



Agenda Date: 4/23/14

Agenda Item: 2M

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

ENERGY

IN THE MATTER OF THE PETITION OF SOUTH )  
JERSEY GAS COMPANY FOR APPROVAL OF A )  
MUNICIPAL CONSENT IN THE CITY OF MILLVILLE, )  
CUMBERLAND COUNTY, NEW JERSEY )

DECISION AND ORDER

DOCKET NO. GE13111083

**Parties of Record:**

**Stacy A. Mitchell, Esq.**, on behalf of Petitioner, South Jersey Gas Company  
**Stefanie A. Brand, Esq.**, Director, Division of Rate Counsel

**BY THE BOARD:**

South Jersey Gas Company ("SJG" or "Company"), a regulated utility subject to the jurisdiction of the Board of Public Utilities ("Board"), is a corporation duly organized under the laws of the State of New Jersey engaged in the business of transmission and distribution of natural gas to approximately 360,000 customers within its service territory.

SJG currently provides natural gas service within the City of Millville ("City") to approximately 7,883 residential, 738 commercial and 48 industrial customers. The portion of the Company's consent from the City applicable to the use of the City's streets expired on May 20, 2002.<sup>1</sup> On October 13, 2013, the City renewed its consent by adopting Ordinance No. 29-2013 which gave SJG exclusive consent and permission to lay and construct its facilities within the public rights-of-way for the purpose of conducting and distributing natural gas within the City for a term of 50 years. By letter dated October 23, 2013, the Company accepted and agreed to the terms of the consent. Copies of the renewal Ordinances and the letter of acceptance are attached to this Order as Exhibits "A," "B," and "C" respectively.

On November 13, 2013, pursuant to N.J.S.A. 48:2-14 and N.J.A.C. 14:1-5.5, SJG filed a petition requesting that this Board give its approval to the consent adopted by the City. As required by law, and after notice, a hearing in this matter was held on June 12, 2013, before Edward D. Beslow, Esq., the Board's duly appointed Hearing Examiner. Appearances were

<sup>1</sup> The Board notes that municipal consents often expire some time prior to their renewal even when the Company initiates the renewal process prior to the expiration of the previous term. This is primarily the result of the time necessary for a municipality to fulfill the legal requirements that attend to all formal actions it must take along with the additional time for hearing and Board approval as required by law. The Board has been assured that pending review of its petition, SJG has continued to provide service to its customers within the City in an uninterrupted manner.

made on behalf of the Company, the Division of Rate Counsel ("Rate Counsel") and Board Staff. No other party participated in the hearing or filed any written submission with the Board related to this proceeding.

At hearing, the Company relied on its petition and exhibits filed with the Board and presented the testimony of Charles F. Dippo, its Senior Vice-President of Engineering Services and System Integrity. Mr. Dippo testified that the Company has provided continuous service to the City, and retains the financial resources, facility base, operational expertise and capacity to maintain safe, adequate and proper service to the customers in the City which customer base he believes, based on sales and marketing projections, will increase by approximately 125 customers over the next ten-year period.

Rate Counsel does not object to the approval of the Company's request as the consents granted by the City are limited to 50 years. Rate Counsel also recommends that the Board Order provide that its approval does not include authorization to include in rate base any specific assets that may be constructed as a result of the approval of the petition. Rate Counsel further suggests that the Board's Order also contain language indicating that: (1) the consent to use the streets and other public places is limited to a term not exceeding fifty (50) years; (2) the Order shall not directly or indirectly fix the value of any tangible or intangible assets now owned or hereafter to be owned by SJG; and (3) "the Order shall not limit the exercise of the authority of the Board or of the State on any future matter with respect to rates, franchises, service, financing, accounting, capitalization depreciation, or in any other matter affecting the Petitioner."

After a full review of the entire record, the Board **HEREBY FINDS** that the municipal consent, which is the subject of this matter, is necessary and proper for the public convenience and properly conserves the public interest, and that SJG has the ability to install, operate and maintain the appropriate infrastructure to allow it to provide safe, adequate and proper service. The Board **FURTHER FINDS** that the Company has the necessary experience, financial capability, capacity and facilities in the City to continue to provide adequate and appropriate service to its existing customers. The Board reads Sections 1 and 2 of City Ordinance No. 29-2013 as granting to the Company "exclusive consent and permission" to use the streets of the City for the purpose of furnishing gas service to the entire City limited to a period of fifty (50) years from the date of adoption of the Ordinance (October 15, 2013). Accordingly, the Board, pursuant to N.J.S.A. 48:2-14, **HEREBY APPROVES** the consent granted to SJG by the City for the use of the streets in the City as sought in the Company's petition.

The approvals granted hereinabove shall be subject to the following provisions:

1. This Order shall not be construed as directly or indirectly fixing for any purposes whatsoever the value of any tangible or intangible assets now owned or hereafter to be owned by SJG.
2. The rates for service to SJG's customers in the City shall continue to be those set in the Company's current tariff approved by and on file with the Board. These rates shall remain in effect until otherwise approved by the Board.
3. This Order shall not effect nor in any way limit the exercise of the authority of this Board of the State in any future petition or in any proceedings with respect to rates, franchises, services, financing, accounting, capitalization, depreciation, or in any other matters affecting SJG.

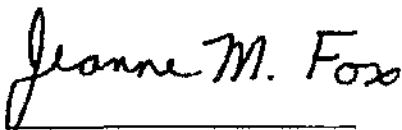
4. In an appropriate subsequent proceeding, SJG shall have the burden of demonstrating whether, and to what extent, any of the costs associated with this petition shall be allocated to ratepayers.
5. Approval of this municipal consent does not constitute Board approval of any costs or expenses associated with this petition. Any determination as to the appropriateness or reasonableness of the costs and expenses related to the franchise, including but not limited to, cost of construction, contributions in aid of construction, depreciation on contributed plant, the cost of connection, or any related capital improvements, and the allocation of such costs and expenses, shall be made in an appropriate subsequent proceeding.
6. The Company has agreed to a 50-year limitation on the consent for the use of the streets as set out in N.J.S.A. 48:3-15 and as granted by the City. The term of the consent as to the right to provide service is not limited by this Order and shall remain effective as granted by the City.

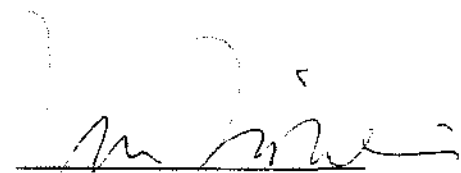
This Order shall be effective as of May 2, 2014.

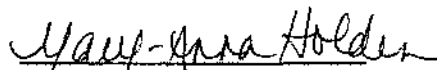
DATED: 4/24/14

BOARD OF PUBLIC UTILITIES  
BY:

  
DIANNE SOLOMON  
PRESIDENT

  
JEANNE M. FOX  
COMMISSIONER

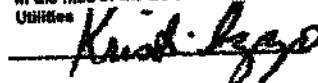
  
JOSEPH L. FIORDALISO  
COMMISSIONER

  
MARY-ANNA HOLDEN  
COMMISSIONER

ATTEST:

  
KRISTI IZZO  
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities



IN THE MATTER OF THE PETITION OF SOUTH JERSEY GAS COMPANY FOR  
APPROVAL OF A MUNICIPAL CONSENT IN THE CITY OF MILLVILLE,  
CUMBERLAND COUNTY, NEW JERSEY - DOCKET NO. GE13111083

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Brian Lipman, Litigation Manager  
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# **EXHIBIT A**



ORDINANCE NO. 623

An Ordinance Giving and Granting Consent and Permission to the South Jersey Gas Company, a Corporation of the State of New Jersey, to Furnish Gas for Light, Heat and Power in the City of Millville, County of Cumberland and State of New Jersey.

THE BOARD OF COMMISSIONERS OF THE CITY OF MILLVILLE DO ORDAIN:

1. That consent and permission to furnish gas for light, heat and power in the City of Millville, County of Cumberland and State of New Jersey, is hereby given and granted to South Jersey Gas Company, a corporation of the State of New Jersey, subject to approval of such consent and permission by the Board of Public Utility Commissioners of the State of New Jersey.

2. That said South Jersey Gas Company shall lay and construct its pipes and mains within the City of Millville in the manner required by N.J.S. 48:9-21, and subject to reasonable regulations imposed by ordinance or resolution with respect to the opening of streets and public places.

3. South Jersey Gas Company shall, within thirty (30) days after the passage of this Ordinance, file with the City Clerk a bond in the amount of One Thousand (\$1,000.00) Dollars conditioned for the restoration of any street or public place which may be opened by it in a manner satisfactory to the City Commission.

4. This Ordinance shall take effect immediately upon final passage and publication as required by law.

Adopted: May 20, 1952

/s/ Simon M. Cherivtch  
Mayor

/s/ J. B. Nixon

/s/ David Reid

/s/ William L. Ewan

/s/ E. Percy Smith  
Commissioners

# **EXHIBIT B**

ORDINANCE NO. 29-2013

AN ORDINANCE GRANTING RENEWED CONSENT AND PERMISSION TO SOUTH JERSEY GAS COMPANY TO USE THE PUBLIC STREETS TO FURNISH GAS FOR LIGHT, HEAT AND POWER IN THE CITY OF MILLVILLE

WHEREAS, South Jersey Gas Company, a corporation of the State of New Jersey, provides natural gas service to the City of Millville pursuant to the municipal consent first granted to South Jersey Gas Company in that certain Ordinance No. 623 passed on May 20, 1952; and

WHEREAS, South Jersey Gas Company now seeks, pursuant to N.J.S.A. 48:3-15, the consent of the City of Millville to renew Ordinance No. 623 applicable to the use of the streets in the City of Millville by adopting the following Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the City of Millville, County of Cumberland and State of New Jersey as follows:

1. That exclusive consent and permission is hereby renewed and granted to South Jersey Gas Company to lay and construct its pipes and mains and related appurtenances and facilities within the streets, alleys, squares and public places within the City of Millville in the manner prescribed by N.J.S.A. 48:9-21, and subject to reasonable regulations imposed by ordinance or resolution with respect to the opening of streets and public places, subject to approval of such consent and permission by the Board of Public Utilities.

2. This consent is granted for the entire geographical area of the City of Millville and extends to the boundaries of the City of Millville and shall remain in effect for a period of fifty (50) years from the date of final adoption of this Ordinance.

3. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by any Court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

4. This Ordinance shall take effect immediately upon posting, publication, final passage in the manner prescribed by law, and acceptance by South Jersey Gas Company.

ADOPTED: October 15, 2013

Mayor

Commissioners

Commissioners

ATTEST:

Susan G. Robostello, City Clerk



# **EXHIBIT C**



South Jersey Gas

*Where we put all of our energy\**

Gina Merritt-Epps, Esq.  
Office of General Counsel and Corporate Secretary  
General Counsel and Corporate Secretary

October 23, 2013

*(Via email at [Susan.Robostello@millvillenj.gov](mailto:Susan.Robostello@millvillenj.gov))*


Susan G. Robostello, RMC, City Clerk/Administrator  
City of Millville  
12 South High Street  
Millville, New Jersey 08332

Re: Acceptance of Ordinance No. 29-2013 Granting Municipal Consent to South Jersey Gas Company to Furnish Gas for Light, Heat and Power

Dear Ms. Robostello:

I am writing on behalf of South Jersey Gas Company ("SJG") to advise that we received a fully executed copy of Ordinance No. 29-2013 (copy attached) granting municipal consent for SJG to provide gas and lay its mains and pipes in the City of Millville. Pursuant to the requirements of N.J.S.A. 48:3-16, SJG hereby accepts Ordinance No. 29-2013, as passed.

Very truly yours,

  
Gina Merritt-Epps  
[gmerritt@sjindustries.com](mailto:gmerritt@sjindustries.com)

Enclosure

cc: (all via e-mail)  
John Stanziola, Director, Regulatory Affairs  
Sherri Vasu, Supervisor, Revenue Analyst Permits  
Abbey Greenberg, Public Affairs Specialist  
Ira G. Megdal, Esq.  
Stacy A. Mitchell, Esq.