



BOARD OF PUBLIC UTILITIES

APR 27 2017

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State of New Jersey  
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CHRIS CHRISTIE  
Governor

KIM GUADAGNO  
Lt. Governor

STEFANIE A. BRAND  
Director

April 27, 2017

**Via Hand Delivery and Electronic Mail**

Hon. Irene Kim Asbury, Secretary  
New Jersey Board of Public Utilities  
44 South Clinton Avenue, 3rd Floor, Suite 314  
P.O. Box 350  
Trenton, New Jersey 08625-0350

**Re: I/M/O South Jersey Gas Company  
Notice of Sale of a Portion of Block 1333, Lots 1 & 2 in the Township  
of Hamilton, Atlantic County, to South Jersey Transportation  
Authority pursuant to N.J.A.C. 14:1-5.6(d) and (e)  
BPU Docket No.: GM17030322**

Dear Secretary Asbury:

Please accept for filing in the above-referenced matter an original and ten (10) copies of the New Jersey Division of Rate Counsel's ("Rate Counsel") comments regarding the South Jersey Gas Company's ("SJG" or "the Company") Notice of Sale of a portion of a parcel, known as Block 1333, Lots 1 & 2, located near Tilton Road at Wrangleboro Road, Hamilton Township, Atlantic County, New Jersey (the "Property"). We enclose one additional copy. Please date stamp it as "filed" and return it with our courier. Thank you for your attention to this matter.

*Case mgmt  
list copied*

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### SUMMARY

Rate Counsel has no objection to SJG's above-referenced Notice of Sale of the Property, subject to the conditions set forth herein.

### BACKGROUND

SJG is a public utility subject to the jurisdiction of the New Jersey Board of Public Utilities ("BPU" or the "Board"). On March 29, 2017 SJG e-filed with the Board a 30-day Notice of Sale of the Property, under N.J.A.C. 14:1-5.6(d) and (e). SJG supports its Notice of Sale with the March 28, 2017 Affidavit of Gina Merritt-Epps, General Counsel and Corporate Secretary for SJG, with attached exhibits, including a proposed form of Agreement of Sale (the "Contract") (Ex. B) and the September 20, 2016 Appraisal Report for the Property, by John R. Weber, Jr. of Curini Appraisal Company, Inc. (the "Appraisal") (Ex. C). Subsequently, on April 26, SJG responded to Rate Counsel's discovery requests RCR-1 through RCR-6.

SJG proposes to subdivide the Property and sell the vacant and undeveloped rear portion of this wooded lot to the South Jersey Transportation Authority ("SJTA") for the Runway Protection Zone required by the Federal Aviation Administration at the Atlantic City Airport,<sup>1</sup> and to retain the portion of the Property that contains one of its meter stations. (Notice of Sale, ¶ 2; RCR-4) The northern boundary of the Airport property is southeast of the site, across Wrangleboro Road.

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<sup>1</sup> The FAA defines a Runway Protection Zone as "a trapezoidal area 'off the end of the runway end that serves to enhance the protection of people and property on the ground' in the event an aircraft lands or crashes beyond the runway end." (RCR-1; see Appraisal, tax and acquisition maps, pp. 33 & 34)

SJTA is an agency of the State of New Jersey, in but not of the Department of Transportation. N.J.S.A. 27:25A-4. SJTA has the power to acquire property by eminent domain. N.J.S.A. 27:25A-7(m). SJG has advised that, absent SJG's agreement to sell, SJTA will proceed with an eminent domain action. (Notice, ¶ 1; Contract)

The entire Property is 1.8952 acres, of which SJG proposes to sell .8964 acres. SJG purchased the Property in 1984 for \$34,481.<sup>2</sup> The SJG Notice provides a November 10, 2016 appraisal report, prepared on behalf of SJTA,<sup>3</sup> opining that the total appraised value of the Property is \$9,500, of which the portion that SJTA proposes to acquire is \$5,000.<sup>4</sup> (Notice of Sale, ¶ 7; Appraisal, pp. 88-89 & 91) SJG carries the Property on its books at a total value of \$34,481, of which the portion it proposes to sell is \$18,168. (Notice of Sale, ¶ 8; RCR-6) SJG states that the current assessed value of the entire Property is \$4,300. (Notice, ¶ 9; Appraisal, p. 24) The Property is zoned for agricultural, residential and similar uses, but is too small to build a permitted structure under the municipal zoning.<sup>5</sup> (Appraisal, pp. 25 & 88; RCR-3)

Board rules mandate that it review the prudence and other public interest considerations in the sale, conveyance or lease of real or personal property of a public

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<sup>2</sup> While the Notice of Sale states that SJG purchased the Property in 1984 for \$34,481, (Notice, ¶ 7), the Deed to the Property states that SJG purchased it on August 3, 1981 for \$30,000, under a different block and lot number designation. (Appraisal, Addenda) Nevertheless, this difference is not material to our comments in this matter.

<sup>3</sup> SJTA retained the appraiser through AECOM of Conshohocken, PA. (See Appraisal, pp. 4 & 5 and attached 9/14/16 appraisal contract award letter.) SJG did not prepare its own appraisal, having determined that the current zoning restrictions prohibit development of the Property. (RCR-5)

<sup>4</sup> SJG states that the reduction in value of the Property is a function of the market, and the zoning in the area that requires a minimum lot size (five acres), frontage and setbacks that prohibit development of the Property. (RCR-3)

<sup>5</sup> The Appraisal did not notice any visible environmental hazards or nuisances on the Property, *id.*, p. 30, and SJG is not aware of any industrial activity on the Property, (RCR-2).

utility, and has established procedures for that review. N.J.A.C. 14:1-5.6; see N.J.S.A. 48:3-7. SJG is proceeding in this matter under the Notice of Sale provisions of N.J.A.C. 14:1-5.6(d) and (e).

### ANALYSIS

As explained below, Rate Counsel does not object to SJG proceeding in this matter by a Notice of Sale of Property under N.J.A.C. 14:1-5.6(d) and (e). This proposal meets the criteria of N.J.A.C. 14:1-5.6(d) and (e) to proceed by Notice. In addition, the conveyance of public utility property to a governmental entity or agency is statutorily exempt from Board review. N.J.S.A. 27:25A-7(m); N.J.S.A. 48:3-7(a). Moreover, since the proposed transaction does not raise any significant concerns for public safety and service reliability, a probing Board review is not necessary to ensure the continued provision of safe, adequate and proper service. N.J.S.A. 48:2-23.

To proceed by Notice, SJG must show that:

In addition to any other transactions that on their merits may be deemed to be in the ordinary course of business, [utility property] transactions that may be completed without petition [but on at least 30 days' written notice] to the Board are as follows:

1. The sale of personal property having a net book cost and sale price not in excess of \$ 100,000 and which is no longer used by or useful to the utility;
2. Except as provided in this section, the lease or permission to use or occupy real property or any interest therein having a net book cost not in excess of \$ 500,000 and a net rental not in excess of \$ 50,000 per annum; and
3. The sale or release of real property, or any interest therein, not used by or useful to the utility and having a net book cost and sale price not in excess of \$ 500,000. N.J.A.C. 14:1-5.6(d).

The proposed transaction meets the above criteria, since the Company has represented that the Property does not have a sale price in excess of \$100,000 and the Company will retain the portion of the Property where its meter station is located. Rate Counsel is concerned, however, that the proceeds of the sale of the Property are properly accounted for and credited to SJG ratepayers, through a careful prudence review in an appropriate proceeding.

The Notice states that SJG bought the Property in 1981 or 1984, for approximately \$30,000. SJG carries the Property on its books at a value of \$34,481, of which the portion it proposes to sell is \$18,168. (Notice of Sale ¶ 8; see RCR-6) SJTA will purchase the Property for its appraised value \$5,000. (Notice of Sale, ¶ 7; Contract; Appraisal, pp. 88-89 and 91)

SJG will retain the portion of the Property where its meter station is located. (Notice, ¶ 2; RCR-4) Other than that portion of the Property, SJG does not report any prospective use of the Property for its utility purposes. Accordingly, the Property is no longer used or useful for utility purposes and there is no prospective use of it for utility purposes.

The sale of a portion of the Property for its appraised value of \$5,000, along with the costs of this transaction, should not adversely affect the Company's finances or its ability to provide safe, adequate and proper service. Thus, the sale of the Property should not adversely affect the public interest. There is no relationship between SJG and SJTA, the proposed purchaser of the Property, other than that of transferor and transferee. (Notice of Sale ¶ 6)

We recommend that the Board review the revenue and other issues related to the sale of the Property in a SJG base rate case or in another appropriate proceeding.<sup>6</sup> Rate Counsel reserves all rights to review all related costs of and revenues from the purchase and sale of the Property in appropriate proceeding(s) for prudence and a determination that they are properly recoverable from and credited to SJG ratepayers.

### RECOMMENDATION

Rate Counsel does not object to SJG's Notice of Sale of the Property, but reserves the right to review the rate impact and prudence of the costs incurred for its purchase and sale in an SJG base rate case or in another appropriate proceeding. Accordingly, in any Order approving the Notice of Sale of the Property, Rate Counsel respectfully asks the Board to require SJG to meet the conditions set forth below:

1. SJG shall notify the Board and Rate Counsel if it anticipates any material changes in the Agreement of Sale for a portion of the Property.
2. Rate Counsel retains all rights to review all costs and proceeds related to the purchase and sale of the Property in a SJG base rate case or in another appropriate proceeding.
3. This Order shall not affect nor in any way limit the exercise of the authority of the Board or of this State, in any future Notice of Sale of utility property, Petition or in any proceeding with respect to rates, franchises, service,

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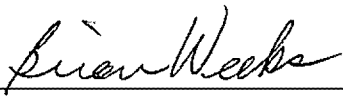
<sup>6</sup> We note that such review may be limited, since SJG's proposed accounting would be "below the line" for ratemaking purposes. (RCR-6)

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financing, accounting, capitalization, depreciation, or any other matter affecting the Petitioner.

Very truly yours,

STEFANIE A. BRAND  
DIRECTOR, DIVISION OF RATE COUNSEL

By:   
Brian Weeks, Esq.  
Deputy Rate Counsel

c. Service List (via e-mail and regular U.S. mail)

Notice of South Jersey Gas Company of  
the Sale of a Portion of Block 1333, Lots  
1 & 2 in the Township of Hamilton to  
South Jersey Transportation Authority  
Pursuant to N.J.A.C. 14:1-5-6(d) and (e)  
BPU Docket No. GM17030322

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