



State of New Jersey  
DIVISION OF RATE COUNSEL  
140 EAST FRONT STREET, 4<sup>TH</sup> FL  
P.O. Box 003  
TRENTON, NEW JERSEY 08625

PHIL MURPHY  
*Governor*

SHEILA OLIVER  
*Lt. Governor*

STEFANIE A. BRAND  
*Director*

October 2, 2020

**Via Electronic Mail**

Hon. Aida Camacho-Welch, Secretary  
New Jersey Board of Public Utilities  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
P.O. Box 350  
Trenton, NJ 08625-0350

**Re: In the Matter of the Petition of New Jersey Natural Gas Company for  
Approval of a Municipal Franchise and Consent in the Borough of  
Union Beach, Monmouth County  
BPU Docket No.: GE20030259**

Dear Secretary Camacho-Welch:

Please accept for filing the comments submitted on behalf of the New Jersey Division of Rate Counsel ("Rate Counsel") concerning the above-referenced Verified Petition of New Jersey Natural Gas Company ("NJNG" or "Company") for approval of a municipal franchise and consent in the Borough of Union Beach, Monmouth County. Copies of this comment letter are being provided to each person on the service list by electronic mail only. **Please acknowledge receipt of this comment letter.** Thank you.

### **Background**

The Company filed the above-referenced Petition on or about March 18, 2020, seeking approval, pursuant to N.J.S.A. 48:2-14, N.J.S.A. 48:3-15 and N.J.A.C. 14:1-5.5, of Borough of Union Beach Resolution No. 2019-54, granting the Company's franchise and the Borough's consent to provide natural gas utility service, and to construct and maintain pipes and related facilities in streets and other public areas, within the Borough. The Company answered Rate Counsel's discovery requests RCR-1 through RCR-7 on April 20. NJNG currently provides natural gas service to 2,265 customers within the Borough, of whom 2,187 are residential and 78 are commercial. Petition, ¶ 4; RCR-1. Over the next five years, the Company estimates growth within its service territory of approximately 9,800 new customer additions annually, RCR-2, and within the Borough of approximately 20 to 25 new customer additions annually, RCR-3; 11T:L17-22 (8/18/20). NJNG represents that it has the capacity necessary to ensure a continuation of its natural gas service and does not foresee any concerns regarding its ability to meet the existing and future demands of the Borough. RCR-4 and RCR-5; 12T:L1-8 (8/18/20).

The Company services its customers within the Borough through three customer service centers located in New Jersey, at 1415 Wyckoff Road, Wall Township; 775 Vassar Avenue, Lakewood; and 633 Lake Avenue, Asbury Park. They are open from 8 a.m. to 4:30 p.m. NJNG anticipates that these customer service centers will continue to service its customers in the Borough, with no changes in their locations, services or hours of operation. RCR-6; 12T:L15-25 (8/18/20). The Company does not plan any significant changes in its distribution system within the Borough at this time. RCR-7; 13T:L1-4 (8/18/20).

The Borough granted the Company franchise and consent and permission to provide natural gas utility service and to construct and maintain pipes and related facilities in streets and

other public areas within the Borough, for a period of fifty (50) years, by a Resolution adopted on March 27, 1969. See Petition, ¶ 5 and Ex. A. Pursuant to that 1969 Borough Resolution, the Company's right to use the streets within the Borough for the provision of service expired on March 27, 2019. Petition, ¶ 5 and Ex. A.

In Resolution No. 2019-54, adopted on February 21, 2019, the Borough set forth certain limits on its renewed franchise and consent to NJNG, including limiting both to a period of fifty (50) years from the date of the final adoption of the Resolution. Petition, ¶ 5 and Ex. A. On March 14, 2019, the Company accepted and agreed to the terms and conditions of the municipal franchise and consent in Resolution No. 2019-54, pursuant to N.J.S.A. 48:3-16. Petition, ¶ 5 and Ex. B.

At the hearing held by the hearing officer for the Board of Public Utilities on this Petition on August 18, 2020, NJNG witness Mr. Joseph Puglisi, Supervising Engineer for NJNG, testified that the Company has the capacity to meet the existing and future needs of customers located within the municipality; has no plans to change the locations, services or hours of operation of its customer service centers; and has no plans to change its gas distribution system within the Borough. 12T:L1-8, 12T:L15-25, 13T:L1-4 (8/18/20). No one has contacted Rate Counsel with any objection regarding this matter.

**Rate Counsel Position**

The Company represents that it has the capacity necessary to continue providing natural gas service to its customers located in the Borough. RCR-4 and RCR-5; 12T:L1-8 (8/18/20). For this and the other reasons set forth above, and the fact that the municipal franchise and consent in Resolution No. 2019-54 is limited to a term not exceeding the statutory maximum term of fifty years, as per N.J.S.A. 48:3-15, Rate Counsel does not object to approval of NJNG's Petition. Rate Counsel recommends that the Board's Order specifically provide that its approval does not include authorization to include in rate base any specific assets that may be constructed as a result of approval of this Petition. The determination of any assets to be included in rate base, and any ratemaking impacts as a result of the municipal franchise and consent, should be addressed in a future base rate case or other appropriate proceeding.

Accordingly, Rate Counsel recommends that any Board Order approving the Company's Petition contain the following language:

1. Since Borough of Union Beach Resolution No. 2019-54 complies with N.J.S.A. 48:3-15, the municipal franchise and consent for the use of streets and other public places is limited to a term not exceeding fifty years.
2. This Order shall not be construed as directly or indirectly fixing for any purposes whatsoever any value of any tangible or intangible assets now owned or hereafter to be owned by the Petitioner.
3. This Order shall not affect, nor in any way limit, the exercise of the authority of this Board or of this State, in any future Petition or in any proceedings with respect to rates, franchises, service, financing, accounting, capitalization, depreciation, or in any other matter affecting the Petitioner.

These provisions will satisfy the concerns of Rate Counsel that the Company is in compliance with the proper statutory framework, that Board approval is limited to the municipal franchise and consent, and that there is no authorization to include any specific assets or amounts in rate

Honorable Aida Camacho-Welch, Secretary  
October 2, 2020  
Page 5

base, nor authorization for any other ratemaking treatment. If the Board adopts these conditions, Rate Counsel is not opposed to approval of the above-referenced Petition.

Respectfully submitted,

STEFANIE A. BRAND  
Director, Division of Rate Counsel

By: /s/ *Brian Weeks*  
Brian Weeks, Esq.  
Deputy Rate Counsel

c: Service List (by electronic mail)  
Andrew K. Dembia, Esq.

In the Matter of the Resolution of the  
Borough of Union Beach, Monmouth  
County, New Jersey, Authorizing Renewal  
of the Franchise Agreement with New  
Jersey Natural Gas Company: Resolution  
No. 2019-54  
BPU Docket No. GE20030259

Aida Camacho-Welch, Secretary  
NJ Board of Public Utilities  
44 South Clinton Avenue, 9th Floor  
P.O. Box 350  
Trenton, NJ 08625-0350

Stefanie A. Brand, Director  
Division of Rate Counsel  
140 East Front Street, 4th Floor  
P.O. Box 003  
Trenton, NJ 08625

Brian O. Lipman, Esq.  
Litigation Manager  
Division of Rate Counsel  
140 East Front Street, 4th Floor  
P.O. Box 003  
Trenton, NJ 08625

Felicia Thomas-Friel, Esq.  
Division of Rate Counsel  
140 East Front Street, 4<sup>th</sup> Floor  
P.O. Box 003  
Trenton, NJ 08625

Brian Weeks, Esq.  
Division of Rate Counsel  
140 East Front Street, 4th Floor  
P.O. Box 003  
Trenton, NJ 08625

Shelly Massey, Paralegal  
Division of Rate Counsel  
140 East Front Street, 4th Floor  
P.O. Box 003  
Trenton, NJ 08625

David Brown  
NJ Board of Public Utilities  
44 South Clinton Avenue, 9th Floor  
P.O. Box 350  
Trenton, NJ 08625-0350

Dean Taklif  
NJ Board of Public Utilities  
44 South Clinton Avenue, 9th Floor  
P.O. Box 350  
Trenton, NJ 08625-0350

Sri Medicherla  
NJ Board of Public Utilities  
44 South Clinton Avenue, 9th Floor  
P.O. Box 350  
Trenton, NJ 08625-0350

Stacy Peterson, Director  
NJ Board of Public Utilities  
44 South Clinton Avenue, 9th Floor  
P.O. Box 350  
Trenton, NJ 08625-0350

Heather Weisband  
NJ Board of Public Utilities  
44 South Clinton Avenue, 9th Floor  
P.O. Box 350  
Trenton, NJ 08625-0350

Pamela Owen, ASC  
Department of Law & Public Safety  
Division of Law  
R.J. Hughes Justice Complex  
25 Market Street, P.O. Box 112  
Trenton, NJ 08625-0350

Mark G. Kahrer  
New Jersey Natural Gas Company  
1415 Wyckoff Road  
P.O. Box 1464  
Wall, NJ 07719

Andrew K. Dembia, Esq.  
New Jersey Natural Gas Company  
1415 Wyckoff Road  
P.O. Box 1464  
Wall, NJ 07719

Anne Marie Friscia  
Borough Clerk  
Borough of Union Beach  
650 Poole Avenue  
Union Beach, NJ 07735

Marion Masnick, Clerk of the Board  
Monmouth County Board of  
Freeholders  
Monmouth County Hall of Records  
One East Main Street  
P.O. Box 1255  
Freehold, NJ 07728

Christine Giordano Hanlon  
County Clerk  
Monmouth County  
Market Yard  
33 Mechanic Street  
Freehold, NJ 07228