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CASE MANAGEMENT

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BOARD OF PUBLIC UTILITIES  
TRENTON, NJ

17 Hill Road  
Allentown, New Jersey 08501

October 24, 2019

The Honorable Jacob S. Gertsman  
Administrative Law Judge  
Office of Administrative Law  
P.O. Box 49  
Trenton, New Jersey 08625-0049

The 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

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OCT 25 2019  
BOARD OF PUBLIC UTILITIES  
TRENTON, NJ

OAL Docket No. PUC 06769-19, and BPU Docket Nos. GR18101096 and GR19030420.

Dear Judge Gertsman,

I am writing to you as an individual citizen with insights of my own, based on ten years of professional experience as communications director for New Jersey Natural Gas (NJNG) and its parent corporation. My service ended immediately after I shared pertinent information with the local governments adversely affected by NJNG's misrepresentations and self-dealing in seeking approvals for the Southern Reliability Link (SRL).

I am now sharing this same information with you, since it has direct bearing on the decision before you. In all cases, I have outlined the publicly available sources to verify this information—or my own knowledge as a former employee-- that demonstrate why it would be improper for ratepayers to be forced to pay for the SRL.

**SRL was not conceived as a ratepayer necessity.**

You are being asked to authorize cost recovery for the construction of the SRL without any independent evidence that it is necessary for ratepayers. According to its own discovery responses in seeking BPU approval for the SRL, NJNG admitted there has been zero analysis of the project's impacts on reliability, even though this is its sole justification for the project (RCR-POL-5).

NJNG also admitted: "The company has not prepared a specific cost benefit analyses related to the Southern Reliability Link." (RCR-ENG-18)

NJNG further admitted that the SRL's "volume of gas was not selected based on existing firm customer demand." (RCR-ENG-19)

Additionally, according to Rate Counsel expert Edward A. McGee's testimony in the SRL approval proceeding: "I'm not sure how the company's regulators can be expected to approve this project and authorize the construction and operation of the SRL pipeline without having a more detailed, up-to-date, and preferably independent estimate of its cost."

In addition, McGee has also found that the SRL was oversized even to meet NJNG's own stated goal of the project, and therefore, the difference of the total project cost should be ineligible for cost recovery.

Case Mgmt  
H. Weisband, Esq.  
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This is what happens when petitions are not made on the basis of public need or convenience, but rather, on the basis of what additional infrastructure it would be nice to have. What I mean by this is according to the June 26, 2014 audit of affiliate transactions conducted for the Board of Public Utilities by North Star, the origin of the Southern Reliability Link was never public need, nor public convenience, nor Sandy damages. Rather, the SRL was conceived as part of a “Blue Sky” exercise of what infrastructure management would like to have if they “had known 20 years ago what they know today.”

(<http://www.nj.gov/bpu/pdf/auditpdfs/NorthStar%20NJNG%20Audit%20Final%20Report%206-26-14%20double%20sided.pdf>, Audit DR 305).

Respectfully, you should not compel the public or ratepayers to suffer considerable adverse impacts or to pay for something that was initiated from a hypothetical, brainstorming, sky-is-the-limit exercise, rather than from actual, demonstrable, independently verified need.

These are stunning admissions by NJNG—that no confirmation of customer need has been undertaken, that the claim of reliability cannot be verified, that the benefits and costs cannot be evaluated.

**SRL’s real purpose is corporate growth, which is unsuitable for cost recovery from ratepayers.**

In its petition to the BPU for approval of the project, NJNG submitted the following question and answer as part of its sworn testimony:

"Q. Is the Project being constructed to currently serve new or additional load?

A. No. Currently, the planning and design of this Project is exclusively a reliability project, providing an alternate source of natural gas for our customers. This Project is not designed to service any new or additional load."

<http://www.njng.com/regulatory/pdf/NJNG-SRL-Petition-N.J.S.A.-40.55D-19.4-2-2015.pdf>

(See page 9 of Appendix A, which is page 33 of the linked PDF)

Yet on August 7, 2013, NJNG’s parent holding company, New Jersey Resources (NJR), described the Southern Reliability Link to investors in a presentation it filed with the Securities and Exchange Commission as an “additional high pressure pipeline to support growth in Ocean County.”

<http://www.sec.gov/Archives/edgar/data/356309/000119312513322988/d581037dex992.htm>

On October 23, 2013, NJR said the SRL “supports growth in Ocean County.”

<http://www.sec.gov/Archives/edgar/data/356309/000119312513407405/d615960dex991.htm>

On that same date, now-former NJR Chairman and CEO Larry Downes told investors that the SRL will “support growth in Ocean County, which is where we expect the majority of our customer growth going forward.”

<http://seekingalpha.com/article/1766002-new-jersey-resources-ceo-hosts-nyc-analyst-meeting-transcript?part=single>

On November 25, 2013, the company filed with the SEC another presentation in which it said it was “adding high pressure natural gas pipeline to support growth in Ocean County.”

[http://files.shareholder.com/downloads/NJR/0x0x709037/72b09721-859d-4ac8-86e0-1578ac6919c1/NJR\\_4Q\\_FY\\_2013\\_final.pdf](http://files.shareholder.com/downloads/NJR/0x0x709037/72b09721-859d-4ac8-86e0-1578ac6919c1/NJR_4Q_FY_2013_final.pdf)

And on that same date, now-former Chairman and CEO Larry Downes told investors that the Southern Reliability Link “will provide opportunities for infrastructure growth.”

<http://seekingalpha.com/article/2199013-new-jersey-resources-njr-laurence-downes-on-q2-2014-results-earnings-call-transcript>

NJNG has cynically sworn the opposite of what it has told investors, knowing full well that its future growth strategy is not a matter of public convenience or cost recovery, and it is not an eligible cost to be recovered from ratepayers.

**To mask the real purpose of the SRL, NJNG concocted a military purpose.**

No one should be under any illusion about the pretense of a public military purpose for the Southern Reliability Link, which afforded NJNG's project application far less regulatory compliance and scrutiny than it would have received without an actual military purpose.

These citations also come directly from the attached emails between NJNG and Joint Base officials, which were made public by the Joint Base in response to a FOIA request. The emails are available here: [https://www.foodandwaterwatch.org/sites/default/files/njng\\_pinelands\\_commission\\_10-8-15.pdf](https://www.foodandwaterwatch.org/sites/default/files/njng_pinelands_commission_10-8-15.pdf)

On May 12, 2014, a NJNG project official wrote to Joint Base officials that their "best option" for the pipeline was a "southern route" that did not enter military property. So, since the "best option" for the SRL did not enter military property, it can be reasonably concluded that the best option did not serve an actual military purpose.

The NJNG official went on to explain that this route involves "a section of Forest Preservation Area that would make the approval process more cumbersome." Helpfully, the official says "we met with the Pinelands Commission last week for an initial review of our pipeline proposal," and "they suggested that we approach you to see if we could reroute the line through your base." "They believe that this new route, along with a letter from the base that the presence of the pipeline would be a positive attribute to future base activities could streamline their process."

So, the mere presence of the SRL on the Joint Base—irrespective of any military purpose—and without pressure-lowering equipment to make it usable by the military—would be a "positive attribute." Not a military purpose, but a "positive attribute." Not in the present tense, but for unspecified "future base activities." And most significant, not for any actual military purpose, but "to streamline" the Pinelands approval process.

To confirm this sequence, the company official wrote again on June 9, 2014, "a possible change in route was suggested in a meeting with the Pinelands Commission." "After our meeting last week, we decided to proceed with the alternate route."

**NJNG altered emails to conceal conspiring to concoct a military purpose.**

According to a October 14, 2014 email, a Joint Base official wrote to a NJNG official: "I think it is a stupid question, but I'd like to get your input, as if it is answered thoughtfully (which I can't do), it will make the conversation die off. Do you have any standards you can site, or other info that talks about mitigating worst case scenarios?"

The email chain suggests that the NJNG official and Joint Base reviewer worked jointly to cover up the reviewer's derision and lack of objectivity. On October 28, 2014, the Joint Base reviewer wrote to the NJNG representative: "thanks for chopping those emails to cut out my references to stupid questions, et. al. I think!" On the same day, the NJNG representative responded: "I tried to be sneaky but you caught me. I need to do better next time."

This troubling paper trail raises serious, substantive doubts about the objectivity of the Joint Base's review and approval of NJNG's application to install its Southern Reliability Link pipeline on base property. In addition, they show that New Jersey Natural Gas was not truthful in its application in at least one instance, and colluded to cover-up a reviewer's indiscretion and lack of objectivity in another.

**NJNG sought to evade critical regulatory compliance by rerouting the SRL onto the base.**

After six months of discussion with the base, the company was no closer to being able to articulate an actual military purpose for the pipeline, because on December 1, 2014, the New Jersey Natural Gas official wrote to Joint Base officials: "I am putting together wording for section 9 of the Pinelands permit. It involves the base gas use issues. It requires a description of why our project conforms to the Pinelands regulations for utility use. There seem to be two ways to address the issue. The first is to identify a specific set of buildings that will have gas brought to them. Any luck on identifying additional buildings that need to be serviced? Having a specific plan would be better than vague statements."

In the absence of a real purpose, the NJNG official suggested to the military official that they agree on a purely hypothetical military purpose for their Pinelands application:

“The second way is to identify a future site for a possible station to reinforce the existing system as well as start a new system west of 539. I could install the necessary valves to accomplish our goal and identify it for future installation under a separate application.”

The company official went on to make it absolutely clear to the military official that agreeing on a story was critically important to the Pinelands application: “I believe one of the above items must be identified and included in our description of the base. This issue needs to get settled so the application can get submitted.”

So by the company’s own admission, it considered a non-military route to be its best option. It only switched to the military route after the Pinelands Commission staff told them it would streamline their process. NJNG officials struggled as they filled out the Pinelands Commission application to come up with a legitimate military purpose for the pipeline, other than vague statements. This was not a mere talking point—it was essential to include in an application that claimed a military purpose and consequentially lesser regulatory compliance—which could not be credibly submitted without it.

There is not a single military tie-in proposed for the Joint Base—only vague claims that NJNG could tie-in at some future point. NJNG has failed to meet its duty of candor in either applying for a Joint Base easement or in its BPU petitions.

**NJNG/NJR’s former chief counsel advised its board of directors this strategy was not legally sound.**

Former NJNG and NJR chief counsel Mariellen Dugan was skeptical of this approach. She counseled the company’s board of directors in 2014 that it would be an improper way to meet the requirements of the Pinelands Protection Act.

**The SRL infrastructure enables NJNG to engage in self-dealing at the expense of its captive ratepayers.**

What the SRL does give NJNG is a connection to the proposed new supply of PennEast gas that it has obligated its captive ratepayers to purchase from its own unregulated corporate affiliate investor in PennEast. A third project would link the two—Transco’s Garden State Expansion Project (GSE)—of which NJNG is the sole subscriber and the lone impetus and justification for the project. It represents an additional \$120 million in costs to be paid by NJNG’s ratepayers.

Not coincidentally, the SRL and the GSE are both designed to carry the exact volume of gas that NJNG has obligated its ratepayers to purchase from its own corporate affiliate investor in PennEast.

Without this seamless connection linking the three projects (from PennEast’s Mercer County terminus into GSE, and then from GSE into SRL’s Chesterfield terminus), PennEast has no other way to deliver this contracted gas into NJNG’s system. This is why all of the projects—the PennEast contracted gas, the GSE, and the SRL, have the same designed capacity. These identical volumes are all outlined here:

[http://blogs2.law.columbia.edu/climate-change-litigation/wp-content/uploads/sites/16/case-documents/2018/20180904\\_docket-18-1233-petition-for-review.pdf](http://blogs2.law.columbia.edu/climate-change-litigation/wp-content/uploads/sites/16/case-documents/2018/20180904_docket-18-1233-petition-for-review.pdf).

This self-dealing by NJNG and its corporate parent and its unregulated affiliates is both audacious and a travesty. Your decision is all that stands in the way of ratepayers being forced to pay for the infrastructure that will deliver a supply of gas they will be required to captively purchase.

**The SRL is not in use or useful.**

As you know, there are many other serious deficiencies involved with NJNG’s cost recovery attempts for SRL. Primary among these is that the project is neither in use nor is it useful. This is the most basic principal of regulated cost recovery. Given that the project has taken more than six years to build, and is nowhere near fully constructed, ratepayers can have no assurance that this project will come into useful service. Any claim to the contrary is purely speculative. NJNG has already been told in at least one prior rate proceeding that it is not appropriate to seek cost recovery until and unless the project is in use. The answer must remain the same.

**The SRL addresses a purpose that has never once been needed in 67 years of NJNG's existence.**

Despite previous attempts to link this project to Superstorm Sandy, NJNG has never once sustained an interruption of its interstate pipeline supply that prevented its customers from receiving natural gas service. While NJNG may argue that this does not preclude the possibility of a future curtailment, a record of nearly seven uninterrupted decades certainly speaks to the extreme low level of risk to ratepayers, and the mismatch between this low level of risk and the high, mismatched cost attached to addressing it. You don't see other LDCs around the nation building additional interstate pipeline connections. It's not "a thing." NJNG is undertaking this project for reasons of profit, and ratepayers should not be on the hook for those—its investors should pay.

Even within NJNG's own premise of creating a redundant interstate pipeline supply, there is no end to the ways NJNG's investors will continue to profit from this project, even after ratepayers pay for the construction of a pipeline to deliver their unregulated affiliate gas supply for purchase by those same ratepayers. For example, during the vast, overwhelming period of time when a second interconnection is not needed for emergency purposes, it is the regular practice of NJNG to sell available excess capacity to its unregulated, corporate affiliate.

I am eager to help set the record straight on this complex matter. Please do not hesitate to let me know if you have any questions about any of what I have outlined. Should you need them, my address is at the top of this letter, and my email address is [rasmussenmicah@gmail.com](mailto:rasmussenmicah@gmail.com). Thank you very much.

Sincerely,



Micah Rasmussen