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**Subject:** South Jersey Gas Application  
**Attachments:** Image.pdf

Please bring this to Ms. Wittenberg's immediate attention as it is pertinent to, and should be included in the record of, the ongoing proceeding.

Thank you.

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December 12, 2013

Mark Lohbauer, Chairman  
New Jersey Pinelands Commission  
PO Box 359  
New Lisbon, NJ 08064

**Re: South Jersey Gas Pipeline Project**  
**BPU Docket # GO13030202**  
**Pinelands Commission Application # 2012-0056.001**

Dear Mr. Lohbauer:

I write on behalf of the staff of the New Jersey Board of Public Utilities ("Board staff") regarding the proposed Memorandum of Agreement ("MOA") recently presented to, and currently under consideration by, the Pinelands Commission and the Board of Public Utilities ("BPU" or "Board").

Our agencies have a history of working together, as reflected by a prior intergovernmental MOA authorizing construction of public utility infrastructure within the Pinelands area. In 2004, the Board and the Pinelands Commission entered into a MOA permitting Atlantic City Electric ("ACE") to construct a 230 kilovolt ("kV") electric transmission line project through approximately 17.5 miles of the Pinelands Preservation Area District and Forest Area.

**Background – The Role of the Board of Public Utilities**

The Board has been vested by the Legislature with the general supervision and regulation of, and jurisdiction and control over, all public utilities. N.J.S.A. 48:2-13. The courts of this State have held that the grant of power by the Legislature to the Board is to be read broadly, and that the provisions of the statute governing public utilities are to be construed liberally. The Board is authorized to ensure safe, adequate and proper public utility service to New Jersey residents, including safe and reliable natural gas for heating homes and businesses. N.J.S.A. 48:2-23 and N.J.S.A. 48:2-13. It is the only agency in the State of New Jersey charged with this responsibility and is the only agency vested with specific expertise to carry out this mission.

By statute, the Board is also vested with the primary responsibility to prepare and oversee implementation of the State's Energy Master Plan ("EMP"), a 10-year blueprint for how New Jersey will produce, distribute, and conserve energy. The 2011 EMP, published by the Christie Administration in December 2011, recognizes that the implementation of New Jersey's energy goals requires the support and cooperation of all State agencies, together with energy developers and suppliers, power plant owners, PJM,<sup>1</sup> all levels of the federal and State government, and ratepayers.

The EMP includes the commitment of the Administration to "expansion of the existing [natural gas] pipeline network that serves gas utilities and power plants throughout New Jersey," and notes that "South Jersey, in particular, lacks adequate natural gas infrastructure to support new, gas-fired generation as well as substitution for other fuels in the residential and commercial sectors."

While the Board is charged with ensuring safe, adequate and proper public utility service to residents, and has broad authority to implement the goals of the EMP, it does not actually own, operate or construct utility infrastructure needed to deliver essential utility services to the public, such as electric transmission lines or natural gas pipelines. In this regard, New Jersey is different from other states, such as New York, where utility services may be provided by public utility authorities who actually own, operate and construct public utility infrastructure. Instead, the Board fulfills this statutory responsibility through its regulation of the State's various public utilities and by approving utility franchises to provide these essential services to the public. In the case of SJG, the Board has granted the company the right to provide natural gas service within a defined service territory, including the southernmost seven counties in the State. Tariff for Gas Service, B.P.U.N.J. No. 10 – Gas at <http://www.southjerseygas.com/for-my-home/pdfs/tariff/Tariff.pdf>.

All public utilities in the State, including SJG, are subject to the Board's jurisdiction, including control over property, equipment and facilities. The Board regulates and controls most of SJG's operations including, but not limited to its service quality, customer service and billing practices, safety, construction specifications, accounting, financing and auditing. Indeed, there are very few actions of any significance which SJG may undertake without Board approval. SJG may not change its rates without Board approval consistent with N.J.S.A. 48:2-21 and N.J.S.A. 48:2-21.1; SJG is required to serve the public interest by providing safe, adequate and proper service at just and reasonable rates pursuant to N.J.S.A. 48:2-21 and N.J.A.C. 14:3-3.1; SJG may not terminate customers, except in accordance with Board regulations, N.J.A.C. 14:3-3A.1 to N.J.A.C. 14:3-3A.9; SJG must get Board approval to construct certain major pipelines pursuant to N.J.A.C. 14:7-1.4, such as this one; SJG may not issue stocks, bonds or other evidence of indebtedness without Board approval pursuant to N.J.S.A. 48:9-19 and N.J.S.A. 48:3-7; SJG may not mortgage its properties without Board approval pursuant to N.J.S.A. 48:9-18 and N.J.S.A. 48:3-7; SJG may not abandon service without Board approval; SJG must maintain an office within the State pursuant to N.J.S.A. 48:3-7.8(c), it may not close its customer service office

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<sup>1</sup> PJM is the privately-held, limited liability corporation approved by the Federal Energy Regulation Commission as a Regional Transmission Organization that manages the regional, high-voltage electricity grid serving all or parts of 13 states, including New Jersey. PJM also operates the regional competitive wholesale power markets in its territory and manages the regional transmission planning process. N.J.S.A. 48:3-51; EMP Table of Acronyms, p. 6.

without Board approval pursuant to N.J.A.C. 14:3-5.1(e)(3); and SJG may not provide service in a new location without Board approval. Ibid.

On or about November 4, 2013, SJG filed a petition with the BPU seeking a determination and Order pursuant to N.J.S.A. 40:55D-19, the Municipal Land Use Law, which authorizes the BPU to order that 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 shall not apply to a development proposed by a public utility for installation in more than one municipality for the furnishing of service. BPU's administrative review of this application will include a hearing and opportunity for public comment. Ultimately, to approve the application, the BPU must determine that the proposed installation of the development in question is reasonably necessary for the service, convenience or welfare of the public. N.J.S.A. 40:55D-19.

### The Proposed Pipeline Project

SJG is, as stated above, a public utility subject to the Board's jurisdiction and is engaged in the business of purchasing, distributing, transporting and selling natural gas to approximately 360,000 customers within its service areas in Cape May, Cumberland, Atlantic and Salem Counties, and parts of Gloucester, Camden and Burlington Counties. According to the company, twenty-five percent of its existing natural gas pipelines are located in areas designated within the New Jersey State Pinelands or the Pinelands National Reserve. On March 8, 2013, SJG filed a petition with the Board requesting approval and authorization to construct and operate 21.6 miles of 24-inch natural gas pipeline through Maurice River Township, Estell Manor Township and Upper Township. Board staff reviewed the proposal and held a public hearing on May 1, 2013 in Upper Township.<sup>2</sup>

At the public hearing, a SJG associate engineer testified as to the need for the project, its design and proposed alignment, alternative pipeline routes considered, inline pipeline integrity inspections of the pipeline, and proposed construction safety measures to be utilized during the installation process. Board staff reviewed engineering analyses and sworn testimony from qualified experts which established that the eastern and southern portion of the Company's natural gas system is highly vulnerable to a single-contingency failure of the single 20" pipeline from Union Road Station to Estell Manor Station. This 20" line is the only major feed into the eastern and southern parts of the SJG service territory. Approximately 142,000 customers located east and south of the Union Road Station are vulnerable to a gas outage if this pipeline is interrupted.

Board staff reviewed the proposal, including the project's design, construction plans and specifications, as well as the listing of structures within 100 feet of the pipeline and their distances from the proposed pipeline alignment. Board staff also conducted a full field inspection of the entire pipeline route and worked with SJG on the pipeline alignment to mitigate the number of human-occupied structures within 100 feet of the pipeline.<sup>3</sup>

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<sup>2</sup> In the Matter of the Petition of South Jersey Gas Company for Authorization to Construct a 24" Pipeline Through Maurice River Township in Cumberland County, City of Estell Manor in Atlantic County and Upper Township in Cape May County, New Jersey, BPU Docket No. GO13030202, June 21, 2013 (June Order).

<sup>3</sup> June Order at 2.

By Order dated June 21, 2013 (“June Order”), the Board approved the request of SJG to construct the pipeline. In authorizing the construction of the project, the Board determined that construction of the pipeline will increase the reliability of natural gas service by interconnecting with an existing transmission line in Upper Township, and will provide service to the B.L. England electrical generation plant.<sup>4</sup>

In the June Order, the Board also found that the project was reasonable and in compliance with all federal and state requirements. The Board’s authorization of the project was, however, subject to the approval of any pending road opening permits from the affected municipalities and the New Jersey Department of Transportation and, all other pending permits and the pressure testing requirements of N.J.A.C. 14:7-1.14 prior to the placing of pipeline in question. The June Order further specifically acknowledged that portions of the pipeline project would traverse the Pinelands area, and further indicated that the approval was contingent upon any applicable requirements of a Memorandum of Agreement (“MOA”) between the Board and the Pinelands Commission.<sup>5</sup>

#### Proposed Repowering of B.L. England

One of the five overarching goals of the 2011 EMP is to “promote a diverse portfolio of new, clean, in-State [electricity] generation, to improve reliability and to lower costs, consistent with environmental and economic development objectives.”<sup>6</sup> To this end, the Administration has supported the construction of new combined cycle natural gas plants and continues to work toward replacement of the capacity that will be lost following the retirement of the Oyster Creek nuclear plant (in 2019). As stated in the EMP, replacing Oyster Creek is a particular challenge because “Oyster Creek’s geographic location has prevented significant transmission bottlenecks and overloads in the State, and [unless] replaced by new comparable baseload generation, at least \$100 million in transmission upgrades will be required when Oyster Creek is retired, excluding new rights of way.”<sup>7</sup>

The repowering of the B.L. England facility (from coal and oil to natural gas) will help to ensure an adequate supply of electricity in the Southern New Jersey region, and specifically in the Pinelands Area. Contrary to some common misperceptions, there is no “glut” of energy in New Jersey. In fact, New Jersey is located within the heart of the Mid-Atlantic Critical Congestion Area, one of only two such areas so designated by the U.S. Department of Energy (“DOE”) due to severely inadequate transmission capacity that threatens the reliability of the electrical grid. In 2006 and again in 2009, the DOE determined that it is critically important to remedy existing congestion problems in New Jersey because the current and projected effects of the congestion are severe.

We disagree with those who claim that PJM’s load forecast is proof that the local demand for electricity will decrease, rather than continue to increase. PJM recently released the 2014 Load Forecast in draft; while PJM revised the numbers for 2017-18 downward from what was

<sup>4</sup> Ibid.

<sup>5</sup> Id. at 3.

<sup>6</sup> EMP at 1, 4.

<sup>7</sup> Id. at 79.

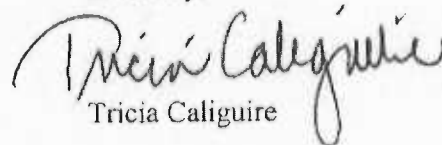
expected at the beginning of this year, this does not mean that demand in 2017-18 is expected to be lower than demand is now. PJM still expects the peak summer and winter demands to grow over the next 10 years, just at lower rates than was previously projected. In other words, the only decrease is in the amount of the increase. The PJM Resource Adequacy Planning Department Draft 2014 Load Forecast projects summer peak load growth for the entire PJM footprint to increase 1% per year over the next 10 years, and .9% over the next 15 years. Annualized 10-year growth rates for individual zones range from 0.4% to 1.8%; growth in the AE zone, which includes the Pinelands, is projected at .8%. Winter peak load growth for PJM is projected to average .9% per year over the next 10-year period, and .8% over the next 15 years. Annualized 10-year growth rates for individual zones range from 0.3% to 1.7%; growth in the AE zone is projected at 0.7%.

New Jersey is located at the extreme eastern edge of the PJM territory. Transmission constraints limit the ability to import electricity, causing most of the State to face electricity congestion and some of the highest electricity prices in the entire mid-Atlantic area. The solution has often involved the strategy of higher voltage reinforcement of the interstate transmission lines, which raises land use and other environmental concerns. The pending retirement of several old, inefficient power plants will also reduce local generation and further degrade reliability. The situation will be only worsened by the closure of the Oyster Creek nuclear plant in 2019. As discussed above, the closure of Oyster Creek, one of only two large electrical generation facilities in the eastern and southern portion of the State (the other being B.L. England), will require a replacement source of energy. Reliability in that region would be enhanced by new (or upgraded) local generation resources.

We disagree with those who claim that Oyster Creek and B.L. England can be replaced solely with energy from renewable sources, such as solar energy and offshore wind. While the Administration continues to work diligently to develop renewable resources, we recognize that offshore wind energy and solar energy are intermittent resources. They cannot be run continuously, or "dispatched," because they are variable throughout the day and, therefore, are unable to fully replace baseload resources such as nuclear and natural gas generating plants. In fact, for offshore wind to be a reliable resource, it will ideally be balanced by other resources which are able to ramp up quickly in response to variable weather conditions, like combined cycle natural gas turbines.<sup>8</sup>

Thank you for your consideration. Board staff looks forward to continuing to work together; please feel free to contact me if you have questions.

Sincerely,

  
Tricia Caliguire

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<sup>8</sup> See The Future of Natural Gas, An Interdisciplinary MIT Study, Massachusetts Institute of Technology (2011), at 93.