By creating a new redundant major feed connecting to the southern portion of NJNG’s service area that terminates in Manchester Township in Ocean County, the Project would support the safe, reliable and resilient delivery of natural gas to NJNG customers in Ocean, Burlington and Monmouth counties. (Id.) NJNG’s discovery responses summarized the goal of the SRL as follows:

[I]t is NJNG’s goal to be able to provide reliable service to all of its customers. The SRL project achieves this goal by providing a major supply of natural gas from a second interstate supply (Transco), reducing dependency on a single primary source (TETCO) as exists today. The aspirational goal of NJNG is to be able to maintain service to the entire Monmouth/Ocean/Burlington region should one of these sources of supply be interrupted, or experience a prolonged loss of use of existing NJNG transmission facility along its internal backbone system. A continuous backbone of 30-inch pipe from NJNG’s current interconnection with TETCO in Middlesex County, running into Ocean County, then to the new SRL interconnect with Transco in Burlington County would be expected to meet this goal, as NJNG replaces existing smaller diameter backbone over time. . . .

(Ex. Staff-1, Response to RCR-ENG-30.) As a result, the SRL Project will support and advance Governor Christie’s 2011 EMP, which expresses the need for additional natural gas supply

and/or reliable natural gas transportation in New Jersey. (Ex. P-2, Am. Petition, ¶ 19 (citing 2011 EMP at 86).)

In his Direct Testimony, Craig A. Lynch, NJNG's Senior Vice President-Energy Delivery, echoed the Amended Petition's explanation of the need for the SRL Project. (Lynch Direct Test. (Ex. A to Ex. P-1) at 2:4-13; 8:7-16.) Moreover, Lynch elaborated on and bolstered the Amended Petition, testifying that "[t]he safe and reliable operation of NJNG's system is the Company's primary operational goal" because "[s]afety and reliability are essential to the health and well-being of the residents and businesses in the communities we serve and the employees who are responsible for operating the system." (Id. at 3:19-22.) "Reliability," Lynch continued, "requires planning to meet the needs of customers during extreme cold weather when demand escalates and peaks, as well as all other times when unplanned major storm events or system disruptions occur," which "is essential because natural gas is a lifeline service." (Id. at 3:22-4:3.)

Lynch then went on to articulate why "a redundant main feed," such as the SRL Project, "supports all of [NJNG's] operational goals and objectives":

Reliability is improved by providing a major redundant transmission main which does not currently exist for NJNG's Central and Ocean Divisions. Currently, approximately 85% of winter season peak day capacity is supplied by a single TETCO connection. The remaining 15% is provided by the two smaller connections. ***By way of contrast, the Northern Division has five major feeds, three of which could each independently supply that entire division.***

(Id. at 5:5-14 (emphasis added).) Lynch explained that Superstorm Sandy revealed the critical need for system redundancy:

Safety and resiliency are also improved through redundancy. After Superstorm Sandy, a portion of NJNG's local distribution system was depressurized resulting in a major curtailment of service. The

extent or area of the curtailment would have been significantly reduced if the area was served with a redundant feed. In addition, a redundant feed also would have reduced the duration of the recovery. NJNG is now in the process of building redundancies in the local distribution system in those areas, under BPU approved infrastructure programs. Constructing a redundant main feed for the Central and Ocean Divisions will address the same safety, reliability and resiliency concerns on a larger scale.

(Id. at 5:16-6:2.) NJNG’s discovery responses expounded on why Superstorm Sandy was so instructive, explaining that “each location damaged [by the storm] also had substantial areas downstream that were viable.” (Ex. Staff-1, Response to RCR-ENG-2(b).) Thus, “[i]f additional feeds were available to those systems, the outages could have been minimized because [NJNG] would have isolated the damaged areas and kept gas flowing to the undamaged areas.” (Id.; see also Lynch Direct Test. (Ex. A to Ex. P-1) at 5:16-6:2.)

Further, in his direct testimony, Lynch identified the significant difficulties, costs and delays that would arise, in the absence of a redundant feed, in connection with restoring service after a widespread interruption. As Lynch explained,

the pipeline would need to be brought back into service either by repair or replacement. Once the pipeline was restored, each affected distribution system would need to be restored, and each customer’s service would need to be individually restored. After the curtailment, technicians would have to visit every customer, door to door, multiple times (to turn off, reenergize, and turn on appliances) to restore service. For example, after Superstorm Sandy, it took two months to restore service to approximately 31,000 customers on Long Beach Island and the Seaside Peninsula area of NJNG’s service territory. Restoring service to a larger population of customers could take much longer.

(Lynch Direct Test. (Ex. A to Ex. P-1) at 10:6-14.)<sup>7</sup> Lynch also explained that a redundant main feed to NJNG’s southern territory would improve efficiency, “particularly in this case where the redundancy is based on a connection to two separate interstate pipelines at opposite ends of NJNG’s system.” (Id. at 6:4-6.) As a result, “[t]he Project would allow NJNG to minimize service disruptions associated with potential interruptions, as well as minimize costs associated with such interruptions.” (Id. at 6:6-8.)

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<sup>7</sup> In its discovery responses, NJNG provided a hypothetical example to illustrate the delays and costs associated with a loss of service in the absence of a redundant feed:

The scenario starts with the loss of NJNG’s Texas Eastern feed at the Jamesburg Station during the month of January. This assumption is consistent with the last two interstate curtailments which occurred during a peak sendout period in January. This type of event could affect approximately 350,000 to 400,000 NJNG customers. The range represents the uncertainty of the timeframe in which NJNG could isolate the Bayshore system (supplied through existing Transco city gates) and the duration of the interruption. Assuming NJNG is capable of acquiring approximately 1000 mutual aid workers, the direct expenses could range between \$170,000,000 to 190,000,000 and take a minimum of 4 months once adequate supply again became available at the Jamesburg Station. This estimate utilizes cost and other factors we experienced during Superstorm Sandy recovery for mutual aid and NJNG’s own workforce and recognizes the impact to work hours and productivity related to the winter season. This direct cost estimate does not include the following costs or cost factors: inspecting homes before they are reintroduced with gas for freeze ups or any other issue that may have occurred while the home had no heat; to re-pressurize NJNG’s systems; the ability to locate adequate mutual aid during the winter peak season; or finding housing for mutual aid as they would not be able to be housed in Monmouth or Ocean Counties due to the outage. The cost estimate does not include any indirect costs related to social services for NJNG’s customers like hospitals, fire, police, schools, etc., who are impacted by the outage or the loss of economic activity in New Jersey as a result of this event.

(Ex. Staff-1, Response to S-NJSRL-11.)

To illustrate the need for the SRL Project, Lynch listed two past service interruption/curtailment incidents that would have been mitigated by the existence of a redundant main line. The first was a series of unplanned outages on January 7, 2015, at the Entriken and Chambersburg compressor stations on the TETCO interstate system, which reduced the capacity flowing to NJNG; TETCO declared the outages a force majeure event that lasted nine days until January 15, 2015. (Id. at 11:5-8.) Lynch explained the second, which occurred during the 2014 Polar Vortex, as follows:

TETCO's Delmont compressor station in Pennsylvania experienced an unplanned outage, decreasing the availability of natural gas to NJNG. The outage resulted in a decrease in line pressure. NJNG had to run its liquefied natural gas ("LNG") plants for 36 hours to maintain pressure and replace lost supply. However, a lengthier or more intense curtailment could have resulted in significant customer service interruptions because LNG supply and sendout capacities are limited. The LNG plants cannot avoid service interruptions for a curtailment of more than 160,000 Dth/day or a curtailment that exhausts the LNG supply.

(Id. at 11:8-17; see also Ex. Staff-1, Response to CHES-NJSRL-17(b) (summarizing the Delmont compressor event).) Had the SRL Project been in place, Lynch explained, the Delmont compressor station "curtailment would not have risked a service interruption because gas would have been provided from the Transco transmission line via the Southern Reliability Link."<sup>8</sup> (Lynch Direct Test. (Ex. A to Ex. P-1) at 11:17-19.)

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<sup>8</sup> The SRL Project complements NJ RISE, another NJNG project intended to enhance overall system reliability, safety and integrity. (Lynch Direct Test. (Ex. A to Ex. P-1) at 13:9-11.) As Lynch explained, NJ RISE is "the name of a group of six NJNG projects approved by the BPU in 2014 providing system enhancements that improve NJNG's distribution system through storm hardening investments" and "was submitted to the BPU in response to its January 23, 2013 Order inviting regulated utilities to submit 'detailed proposals for infrastructure upgrades designed to protect the State's utility infrastructure from future Major Storm Events . . .'" (Id. at 12:17-22.)

At the conclusion of his Prepared Direct Testimony, Lynch summarized the benefits that would flow from the SRL Project as follows:

Currently, NJNG's customers in Burlington, Ocean and Monmouth counties are served by one primary interstate transmission line and an intrastate transmission system that supplies natural gas directionally from north to south. The [SRL] Project would create a major redundant feed to NJNG's customers in Burlington, Ocean and Monmouth counties. The Project would increase reliability of supply to NJNG's customers in those counties by providing natural gas service despite potential interruptions in the existing major interstate supplier, TETCO, or interruptions or disruptions in NJNG's intrastate transmission system upstream of these areas. In addition to increasing reliability and system integrity by creating a redundant feed, the Project would also connect to a different interstate pipeline system, Transco, providing gas supply diversity. The Southern Reliability Link would thereby minimize service disruptions associated with transmission main interruptions or disruptions, as well as the associated costs, and increase NJNG's gas supply diversity.

(Id. at 13:14-14:4.) In sum, the Petition presents overwhelming evidence establishing that the SRL Project provides critically important benefits to the public as a redundant transmission feed, and is therefore reasonably necessary for the service, convenience or welfare of the public.

None of the Intervenors presents any evidence or argument to dispute that showing. Indeed, North Hanover Mayor James Durr's testimony makes no attempt whatsoever to dispute the SRL Project's significant benefits or that it is reasonably necessary for the service, convenience or welfare of the public. And at the December 7, 2015 evidentiary hearing, Burlington County, through its counsel's opening statement, stated that it "never opposed" the SRL Project and, in fact, adopted a resolution on June 10, 2010, stating that it does not oppose

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Like the SRL Project, four of the NJ RISE projects are secondary feeds to large single feed distribution systems along the coast. (Id. at 12:22-13:2.)

“the construction of a natural gas pipeline that will create jobs for local residents, assist the operations of [the Joint Base]” and “provide services to [its] neighbors in Ocean County.” (12/7/15 Tr. at 26:11-18.) More importantly, Burlington County confirmed at the hearing that it concurs in the assessment that the SRL is reasonably necessary, particularly for system redundancy purposes, as its counsel (a) cited the determination of Colonel Hodges, the former Joint Base commander, that the SRL Project “would improve the energy reliability and redundancy at the joint base,” (id. at 27:1-3); and quoted the statement of Colonel Thaden, the current Joint Base commander, that the Project “provides [the] primary benefit of natural gas redundancy” and “will deliver gas to an under-served area of the base, and provide energy redundancy,” (id. at 27:4-12).

By contrast, Chesterfield Mayor Jeremy Liedtka makes the extraordinary argument that NJNG “has done nothing to prove” the reasonable necessity of the SRL Project. (Ex. CHES-1, Liedtka Test. at 133-35.) Chesterfield reasons that NJNG has failed to meet its burden as to the need for a redundant gas feed because (a) it has not identified specific incidents when its customers in Ocean, Burlington and Monmouth Counties were adversely affected by a system failure or supply interruption in the last sixty years, (id. at 113-18); and (b) “has no way of telling whether the SRL will diminish the number of supply interruptions or failures because NJNG does not keep track of those interruptions or failures,” (id. at 135-36).

Chesterfield’s position is easily turned away. In his Rebuttal Testimony, Lynch refuted Mayor Liedtka’s “underlying premise . . . that the SRL Project is not necessary because the Company has not experienced a widespread system failure based on the failure or interruption of service from the connection point that provides approximately 85% of winter season peak day

capacity, all from a single interstate pipeline,” TETCO. (Ex. P-3, Lynch Rebuttal Test. at 6:20-7:2.) Lynch explained that NJNG has “noticed a trend in [its] interstate supplier which [it] feel[s] needs to be proactively addressed” because “[t]he Company believes that waiting for a system failure is bad planning and irresponsible.” (Id. at 7:3-5.) Lynch elaborated that “[c]urtailment has tremendous consequences for customers,” and that while “[t]he curtailments following Sandy were not related to an interruption in the interstate supply,” they “demonstrated the tremendous cost of widespread curtailment.” (Id. at 7:6-8.) Lynch concluded by reiterating that having “[t]he vast majority of winter season peak day natural gas being delivered through a single gate station from a single source creates a very real risk of interruption,” citing as examples the Entriken/Chambersburg compressor station failures on January 7, 2015, and the Delmont compressor station failure during the 2014 polar vortex, both of which are detailed above. (Id. at 7:11-23.)

In sum, despite Chesterfield’s argument to the contrary, the record evidence demonstrates beyond dispute that the SRL Project is reasonably necessary for the service, convenience or welfare of the entire public served by the Company.

### **III. THE PROPOSED ROUTE FOR THE SRL PROJECT IS THE BEST AVAILABLE.**

As explained above, to prevail on its Petition, NJNG must demonstrate that the route chosen for the SRL Project is the best available, and thus that its use is reasonably necessary, based on consideration of alternative sites, methods and routes and their comparative advantages and disadvantages to all interests involved, including costs. The record before the Board indisputably makes that showing.

**A. The Record Evidence Overwhelmingly Establishes That The Route Chosen And Proposed By NJNG Is The Best Available.**

As demonstrated in the verified Amended Petition, after conducting an extensive and exhaustive study that considered the advantages and disadvantages of various alternative routes, NJNG determined that the route proposed for the SRL Project is the best available. Specifically, NJNG conducted a project route alternatives analysis as part of the process of determining the best means of enabling it to improve and reinforce existing service reliability by way of a redundant transmission main to Ocean and Burlington Counties. (Ex. P-2, Am. Petition, ¶ 27.) The report detailing that analysis was prepared by AECOM Technology Corp. (“AECOM”) and is entitled “Southern Reliability Link Route Analysis Report” (“Alternatives Analysis”).<sup>9</sup>

As summarized in the Amended Petition, AECOM considered the SRL Project in two sections because the eastern portion of the study area is within the New Jersey Pinelands National Reserve; the regulatory implications of the Pinelands Comprehensive Management Plan only apply to that portion of the Project within the Pinelands and, therefore, that portion requires a separate analysis. (Ex. P-2, Am. Petition, ¶ 28.) As a result, the western portion of the SRL Project was described and analyzed as Section 1, and the eastern portion was described and analyzed as Section 2. (Id.) Five alternative routes were considered for Section 1 and four alternative routes were considered for Section 2. (Id.)

The Alternatives Analysis considered potential impacts of each alternative route from three perspectives: (1) protection of the built environment; (2) protection of the natural environment; and (3) engineering considerations. (Id., ¶ 29.) The protection of the built

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<sup>9</sup> The Alternatives Analysis is attached as Exhibit 2 to the testimony of Barry A. Baker, which is Exhibit C to the Original Petition. (Ex. P-1.)

environment perspective addresses human and cultural resources, including residential neighborhoods, other community-valued buildings and historic sites. (Id.) The protection of the natural environment perspective addresses plants, animals, aquatic resources, ecological resources and natural habitat. (Id.) The engineering considerations perspective addresses maximizing co-location and minimizing cost and schedule challenges for the SRL Project by seeking the shortest path or using existing ROWs, while avoiding areas that pose significant construction obstacles. (Id.)

Alternative Routes A through E for Section 1 were described in Section 4.5.1 of the Alternatives Analysis. (Id., ¶ 30.) Alternative Routes A through D for Section 2 were described in Section 4.6.1 of the Alternatives Analysis.

Ultimately, AECOM recommended Route B as the selected route alignment for Section 1, and Route D as the selected route alignment for Section 2; NJNG concurred in those recommendations. (Id., ¶ 31.) Section 1 Route B requires the acquisition of approximately 1.1 miles of easements on private property and runs underneath approximately 15.6 miles of roads, while Section 2 Route D requires the acquisition of an easement within the Joint Base of approximately 10.5 miles, including 3.8 miles along the side of Route 539, 3.8 miles under Joint Base roads, 1.5 miles of easement adjacent to an unused runway, and approximately 1.4 miles along the side of other roads or through undeveloped areas. (Id.) Section 2 Route D also requires the acquisition of approximately 1.0 mile of private easements outside of the Joint Base and will utilize 0.3 miles of existing roadway easements. (Id.)

As the Amended Petition explains, the route ultimately selected will result in the least combined impacts to the built environment and natural environment while still being a feasible

engineering design. (Id., ¶ 32.) Further, the final route alignment selected was based in part on input from local elected officials, private property owners, DEP representatives, New Jersey Pinelands Commission Staff, and the Joint Base leadership.<sup>10</sup> (Id., ¶ 33.)

The Amended Petition's description of the route selection process is reinforced by the direct testimony of Barry A. Baker, who is AECOM's Power and Industry Business Unit Lead and Department Manager for Impact Assessment & Permitting Department.<sup>11</sup> (Baker Direct Test. (Ex. C to Ex. P-1) at 1:11-14.) NJNG retained AECOM to assist in the evaluation and development of alternative routes for the SRL Project, and Baker led the team that conducted the siting study. (Id. at 3:3-5.)

At the outset of his testimony, Baker explained the methodology used by NJNG and AECOM to develop each of the alternative routes considered for the Project:

The goal of the Alternatives Analysis was to identify a route that minimizes the impact to the built and natural environments to the maximum extent practicable, while still maintaining the technical and economic viability of the Project. The Alternatives Analysis was used to determine the most suitable route for a 30-inch underground transmission main connecting the Transco compressor station in Chesterfield Township and transmission system in Manchester Township.

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Identification of alternative routes took into consideration opportunities to parallel existing pipeline and other linear utility rights of way ("ROWs"), opportunities to co-locate within or parallel to existing road ROWs, and opportunities to cross

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<sup>10</sup> It should be noted that the proposed route alignment differs from the selected route through Upper Freehold because of the route designation adopted by the Upper Freehold Township Committee on April 16, 2015. (Id., ¶ 34.)

<sup>11</sup> Baker's extensive credentials are set forth in his direct testimony at 1:15-2:2 and 2:9-22. (Ex. P-2, Ex. C.)

undeveloped land. Identifying alternative routes also involves consideration of potential impacts from three perspectives, including: (1) the Built Environment, which addresses human and cultural resources including residential neighborhoods, other community-valued buildings, and historic sites; (2) the Natural Environment, which addresses plants, animals, aquatic resources, ecological resources, and natural habitat; and (3) Engineering Considerations, which addresses maximizing co-location and minimizing cost and schedule challenges for the Project by seeking the shortest path or using existing ROWs, while avoiding areas that pose significant construction obstacles.

(Id. at 6:3-7:3.) Baker then explained the methodology used in the Alternatives Analysis to evaluate the various possible alternative routes that had been identified:

The alternative routes are evaluated based on quantitative and qualitative analysis to determine a Selected Route. To assess the advantages and disadvantages of the various alternative routes, metrics were generated for specific route features, such as the number of residential properties within 150 feet of the pipeline, the acres of wetlands crossed, or the length of line paralleling roadways. These feature metrics were organized within three perspectives—Built Environment, Natural Environment, and Engineering Considerations (described above)—to capture the critical elements that must be considered when siting a pipeline.

The quantitative evaluation scored and compared the alternative routes according to specific evaluation metrics. The quantitative metrics were normalized, to allow for comparison of unrelated data, and weighted based on [AECOM's] experience with other projects and information AECOM received from NJNG regarding public input specific to the Project. Normalization and weighting allow for overall scoring for each alternative route. Lower scores are preferred as they indicate potentially less impact along that route.

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The qualitative evaluation incorporated the results of the quantitative evaluation with the professional judgment of the siting team towards specific nonmeasurable aspects of the Project. The qualitative evaluation is an essential step in the selection process because not all criteria can be counted and scored. Each

alternative was assessed based on several important considerations, such as visual concerns, community concerns, schedule delay risk, special permit issues, and construction, maintenance, and accessibility issues. Qualitative assessment involves ranking the impacts from low to high and weighting each factor to arrive at a total score that allows each route to be compared. Qualitative evaluations such as these provide essential insight into the determination of the Selected Route.

(Id. at 7:14-8:7, 9:1-11.)<sup>12</sup>

Sections 4.5.1 of the Alternatives Analysis discusses the quantitative analysis of each of the Alternative Routes (A, B, C, D and E) considered for Section 1 of the SRL Project. (See Exhibit 1 to Baker’s Direct Testimony, which is Exhibit C to the Original Petition (Ex. P-1).) Section 4.5.4 of the Alternatives Analysis sets forth the results of the *quantitative* analysis of the Alternative Routes for Section 1, which Baker’s testimony summarized as follows:

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<sup>12</sup> Baker provided the following example to more clearly explain the quantitative evaluation:

[P]assing within 150 feet of a residence is one of the metrics generated for the quantitative alternatives analysis. The alternative route that passes within 150 feet of the most residences would be normalized to a score of 100 for that factor, while the route that passes within 150 feet of the fewest residences would be normalized to a score of 0 for that factor. The weighting factor for passing within 150 feet of residences is 30% of the built environment total. So the route passing the most residences would have a weighted score of 30 within the built environment perspective. The built environment represents 37.5% of the total factors considered, and, accordingly, passing within 150 feet of the most structures would result in a quantitative assessment score of 11.25 for that factor alone. The highest possible weighted score, including all factors, would be 100 for a route that scored worst for every factor. Note that passing within 150 feet of residences is the largest consideration (i.e., results in the most total points) of any factor considered.”

(Id. at 8:9-22.)

Section 1 Route B would have fewer impacts than the other alternatives. Route B had the second lowest score for the built environment, the lowest score for the natural environment, and the third lowest score for engineering considerations. By comparison, for the built environment Route C had the highest score and Route E had the lowest score. For the natural environment, Route D had the highest score by far and, as mentioned above, Route B had the lowest score. For Engineering Considerations, Route E had the highest score by far and Route C had the lowest score. Overall, Route B received the lowest total quantitative score, which indicates that Route B is expected to have the least total impact of the alternative routes.

(Baker Direct Test. at 11:18-12:5 (Exhibit C to Ex. P-1).) Section 4.5.5 sets forth the results of the *qualitative* analysis of each of the Section 1 Alternative Routes, which Baker summarized as follows:

Route B had the lowest score for special permit concerns, construction, maintenance and accessibility and schedule delay risk. Route B had the middle score for visual concerns and community concerns. By way of comparison, Route D had the lowest scores and Route C had the highest scores for visual concerns and community concerns. Route D had the highest scores for special permit concerns, construction/maintenance accessibility, and schedule delay risk. Overall, Route B had the lowest qualitative score, indicating that it would have relatively limited concerns and permitting requirements compared to the other four alternatives.

(Baker Direct Test. at 12:7-18 (Exhibit C to Ex. P-1).) Based on the above described quantitative and qualitative assessments, Baker testified, Route B was selected for Section 1. (Id. at 12:20-21.)

Similarly, sections 4.6.1 to 4.6.4 of the Alternatives Analysis discuss the *quantitative* analysis of each Alternative Route (A, B, C and D) considered for Section 2; the results of that analysis are set forth in section 4.6.5, which Baker's testimony summarized as follows:

A review of the results of the quantitative analysis indicates that Section 2 Route D would have fewer impacts than the other alternatives. Route D had the lowest score for the built environment and engineering considerations, and the highest score for the natural environment. By comparison, for the built environment and engineering considerations, Route C had the highest score. For the natural environment Route B had the lowest score. Overall, Route D received the lowest total quantitative score, which indicates that Route D is expected to have the least total impact of the alternative routes.

(Baker Direct Test. at 13:18-14:3 (Exhibit C to Ex. P-1).) Section 4.6.5 sets forth the results of the *qualitative* analysis of the Section 2 Alternative Routes, which Baker summarized as follows:

A review of the results of the qualitative analysis . . . indicates that Section 2 Route D had the lowest total score for qualitative concerns. Route D had the lowest score for all categories. By way of comparison, Route C had the highest scores for all categories. As explained in Section 4.6.5, Routes A, B, and C all pass through restrictive Pinelands Management areas where such development is not a permissible use, resulting in higher qualitative permitting scores. Overall, Route D had the lowest qualitative score, indicating that it would have relatively limited concerns and permitting requirements compared to the other four alternatives.

(Id. at 14:5-14.) Based on the above described quantitative and qualitative assessments, Baker testified, Route D was selected for Section 2. (Id. at 14:16-17.)

In concluding his direct testimony, Baker noted that the Alternatives Analysis “was conducted using a detailed and transparent methodology and [was] based on many years of [AECOM] experience in such studies.” (Id. at 15:5-7.) Baker also testified that in his expert opinion, the selected route is the appropriate one because it will “provide a transmission route that would minimize combined impacts to communities and the environment while still being practicable to construct.” (Id. at 15: 8-12.)

In sum, the Petition presents overwhelming evidence in the form of the Alternatives Analysis, Baker's Direct Testimony and the Amended Petition's verified statements demonstrating beyond dispute that (a) NJNG extensively analyzed the advantages and disadvantages of numerous alternative routes for the SRL Project; and (b) its analysis makes clear that the route chosen for the SRL Project is the best one available.

**B. The Evidence Demonstrates Beyond Dispute That The Only Two Alternative Routes For Which Intervenors Have Advocated Are Not Feasible.**

Despite this compelling showing, North Hanover Mayor James Durr contends that there are, in fact, two alternate routes available that would not require NJNG to utilize roads that pass by what Durr characterizes as "two significant aspects of North Hanover Township" (discussed further below). (Durr Direct Test., ¶¶ 6 & 20.) As an initial matter, even if the two routes mentioned by Durr were feasible (and they are not), Durr has presented no evidence to even suggest that an analysis of the advantages and disadvantages of those two routes would demonstrate that they are better than the one selected by NJNG. And, more importantly, for the reasons set forth below, it is indisputable that the two routes suggested by Mayor Durr are simply not feasible.

Durr first argues that instead of using CR 528, CR 664 or Province Line Road, NJNG can use Route 68 and existing ROWs of Jersey Central Power & Light ("JCP&L").<sup>13</sup> (Durr Direct Test., ¶ 20.) Baker's Rebuttal Testimony (Ex. P-4), however, explains why any route that would require use of the JCP&P ROWs is not feasible. Baker states that "the JCP&L ROW alternative cannot be built because it passes through parcels designated as Preserved Farmland through the

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<sup>13</sup> That proposed route is referred to herein as the "JCP&L ROW route."

State Agriculture Development Commission,” and “[o]nly farming activities are permitted to occur on those lands.” (Ex. P-4, Baker Rebuttal Test. at 5:5-8.) To be precise, the route would pass through 22 Preserved Farmland parcels. (Ex. Staff-1, Response to S-NJSRL-10b.) As a result, Baker continued, “[t]he preserved farmland represents a fatal flaw in the proposed route because building a pipeline across it is prohibited by law.” (Ex. P-4, Baker Rebuttal Test. at 5:8-10.) Significantly, NJNG’s discovery responses establish that the New Jersey State Agriculture Development Committee agreed that NJNG is prohibited as a matter of law from using Preserved Farmland for the SRL Project:

NJNG has discussed utilizing the JCP&L ROW with representatives from the New Jersey State Agriculture Development Committee (“SADC”) because the JCP&L ROW is part of the Route D alternate route analysis. Brief discussions with SADC confirmed our assessment that the Agriculture Retention and Development Act prohibits the SRL from crossing preserved farmland along that route. That assessment was recently confirmed again in the SADC’s July 2015 “Landowner Guide to SADC Procedures for the Condemnation of Preserved Farmland” which states that “[b]ecause development/expansion of utility facilities constitutes use and development of the farm for nonagricultural purposes, neither the landowner nor the grantee of the easement can simply ‘allow’ utility companies to cross preserved farmland for purposes of developing utility infrastructure.” That guidance goes on to state: “It is important to note that not all utility projects are capable of obtaining the court’s approval for a taking. For those that are not—such as electric utility and intrastate natural gas pipeline projects—the utility company cannot cross a preserved farm.”

(Ex. Staff-1, Response to S-NJSRL-10d.) Further, although the use of Preserved Farmland is clearly prohibited by statute, the Alternatives Analysis studied the JCP&L ROW route running through such farmland and came to the conclusion that “the cumulative quantitative value of impacts from the JCP&L ROW alternative” were higher than not just the selected route, but also

“any other evaluated alternative routes.” (Ex. P-4, Baker Rebuttal Test. at 5:10-13; see also Ex. Staff-1, Response to S-NJSRL-43, which provides an addendum to the Alternatives Analysis that analyzes the proposed JCP&L ROW route.)

Durr next argues that instead of using CR 528, CR 664 or Province Line Road, NJNG can use Route 68, and then enter and travel through the Joint Base by way of a different route that “would allow the pipeline to be constructed without having any negative impact on [North Hanover] Township or its residents.” (Durr Direct Test., ¶ 20.) That has been referred to as the “Dancer Route” after State Assemblyman Ronald S. Dancer, who first proposed it. (12/7/15 Tr. at 17:1-2.) In his Rebuttal Testimony, however, Baker rejected the Dancer Route, stating that “the Joint Base route is not feasible based on the operational requirements of the base, as communicated to the Company by the Joint Base leadership.” (Ex. P-4, Baker Rebuttal Test. at 5:15-20.) In his Rebuttal Testimony, John B. Wyckoff, P.E., NJNG’s Director of Engineering, elaborated on NJNG’s communications with the Joint Base as follows:

Discussions with the Joint Base leadership included considerations regarding the general alignment through the Joint Base later proposed by Assemblyman Dancer. At that time, the Joint Base advised that the alignment was not suitable because it passed through the operational areas of the Base, including commercial/office areas and active artillery/firing ranges, as well as environmentally sensitive areas. . . . On October 29, I met with the Joint Base leadership and others, including Assemblyman Dancer. At that meeting the Joint Base leadership again made it clear that the Company’s preferred route remains the Joint Base’s preference, and any other route similar to that proposed by the Assemblyman and others would negatively impact the Base’s mission. Joint Base leadership also explained the reasons why Assemblyman Dancer’s route is not a preferable route including, among other things, those I just noted.

(Ex. P-5, Wyckoff Rebuttal Test. at 6:20-7:9.)

NJNG's discovery responses provide further evidence that the Dancer Route is not feasible, as they explain that NJNG (a) met repeatedly with Joint Base representatives "[p]rior to and during planning and the route selection process" in order "to understand their future needs, as well as their base operations and environmental concerns"; (b) "developed a pipeline route that is acceptable to the Joint Base" based on the "information and input" provided by the Joint Base representatives; and (c) ultimately learned that "routing of the SRL in operational and environmentally sensitive areas was not acceptable to the Joint Base." (Ex. Staff-1, Response to CHES-NJSRL-29.) Indeed, in a letter dated November 6, 2015, Colonel Thaden, the Commander of the Joint Base, memorialized the above communications and made absolutely clear that the "Dancer Route" through the Joint Base was not feasible. Colonel Thaden wrote that NJNG's proposed route "was developed in close coordination with Air Force engineering, environmental and legal experts" and "is the best on-base route available because it presents minimal impacts to our mission, the people working and residing on [the Joint Base], and to the environment." (11/6/15 Thaden Letter, Ex. 1 to Wyckoff's Rebuttal Test. (Ex. P-5).) Colonel Thaden continued by explaining that the Dancer Route "presents numerous impacts to operational requirements, to [the Joint Base] residents and personnel, and to the environment," and—perhaps most notably—"would have to traverse the range complex," which is "an area that has the potential for encountering unexploded ordnance." (Id.; see also Ex. Staff-1, Response to S-NJSRL-22 ("We have been told in our discussions with Base management that routing through operations areas and firing ranges would not be permitted, and therefore this route is not viable.").)

In sum, the record evidence demonstrates that the two alternative routes proposed by Mayor Durr—the only two alternative routes proposed by any of the Intervenors—are simply not feasible. Significantly, Burlington County concurs in that assessment. As its attorney, William R. Burns, Esq., explained during his opening statement at the evidentiary hearing on December 7, 2015, the County did not oppose the SRL Project generally, but intervened “to oppose the route of the pipeline along county roads and to clarify the actual alignment and placement of the [SRL Project] along the designated route. . . .” (12/7/15 Tr. at 27:13-17.) The County, Mr. Burns continued, “voiced [its] disapproval of the route and asked th[e] Board and [NJNG] to consider alternate routes that would minimize the impacts on Burlington County roads, residents, taxpayers, and affected the communities.” (Id. at 27:19-23.) Specifically, Burlington County “advanced and supported two alternative routes for construction of the pipeline,” the JCP&L ROW route and the Dancer Route. (Id. at 28:1-3.)

Mr. Burns then acknowledged that Burlington County came to the conclusion, after investigation and discussion with NJNG and other relevant parties, including the appropriate regulatory agencies and the Joint Base, that each of those two proposed routes was unfeasible. As to the JCP&L ROW route, Mr. Burns stated as follows:

The first, as previously stated, was supported and followed Route 68 to the JCP&L corridor, taking advantage of historic utility easements, and called for the co-locating of the SRL within existing utilities corridor. Unfortunately, the New Jersey Department of Environmental Protection and the Office of Governor’s Counsel informed the county that because the route crossed preserved farmland, it was prohibited as a matter of law pursuant to New Jersey statutes in the Garden State Preservation Trust. The Director of the Division of Law advised Governor[’s] counsel that the construction of the SRL would be considered development. And even though the construction would take place on a pre-existing utility easement and co-locate with another

utility, New Jersey law prohibits development on a preserved farmland. Therefore the first route advanced by the county was eliminated by the state.

(Id. at 28:3-21.) As to the Dancer Route, Burns stated:

Regrettably, after researching the proposed route and analyzing the affected areas of the joint base, it was determined by the joint base that the Dancer Route was not feasible. The Dancer Route called for the SRL to pass through a high density residential community on the joint base, cut across the operations section of the base, and included an active air field, firing ranges, bombing ranges, potentially a paratrooper's drop zone, and restricted areas. Further, during a meeting on October 29th at Congressman Chris Smith's office, representatives of the joint base indicated that there would be significant environmental restrictions and issues associated with the construction of the SRL through the joint base. The representatives also indicated that it would be logistically difficult, if not impossible, for [NJNG] to not only construct the SRL on the base but to complete the required inspections on the pipeline once it was operational due to the lack of roads, and compounded by the fact that the joint base is a secured facility with restricted and limited access.

The representatives, based on the foregoing, stated that the Dancer Route was not a viable route for the construction of the SRL. . . .

Simply, the second route advanced and supported by the county was ruled out by the practical and analytical reasons set forth by the joint base.

(Id. at 29:3-30:19.) Mr. Burns thus concluded as follows:

The routes the county has identified, advanced, and supported have been rejected. The first by the State of the New Jersey; the second by the practical concerns raised by the base. The county is unable to identify any other alternate routes for the pipeline. Accordingly, as the county does not oppose this project, the Burlington County Board of Chosen Freeholders leaves it to the Board of Public Utilities to determine whether New Jersey Natural Gas' preferred route is appropriate.

(Id. at 30:19-31:3.)

### **C. Intervenor's Remaining Arguments Are Unavailing.**

In addition to arguing for the JCP&L ROW Route and the Dancer Route, both of which are indisputably unfeasible, Intervenor's raise several other complaints and concerns about the proposed route and its purported impact on specific features of their municipalities. Leaving aside that none of the Intervenor's proposes an alternative route that is even feasible much less preferable to the selected route, the record evidence demonstrates that their complaints and concerns are unfounded.

#### **Arneytown Historic District**

Mayor Durr contends that "NJNG failed to account for the impact that the pipeline and necessarily its related construction will have on [certain] historic structures, especially Arneytown Tavern" in North Hanover. (Durr Direct. Test., ¶ 17.) As detailed in Mayor Durr's Direct Testimony, North Hanover is home to the "Arneytown Historic District," which he describes as "a small hamlet comprised of three buildings dating back to the 1700's," (id., ¶ 11), that is considered one of the ten most endangered historic sites in New Jersey, (id., ¶ 16). Mayor Durr is the owner of one of the three buildings, Arneytown Tavern, which dates back to 1731. (Id., ¶ 14.) Mayor Durr articulated his concerns regarding Arneytown as follows:

According to the exhibits submitted with NJNG's petition, it appears that the pipeline will be installed within 20 feet of two of the three historical structures and there are historic buttonwood trees located in front of 13 Chesterfield-Arneytown Road that are approximately the same age of the house. There is a strong probability that the construction related to the installation of the pipeline would necessarily destroy those trees.

(Id., ¶ 17.)

The rebuttal testimony of Barry Baker of AECOM, however, refutes Mayor Durr's contention that NJNG has not taken into account and, more importantly, taken steps to minimize the impact of the SRL Project on the historic structures and trees in Arneytown. With respect to the Arneytown structures, Baker explained that the Alternative Analysis, in considering each of the alternative routes, took into account the historic structures that might be affected:

The alternatives analysis involved consideration of potential impacts from three perspectives, including (1) the Built Environment, which addresses human and cultural resources including residential neighborhoods, other community-valued buildings, and historic sites; (2) the Natural Environment; and (3) Engineering Considerations. All three perspectives are considered in evaluating the routes to determine the preferred route. Historic structures are one element of the Built Environment perspective. Based on past experience and public feedback, the Built Environment perspective was given the greatest weight of the three perspectives (37.5%), and proximity to residences was given the greatest weight (30%) within that perspective. Historic properties within 150 feet of the centerline were assigned a 14% weight within the Built Environment perspective. Thus, historic properties were identified and weighted in determining the preferred route.

(Ex. P-5, Baker Rebuttal Test. at 2:12-3:2.) Baker further testified that the Alternatives Analysis specifically considered the Arneytown structures when choosing the proposed route:

Regarding the specific historic properties identified in Mayor Durr's testimony, Route C passed within 150 feet of 84 historic properties. Route B [the selected route] was within 150 feet of 15 properties, Route A was within 150 feet of 8 historic properties, and Route D and Route E each passed within 150 feet of just 1 historic property. The project study area contains a dense concentration of historic resources as illustrated in Table 2-8 and our route counts. Impacts to historic resources have been evaluated and a route selected that minimizes impacts to these as well other resources of value in the project area.

(Id. at 3:4-11.) As Baker’s testimony makes clear, each of the proposed routes would have been in close proximity to at least some historic structures, and the Alternatives Analysis had to take that factor, as well as many others, into account.

Moreover, Baker explained that “once the preferred route is selected, the analysis of impacts on historic resources does not end,” as NJNG had to “complete a Historic Architectural Survey Report and a Phase I Archaeological Survey, and submit them to the New Jersey Historic Preservation Office.” (Id. at 3:13-18.) NJNG submitted those reports—both of which address the Arneytown Historic District—to the New Jersey Historic Preservation Office (“HPO”) (id. at 3:18-20), which has opined on the Architectural Survey, with specific reference to Arneytown, as follows:

HPO concurs that the choice to locate the pipeline right-of-way (ROW) within existing roadway at most locations will avoid direct adverse effects to historic properties eligible for or listed on the National Register of Historic Places. In addition, the locations of valves and laydown areas will avoid indirect visual effects. The report concludes that fencing should be erected during construction in the Arneytown Historic District, in order to avoid unforeseen damage by construction equipment. The HPO concurs with this recommendation.

(Id. at 3:22-4:9.) Baker’s testimony also addresses Mayor Durr’s concerns regarding the buttonwood trees, stating: “Regarding the buttonwood trees addressed by Mayor Durr (Par. 17), the alignment runs on the side of the road opposite of the identified trees in order to specifically avoid any potential impacts on those trees.” (Id. at 4:17-19.)

Thus, while Mayor Durr’s concerns regarding Arneytown are understandable, they were taken into account and addressed by NJNG, both when selecting a route and when devising measures to minimize the impact of the SRL on the towns affected by that chosen route.

### **First Brigadier General William C. Doyle Memorial Cemetery**

Mayor Durr also contends that construction of the SRL Project will have an unacceptable adverse impact on First Brigadier General William C. Doyle Memorial Cemetery, New Jersey's first state operated veterans cemetery, which is located within North Hanover. (Durr Direct Test., ¶ 7.) Mayor Durr contends that the SRL Project "will necessarily have a detrimental impact on this significant part of North Hanover Township" (*id.*, ¶ 10), for the following reasons:

NJNG's proposed route will directly impact two major roads that service these hallowed grounds. Notwithstanding this significant memorial to the brave heroes who served the United States of America, NJNG failed to reference or consider the impact that the pipeline and its related construction will have on the cemetery, the burials that occur each business day (15 each business day/75 per week), [and] the families and visitors who go to the cemetery.

(*Id.*, ¶ 9.)

The rebuttal testimony of John Wyckoff refutes the notion that construction of the SRL Project will have a negative impact on the cemetery, as he makes clear that NJNG will work cooperatively with North Hanover and the cemetery to avoid any adverse effects. As Wyckoff noted:

[W]orking in a manner that does not interrupt burial services is precisely the type of issue that the Company would address if North Hanover would agree to meet with the Company to address traffic control. At that meeting, the Company would suggest either coordinating schedules to work around burial services, or if such work-arounds proved infeasible, working at night along that short stretch of road. It has always been the Company's desire and intent to provide the proper respect and dignity that is due this important facility.

(Ex. P-5, Wyckoff Rebuttal Test. at 6:6-13.) Further, Wyckoff explained that because the cemetery has three separate public entrances—one of which is on a road that is not part of the

SRL Project—accommodating traffic impacts “is feasible through coordination of [NJNG’s] construction activities with the facility.” (Id. at 5:20-23.) And as to the ability to avoid traffic problems, Wyckoff also noted that “[t]he short length of roadwork associated with the cemetery also weighs in favor of reaching an acceptable traffic plan.” (Id. at 6:5-6.) Finally, Wyckoff explained that the overall impact of the SRL Project on cemetery activities will be minimal because the construction will largely be near undeveloped portions of the cemetery. (Id. at 6:2-4 (“the SRL route abuts the cemetery for approximately 1 mile, and more than sixty percent of that distance is separated from the developed portion of the cemetery by over 150 yards of wooded, vacant land.”).)

Moreover, in a meeting with NJNG employees on December 3, 2015, Iven C. Dumas, First Sergeant, USMC (Ret.), the Superintendent of the cemetery, advised that he foresaw no problems with coordinating cemetery traffic (burial services and general visitation) during road closures for the SRL Project. (See CHES-NJSRL-7 (rev) (part of Ex. Staff-1).) Sgt. Dumas explained that the entrance on Province Line Road has been closed for quite some time for the construction of a visitors’ center at the cemetery, and there has been no impact to burials during that closure. (Id.) He elaborated that all funerals are directed to use the second entrance on Jacobstown-Arneytown Road and, upon entry, are directed to the appropriate location by cemetery staff. (Id.)

In sum, the record evidence refutes Mayor Durr’s contention that NJNG failed to take Arneytown and the Doyle Cemetery into consideration in designing the SRL Project. To the contrary, NJNG has gone, and will continue to go, to great lengths to ensure that the features of

North Hanover—and all other towns through which the SRL Project will pass—are not negatively impacted by the SRL Project.

### **General Safety Concerns**

Finally, in his direct testimony, Chesterfield Mayor Jeremy Liedtka raised general concerns regarding the safety standards for building and operating the SRL Project. (Ex. CHES-

1.) Specifically, Mayor Liedtka testified as follows:

The route currently preferred by NJNG would cause the 30” diameter high-pressure pipeline to be installed as close as 50 to 75 feet from the nearest Township residence, downtown business, and historic property, and just over 100 feet from the nearest existing municipal services building. According to the alternative routes analysis conducted on behalf of NJNG, the SRL will impact 55 structures intended for human occupancy, making it one of, if not the most highly impacted municipality along the pipeline’s route. These buildings intended for human occupancy not only include just homes and businesses, but include the Township’s current municipal complex, proposed municipal complex, police station, firehouse, and emergency squad headquarters, as well.

Land clearance has begun on the Township’s new municipal complex at the site of the former elementary school at 295 County Route 528, across the street from the existing municipal complex. The new municipal complex will house the Township administrative offices, public meeting chambers, and police station, and will fall within 100 feet of the transmission pipeline, should the proposed route be approved. Residents and business owners in Chesterfield Township and surrounding communities are obviously concerned for their safety, as documented during the public hearings held on July 28, 2015 and August 26, 2015—and understandably so. Some of these individuals will be impacted in that the pipeline will be as close as 50 feet from a bedroom window.

(Id. at 1:13-30.)

As an initial matter, the above detailed discussion of the extensive and exhaustive Alternatives Analysis conducted by AECOM demonstrates that NJNG expended significant time

and resources considering and weighing the precise issues raised by Mayor Liedtka, as well as many, many others. As NJNG has established, it selected the proposed route for the SRL because the Alternatives Analysis demonstrated, based on numerous factors, that it will have the least impact of all possible alternative routes.

Moreover, Craig Lynch's rebuttal testimony directly addresses Mayor Liedtka's specific concerns regarding pipeline safety. First, Lynch reiterated that "the safe and reliable operation of NJNG's system is the Company's primary operational goal" and that "[t]o further that goal, all of NJNG's transmission lines are designed, built and operated to the strictest safety standards." (Ex. P-3, Lynch Rebuttal Test. at 2:9-12.) Lynch noted that while the Board only changed the Administrative Code in 2009 to require all transmission mains constructed in New Jersey to meet the design standard for a Class 4 pipeline location—"in recognition that New Jersey is a densely populated state and a Class 4 designation was the appropriate level for the design standards in this atmosphere"—NJNG had already adopted that position for all its transmission design more than 20 years prior to the rule change. (*Id.* at 2:13-19.)

Lynch cited as "[r]ecent evidence of NJNG's commitment to safety[,] . . . the conservative approach taken to comply with the federally mandated Transmission Integrity Management Program ("TIMP") beginning in 2002," elaborating as follows:

In response to federal requirements mandating baseline inspection of transmission pipelines, NJNG developed a prudent strategy and program based on internal inspection of its natural gas transmission system using "smart-pigs." Although an inspection program using "smart-pigs" is substantially more capital- and time-intensive, NJNG chose this method because the pigging technique, by actually contacting the pipeline steel, provides a much greater capability to detect potentially hazardous anomalies. This was a critical commitment that defined NJNG's commitment to pipeline safety.

(Id. at 3:10-20.) Lynch stated that NJNG’s “integrity management programs have significantly increased the level of preventative and mitigating activities on [NJNG’s] pipeline system as part of ongoing assessments (i.e., as in-line inspections, direct assessment, and integrity-related pressure tests).” (Id. at 6:1-4.)

With respect to the SRL Project specifically, Lynch explained that it “is designed and will be operated in conformance with the most conservative (stringent) pipeline integrity standard for a pipeline by designating our transmission pipelines to adhere to the High Consequence Area (“HCA”) standard,” which “applies to transmission lines where buildings with four or more stories are prevalent” and “is also required where a mile of transmission line passes within 220 yards of 46 or more buildings intended for human occupancy, or passes within 100 yards of a building or small, well-defined outside area occupied by 20 or more persons at least 5 days a week for 10 weeks in any 12-month period.” (Id. at 4:1-10.)<sup>14</sup> Notably, while some limited portions of the SRL Project require conformance with the HCA standard, a much larger portion does not; nonetheless, as part of its commitment to safety, NJNG requires all new and replacement transmission lines, including the entirety of the SRL Project, to be operated to HCA standards. (Id. at 4:10-15.)

Compliance with the HCA standard is significant because, in addition to periodic assessment of pipe condition and correction of identified anomalies, the standard requires operators: (1) to “develop improved management and analysis processes that integrate all available integrity-related data and information and assess the risks associated with pipeline

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<sup>14</sup> HCA is defined in 49 CFR § 192.903 and also includes the area within a potential impact circle (as determined by an equation), which includes 20 or more buildings intended for human occupancy or an identified site.

segments in HCAs;” and (2) “enhance damage prevention programs and implement additional risk control measures beyond those already required of other transmission lines.” (Id. at 4:17-5:3.) Finally, in response to Mayor Liedtka’s safety concerns, Lynch also noted that (a) “NJNG has been ahead of the industry in its extensive use of remotely controlled valves (“RCVs”) on [its] transmission system, so that segments of the system can be isolated in the unlikely event of a problem;” and (b) “[t]he SRL project will have RCVs installed that will enable [NJNG] to immediately address any potential issues.” (Id. at 5:3-7.)

In his direct testimony, Mayor Liedtka alluded to two natural gas explosions in Ocean County last winter, insinuating that those explosions suggest that NJNG operates its distribution system in an unsafe or irresponsible manner. (Ex. CHES-1, Liedtka Direct Test. at 1:30-2:49.)

Lynch’s rebuttal testimony responded directly to that suggestion:

While Burlington County, Chesterfield and North Hanover have not explicitly commented that NJNG is or has been imprudent in the operation of its natural gas delivery system, the implication is obvious with statements regarding certain unrelated incidents. NJNG’s transmission line safety record speaks for itself. NJNG received over 153,000 one-call requests last year and did not receive any violations involving transmission lines, the subject of this matter. Mayor Liedtka makes repeated references to two recent incidents in Ocean County, neither of which involved transmission lines. The Point Pleasant incident did not involve Company infrastructure or equipment. The Board is aware of and investigating to determine the cause of the Stafford Township incident.

(Ex. P-3, Lynch Rebuttal Test. at 5:9-18.)

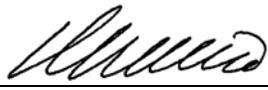
In sum, the record evidence presented on this Petition establishes beyond dispute that Mayor Liedtka’s safety concerns regarding the SRL Project, while understandable, are unfounded, and present no impediment to granting the relief requested.

**CONCLUSION**

For the reasons set forth above, NJNG respectfully requests that the Board (a) determine that the SRL Project is necessary to maintain system integrity and reliability, supports Governor Christie's 2011 EMP, and is reasonably necessary for the service, convenience or welfare of the public; (b) order that the zoning, site plan review and all other Municipal Land Use Ordinances and Regulations promulgated under the auspices of the MLUL shall not apply to the SRL Project; (c) designate the route for the SRL Project as described in the Petition; and (d) authorize the Company to construct, lay, maintain and use facilities, conductors, mains and pipes, with the appurtenances thereto, in, through and beyond the public streets, roads, highways and/or places of the counties and municipalities described herein, for the purpose of transmitting through the same natural gas for use in its business.

Dated: January 21, 2016  
Chatham, New Jersey

MARINO, TORTORELLA & BOYLE, P.C.

By:   
\_\_\_\_\_  
Kevin H. Marino  
437 Southern Boulevard  
Chatham, New Jersey 07928  
(973) 824-9300  
*Attorneys for Petitioner*  
*New Jersey Natural Gas Company*