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Via Electronic Mail

Carmen D. Diaz, Acting Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 1st floor
P.O. Box 350
Trenton, New Jersey 08625-0350
Board.Secretary@bpu.nj.gov

**Re: I/M/O the New Jersey Board of Public Utilities' Response to the
COVID-19 Pandemic
BPU Docket No. AO20060471**

Dear Acting Secretary Diaz:

Please accept these reply comments filed on behalf of South Jersey Gas Company and Elizabethtown Gas Company (collectively "the Companies") in response to The New Jersey Division of Rate Counsel's ("Rate Counsel") comments on the COVID-19 Related Regulatory Asset and Cost Recovery questions presented in the July 20, 2022, Order of the New Jersey Board of Public Utilities ("Board").¹ The Companies incorporate herein by reference the September 19, 2022, comments filed by the Companies as well as the September 16, 2022, comments filed by the New Jersey Utilities Association, in this matter.

On July 2, 2020, the Board issued an Order authorizing each of the State's utilities to create a COVID-19 regulatory asset by deferring on their books and records the prudently incurred incremental costs related to COVID-19 beginning on March 9, 2020, through September 30, 2021.

¹ In re The New Jersey Board of Public Utilities' Response to the Covid-19 Pandemic, BPU Docket No. AO20060471, Order dated July 20, 2022.

“July 2020 Order”)² The Board acknowledged that the regulated utilities’ response to the COVID-19 pandemic, including but not limited to, complying with the Governor’s COVID-19-related Executive Orders, would cause the State’s regulated utilities to incur significant and extraordinary COVID-19-related expenditures that could have a negative financial impact on the State’s utilities. The July 2020 Order was intended to minimize the financial impact of those significant and extraordinary expenses.

The Board further found that deferral of such costs was appropriate because the “catastrophic health emergency” is outside the control of the utilities and is a non-recurring event.³ Moreover, the July 2020 Order provides that any potential rate recovery, including any prudence determinations and the appropriate period of recovery for any approved amount of the regulatory asset and any associated savings, would be addressed in a COVID-19 regulatory asset filing and that all costs remain subject to audit by the Board.⁴

As such, the Board’s July 2020 Order established a specific regulatory construct, which includes robust requirements and reporting directives, under which the Companies established a regulatory asset by deferring on their books and records the prudently incurred incremental costs related to COVID-19, subject to review and approval by the Board in a subsequent proceeding. Since its inception, the Companies have relied on and complied with the rules established by the July 2020 Order.

Notwithstanding the Board’s very clear intent, Rate Counsel suggests that certain COVID-related costs have become “standard business expenses” and that “Deferred COVID-19 expenses

² By Order dated September 14, 2021, the Board extended the regulatory asset period to December 31, 2022, and directed each utility to file a petition to recover its regulatory asset within 60 days of December 31, 2022. (“Extended Regulatory Asset Period”)

³ Id.

⁴ Id.

that are not offset by federal and State funds, insurance recoveries, COVID-related cost savings, customer paydowns of arrearages or any other sources should be recovered in rates and amortized.”⁵

Respectfully, if adopted, Rate Counsel’s suggestions would undermine the July 2020 Order, which expressly authorized the Companies to defer Covid-19 related incremental costs and recover those costs through the filing of petitions within 60 days of the Extended Regulatory Asset Period. To “rewrite” the provisions of the Order now, more than two years after its effective date, would produce an arbitrary and capricious confiscatory result without reasonable grounds or adequate consideration, especially in light of the “catastrophic health emergency” and its ongoing impact on the financial health and integrity of the Companies and all New Jersey utilities.⁶

In addition, the Companies maintain that it would be inappropriate to implement a sharing mechanism between shareholders and ratepayers as suggested by Rate Counsel. The Companies have contributed substantially to customers and to the state in response to the pandemic, thereby mitigating the overall amount of arrearages that could have been incurred and ultimately deferred. By way of example, to support COVID-19 response efforts, South Jersey Industries donated \$50,000 to the New Jersey Pandemic Relief Fund, while Elizabethtown Gas Company donated \$25,000 to the Trinitas Health Foundation, and South Jersey Gas Company donated \$25,000 to the AtlantiCare Foundation. In addition, Elizabethtown Gas Company supported FeedNJ, a campaign aimed at tackling the increased food insecurity caused by the pandemic, by purchasing meals from local eateries and donating them to neighborhood soup kitchens. South Jersey Gas Company also donated

⁵ See, Rate Counsel’s September 19, 2022, Comments, In re The New Jersey Board of Public Utilities’ Response to the Covid-19 Pandemic, BPU Docket No. AO20060471. p. 1-2.

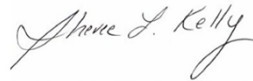
⁶ Id.

to the Hispanic Association of Atlantic County to provide meals to hundreds of Atlantic City families affected by the pandemic.

Moreover, the proposition of a shareholder contribution detracts from the important goals of reducing arrearages and encouraging customers' participation in deferred payment arrangement and assistance programs.

The Companies appreciate the opportunity to submit these reply comments and look forward to working collaboratively with the Board on this important issue.

Respectfully submitted,

A handwritten signature in cursive script that reads "Sheree L. Kelly".

Sheree L. Kelly
Regulatory Affairs Counsel

SLK/bm