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BOARD OF PUBLIC UTILITIES
TRENTON, NJ

Via Hand Delivery and Electronic Mail

Honorable Aida Camacho-Welch, 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 New Jersey Natural Gas Company Request for Deferred Accounting Authority for Costs and Lost Revenue Related to Veterans' Organizations Pursuant to N.J.S.A. 48:2-21.41 and Associated Tariff Changes
BPU Docket No. GR19010016**

Dear Secretary Camacho-Welch:

Please accept this letter (original and 10 copies) setting forth the position of the Division of the Rate Counsel ("Rate Counsel") in the above-referenced matter. New Jersey Natural Gas Company ("NJNG" or "the Company") seeks review and approval of its proposed tariff in accord with the requirements of N.J.S.A. 48:2-21.41 (also referred to as P.L. 2018, c.77), which requires public utilities to charge residential rates for service provided at property where veterans' organizations operate, as long as the residential rate is lower than the commercial rate which was applied to the property prior to enactment of the statute.

The Governor and Legislature recognized the sacrifice and service of the members of the United States Armed Forces and tried to provide benefits to Veteran's Organizations by enacting this statute. However, the cost of any program that provides

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credits to one particular group of customers could ultimately be passed on to the remaining ratepayers of the affected utilities. Low and moderate income residential customers, other non-profits, and businesses that may be struggling economically will all have the additional burden of paying for the Veteran's Organizations' tariff. Utility ratepayers that are having difficulties paying their own bills will have to shoulder these additional burdens, although they may not directly serve them or their community. Therefore Rate Counsel believes that the economic impact of the Veteran's Organization credit should be kept at a minimum while still fulfilling the intent of the statute.

The statute requires electric and gas public utilities that provide services to facilities where Veteran's Organizations operate to charge the residential rate, if the residential rate is lower than the commercial rate that the veteran's groups are currently under. The Company's petition seeks approval for tariff changes that outline an application process and reflect the requirements of the statute. However, the Company is also requesting: 1) deferred accounting and full recovery of its direct administrative costs in its next base rate case; 2) recovery of the carrying charges of those expenses at its current weighted cost of capital, as approved in the company's last base rate case; 3) and, also recovery of any loss of distribution revenues as a result of providing the residential rate on Veterans Organizations' accounts. (Company Letter Petition, para.5-6, 8). Rate Counsel does not have any objection to the Company's proposed tariff changes at this time. Our concerns regarding cost recovery are detailed below.

Direct Deferred Costs

The Company, in its petition requests authority to defer “actual incurred costs associated with the implementation of the requirements for Veterans’ Organizations”, or what is referenced here as “direct” costs, to process applications and review annually the eligible customers’ bills to determine the appropriate credits that may be due the Veterans’ Organizations. (Letter Petition, para. 5). The Company has not specified an estimated dollar amount associated with its estimated direct costs. At present, it is unknown how many Veterans’ Organizations will participate in the program and the dollar value of any potential savings. Any analysis of the prudence of the cost of one utility’s program compared to another will be difficult to determine. Therefore, Rate Counsel questions the prudence of any proposed direct costs of the Company especially considering that the calculation will be conducted on an annual basis.

Rate Counsel asserts that the Board should not allow the Company, or any utility, to defer direct costs and create a regulatory liability for ratepayers which could be found to be imprudent. Past precedent set by the Board of Public Utilities is clear in that:

It is a long-standing Board policy that issues of expense which are related to base rate proceedings are not normally subject to review in other than a base rate proceeding. To allow such review outside of a base rate proceeding would result in almost continuous litigation, where one party or another would claim that rates should either increase or decrease depending on spot observations of particular expenses. The Board and courts have wisely found that to review specific cost items would be counterproductive, and that only in the confines of the general base rate case, when all of the Company’s expenses are reviewed, should such base rate adjustments be counted. I/M/O the Petition of Atlantic City Electric, BPU Docket No. ER97020105, Initial Decision, (12/23/1997) at p.13.

The Board should not allow deferral of costs associated with the new statute at this time. This review should be undertaken as part of the complete examination of the Company's expenses during its next base rate case as set forth in N.J.S.A. 48:2-21.25. Rate Counsel recommends that as part of the Company's next base rate case, the Board should review the direct costs, the number of participants charged the new rate, the amount of actual charges that were paid by Veteran's Organizations under the new tariff, and any other relevant data to determine the prudence of the Company's expenses. The Board can *only* determine whether the direct costs are prudent and whether the Company is entitled to recovery against the larger backdrop of the Company's full financial picture in its subsequent base rate case. A mandate from the Legislature to charge certain organizations under the residential rate does not exempt the Company from the legal standard of first showing prudence prior to recovery.

Carrying Charges

Rate Counsel opposes the Company's ability to recover the direct costs carrying charges at its present weighted cost of capital. At this time, the estimated costs are speculative and determining that the Company is entitled to recovery of carrying charges would be inappropriate given that the direct costs are still subject to a prudence review.

Distribution "Lost" Revenues

Rate Counsel is opposed to the Company's request for recovery of distribution "lost" revenues associated with complying with the statute since it is not certain at this time whether any of the utilities affected by the statute will in fact lose revenues.

The statute states that the utility will provide services at the residential rate without mention of the utility's ability to recovery any assumed difference in revenue. See N.J.S.A. 48:2-21. First, since this is a new tariff, the utility cannot be certain how many participants will apply and qualify. Second, Rate Counsel characterizes the revenue difference as "assumed" since it is impossible to know if Veteran's Organizations will use more or less energy as a result of approval for the veteran's tariff. Those changes in behavior associated with energy use would make any mathematical calculation of the difference between residential and commercial bills inaccurate since the customers would now have the knowledge that they are in a new rate class. Therefore, just comparing the bills using the residential and commercial tariff is not enough information to capture a potential loss of revenue.

Additionally, the legislation does not contemplate lost revenue to the utilities. Therefore, although the utilities should not be permitted to defer direct costs and any perceived difference in revenue associated with the Veteran's Organization tariff, the Board can review any expenses and potential losses as part of the Company's next base rate case.

Conclusion

Rate Counsel maintains that direct costs associated with complying with the statute should not be incurred as a regulatory liability. Additionally, we are opposed to permitting the Company to recover any carrying costs associated with the direct costs since a prudency review is necessary. If direct costs fall into the test year of the Company's next base rate case, we reserve the right to perform a prudency review of

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those direct costs in light of the number of participants in the Veteran's Organizations' tariff and other data provided in the Company's next base rate case.

Finally, Rate Counsel is opposed to allowing the Company to defer any "lost" distribution revenue since customer behavior regarding energy use can be influenced as a result of approval for the Veteran's Organization tariff therefore making any perceived difference an unmeasurable variable, and the language of the statute does not include a mechanism for utility recovery of revenues.

Respectfully submitted,

STEFANIE A. BRAND
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Gas Company's Request for Deferred
Accounting Authority for Costs and
Lost Revenue to Veterans'
Organizations Pursuant to N.J.S.A.
48:2-21.41 and Associated Tariff
Changes
BPU Docket No. GR19010016

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