



Agenda Date: 8/18/21
Agenda Item: 2E

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 1st Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

ENERGY

IN THE MATTER OF THE PETITION OF SOUTH)
JERSEY GAS COMPANY FOR APPROVAL OF)
A STANDARD GAS SERVICE AGREEMENT)
("FES") AND A STANDARD GAS SERVICE)
AGREEMENT (FES) ADDENDUM)

ORDER APPROVING REVISED
AGREEMENT AND ADDENDUM

DOCKET NO. GO21010047

Parties of Record:

Deborah M. Franco, Esq., South Jersey Gas Company
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel
Steven S. Goldenberg, Esq., Counsel to Calpine Energy Services, L.P.

BY THE BOARD:

On January 15, 2021, South Jersey Gas Company ("SJG" or "Company") filed a petition with the New Jersey Board of Public Utilities ("Board") seeking approval of a revised Standard Gas Service Agreement – Rate Schedule: Firm Electric Service ("FES") - and a Standard Gas Service Agreement (FES) Addendum (collectively, "Replacement Agreement and Addendum") between SJG and Calpine Energy Services, L.P. ("Calpine Energy Services" or "Calpine") ("January 2021 Petition").¹ Additionally, in the January 2021 Petition, SJG sought a Protective Order and Exemption from Public Disclosure of Confidential Information regarding the service volume amounts, billing determinants, and rates in the Replacement Agreement and Addendum as this information is necessary to maintain proprietary and trade secrets of the Company.

BACKGROUND

To qualify for Rate Schedule FES, a customer must have a Winter Daily Contract Demand of 1,000 Mcf per day or more, a Summer Daily Demand Contract of 2,000 Mcf per day or more, or both. Special Provision (j) of Rate Schedule FES provides that SJG, at its sole reasonable discretion, may offer a Winter and Summer D-1 Demand Charge and a C-3 Volumetric Charge on a negotiated basis. The D-1 charges, in combination with the C-3 charge, may not be lower than an amount sufficient to generate a reasonable return on capital investments made by the Company to provide

¹ Calpine Energy Services is an affiliate of Calpine Corporation; Calpine Energy Services is the successor in interest to Conectiv Energy Supply, Inc. ("Conectiv Energy") at the facilities subject to the current FES Agreement and Addendum.

service under Rate Schedule FES and recovery of marginal and embedded costs, including depreciation. The negotiated rates must be incorporated into a Standard Gas Service Agreement (FES) and submitted to the Board for approval.

Pursuant to Special Provision (j) of Rate Schedule FES, such negotiated rate shall also be based upon cost of service and value of service consideration, including and not limited to such factors as the following:

1. Proximity of customers to the Company's transmissions lines;
2. Whether the customer will utilize the Company's interstate pipeline capacity;
3. Whether the customer will provide its own gas supply;
4. Level of interruption elected by the customer pursuant to Special Provision (r); and
5. Other pertinent factors.

Calpine owns and operates electric generating facilities in Carl's Corner, Mickleton, Millville, and Vineland, New Jersey. By Order dated August 18, 2006, the Board approved a Standard Gas Service Agreement (FES), and a Standard Gas Service Agreement (FES) Addendum between SJG and Conectiv Energy ("2004 Agreement").² As stated in the 2004 Agreement, pursuant to Rate Schedule FES, SJG provides for the sale or transportation of natural gas to generate electricity. On February 13, 2009, the Company executed a Second Addendum whereby the 2004 Agreement had certain alterations/modifications. On June 1, 2010, the Company executed a Third Addendum to reflect certain changes in the delivery of natural gas and payments related to those changes. Lastly, on July 1, 2010, the Company executed a Fourth Addendum whereby a sale of ownership occurred.

January 2021 Petition

In 2020, Calpine Energy Services advised SJG that the rates under the 2004 Agreement were no longer reasonable because of changes in the service required by Calpine since execution of the 2004 Agreement. In particular, Calpine stated that demand for electric generation from its facilities diminished significantly with the closing of the oldest and least efficient facilities that were subject to the 2004 Agreement. Calpine also asserted that it had become increasingly less economic for it to continue operating the remaining facilities due to the cost of delivery services rendered being predicated on a fixed demand charge that was established when the facilities served a greater load. Calpine Energy Services argued that the decreased revenues from the facilities are not sufficient to support the fixed cost structure for delivery service under the 2004 Agreement.

Based upon Calpine Energy Services' assertions, SJG and Calpine negotiated revised Winter and Summer D-1 Demand Charges and C-3 Volumetric Charges. As required by Special Provision (j) of Rate Schedule FES, such D-1 charges in conjunction with the C-3 charges are not lower than an amount sufficient to generate an adequate return on capital investments made by SJG to provide service under Rate Schedule FES and recover marginal and embedded costs, including depreciation. The proposed effective date of the Replacement Agreement and Addendum was December 1, 2020.

² In re the Petition of South Jersey Gas Company for Approval of a Standard Gas Service Agreement FES and a Standard Gas Service Agreement (FES) Addendum, BPU Docket No. GR04080870, Order dated August 18, 2006. The 2004 Agreement was subsequently modified via second, third and fourth addendums.

Request for Confidential Treatment

The January 2021 Petition also sought a Protective Order and Exemption from Public Disclosure of Confidential information pursuant to N.J.S.A. 47:1A-1 et. seq. Specifically, the Company requested that the Replacement Agreement and Addendum, and alteration to the other terms of the Agreement, and the application of Rate Schedule FES to the Replacement Agreement and Addendum remain confidential as the documents include proprietary commercial information and trade secrets of the Company.

Rate Counsel Comments

By letter dated July 6, 2021, the New Jersey Division of Rate Counsel (“Rate Counsel”) submitted comments on the January 2021 Petition. Rate Counsel indicated that it does not object to Board approval of the negotiated rates. See Rate Counsel Comments at 1. Rate Counsel’s position was based upon its review of the confidential analyses provided by SJG and Calpine, along with the January 2021 Petition and other discovery. Id. at 3. Additionally, Rate Counsel stated that the proposed negotiated rates appear consistent with the requirements of Special Provision (j) of SJG’s FES tariff and the Company’s ratepayers will continue to benefit if Calpine is retained as a customer at those rates. Id. at 3 to 4.

DISCUSSION AND FINDINGS

Based upon its review of the record in this matter, including the January 2021 Petition and Rate Counsel’s comments, the Board **HEREBY FINDS** that the Replacement Agreement and Addendum satisfy the requirements of Special Provision (j) of Rate Schedule FES. The Board **FURTHER FINDS** that the Replacement Agreement and Addendum are reasonable and in the public interest as SJG customers will continue to benefit from the positive contribution that Calpine will provide to the recovery of SJG overall cost of service as well as from the economic dispatch of Calpine’s electric generation facilities in comparison to other facilities with higher costs.

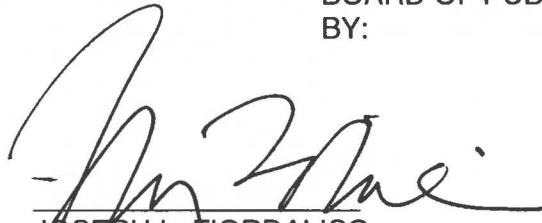
Accordingly, the Board **HEREBY APPROVES** the Replacement Agreement and Addendum, the public version of which is attached as Exhibit A, to be effective on and after the first day of the month following the approval of this Order. In approving this matter, the Board emphasizes that this Order is intended to address the facts and circumstances contained in the January 2021 Petition, and has no precedential effect upon any pending or future proceeding.

With respect to the request for confidential treatment of certain information that is claimed to be commercially sensitive or proprietary, the Board **HEREBY FINDS** that this issue should be decided by the Board's Custodian of Records pursuant to the Board's rules, if and when a request for release of such information is made under the Open Public Records Act pursuant to N.J.A.C. 14:1-12.

The effective date of this Order is August 25, 2021.

DATED: 8/18/21

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER



UPENDRA J. CHIVUKULA
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER

ATTEST: 
AIDA CAMACHO-WELCH
SECRETARY

IN THE MATTER OF THE PETITION OF SOUTH JERSEY GAS COMPANY FOR APPROVAL
OF A STANDARD GAS SERVICE AGREEMENT ("FES") AND A STANDARD GAS SERVICE
AGREEMENT (FES) ADDENDUM

BPU DOCKET NO. GO21010047

SERVICE LIST

NJ BOARD OF PUBLIC UTILITIES

44 South Clinton Avenue, 1st Floor
Post Office Box 350
Trenton, NJ 08625-0350

Aida Camacho-Welch
Secretary of the Board
Board.secretary@bpu.nj.gov

Bob Brabston, Esq.
Executive Director
robert.brabston@bpu.nj.gov

Stacy Peterson
Deputy Executive Director
stacy.peterson@bpu.nj.gov

Division of Energy

Jamie Saunders, Deputy Director
jamie.saunders@bpu.nj.gov

Paul Lupo, Bureau Chief
paul.lupo@bpu.nj.gov

Bart Kilar
bart.kilar@bpu.nj.gov

Counsel's Office

Heather Weisband, Senior Counsel
heather.weisband@bpu.nj.gov

DIVISION OF LAW

25 Market Street
Post Office Box 112
Trenton, NJ 08625-0112

Pamela Owen, DAG
pamela.owen@law.njoag.gov

DIVISION OF RATE COUNSEL

140 East Front Street, 4th Floor
Post Office Box 003
Trenton, NJ 08625-0003

Stefanie A. Brand, Esq., Director
sbrand@rpa.nj.gov

Brian O. Lipman, Esq., Litigation Manager
blipman@rpa.nj.gov

Sarah H. Steindel, Esq.
ssteinde@rpa.nj.gov

SJI UTILITIES

Deborah M. Franco, Esq., VP Rate,
Regulatory & Sustainability
520 Green Lane
Union, NJ 087083
dfranco@sjindustries.com

South Jersey Gas Company
1 South Jersey Place
Atlantic City, NJ 08401

Cindy Capozzoli, Director, Rates
ccapozzli@sjindustries.com

Todd Gordon
tgordon@sjindustries.com

Timothy Rundall
trundall@sjindustries.com

Giordano, Halleran & Cielsa

Steven S. Goldenberg, Esq., General
Counsel
125 Half Mile Road, Suite 300
Red Bank, NJ 07701
sgoldenberg@ghclaw.com

Michael Beck, DAG
michael.beck@law.njoag.gov

Daren Eppley, DAG
daren.eppley@law.njoag.gov

Terel Klein, DAG
terel.klein@law.njoag.gov

SOUTH JERSEY GAS COMPANY

B.P.U.N.J. No. 12 – GASOriginal Sheet No. 148

STANDARD GAS SERVICE AGREEMENT (FES)

This Agreement entered into this 15th day of **January, 2021** by and between South Jersey Gas Company, a New Jersey Corporation, hereinafter referred to as "Seller" or "Company" and **Calpine Energy Services, L.P.** a Delaware Limited Partnership and hereinafter referred to as "Buyer."

WITNESSETH:

Subject to the terms and conditions contained herein, Seller agrees to sell and deliver and Buyer agrees to purchase and pay for services required by Buyer under Rate Schedule **FES Firm Electric Service** at **Mickleton, Carl's Corner, Vineland and Millville**, which is Buyer's FES Facility, as follows:

ARTICLE I
Term of Agreement

This Agreement shall commence **December 1, 2020** and be effective from the date hereof and the sale and purchase of gas hereunder shall continue until **October 31, 2023**, and subject to Seller's possession of an adequate supply of gas, shall continue thereafter from year to year unless and until terminated upon written notice given by either party to the other, at least six (6) months prior to the end of the initial term or any yearly term.

ARTICLE II
Duly Constituted Authorities

The rates of Seller, and the respective obligations of the parties under this Agreement, are subject to valid laws, orders, rules, and regulation of duly constituted authorities having jurisdiction. The rates, terms, and conditions of this Agreement are subject to change as may be lawfully required or permitted by the Board of Public Utilities of New Jersey.

ARTICLE III
Tariff For Gas Service

All terms and conditions set forth in Seller's Tariff For Gas Service B.P.U.N.J. No. 12 - Gas are incorporated herein by reference. All sales are subject to the General Terms and Conditions of Seller's Tariff For Gas Service and more specifically by the conditions contained in the rate schedules contracted for herein.

ARTICLE IV
Service Volumes

Firm:

Seller hereby agrees to sell and deliver to Buyer and Buyer agrees to pay for in accordance with provisions of the tariff:

- (1) a Winter Daily Contract Demand of [REDACTED] per day;
- (2) a Summer Daily Contract Demand of [REDACTED] per day.

Issued January 27, 2017
by South Jersey Gas Company,
D. Robbins, Jr., President

Effective with service rendered
on and after November 1, 2017

Filed pursuant to Order in Docket No. GR17010071 of the Board of
Public Utilities, State of New Jersey, dated October 20, 2017

SOUTH JERSEY GAS COMPANY

B.P.U.N.J. No. 12 - GAS

Original Sheet No. 149

STANDARD GAS SERVICE AGREEMENT (FES)

(Continued)

Billing Determinants:

- (1) Customer shall have a Annual Billing Determinant (“ABD”) of [REDACTED]
- (2) Customer shall have a Daily Billing Determinant of [REDACTED] (ABD/365)

ARTICLE V

Rates

Negotiated rates pursuant to Special Provision (j) of the Rate Schedule FES are as follows:

Winter Rates:

D-1 Charge will be [REDACTED]

C-3 Charge will be [REDACTED]

Summer Rates:

D-1 Charge will be [REDACTED]

C-3 Charge will be [REDACTED]

ARTICLE VI

Winter Season Interruption

Buyer and Seller agree that Buyer’s service under Rate Schedule FES may be partially or totally interrupted up to 15 days during a Winter Season pursuant to Special Provision (r) of Rate Schedule FES.

ARTICLE VII

Customer Owned Gas

Customer has requested Company to deliver said gas under Rate Schedule FES, Rider “D” from Company's city gate station(s) located at **Harmony Road, Prospect, Woodbury, Lawnside and Swedesboro.**

Issued January 27, 2017
by South Jersey Gas Company,
D. Robbins, Jr., President

Effective with service rendered
on and after November 1, 2017

Filed pursuant to Order in Docket No. GR17010071 of the Board of
Public Utilities, State of New Jersey, dated October 20, 2017

SOUTH JERSEY GAS COMPANY

B.P.U.N.J. No. 12 - GAS

Original Sheet No. 150

STANDARD GAS SERVICE AGREEMENT (FES)

(Continued)

The Company agrees to deliver such quantity of gas that Customer makes available from time to time: provided, however, Company shall not be obligated on a daily basis to deliver more than customer's Winter Daily Contract Demand or Summer Daily Contract Demand for the then applicable season.

ARTICLE VIII

Opt-Out Provision

Buyer (a Rate Schedule FES customer) hereby elects, by initialing in the space provided, for a term co-extensive with the Term of Agreement set forth in Article I, to provide its own interstate pipeline capacity and gas supply to Seller's City Gate Station. By making such election, Seller becomes eligible to pay the lower BS-1 Volumetric Charge pursuant to Rider "I". If Buyer does not make this election, Buyer will pay the higher BS-1 Volumetric Charge, pursuant to Rider "I". Buyer will be subject to the opt-out provisions provided for in the Company's tariff.

DS [Signature] Initials DS [Signature]

ARTICLE IX

Force Majeure

In the event of either party being rendered unable wholly or in part, by force majeure to carry out its obligations, other than the obligations to make payment of amounts accrued and due hereunder at the time thereof, it is agreed that on such party's giving notice and full particulars of such force majeure in writing or by e-mail to the other party within a reasonable time after the occurrence of the cause relied on, the obligations of both parties, so far as they are affected by such force majeure, shall be suspended during the continuance of any inability so caused, but for no longer period and such cause shall so far as possible be remedied with all reasonable dispatch.

Neither party shall be liable in damages to the other for any act, omission, or circumstances occasioned by, or in consequence of force majeure, as defined in Company's Tariff For Gas Service, B.P.U.N.J. No. 12 - Gas.

Such causes or contingencies affecting the performance by either party, however, shall not relieve it of liability unless such party shall give notice and full particulars of such cause or contingency in writing or by e-mail to the other party as soon as possible after the occurrence relied upon, nor shall such causes or contingencies affecting the performance by either party hereunder relieve it of liability in the event of its failure to use due diligence to remedy the situation, nor shall such causes or contingencies affecting the performance hereunder relieve either party from its obligation to make payments of amounts then due hereunder in respect of all gas theretofore delivered.

ARTICLE X

Miscellaneous

This Agreement supersedes and cancels as of the effective date hereof all prior contracts and supplemental agreements for firm service, oral or written, between the parties hereto for the sale of gas by the Seller to the Buyer.

No waiver by either party of any one or more defaults by the other in the performance of any provisions of this Agreement shall operate or be construed as a waiver of any future default or defaults, whether of a like or a different character.

Issued January 27, 2017 by South Jersey Gas Company, D. Robbins, Jr., President

Effective with service rendered on and after November 1, 2017

Filed pursuant to Order in Docket No. GR17010071 of the Board of Public Utilities, State of New Jersey, dated October 20, 2017

PRELIMINARY PUBLIC COPY
SOUTH JERSEY GAS COMPANY

Exhibit A

B.P.U.N.J. No. 12 - GAS

Original Sheet No. 151

STANDARD GAS SERVICE AGREEMENT (FES)
(Continued)

This Agreement shall be interpreted, performed and enforced in accordance with the laws of the State of New Jersey.

This Agreement shall be binding upon, and inure to the benefit of the parties hereto and their respective successors and assigns, but shall not be assigned or be assignable by Buyer without the consent in writing of Seller first obtained.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first above written.

ATTEST:




ATTEST:

DocuSigned by:

75FD1321EF914E3...

SOUTH JERSEY GAS COMPANY

By: 

Deborah M. Franco, Esq.
Vice President, Rates, Regulatory &
Sustainability
SJI Utilities, Inc.

CALPINE ENERGY SERVICES L.P.

By: 

(Name) 8BAEF87DD85947D...
VP

(Title)

Issued January 27, 2017
by South Jersey Gas Company,
D. Robbins, Jr., President

Effective with service rendered
on and after November 1, 2017

Filed pursuant to Order in Docket No. GR17010071 of the Board of
Public Utilities, State of New Jersey, dated October 20, 2017

STANDARD GAS SERVICE AGREEMENT (FES) ADDENDUM

THIS ADDENDUM entered into this 15th day of January, 2021, by and between South Jersey Gas Company, a New Jersey corporation, hereinafter referred to as “Seller” or “Company”, and Calpine Energy Services, L.P., a Delaware Limited Partnership, hereinafter referred to as “Buyer,” modifies and amends the Standard Gas Service Agreement (FES) (“Service Agreement”) dated January 15, 2021 to as the “Agreement.”

WITNESSETH:

WHEREAS, Buyer and Seller wish to amend and modify the Service Agreement; and

WHEREAS, Buyer and Seller wish to incorporate the terms of this Addendum into the Service Agreement; and

WHEREAS, Buyer and Seller wish to maintain the Service Agreement in full force and effect, except where amended or modified by this Addendum.

NOW, THEREFORE, Buyer and Seller intending to be legally bound hereby, in consideration of mutual promises and agreements contained herein agree as follows:

1. Condition Precedent. A condition precedent to the obligations, rights and duties of Buyer and Seller under the Agreement is a final and non-appealable order of approval of the New Jersey Board of Public Utilities or its successors, authorizing the making, execution and implementation of the Agreement (“Approval Order”).

2. Confidentiality:

(a) The terms of the Agreement concerning service volumes and charges for service shall be considered confidential information (“Confidential Information”) by Buyer and by Seller. Buyer and Seller agree to take all necessary and appropriate steps to keep confidential and protect the Confidential Information, including: (i) restricting access to Confidential Information

to those employees who have a “need to know” and requiring such employees to review the terms of this Confidentiality paragraph and to agree to abide by the terms of this Confidentiality paragraph and (ii) not disclosing to, or allowing access to such Confidential Information by, any third party except as authorized by Buyer and Seller, in writing.

(b) Notwithstanding the foregoing, Confidential Information may be disclosed to the extent required by any law, or the order of any administrative agency or court having jurisdiction over the subject matter of the Agreement.

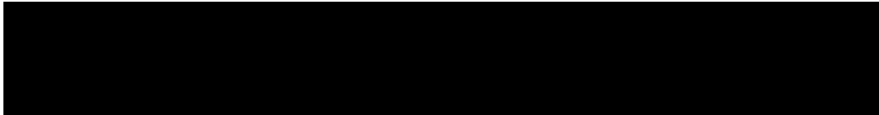
(c) Notwithstanding the foregoing, Confidential Information may be disclosed to the employees of the New Jersey Board of Public Utilities, or any successor agency thereto and to the parties in any proceeding before the New Jersey Board of Public Utilities or any successor agency thereto, and if such disclosure is made, the parties shall use their best efforts to secure the execution of an appropriate Confidentiality Agreement, or the entry of an appropriate Protective Order, by which the persons receiving the Confidential Information are bound. Seller and Buyer also agree that Seller may submit Confidential Information to the New Jersey Board of Public Utilities, and may request treatment of the Confidential Information as confidential pursuant to the Rules and Regulations of the New Jersey Board of Public Utilities.

3. Winter Season/Summer Season: Pursuant to the terms of Seller’s Tariff, the term “Summer Season” is used to designate the period from April 1 through October 31 of each year. The term “Winter Season” is used to designate the period from November 1 through March 31 of each year. Notwithstanding the foregoing, for purposes of this Addendum and the Agreement, the term: “Summer Season” is used to designate the period from March 16 through November 30 of each year and the term “Winter Season” is used to designate the period from December 1

through March 15 of each year. For purposes of applying the D-1 Demand Charge for the period March 1 through March 15, it will be calculated as follow:



For purposes of applying the D-1 Demand Charge for the period March 16 through March 31, it will be calculated as follow:




4. Warranty of Authority: Seller, represents, covenants and warrants that the person executing this Agreement on its behalf has authority to execute this Agreement on behalf of the Seller, and to bind Seller. Buyer, represents covenants and warrants that the person executing this Agreement on its behalf has authority to execute this Agreement on behalf of the Buyer, and to bind Buyer.

IN WITNESS WHEREOF, the parties have duly executed this addendum as of the date first above written, which shall be its effective date.

Seller:
SOUTH JERSEY GAS COMPANY

Attest:



By: 

(Name) Deborah M. Franco, Esq.
(Title) VP, Rates Regulatory & Sustainability
SJI Utilities, Inc.

Buyer:
Calpine Energy Services, L.P.

Attest:

DocuSigned by:

75FD1321EF914E3...

By: 

(Name) Seth Berend
(Title) VP