



Agenda Date: 12/21/22  
Agenda Item: 2H

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 1<sup>st</sup> Floor  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

ENERGY

IN THE MATTER OF THE PETITION OF NEW JERSEY )	DECISION AND ORDER
NATURAL GAS COMPANY FOR A DETERMINATION )	
CONCERNING THE HOLMDEL REGULATOR STATION )	BPU DOCKET NOS.
PURSUANT TO N.J.S.A. 40:55D-19 – 2017 PETITION )	GO17010023 and GO18111257
)	
IN THE MATTER OF THE PETITION OF NEW JERSEY )	OAL DOCKET NOS. PUC
NATURAL GAS COMPANY FOR A DETERMINATION )	01160-17 and PUC 17810-18
CONCERNING THE HOLMDEL REGULATOR STATION )	
PURSUANT TO N.J.S.A. 40:55D-19 – 2018 PETITION )	

**Parties of Record:**

**James Meyer, Esq., Riker Danzig**, on behalf of New Jersey Natural Gas Company  
**Peter Dickson, Esq., Potter and Dickson**, on behalf of the Township of Holmdel  
**Brian Lipman, Esq., Director**, New Jersey Division of Rate Counsel

BY THE BOARD:

These matters are before the New Jersey Board of Public Utilities (“Board” or “BPU”) following an Initial Decision issued by Administrative Law Judge Elia A. Pelios (“ALJ Pelios”) on May 18, 2022 (“Initial Decision”). By this Decision and Order, which is the Final Decision in the matter pursuant to N.J.S.A. 52:14B-10, the Board adopts the Initial Decision in its entirety.

**BACKGROUND AND PROCEDURAL HISTORY**

In 2016, New Jersey Natural Gas Company (“NJNG” or “Company”) applied to the Holmdel Township Zoning Board of Adjustment (“HZBA”) for two (2) variances and a site plan approval to construct a regulator station at 970 Holmdel Road in Holmdel Township, New Jersey (“970 Application”). The HZBA denied the 970 Application.

On January 11, 2017, NJNG filed a petition with the Board seeking a determination, pursuant to N.J.S.A. 40:55D-19, that the “construction of a regulator station in Holmdel Township in Monmouth County, New Jersey, is reasonably necessary for the service, convenience, or welfare of the public, and that the zoning and land-use ordinance of the municipality and its county shall have no application thereto” (“2017 Petition”). On January 23, 2017, the Board transferred the 2017 Petition to the Office of Administrative Law (“OAL”) for a determination as a contested case. On April 3, 2017, Holmdel filed an unopposed motion to intervene, and on June 7, 2017, ALJ

Pelios granted the motion. On June 8, 2017, ALJ Pelios presided over a public hearing regarding the 2017 Petition.

Meanwhile, NJNG decided to reapply to the HZBA seeking the same two (2) variances and site plan approval, but this time, to construct the regulator station at a different location: 960 Holmdel Road ("Project"). ALJ Pelios placed the 2017 Petition on inactive status for six (6) months, and on June 15, 2018, ALJ Pelios renewed the inactive status for an additional six (6) months. On January 2, 2018, NJNG filed an application with the HZBA regarding the Project, and the HZBA denied the Project's application on October 25, 2018.<sup>1</sup>

After the second HZBA denial, on November 29, 2018, NJNG filed a petition with the Board seeking an override of the New Jersey Municipal Land Use Law pursuant to N.J.S.A. 40:55D-19 regarding the Project ("2018 Petition"). On December 3, 2018, the Board transmitted the 2018 Petition to the OAL as a contested matter, and on December 18, 2019, ALJ Pelios issued an Order consolidating the 2017 and 2018 Petitions. On January 16, 2019, Holmdel filed an unopposed motion to intervene. On February 13, 2020, ALJ Pelios presided over a public hearing, and ALJ Pelios held virtual evidentiary hearings on October 15, 17, 20, 21, 22, and 23, 2020.

On May 18, 2022, ALJ Pelios issued the Initial Decision in this matter, and as such, the 45-day statutory period for the Board to enter a Final Decision was July 5, 2022. On June 3, 2022, Holmdel moved to extend the time to submit exceptions to July 1, 2022, and replies to July 22, 2022. Rate Counsel did not object to Holmdel's request. On June 6, 2022, NJNG opposed the length of the extension and argued that if the Board were to grant Holmdel's motion, the deadline for replies should be extended to July 25, 2022. On June 8, 2022, the Board ordered that the deadline to file exceptions be July 1, 2022, the deadline to file replies be July 25, 2022, and the deadline for the Board to render its Final Decision be extended to August 19, 2022.<sup>2</sup> On August 17, 2022, on Holmdel's motion dated July 5, 2022, and with Rate Counsel's consent, the Board issued an Order extending the deadline for the filing of exceptions to July 5, 2022, replies to exceptions to July 29, 2022, and the Board's time to issue a Final Decision to October 3, 2022.<sup>3</sup> On September 28, 2022, the Board further extended the time to issue a Final Decision to November 17, 2022.<sup>4</sup> Finally, on November 9, 2022, the Board issued an Order extending the time to issue a Final Decision to January 3, 2023.<sup>5</sup>

---

<sup>1</sup> Transcript of Holmdel Zoning Board of Adjustment — Final Vote (October 25, 2018) at 182.

<sup>2</sup> In re the Petition of New Jersey Natural Gas Company for a Determination Concerning the Holmdel Regulator Station Pursuant to N.J.S.A. 40:55D-19, BPU Docket Nos. GO17010023 and GO18111257, Order on Motion and Request for Extension, Order dated June 8, 2022.

<sup>3</sup> In re the Petition of New Jersey Natural Gas Company for a Determination Concerning the Holmdel Regulator Station Pursuant to N.J.S.A. 40:55D-19, BPU Docket Nos. GO17010023 and GO18111257, Order on Motion and Request for Extension, Order dated August 17, 2022.

<sup>4</sup> In re the Petition of New Jersey Natural Gas Company for a Determination Concerning the Holmdel Regulator Station Pursuant to N.J.S.A. 40:55D-19, BPU Docket Nos. GO17010023 and GO18111257, Order of Extension, Order dated September 28, 2022.

<sup>5</sup> In re the Petition of New Jersey Natural Gas Company for a Determination Concerning the Holmdel Regulator Station Pursuant to N.J.S.A. 40:55D-19, BPU Docket Nos. GO17010023 and GO18111257, Order on Request for Extension, Order dated November 9, 2022.

## **INITIAL DECISION**

In the Initial Decision, ALJ Pelios noted that, although the 970 and 960 locations are similarly viable, the location at 960 Holmdel Road includes additional measures specifically tailored to address Holmdel's concerns. Initial Decision at 10. As such, the Initial Decision pertains solely to the Project and not the 970 Application. Initial Decision at 10.

### **A. Findings of Fact**

ALJ Pelios evaluated the weight of the evidence and the credibility of the witnesses' testimonies, and reached the following findings of fact.

#### **1. The Need for the Project**

According to the Initial Decision, NJNG estimated that the Project will provide improved service to 5,791 metered residential customers and 323 metered commercial customers in Holmdel, as well as customers in adjacent municipalities in Monmouth County. Initial Decision at 7.

According to the Initial Decision, NJNG testified that, due to a change in federal regulations in 2004, the Company was required to replace the prior transmission line in its system. Initial Decision at 10. With the Board's approval, NJNG did so in 2012. Initial Decision at 10. As a result, the transmission line gas would need to undergo a significant decrease in pressure before connecting to the distribution lines, and consequently, to NJNG's customers.<sup>6</sup> Initial Decision at 11.

The Project includes a Cold Weather Technology ("CWT") dry line heating unit to address consequences from the pressure drop between the transmission and distribution lines. Initial Decision at 8. Specifically, according to NJNG's experts, if natural gas drops below freezing temperatures when moved between two (2) systems, ice forms on the regulator and its related equipment. Initial Decision at 11. This icing can lead to malfunctions requiring extensive, lengthy repairs. Initial Decision at 11. As NJNG is aware that icing could occur, the Company would use a CWT in-line heater with this Project. Initial Decision at 12.

In response to comments about the proposed facility becoming a "stranded asset," the NJNG panel also testified that, because the transition away from using natural gas will be a gradual process, NJNG must still fulfill its duty to provide reliable service, which necessitates addressing the icing issue with the temporary station. Initial Decision at 12.

As such, ALJ Pelios found NJNG's panel testimony was credible concerning the need for the Project, and further found, as a matter of fact, that the most reasonable and practical method for heating the regulator is a CWT in-line heater. Initial Decision at 13.

#### **2. Proposed Sites**

According to the Initial Decision, in considering potential sites, NJNG wanted to find a site that: 1) was adjacent to the transmission line and close to the southern end of the line; 2) was zoned for commercial or utility uses; 3) was not Preserved Farmland, Green Acres, wetlands, contaminated property, or properties that would require extensive deforestation; and 4) contained

---

<sup>6</sup> When NJNG first installed the new transmission line in 2012, it simultaneously installed a temporary regulator station under Holmdel Road until it could find a permanent location for an above-ground station.

preexisting development. Initial Decision at 9. NJNG initially identified six (6) possible properties, two (2) of which were the 970 and 960 Holmdel Road locations. Initial Decision at 9-10. 970 Holmdel Road was available by the owner, and was co-located with another utility facility, a solar farm. Initial Decision at 10. 960 Holmdel Road was one lot further north of 970 Holmdel Road, was available by the owner, and was co-located with another utility, a cellular communications tower. Initial Decision at 10. NJNG stated that 960 was preferable because it includes additional measures to address Holmdel's concerns, namely, the distance from Holmdel Road and the additional landscaping. Initial Decision at 10. For these reasons, the decision was based on NJNG's latter petition for a regulator station at 960 Holmdel Road. Initial Decision at 10.

### 3. Environmental Impact

ALJ Pelios found that the Project will have little to no material impact on the value of nearby properties based upon the following findings of fact:

#### a. Noise-Pollution and Air Quality Assessment

ALJ Pelios found the expert testimony credible and not disputed on this issue. Initial Decision at 21. ALJ Pelios found, as fact, that the Project will have no adverse impact on the area's ambient noise levels or air quality, and will present a "negligible" impact on the State's overall air quality and greenhouse-gas emissions. Initial Decision at 21.

According to noise assessment studies, ALJ Pelios explained that, based upon the expert testimony, the Project will comply with applicable State and local noise regulations, and any noise generated will be unnoticeable at the surrounding residences, nor have an adverse impact on the surrounding community. Initial Decision at 18-19. Additionally, any noise generated by the Project, when dampened by the sound wall, will be lower than the existing ambient noise levels in the surrounding area. Initial Decision at 19.

Additionally, expert testimony further demonstrated that the Project will not emit an odor, and emissions will be negligible and will not adversely impact local or State air quality. Initial Decision at 18. An air-quality impact analysis concluded that the proposed station's heater will have no adverse local impacts on air quality, even if the station were to always run at maximum capacity throughout the year and without reaching the proper ignition point (i.e., the "worst-case scenario"). Initial Decision at 19. Also, because the Project is a closed system, it will not emit any odors or other air emissions, and any predicted annual criteria air-pollutant concentrations would be considered negligible or a "trace" amount. Initial Decision at 20.

#### b. New Jersey Energy Master Plan

ALJ Pelios explained that, on January 27, 2020, New Jersey released the 2019 New Jersey Energy Master Plan: Pathway to 2050 ("EMP"). Initial Decision at 22. The EMP's overarching goal is to reach 100 percent clean energy and an 80 percent emissions reduction from 2006 levels by 2050. Initial Decision at 22.

On June 11, 2020, ALJ Pelios issued an Order denying Holmdel's motion to direct NJNG to reassess the Project in light of the EMP and the Governor's Executive Orders pertaining thereto ("EO"). Initial Decision at 22. The Order concluded that definite regulations and standards must be put into place before any reliance on the general declarations within the EMP and EO can impact these proceedings. Initial Decision at 22. Finally, because neither the EMP nor an EO put a moratorium on ongoing or new projects, there is no regulation in place that would mandate compliance with the new EMP. Initial Decision at 22.

Of the EMP's seven (7) goals and sub-goals, Holmdel specifically points to the sub-goals of Goal 5.4 as being inconsistent with NJNG's Project. Initial Decision at 22. Goal 5 is to Decarbonize and Modernize New Jersey's Energy System. Initial Decision at 22. Specifically:

5.4.1 Develop a planning process to quantify and analytically assess the need for future expansion of the gas system and take appropriate action.

5.4.2 Instruct gas public utilities to propose and adopt non-pipeline solutions when seeking expansion or upgrade of the distribution system.

5.4.3 Evaluate and support innovative efforts to decarbonize the state's energy system and perform a study of the regulatory and programmatic mechanisms that support, incentivize, or otherwise bolster the natural gas industry to determine if continued support aligns with state goals.

5.4.4 Instruct gas utilities to identify and prioritize the replacement of pipelines leaking methane.

NJNG's expert testified that the conversion away from natural gas to other, more environmentally friendly methods will take time. Initial Decision at 23-24. Testimony further established that the Project will not increase the gas capacity or flow, and is not an expansion or upgrade, and, as such, is a necessary project to ensure that NJNG fulfills its obligation to provide "safe, adequate, and proper service" to the public. Initial Decision at 24. Therefore, the EMP relates to the Project and NJNG's duties by requiring NJNG to maintain its existing pipeline system to ensure system reliability and safety. Initial Decision at 24.

ALJ Pelios found that, unlike NJNG's expert, Holmdel's expert "gave general answers suggesting perhaps a lack of specific knowledge necessary to give a more thorough, detailed expert opinion." Initial Decision at 24. Holmdel's expert "admitted that he was unable to reach firm conclusions on these issues because of the timeline Holmdel had to complete discovery and provide him certain information." Initial Decision at 24. Additionally, ALJ Pelios stated that the discussion of the EMP and EO, as applied to the Project, was previously addressed in the June 11, 2020 Order. Initial Decision at 25.

ALJ Pelios found, as fact, that NJNG's expert was more credible, and that the law-of-the-case doctrine barred re-litigation of the binding effect of the EMP in this matter.<sup>7</sup> Initial Decision at 25.

---

<sup>7</sup> The "law-of-the-case doctrine" provides that, when a court determines a legal issue, that decision governs the same issues in subsequent stages of that case unless the determination was clearly erroneous. See, e.g., Arizona v. California, 460 U.S. 605, 618-19 (1983) (noting that the doctrine "directs a court's discretion" and it "does not limit the tribunal's power").

Additionally, ALJ Pelios found that EMP Goal 5.4.2 is not implicated in this matter because the proposed station will address reliability concerns and is not an expansion or improvement project. Initial Decision at 25. Finally, ALJ Pelios found that the Project is consistent with the EMP when considering NJNG's obligation to maintain a reliable and safe natural-gas system. Initial Decision at 25.

#### 4. Community Impact & Zoning

ALJ Pelios found, as a matter of fact, that NJNG duly considered Holmdel Township's zoning ordinances and Holmdel's Master Plan.<sup>8</sup> Initial Decision at 27. According to the Initial Decision, expert testimony established that the Project is consistent with Holmdel's Master Plan, will maintain the character of the area, and will preserve open spaces because it will be built in an already developed commercial area with existing uses. Initial Decision at 26-27.

The Initial Decision provided that the site is consistent with Holmdel's Master Plan's goal to "provide adequate infrastructure to serve Township residences and businesses but limit the development of growth-inducing infrastructure." Initial Decision at 26. ALJ Pelios found the testimony demonstrated that the Project would not have a negative impact on the surrounding neighborhood. Initial Decision at 26. The equipment reaches only 15 feet in height, making the station less visible than the surrounding area's existing structures. Initial Decision at 26-27. The NJNG panel explained that that the station will have no associated parking lots or lighting, and NJNG personnel should only be on-site once or twice a year. Initial Decision at 27. The panel further testified that, in response to concerns voiced by Holmdel residents, NJNG made a good-faith effort to have the facility located as far back on the proposed site as permitted. Initial Decision at 13. The NJNG panel also testified that the back area of the lot at 960 Holmdel Road is unusable due to an existing septic system. Initial Decision at 13.

#### **B. Applicable Law**

ALJ Pelios explained that, under N.J.S.A. 40:55D-19, the New Jersey Municipal Land use Law does not apply to a public utility project if the Board finds that the project is "reasonably necessary for the service, convenience, or welfare of the public," and "is necessary to maintain reliable electric or natural gas supply service for the general public and that no alternative site or sites are reasonably available to achieve an equivalent public benefit." Initial Decision at 29. ALJ Pelios explained that, pursuant to New Jersey Supreme Court precedent:

- The statutory phrase, "for the service, convenience and welfare of the public" refers to the whole "public" served by the utility and not the limited local group benefited by the zoning ordinance.
- The utility must show that the proposed use is reasonably, not absolutely or indispensably, necessary for public service, convenience and welfare at some location.

---

<sup>8</sup> Although the Initial Decision refers to Holmdel's community zone plan as "Holmdel's Master Plan," the Court requires the Board to consider the municipality's "community zone plan" in its evaluation of a particular site or location when determining reasonable necessity. See *In re Public Service Electric and Gas Co.*, 35 N.J. 358, 377 (1961). Holmdel's community zone plan is hereinafter referred to as "Holmdel's Master Plan."

- It is the “situation,” *i.e.*, the particular site or location..., which must be found “reasonably necessary,” so the Board must consider the community zone plan and zoning ordinance, as well as the physical characteristics of the plot involved and the surrounding neighborhood, and the effect of the proposed use thereon.
- Alternative sites or methods and their comparative advantages and disadvantages to all interests involved, including cost, must be considered in determining such reasonable necessity.
- The Board’s obligation is to weigh all interests and factors in the light of the entire factual picture and adjudicate the existence or non-existence of reasonable necessity therefrom. If the balance is equal, the utility is entitled to the preference, because the legislative intent is clear that the broad public interest to be served is greater than local considerations.

Initial Decision at 29-30 (citing Public Service, 35 N.J. at 376–77; see also Application of Hackensack Water Co., 41 N.J. Super. 408, 423 (App. Div. 1956); In re Petition of South Jersey Gas Co., 447 N.J. Super. 459, 481 (App. Div. 2016); In re Monmouth Consolidated Water Co., 47 N.J. 251 (1966)).

#### 1. Reasonably Necessary

To determine if the Project is “reasonably necessary” to serve the public and maintain reliable natural gas services, ALJ Pelios explained that the Board must consider the community’s zoning plan, the physical characteristics of the site, and the surrounding neighborhood. Initial Decision at 30 (citing Public Service, 35 N.J. at 377).

ALJ Pelios found that NJNG considered Holmdel’s zoning ordinance, Holmdel’s Master Plan, and the character of the surrounding neighborhood. Initial Decision at 30. ALJ Pelios noted that the Project will be located on a developed site, and NJNG will build two (2) berms, plant greenery, and install barriers to shield the surrounding area from noise and maintain privacy. Initial Decision at 30. Further, NJNG will locate the Project as far back on the property as possible to avoid any adverse impact to roadways. Initial Decision at 30.

ALJ Pelios further found that expert testimony established the Project will have no adverse impact on property values, will not generate noise above ambient volume, and will have minimal, if any, effect on air quality. Initial Decision at 30-31. The Project, in a worst-case scenario, will emit a negligible amount of carbon dioxide compared to emissions generated by the New Jersey energy industry. Initial Decision at 31. Finally, ALJ Pelios determined that the Project is not an expansion or upgrade of NJNG’s system, and the record shows the Project is necessary for NJNG to provide continued, reliable service. Initial Decision at 31.

#### 2. Alternative Methods

The law also requires the Board to consider alternative sites and alternative methods available to accomplish the Project’s goals. Public Service, 35 N.J. at 377.

ALJ Pelios identified three alternative methods: 1) continue using the temporary regulator; 2) use other NJNG regulator stations; or 3) build the proposed station with a different heater. Initial Decision at 31. It must be determined whether the alternatives are “reasonable, practical, and

permanent alternatives to the construction of the proposed facility,” and be weighed against the utility’s existing practices and industry custom. Initial Decision at 31-32 (quoting In re the Appeal of Jersey Cent. Power & Light Co. Pursuant to N.J.S.A. 40:55D-19 from a Decision of the Twp. of Tewksbury Land Use Bd., BPU Docket No. EO09010010 at 16 [Sept. 14, 2009]).

ALJ Pelios explained that, once the utility company makes its showing as to the alternative methods, the burden of demonstrating feasible alternatives shifts to the objectors. Initial Decision at 32 (quoting Hackensack, 41 N.J. Super. at 426–27). ALJ Pelios concluded that, while CWT and catalytic heaters are comparable in terms of cost and emissions, Holmdel did not meet its burden of showing why a catalytic heater is a reasonable alternative because NJNG already purchased the CWT heater and the record indicates reliability issues are likely to occur with a catalytic heater. Initial Decision at 32.

### 3. Alternative Locations

The law also requires the Board to consider alternative sites and alternative methods available to accomplish the Project’s goals. Public Service, 35 N.J. at 377.

With regard to alternative locations, ALJ Pelios stated that the BPU must determine whether NJNG demonstrated good-faith efforts to obtain the most suitable location and showed an absence of alternative sites that are reasonably available to achieve equivalent public benefit with less adverse impact on the environment, community, and local zoning. Initial Decision at 32 (citing Tewksbury, BPU Docket No. EO09010010 at 13–16). ALJ Pelios found that NJNG used reasonable site-selection criteria when selecting the Project location, NJNG demonstrated that it made good faith attempts to address Holmdel’s concerns when negotiating for the proposed site, and no other alternative site is reasonably available that will achieve the equivalent public benefit with less adverse impact on the environment, community, and local zoning plans. Initial Decision at 32.

### C. Initial Decision Conclusion

ALJ Pelios concluded that:

- The [P]roject as proposed is reasonably necessary to provide safe, adequate, and reliable natural gas services in New Jersey;
- The [P]roject as proposed is reasonably necessary for the service, convenience, and welfare of the public;
- The [P]etitioner considered alternative sites and methods for this project;
- The site and facility’s design is reasonable considering the alternatives;
- The [P]roject as proposed to be designed and constructed will minimize adverse impacts on the environment;
- Based upon the record, the [P]roject is not adverse to the public health and welfare.

[Initial Decision at 33.]



Based upon the above, ALJ Pelios ordered that Holmdel's Land Use Law, and any other ordinances, rules, or regulations promulgated under the auspices of the Municipal Land Use Law of the State of New Jersey, should not apply to the construction, installation, and operation of the Project pursuant to N.J.S.A. 40:55D-19. Initial Decision at 33. As such, ALJ Pelios found that the 2018 Petition should be granted, and NJNG should be permitted to construct the Project as proposed. Initial Decision at 33.

## **EXCEPTIONS**

### **A. Holmdel**

On July 5, 2022, Holmdel filed nine (9) Exceptions to the Initial Decision, each described as follows:

#### **1. First Exception**

Holmdel argued that the Initial Decision did not consider the entire record, but instead, relied upon an arbitrary selection of NJNG's pre-filed direct testimony. Holmdel's Exceptions ("HE") at 7. The exception further provided that ALJ Pelios did not explain why he found the Company's written testimony credible, or why he did not discuss cross-examination testimony. HE at 7-8. Holmdel further stated that the Initial Decision failed to make "weight and credibility" determinations. HE at 8.

#### **2. Second Exception**

Holmdel argued that ALJ Pelios misapplied the law, specifically N.J.S.A. 40:55D-19, and NJNG should bear the burden of proof, alleging that the allocation of burdens is the responsibility of the Court. HE at 9 (citing In re Will of Smith, 108 N.J. 257, 264 (1987)). Holmdel claimed that New Jersey Supreme Court rulings dictate that, once the utility demonstrates potential alternative methods, the burden of demonstrating a feasible alternative does not shift to the objectors. HE at 10. Furthermore, Holmdel argued that the party best able to satisfy the burden of persuasion should bear that burden because of its "greater expertise and access to relevant information," and that "the burden of establishing the existence of a fact or circumstances is on the party relying thereon."<sup>9</sup> HE at 9-10 (citing J.E. on behalf of G.E. v. State, 131 N.J. 552, 569-70 (1993); Snyder v. I. Jay Realty Co., 53 N.J. Super. 336, 347 (App. Div. 1958), *aff'd in part, rev'd in part*, 30 N.J. 303 (1959)). Because NJNG is the party seeking approval of its project, Holmdel argued the burden of proof in this proceeding remains with NJNG. HE at 10.

Holmdel disagreed with a presumption in favor of the utility when all the evidence is equally balanced, arguing that this principle appears only in dicta, but never as a binding ruling. HE at 11-13.

#### **3. Third Exception**

Holmdel claimed the Project is neither reasonably necessary nor prudent, and the Initial Decision ignored extensive cross-examination testimony by NJNG's witnesses. HE at 13.

---

<sup>9</sup> Holmdel uses the terms "burden of proof" and "burden of persuasion" interchangeably throughout their exceptions.

Holmdel argued that the Project constitutes unnecessary capacity expansion, and the claim it is a “reliability” project is unsupported by the record. HE at 13. Holmdel argued that the 16-inch line operated at reduced pressures, and the Project expanded capacity because it allows the line to operate at significantly higher pressures and transport much higher volumes of gas. HE at 14.

Holmdel further argued that the current regulator is safe, reliable, long-lasting, and capable of satisfying demand – not temporary. HE at 14. According to Holmdel, the current regulator poses no danger to the public or to NJNG’s infrastructure, emits no greenhouse gases, and consumes no natural gas. HE at 14. Holmdel further stated that the current regulator is capable of providing necessary de-pressurization for at least another 10 years, at which time mandatory reductions in natural gas consumption will demonstrate the 16-inch transmission line was an expensive, underutilized asset on the day it went into service, and the proposed regulator will be a costly stranded asset. HE at 14-15.

Finally, Holmdel claimed that, because reliability and safety are not compromised, the Company’s case depends upon the current regulator’s alleged “icing” problems, the Company’s own evidence refutes this claim, and the Initial Decision ignores this evidence. HE at 15; 25-26. Holmdel noted that there were only two (2) incidents since 2012 in which icing caused a malfunction, and both were easily remedied. HE at 25-26. Holmdel concluded that NJNG’s claims of need and “icing issues” are not credible and do not justify the Project. HE at 30.

#### 4. Fourth Exception

Holmdel claimed the Initial Decision erroneously applied New Jersey’s climate law to this proceeding. HE at 30.

Holmdel explained that NJNG, and other natural gas utilities, must make measurable progress in reducing gas consumption pursuant to the Clean Energy Act, and that the Project runs counter to this goal. HE at 31-33. Holmdel claimed that N.J.S.A. 52:27F-15b applies directly to this case, stating that it is the Board’s duty to reduce natural gas usage and immediately reduce NJNG’s gas consumption. HE at 33-37.

Holmdel also explained that the EMP set a comprehensive set of programs and objectives to achieve the reduction targets set by the Clean Energy Act and the Global Warming Response Act. HE at 33. Holmdel reasoned that the reductions required by the EMP obviate the need for the proposed regulator, rendering it an expensive stranded asset. HE at 34-41. Holmdel further noted that the EMP mandates that developers halt all natural gas construction by 2025, and allowing the Project to continue would contradict this mandate. HE at 38. Holmdel claimed that NJNG and the Initial Decision relied substantially on Robert Chilton’s testimony. HE at 50. Because Mr. Chilton was involved in the development of a prior EMP and he played no part in the development of the current EMP, his expertise is dated and irrelevant. HE at 50.

Holmdel refers to the New Jersey Department of Environmental Protection’s (“DEP”) “New Jersey’s Global Warming Response Act: 80x50 Report: Evaluating Our Progress And Identifying Pathways To Reduce Emissions By 80% By 2050,” (“80x50 Report”) which provides, in part, that to meet the EMP’s goals, there must be substantial reduction in greenhouse gas emissions, and aggressive conversion to electric heat is one way to help achieve this goal. HE at 42-44.

Holmdel argued that the Clean Energy Act, the Global Warming Act, and the EMP are binding on this proceeding, and the 80x50 Report should have compelled ALJ Pelios to reconsider his earlier denial of Holmdel’s motion to compel NJNG to reconsider its petitions. HE at 46-47. Additionally,

Holmdel reiterated that the project represents an increase in natural gas infrastructure and creation of a potentially stranded asset, contrary to the State's energy and climate policy. HE at 50.

Holmdel questioned Mr. Chilton's interpretation of the EMP as merely advisory and again asserted that the EMP is binding on this proceeding according to law. HE at 50-52. Holmdel further questioned Mr. Chilton's claim that the EMP sets a goal of electrifying buildings as part of a "very long and gradual transition away from natural gas." HE at 52-53 (citing NJNG-1016:8-17:18). Holmdel asserted that the EMP makes no reference to this claim and that the Board must reject any testimony which speculates that the Board will fail to fulfill its duties. HE at 53-54.

#### 5. Fifth Exception

According to Holmdel, and contrary to the Initial Decision, NJNG failed to fulfill its legal obligation to consider alternatives. HE at 60. Holmdel claimed that the Initial Decision did not analyze the "overwhelming benefits of the status quo" in determining that the Project is reasonably necessary. HE at 60. Holmdel also argued that the Initial Decision did not adequately consider a catalytic heater as an alternative, and since such heaters do not suffer the reliability issues alleged by NJNG, NJNG did not make its required good faith effort to consider alternative heaters. HE at 60-61 (citing Public Service, 35 N.J. at 377). Therefore, according to Holmdel, NJNG failed to seek additional quotations, sources and pricing, as required under N.J.S.A. 40:55D-19, and thereby failed to meet its burden of proving alternatives. HE at 63-64.

Holmdel also pointed to NJNG's failure to consider the use of eminent domain to acquire easements at alternate locations before settling on 970 and later 960 Holmdel Road. HE at 75-76. Holmdel claimed that NJNG failed to consider the use of condemnation to acquire easements to build the Project at other sites. HE at 76. Holmdel argued that condemnation proceedings must be considered when evaluating which sites are reasonably available and NJNG, by its own admission, did not try to use condemnation to procure alternative sites. HE at 77-78.

#### 6. Sixth Exception

Holmdel questioned NJNG's air quality and noise expert alleging that his opinions are not credible. HE at 82. According to Holmdel, the expert did not question NJNG's assertion that the Browntown regulator station was similar to the proposed regulator. HE at 84-86. Holmdel further alleged that that Mr. Potenta failed to question the efficacy of NJNG's proposed regulator and its effects on the built environment. HE at 86-88. Holmdel noted that Mr. Potenta did not review the EMP and admitted that relocating the proposed regulator further back from Holmdel Road would mitigate any air pollution and noise impacts. HE at 89-91. Finally, Holmdel concluded that Mr. Potenta's assessment only considered information from NJNG and manufacturers, with no independent analysis or investigation, rendering his opinions not credible. HE at 92.

#### 7. Seventh Exception

Holmdel stated that the ALJ Pelios erroneously relied upon expert testimony that contradicted the HZBA's expert findings. HE at 92. Holmdel argued that the town's zoning ordinance permits only one (1) primary use on each site and the regulator would add a third use to this site. HE at 95. Further, Holmdel noted that the HZBA denied, on two (2) separate occasions, NJNG's requests for variances to allow more than one (1) principal use per site. HE at 93 (citing, e.g. Sun Co. Zoning Board, 286 N.J. Super. 440 (App. Div.), certif. denied, 144 N.J. 376 (1966)).

Holmdel stated that the Board must consider multiple aspects of the proposed plot and, with

inadequate expert testimony, the BPU was ill-equipped to judge close controversies regarding variances. HE at 92 (citing Public Service, 35 N.J. at 376-77). Holmdel argued that, on judicial review, a zoning board's factual determinations can only be reversed if arbitrary and capricious. HE at 93 (citing e.g., Med. Center v. Princeton Tp. Zoning, 343 N.J. Super. 177, 198 (App. Div. 2001) (citing Ward v. Scott, 16 N.J. 16, 23 (1954))). Holmdel further stated that only "exceptional cases" warrant use variance relief and zoning boards are afforded greater deference in denying use variances. HE at 93 (citing Funeral Home Mgmt. v. Basralian, 319 N.J. Super. 200, 207-08 (App. Div. 1999)).

Holmdel concluded that the Initial Decision relied almost exclusively on the testimony of Christine Nazzaro-Cofone regarding the impact of the combustion regulator on Holmdel's land use ordinances, finding that her testimony was "undisputed" and that the combustion regulator "will not be incongruent with the existing structures and their uses." HE at 93-94 (citing Initial Decision at 26-28).

#### 8. Eighth Exception

In Holmdel's eighth exception, it argued the Initial Decision arbitrarily favored NJNG's property value witness because ALJ Pelios concluded the testimony of both property value witnesses, Mr. Jeffrey Otteau for NJNG and Dr. Donald Moliver for Holmdel, were credible, but favored Mr. Otteau's testimony because it contained "superior 'quantitative data.'" HE at 95-96 (citing Initial Decision at 18). Holmdel further argued that the testimony relied upon too many unverifiable variables, forcing Mr. Otteau's conclusion that there is no impact on property value. HE at 95-96. In addition, Holmdel questioned Mr. Otteau's methodology used to determine there was no stigma attached to the proposed regulator. HE at 97.

Holmdel further argued that the Initial Decision did not discuss the validity of Dr. Moliver's testimony that comparing prior sales of the same residence is superior to Mr. Otteau's methodology. HE at 99. Holmdel argued that it was logically impossible for both experts' contradictory testimony to be credible. HE at 101. Because NJNG's witness was not shown to be credible, it did not meet the burden of proving the Project will not adversely impact property values in the vicinity. HE at 101.

#### 9. Ninth Exception

In its ninth exception, Holmdel argued that ALJ Pelios allowed NJNG to "stonewall" Holmdel's discovery, making the record incomplete. HE at 101-02. Holmdel alleged that NJNG gave non-responsive, incomplete or evasive answers to Holmdel's requests for information regarding NJNG's "reliability" project. HE at 102-03. Holmdel claimed NJNG refused to answer questions concerning compliance with the EMP and its goals, including all requests regarding stranded costs and heat source. HE at 103.

Holmdel further claimed that NJNG failed to meet its burden of proof, and the petition should be denied because it failed to answer questions regarding the current regulator; pressures and volumes of the 16-inch transmission and distribution lines; cost recovery; and its refusal to consider catalytic heaters and their benefits. HE at 104-06. Further, Holmdel claims NJNG failed to furnish discovery related to easement negotiations. HE at 104.

## B. NJNG Reply

On July 29, 2022, NJNG filed its reply to Holmdel's exceptions, urging the Board to reject Holmdel's exceptions and adopt the Initial Decision in its entirety. NJNG's Reply ("NJNGR") at 1.

The Company argued that Holmdel's exceptions presented a series of "straw men" and "red-herring"-type arguments that are not supported by credible evidence. NJNGR at 5.

### 1. Application of the Proper Standard of Review Compels Adoption of the Initial Decision

The Company argued that ALJ Pelios fully satisfied the requirements of the New Jersey Administrative Procedure Act by making findings regarding each factor under N.J.S.A. 40:55D-19. NJNGR at 15-16. Since ALJ Pelios' findings on reasonable necessity and site location were based upon a review of the credibility of the testimony, and were not arbitrary, capricious or unreasonable, the BPU should adopt the Initial Decision. NJNGR at 16.

### 2. The ALJ Properly Applied the Governing Legal Standards and Burden of Proof

NJNG argued that Holmdel's argument that the Initial Decision misapplied the law as to the burden of proof in cases under N.J.S.A. 40:55D-19 is incorrect. NJNGR at 17. The Company argued that Holmdel failed to offer any testimony recommending or evaluating any heater or siting alternatives. NJNGR at 19. NJNG also disputed Holmdel's claims of resource imbalances, which the Company described as "irrelevant". NJNGR at 19. Further, NJNG stated that Holmdel omitted the fact that NJNG's petition is governed by a preponderance of the evidence standard. NJNGR at 20.

### 3. The Board's Authority Supersedes the Municipal Land Use Law ("MLUL")

NJNG argued that Holmdel erroneously contended that the Initial Decision failed to address the HZBA's finding on NJNG's MLUL d(1) variance application to the HZBA. NJNGR at 21. NJNG claimed ALJ Pelios and the BPU need not decide whether the HZBA's d(1) variance was proper, but whether to preempt local zoning altogether. NJNGR at 22. NJNG further stated that Holmdel is incorrect that the Board is bound by, must defer to, or must discuss the HZBA's findings from its denial of NJNG's d(1) variance application. NJNGR at 22. The Company argued that the Board must apply an entirely different standard under N.J.S.A. 40:55D-19 than the HZBA's variance standards. NJNGR at 23. NJNG further stated that the Appellate Division accordingly held that the BPU owes no deference to the findings of a zoning board that rejected a reasonably necessary utility project. NJNGR at 23.

### 4. Holmdel's Exceptions do not Refute the ALJ's Findings that the Project is Reasonably Necessary and that the Site and Facility Design are Reasonable

#### a. The Project is Reasonably Necessary

NJNG argued that Holmdel's exceptions did not refute ALJ Pelios' evidence-based findings that the proposed facility is reasonably necessary for the service, convenience and welfare of the public and that the site and facility design are reasonable in light of the alternatives. NJNGR at 24. NJNG argued that Holmdel's suggestion to "do nothing" and permanently rely on the temporary regulator is not reasonable. NJNGR at 25. Additionally, NJNG claimed the absence of any major service failure does not prove that risk of future outages due to the ice-encasement is non-existent. NJNGR at 26.

NJNG also disputed Holmdel's position that there is zero reliability risk because the temporary regulator suffered "only two" significant incidents. NJNGR at 28. The Company argued these two (2) incidents each put the station out of service for a full day, which further demonstrates that the Project is reasonably necessary. NJNGR at 29.

NJNG further stated that the lack of existing system monitoring at the temporary regulator station does not obviate the need for the Project. NJNGR at 29. Additionally, the Company stated that Holmdel's argument that operating the system at lower inlet pressures means there are no reliability concerns is erroneous. NJNGR at 30.

The Company further argued that Holmdel's citations to the depreciable life of the temporary regulator are irrelevant because the Project is a reliability measure not based on the temporary regulator's age. NJNGR at 31. NJNG further claimed that Holmdel's argument, in sum, is that the Project is not absolutely or indispensably necessary; this is not the correct standard. NJNGR at 31.

NJNG stated that, contrary to Holmdel's claim, the Project is not a capacity expansion project. NJNGR at 31. Rather, the Project will continue to deliver gas from the existing BPU-approved transmission line to existing customers. NJNGR at 31-32. NJNG further stated that demand is dictated by customer usage, the Company's statutory obligation is to meet that demand, and installing subpar equipment would fail that obligation. NJNGR at 33.

b. NJNG Conducted a Proper Site Analysis

Next, NJNG claimed the Initial Decision correctly found that the Company conducted a good-faith, proper site analysis and correctly found the proposed site to be reasonably necessary. NJNGR at 34, 36. Additionally, the Company stated that Holmdel never identified any feasible alternative to the Company's proposed location. NJNGR at 38. NJNG asserted that there is therefore no evidentiary basis for Holmdel's opposition to NJNG's site selection process and the proposed site. NJNGR at 38. NJNG also stated that ALJ Pelios properly relied on Christine Nazarro-Cofone's expert testimony regarding consideration of the zone plan and community impacts. NJNGR at 38.

NJNG responded to Holmdel's argument that, because NJNG did not 1) initiate condemnation litigation or 2) threaten condemnation litigation during negotiations with the owners of five (5) of the six (6) sites identified by NJNG as possible alternatives, its site selection process was deficient. NJNGR at 41. According to NJNG, condemnation was not feasible because the alternative sites would not have less impact on the zoning scheme than the proposed site. NJNGR at 41. NJNG further argued that Holmdel did not present evidence of any other acceptable, or superior, site. NJNGR at 42.

NJNG disagreed with Holmdel's claim that condemnation litigation would not be onerous, expensive, or difficult and would result in NJNG quickly obtaining title to the property. NJNGR at 44. NJNG argued the Eminent Domain Act is clear that the provisions allowing early possession following the filing of a declaration of taking and deposit of compensation "shall not apply to individuals or private corporations vested with the authority of condemnation." NJNGR at 44. NJNG further stated that Holmdel's speculation that there might be a location "far back enough" at the proposed site to satisfy Holmdel is a "red herring" with no support. NJNGR at 45. Additionally, NJNG stated that the back of the property contains a septic system and is therefore unusable. NJNGR at 47.

c. NJNG Properly Considered Alternative Methods and Holmdel did not Propose any Alternatives

NJNG argued that Holmdel's argument that ALJ Pelios failed to address an alternative to the status quo is incorrect. NJNGR at 49. NJNG provided evidence of: 1) icing on the temporary regulator and related equipment; 2) two (2) significant malfunctions; 3) incidents requiring equipment thawing; and 4) regular icing throughout the year. NJNGR at 49. NJNG stated that the record shows use of a heater to preheat gas at a regulator station and avoid icing is a customary and leading practice in the natural gas industry that the Company currently uses to address high pressure drops at 34 other regulator stations. NJNGR at 49. Additionally, NJNG claimed that the Project will reduce pressure in the Company's distribution system and ensure reliable service to Holmdel and surrounding Monmouth County municipalities. NJNGR at 50.

NJNG agreed with ALJ Pelios' findings that: 1) the Company considered alternative methods for the project, 2) the facility's CWT heater design is reasonable, and 3) Holmdel failed to demonstrate that a catalytic heater is a feasible alternative to the CWT heater. NJNGR at 50-51.

NJNG further argued that Holmdel offered no testimony to support the argument that the catalytic heater is a superior alternative to the CWT heater. NJNGR at 52. NJNG rebutted the claim that it did not consider the catalytic heater, stating that NJNG's senior engineers considered the catalytic heater and reasonably chose the CWT dry line heater used by NJNG's current system. NJNGR at 52. Additionally, NJNG quoted Holmdel's brief, noting that Holmdel cited instances wherein the Company discussed its consideration of catalytic heaters. NJNGR at 52.

NJNG rebutted the claim that that the Company's witnesses did not consider the catalytic heater to be superior due to its reliability issues. NJNGR at 54. NJNG's witnesses testified that the catalytic heater is inferior to the CWT heater because catalytic heaters require natural gas combustion, use chemical catalysts, consume more gas, cost more, and suffer reliability problems. NJNGR at 54. Furthermore, NJNG stated that it installed five (5) catalytic heaters on its system from 2008-2010 and experienced extensive heater panel and circuit board defects. NJNGR at 54-55. Additionally, the catalytic heaters experienced several electrical failures for which repairs took over a year to complete. NJNGR at 55.

NJNG responded to Holmdel's argument that previous catalytic heater failures were not serious, arguing that a lack of outages resulting from catalytic heater malfunctions and the Company's ability to replace failed heater panels still render them unreliable compared to CWT heaters which operate without similar problems. NJNGR at 56.

NJNG argued that Holmdel was unable to cite any law that requires competitive bidding on every piece of utility equipment and provided no evidence that the heater purchase, or any other cost, was excessive. NJNGR at 57.

NJNG argued that there is no evidence to support Holmdel's theory that the Company's effort to site and approve the Project, including the proposed heater, is motivated solely by the CWT heater expenditure of under \$300,000 in 2013. NJNGR at 58. NJNG claimed it would not devote nearly 10 years of effort, personnel time, and financial resources to include the cost of the CWT heater in rates. NJNGR at 58.

NJNG lastly disputed that Holmdel's technical expert, Mr. Mosely, claimed, based on hearsay, that catalytic heaters are environmentally superior. NJNGR at 58. The Company noted that Mr. Mosely only suggested that the Company should explore the feasibility of catalytic heaters, which

it had already done. NJNGR at 58. NJNG argued, therefore, that Holmdel failed to carry out its burden of demonstrating a feasible alternative method. NJNGR at 59.

d. The ALJ Correctly Found that the Facility will not Produce Adverse Noise and Air Emissions

The Company agreed with ALJ Pelios' decision to adopt the testimony of NJNG's witness, Mr. Potenta, in its entirety. NJNGR at 59. The Company claimed Mr. Potenta testified that Browntown, the regulator on which his noise level testimony was based, was measured as a backup to verify the manufacturer's sound data because the Project is produced by the same manufacturer. NJNGR at 61. NJNG argued that Holmdel's claim that Mr. Potenta is unqualified lacked merit because the Holmdel Township Board of Adjustment consented to his appearance as an expert in noise and air quality. NJNGR at 63. Mr. Potenta concluded that moving the location of the Project would have no impact on noise and provide no benefit to the surrounding neighborhood. NJNGR at 64.

e. The Facility Will Not Adversely Impact Local Property Values

NJNG agreed with ALJ Pelios' decision to utilize Mr. Otteau's testimony and argued that Holmdel's witness, Dr. Moliver, provided no support for Holmdel's position. NJNGR at 65. NJNG argued that the Interstate Natural Gas Association of America report cited by Dr. Moliver covered the impact of natural gas transmission lines, not regulator stations, and therefore had no impact on the Company's position. NJNGR at 68-69. NJNG argued the Company or its witness did not rely on the report, so it did not damage the Company's credibility. NJNGR at 69. According to NJNG, Dr. Moliver further alleged that the Project's industrial size would create a stigma. NJNGR at 69. NJNG argued the actual evidence showed that the Project is of a typical and appropriate size and that the location's natural and installed features will render the Project unnoticeable. NJNGR at 69. The Company stated that, if there were a stigma, the Company would have identified lower property values near the other five (5) regulator stations in NJNG's system. NJNGR at 70.

f. The Facility is Consistent with the EMP and Other Clean Energy Policy

NJNG agreed with the Initial Decision's findings that the regulator station is a reliability project and that the Project is consistent with the EMP. NJNGR at 78. Additionally, NJNG established that the Project is necessary to reduce pressure for the foreseeable future, even if there is a 75% reduction in natural gas use by 2050. NJNGR at 78. Holmdel's witness, Mr. Santhana, confirmed that many of Holmdel's residents, businesses, and public facilities rely on natural gas and will continue for many years. NJNGR at 80. NJNG stated that the Company must continue meeting gas demand for at least the next 10 years, and for at least a further 20 years as customers convert to electric appliances during natural stock rollover. NJNGR at 80.

NJNG offered testimony from Mr. Chilton, an expert in New Jersey energy policy, that the stranded costs from the Project are not a realistic concern. NJNGR at 89. Mr. Chilton stated that the Project is necessary to enhance reliability consistent with the EMP. NJNGR at 89. Furthermore, Mr. Chilton stated the Project will be useful for at least 30 years and it is unlikely that the Project would become a stranded asset. NJNGR at 89.



### C. Rate Counsel's Reply

On July 29, 2022, Rate Counsel filed a reply letter to Holmdel's Exceptions. Rate Counsel stated that it relied primarily on arguments made in its Initial Brief and Reply Brief, and reiterated its concern that the Project's cost should not exceed NJNG's original cost estimate. Rate Counsel's Reply ("RCR") at 1-2. Rate Counsel further stated that Holmdel's recommended alternatives could raise the cost of the Regulator and thus increase costs for ratepayers. RCR at 2. Rate Counsel further reiterated its concern that, although NJNG did not request recovery in this proceeding, NJNG stated that it will seek recovery of the Regulator costs from ratepayers in its next base rate case. RCR at 2.

Rate Counsel explained that Holmdel's suggestions that 1) the Company purchase a catalytic heater seemingly in addition to the combustible heater already purchased by the Company and, 2) the Company should pursue eminent domain proceedings to utilize a completely different location, would increase costs. RCR at 2. Rate Counsel further explained that, because NJNG already purchased the heater and the Company already pursued the two (2) proposed locations, Holmdel's alternatives would increase Project costs. RCR at 2.

Rate Counsel maintained that any costs incurred by the Company beyond its original estimate of approximately \$3 million may not be considered "reasonably necessary" pursuant to N.J.S.A. 40:55D-19. RCR at 2. NJNG's most recent Project cost estimate was \$4.81 million with about \$1.75 million added to the cost as a result of legal and expert fees from the dispute with Holmdel. RCR at 2-3 (citing Rate Counsel's Initial Brief, dated December 16, 2020, at 5). If the Board deems the full cost of the Project prudent in a future base rate case, Rate Counsel stated that NJNG ratepayers will bear the burden of all costs, including the cost of these disputes. RCR at 3. Rate Counsel, therefore, maintained that any decision in this matter should consider the planning costs already incurred and the cost of the dispute. RCR at 3. Rate Counsel concluded that additional modifications to the Project's location or design, without any evidence of safety or reliability concerns, will only continue to add costs to the project and should be rejected. RCR at 3.

### **DISCUSSION AND FINDINGS**

The Board agrees with ALJ Pelios' determinations regarding witness credibility, development of the record, and analysis thereof. The Board further agrees with ALJ Pelios' findings of fact, specifically:

1. NJNG's panel testimony was credible concerning the need for the Project, that the most reasonable and practical method for heating the regulator is a CWT heater, and that the proposed site was the most reasonable option. Initial Decision at 13.
2. The Project will have little to no material impact on the value of nearby properties. Initial Decision at 17-18.
3. The Project will have no adverse impact on the area's ambient noise levels or air quality, and will have a negligible impact on the State's overall air quality and greenhouse-gas emissions. Initial Decision at 21.
4. The law-of-the-case doctrine bars re-litigation of the binding effect of the EMP, and EMP Goal 5.4.2 is not implicated in this matter because the Project will address reliability concerns and is not an expansion or

improvement project. Further, the Project is consistent with the EMP's goals when considering NJNG's obligation to maintain a reliable and safe natural-gas system. Initial Decision at 25.

5. NJNG duly considered Holmdel Township's zoning ordinances and Holmdel's Master Plan when selecting the Project's site. Initial Decision at 27.

Based upon the above, and as discussed in detail herein, the Board agrees with ALJ Pelios' conclusion that the Project, as proposed, is reasonably necessary to provide safe, adequate, and reliable natural gas services in New Jersey, and is reasonably necessary for the service, convenience, and welfare of the public. Initial Decision at 33. Therefore, the Board concurs with ALJ Pelios' conclusion that, pursuant to N.J.S.A. 40:55D-19, local land use and zoning ordinances, rules, or regulations should not apply to the construction, installation, and operation of the Project. Initial Decision at 33.

A municipality may impose zoning regulations on a utility project. However, the Board retains "supervising authority" to waive such zoning regulations should the utility meet the criteria provided under N.J.S.A. 40:55D-19. Public Service, 35 N.J. at 373-74. Pursuant to the criteria, the Petitioner must demonstrate that the utility project is reasonably necessary for the service, convenience, or welfare of the public, including to maintain reliable electric or natural gas supply service, and that no alternative site is reasonably available to achieve an equivalent public benefit. N.J.S.A. 40:55D-19; see Public Service, 35 N.J. at 373-74, 377.

The Board agrees with ALJ Pelios' decision that, based upon the findings of fact, the Project "is reasonably necessary for the service, convenience or welfare of the public." See Public Service, 35 N.J. at 373-74, 376-77; see also N.J.S.A. 40:55D-19. In its Exceptions, Holmdel argued against the necessity of the proposed Project, arguing that the current regulator is adequate. As noted by NJNG, the current regulator cannot be equipped with a heater, and as such, the Company operated its system at reduced, suboptimal pressures, continuously in winter months and regularly throughout the year, to mitigate risk of equipment becoming encased in ice. Additionally, the Company reported incidents where high-pressure alarms were triggered and the regulator had to be placed on standby while equipment was rebuilt. The Project will have an above-ground heating unit to prevent the pressure-reducing regulators and other equipment from becoming encased in thick ice. According to NJNG, without a heater, ice encasement could cause station failure, resulting in gas service outages to customers, and devastating consequences to scores of affected customers, especially in the winter. Additionally, the Company considered the costs of the project as it related to the selection of the heater. Therefore, the Board agrees that the Project is reasonably necessary to provide safe, adequate, and reliable natural gas services.

In its Exceptions, Holmdel further argued against the necessity of the proposed Project, claiming the Project is a capacity expansion project, not a reliability project. Pointing to the reductions in natural gas consumption required by the EMP, Holmdel argued that those reductions would negate the need for the proposed station, resulting in the station becoming a stranded asset. However, the Board concurs with ALJ Pelios that the Project does not increase system capacity and is therefore not part of an expansion project. Additionally, there is no reason to believe that the Project will not operate into the foreseeable future. Therefore, the Board agrees that the Project is one of necessity because it increases reliability.

When determining reasonable necessity, the finder of fact must also consider “reasonable, practical, and permanent alternative[s] to the construction” of the proposed facility.<sup>10</sup> Initial Decision at 31. The Board agrees with ALJ Pelios that the Company used reasonable site-selection criteria in considering alternative locations for the Project. As such, the Company adequately demonstrated that the proposed location of the Project is reasonable compared to the alternatives, as required by N.J.S.A. 40:55D-19. Specifically, the Company compared the advantages and disadvantages of many sites, concluded that the Project offered optimal engineering design, and presented the least harmful impacts to residential areas and the environment.<sup>11</sup> Additionally, NJNG’s site selection process was in cooperation with property owners, thereby eliminating the need to utilize condemnation which potentially could have further delayed the Project and increased costs through additional litigation. Moreover, NJNG’s site analysis established that there were no reasonably available alternative sites for the Project that will achieve an equivalent public benefit.

The record further reflects that NJNG made good faith attempts to address Holmdel’s concerns, moving the proposed location approximately 200 feet from Holmdel Road. NJNG also included berms and foliage in its plans to minimize the site’s visibility and impact on noise. The record further reflects that the new facility would not generate odor or substantial noise in the surrounding area. The Project would install a sound wall to mitigate any generated noise, and the heater is the only part of the facility that would generate emissions, the majority of which would consist of carbon dioxide and water vapor, with trace amounts of criteria air pollutants. Due to these limited emissions, the heater is not considered a significant source of air pollutants and does not require an air permit per Environmental Protection Agency and DEP regulations. Though reducing greenhouse gas emissions and other air pollutants is a stated goal and mandate set forth in the 2019 EMP, the proposed facility’s emissions would be minimal compared to the overall emissions generated in the State. Lastly, the Project is not an expansion project and is pivotal for NJNG to provide reliable service. The Project, therefore, does not conflict with the sub-goals of Goal 5.4 of the EMP.

Therefore, after careful consideration of the 2017 Petition, the 2018 Petition, the evidentiary record, the Initial Decision, the exceptions, and the replies thereto, the Board **HEREBY FINDS** that, in accordance with N.J.S.A. 40:55D-19, the Project is reasonably necessary for the service, convenience, and welfare of the public. The Board **HEREBY ORDERS** that, pursuant to N.J.S.A. 40:55D-19, Holmdel’s Land Use Law, and any other ordinances, rules, or regulations promulgated pursuant to the auspices of the Municipal Land Use Law of the State of New Jersey, do not apply to the construction, installation, and operation of the Project. The Board **HEREBY GRANTS** the 2018 Petition and **HEREBY FINDS** that NJNG may construct the Project as proposed therein.

As such, the Board **HEREBY ADOPTS** the Initial Decision in its entirety and without modification.

---



<sup>10</sup> In re the Appeal of Jersey Cent. Power & Light Co., BPU Docket. No. EO09010010, Order dated September 14, 2009, at 16; see N.J.S.A. 40:55D-19.

<sup>11</sup> See Monmouth Consol. Water Co., 47 N.J. at 259-60 (recommending that the Board consider and weigh, among other factors, “the physical character of the uses in the neighborhood,” “the effect on abutting owners,” and “its relative advantages and disadvantages from the standpoint of public convenience and welfare”).


The effective date of this Order is December 28, 2022.

DATED: December 21, 2022

BOARD OF PUBLIC UTILITIES  
BY:

  
\_\_\_\_\_  
JOSEPH L. FIORDALISO  
PRESIDENT  
\_\_\_\_\_  
MARY-ANNA HOLDEN  
COMMISSIONER  
\_\_\_\_\_  
DIANNE SOLOMON  
COMMISSIONER  
\_\_\_\_\_  
ROBERT M. GORDON  
COMMISSIONER  
\_\_\_\_\_  
DR. ZENON CHRISTODOULOU  
COMMISSIONER

ATTEST:

  
\_\_\_\_\_  
CARMEN D. DIAZ  
ACTING 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 NEW JERSEY NATURAL GAS COMPANY FOR A DETERMINATION CONCERNING THE HOLMDEL REGULATOR STATION PURSUANT TO N.J.S.A. 40:55D-19 – 2017 PETITION

IN THE MATTER OF THE PETITION OF NEW JERSEY NATURAL GAS COMPANY FOR A DETERMINATION CONCERNING THE HOLMDEL REGULATOR STATION PURSUANT TO N.J.S.A. 40:55D-19 – 2018 PETITION

BPU DOCKET NOS. GO17010023 and GO18111257  
OAL DOCKET NOS. PUC 01160-17 and PUC 17810-18

SERVICE LIST

**New Jersey Natural Gas Company**

Andrew K. Dembia Esq.  
1415 Wyckoff Road  
P.O. Box 1464  
Wall, NJ 07719  
[adembia@njng.com](mailto:adembia@njng.com)

Gregory Eisenstark, Esq.  
Cozen O'Connor  
One Gateway Center  
Suite 2600  
Newark, NJ 07102  
[geisenstark@cozen.com](mailto:geisenstark@cozen.com)

James C. Meyer, Esq.  
Riker Danzig Scherer Hyland & Perretti, LLP  
One Speedwell Avenue  
Morristown, NJ 07962  
[jmeyer@riker.com](mailto:jmeyer@riker.com)

**Holmdel Township**

Wendy Patrovich, Township Clerk  
4 Crawford Corner Road  
Holmdel, NJ 07733  
[wpatrovich@holmdeltownship-nj.com](mailto:wpatrovich@holmdeltownship-nj.com)

Loretta Coscia, Board Secretary  
Holmdel Zoning Board of Adjustment  
4 Crawford Corner Road  
Holmdel, NJ 07733  
[lcoscia@holmdeltownship-nj.com](mailto:lcoscia@holmdeltownship-nj.com)

Peter Dickson, Esq.  
Potter and Dickson  
194 Nassau Street, Suite 31  
Princeton, NJ 08542  
[dicksonpd@cs.com](mailto:dicksonpd@cs.com)  
[rwppddl@cs.com](mailto:rwppddl@cs.com)

**Board of Public Utilities**

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

Carmen D. Diaz, Acting Secretary  
[board.secretary@bpu.nj.gov](mailto:board.secretary@bpu.nj.gov)

Stacy Peterson, Deputy Executive Director  
[stacy.peterson@bpu.nj.gov](mailto:stacy.peterson@bpu.nj.gov)

**Division of Water and Energy**

Michael Kammer, Director  
[mike.kammer@bpu.nj.gov](mailto:mike.kammer@bpu.nj.gov)

Paul Lupo, Bureau Chief  
[paul.lupo@bpu.nj.gov](mailto:paul.lupo@bpu.nj.gov)

Dean Taklif  
[dean.taklif@bpu.nj.gov](mailto:dean.taklif@bpu.nj.gov)

**Office of General Counsel**

Michael Beck, General Counsel  
[Michael.beck@bpu.nj.gov](mailto:Michael.beck@bpu.nj.gov)

Carol Artale, Deputy General Counsel  
[carol.artale@bpu.nj.gov](mailto:carol.artale@bpu.nj.gov)

Heather Weisband, Senior Counsel  
[heather.weisband@bpu.nj.gov](mailto:heather.weisband@bpu.nj.gov)

**New Jersey Division of Rate Counsel**

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

Brian O. Lipman, Esq., Director  
[blipman@rpa.nj.gov](mailto:blipman@rpa.nj.gov)

Maura Caroselli, Esq., Managing Attorney  
[mcaroselli@rpa.nj.gov](mailto:mcaroselli@rpa.nj.gov)

**Department of Law and Public Safety**

Richard J. Hughes Justice Complex  
25 Market Street  
P.O. Box 112  
Trenton, NJ 08625

Pamela Owen, DAG  
[pamela.owen@law.njoag.gov](mailto:pamela.owen@law.njoag.gov)

Daren Eppley, DAG  
[daren.eppley@law.njoag.gov](mailto:daren.eppley@law.njoag.gov)

Terel Klein, DAG  
[terel.klein@law.njoag.gov](mailto:terel.klein@law.njoag.gov)



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**INITIAL DECISION**

OAL DKT. NOS. PUC 01160-17 and  
PUC 17810-18  
AGENCY BPU DKT. NOS. GO17010023  
and GO18111257  
**(CONSOLIDATED)**

**IN THE MATTER OF THE PETITION  
OF NEW JERSEY NATURAL GAS  
COMPANY FOR A DETERMINATION  
CONCERNING THE HOLMDEL  
REGULATOR STATION PURSUANT  
TO N.J.S.A. 40:55D-19.**

---

**James C. Meyer**, Esq., for petitioner New Jersey Natural Gas Company (Riker, Danzig, Scherer, Hyland, & Perretti, LLP, attorneys)

**Michael S. Kettler**, Esq., for petitioner New Jersey Natural Gas Company (Riker, Danzig, Scherer, Hyland, & Perretti, LLP, attorneys)

**Gregory Eisenstark**, Esq., for petitioner New Jersey Natural Gas Company (Cozen O'Connor, P.C., attorneys)

**Peter Dickson**, Esq., for Intervenor Holmdel Township (Potter & Dickson, attorneys)

**Maura Caroselli**, Assistant Deputy Rate Counsel, for Rate Counsel (Brian O. Lipman, Director, Division of Rate Counsel)

**Terel Klein**, Deputy Attorney General, for Board of Public Utilities (Matthew J. Platkin, Acting Attorney General of New Jersey, attorney)

Record Closed: January 19, 2021

Decided: May 18, 2022

BEFORE **ELIA A. PELIOS**, ALJ:

### **STATEMENT OF THE CASE**

This proceeding involves a petition by New Jersey Natural Gas Company (petitioner, NJNG) for a determination pursuant to the provisions of N.J.S.A. 40:55D-19 that the construction of a regulator station in Holmdel Township in Monmouth County, New Jersey, is reasonably necessary for the service, convenience, or welfare of the public, and that the zoning and land-use ordinance of the municipality and its county shall have no application thereto.

### **PROCEDURAL HISTORY**

NJNG filed the first petition with the New Jersey Board of Public Utilities (BPU) on January 17, 2017. The petition was transmitted to the Office of Administrative Law (OAL) on January 23, 2017, for a determination as a contested case. The Township of Holmdel (Holmdel) filed an unopposed motion to intervene in that matter on April 3, 2017, which was granted by Order of June 7, 2017. A public hearing for this petition was held on June 8, 2017. Following a decision by NJNG to seek an alternate location for the proposed station and NJNG's filing a second application with the Holmdel Township Zoning Board of Adjustment (HZBA), the first petition was put on inactive status for six months on October 12, 2017. The order of inactivity was renewed for another six months on June 15, 2018.



On November 29, 2018, NJNG filed a second petition with the BPU after the second application was denied by the HZBA. On December 3, 2018, the BPU transmitted the second petition to the OAL as a contested case. The two matters were consolidated on December 18, 2019. Holmdel again filed an unopposed motion to intervene in the matter on January 16, 2019. A public hearing was held on February 13, 2020.

Evidentiary hearings were held remotely on October 14, 16, 20, 21, 22, and 23, 2020. Following the submission of post-hearing briefs and reply briefs the record was closed on January 19, 2021.

## **FACTUAL DISCUSSION AND FINDINGS**

### **Introduction of Witnesses**

Along with its petitions to the BPU, NJNG filed the direct testimony of six witnesses and attached exhibits. Holmdel likewise filed the direct testimony of three witnesses and attached exhibits. The testimony was expanded upon through cross-examination and re-direct during the remote hearing dates. The witnesses are as follows:

#### **NJNG Panel**

NJNG presented testimony from Kraig Sanders (Sanders), Marc Panaccione (Panaccione), and John Wyckoff (Wyckoff) individually and as part of a rebuttal panel. The purpose of the NJNG's panel testimony was to address the need for the proposed station and discuss NJNG's site selection, station plan, and design.

Sanders is the director of Pressure Management and Transmission for NJNG and is responsible for the maintenance and operation of NJNG's metering and regulator stations and gas control center, as well as the maintenance and operations of NJNG's transmission facilities. (P-1 at 1; 10/14 Tr. at 70.) Sanders has been employed by NJNG for around nineteen years and has a bachelor's degree in civil engineering from Stanford University. (P-1 at 1.)

Panaccione is a senior engineer for NJNG, and is responsible for the engineering design, project management, construction oversight, and system planning of NJNG's transmission and distribution system. (P-2 at 1; 10/14 Tr. at 72.) Panaccione was the panel's primary expert regarding costs. Panaccione has been employed by NJNG for around fourteen years and has a Bachelor of Science in mechanical engineering from the University of Maryland and a Master of Business Administration from Rutgers University. (P-2 at 1.)

Wyckoff is the vice president of NJNG and is responsible for leading the NJNG engineering team in charge of the technical design and construction of NJNG's infrastructure, as well as project management, construction quality control, and system planning, analysis, and mapping. (P-8 at 1-2; 10/14 Tr. at 75–76.) Wyckoff has been employed by NJNG for thirty years. (P-8 at 2.) He has a Bachelor of Science in mechanical engineering from the University of Delaware, and a master's degree in material science and engineering from Rutgers University and is licensed as a professional engineer in New Jersey. (Ibid.)

Christine Nazzaro-Cofone (Cofone) testified on behalf of NJNG as an expert in city planning and land use. Cofone has a master's degree in city and regional planning and is licensed as a New Jersey professional planner and with the American Institute of Certified Planners. (P-9 at 1.) Cofone has previously testified on behalf of NJNG at the HZBA hearings. (Ibid.) She has personal knowledge of both the original and proposed sites as a Monmouth County resident and having visited both sites in preparation for the HZBA proceedings. She is similarly familiar with Holmdel's Zone Plan and ordinances and Holmdel's Master Plan. (P-9 at 2–3, 8–9.) The purpose of her testimony was to rebut the testimony of Santhana and Dr. Moliver regarding the proposed station's consistency with Holmdel's zone plan and ordinances.

Prakash Santhana (Santhana) testified as an elected official of Holmdel Township representing both the residents and the community as a whole. Santhana has a Master of Business Administration degree, with a focus in finance and entrepreneurship. (Holm-3 at 2.) He has been a resident of Holmdel since 2013, and a member of Holmdel Township's Committee since 2020. (Holm-3 at 3; 10/21 Tr. at 23.) He has also been an

active member of several residents' groups focused on maintaining Holmdel's quality of life. (Holm-3 at 2.) Santhana testified on Holmdel residents' opinion of the need for the proposed facility, the character of Holmdel, and the concerns of the Township if the station is constructed.

Dr. Donald Moliver (Dr. Moliver) testified on behalf of Holmdel as an expert in real-estate valuation and appraisal. Dr. Moliver has a master's and a doctorate in economics from Virginia Polytechnic Institute. He is a licensed salesperson in New Jersey, a certified tax assessor, and a New Jersey State certified general real-estate appraiser. He is currently the dean of Monmouth University's Leon Hess Business School, and a professor of real estate at same. Dr. Moliver has been a faculty member of the school for thirty-eight years. (Holm-2.) The purpose of his testimony was to provide an opinion on whether the proposed station will adversely impact the value of properties adjacent to or in the vicinity of the station and to provide rebuttal testimony on NJNG's own expert in real-estate valuation and appraisal. (Id. at 1.) In his pre-filed direct testimony, Dr. Moliver noted that his analysis was hampered by the short time frame allotted him to complete his research and provide his testimony. (Id. at 3.) Dr. Moliver prepared a report of his findings, which was attached to his pre-filed testimony.

Jeffrey Otteau (Otteau) testified on behalf of NJNG as an expert in real-estate valuation and appraisal. He is a certified general real-estate appraiser in New Jersey, New York, and Pennsylvania, a licensed real-estate broker in New Jersey, a National Association of Independent Fee Appraisers designated appraiser, and an American Society of Appraisers accredited senior appraiser. The purpose of his testimony was to determine the effects of a proposed natural gas regulator station on surrounding real property values and respond to the pre-filed testimony of Dr. Moliver. (P-12 at 3.) He prepared a report of his findings for the 2018 proceeding before the HZBA, a copy of which, along with additional workpapers, was attached to his pre-filed testimony. (P-12 att. JO-1, JO-2.)

Edward Potenta (Potenta) testified on behalf of NJNG as an expert in the field of environmental engineering, specifically in air-quality and noise-impact analyses and prediction modeling. (P-11 at 1.) Potenta has a bachelor's degree in civil engineering

from Rutgers University and a master's degree in environmental engineering from the New Jersey Institute of Technology. He is currently the principal of POTENTA Environmental Consultants, LLC, and in his pre-filed direct testimony briefly discussed his education and forty years of experience in environmental engineering. (Id. at 1–2.) The purpose of his testimony was to determine the possible noise and air emissions from the regulator station and any resulting impacts to Holmdel or its residents, as well as respond to the pre-filed testimony of Holmdel's witnesses. He prepared a report of his findings, which was attached to his pre-filed testimony.

Robert Chilton (Chilton) testified on behalf of NJNG as an expert in the development and implementation of New Jersey's Energy Master Plan (EMP). (P-10 at 1.) Chilton has a bachelor's degree in environmental science and a master's degree in economics from Rutgers University. (Id. at 3.) Chilton has over thirty-five years' experience in the energy industry, including working at the BPU and the New Jersey Department of the Public Advocate. (Id. at 1–3.) He has extensive experience in developing energy policy and related rulemakings and legislation. While at the BPU Chilton was involved in the development of several prior EMPs and their Updates. He was directly involved in the development of the 1991 and 1995 EMPs and was the principal staff responsible for the implementation of the 1995 EMP's restructuring of the electrical and natural-gas markets. As part of his current position with Gabel Associates, Chilton has remained abreast of New Jersey's recent EMPs. Chilton testified as to the nature of the EMP and its relation to a utility company's duties and the proposed regulator station.

### **Berne Mosley**

Mosley testified on behalf of Holmdel as an expert in pipeline flow and hydraulic analysis. Mosley has a Bachelor of Science in engineering from Auburn University. (Holm-1.) Since 2012 Mosley has run his firm, Energy Projects Consulting in Oklahoma City, Oklahoma. Previously he worked at the Federal Energy Regulatory Commission (FERC) for approximately twenty-eight years. (Id. at 1–2.) One of his main areas of responsibility while at the FERC was permitting for interstate natural-gas pipelines. (Id. at 2; 10/16 Tr. at 145.) From his time with the FERC, he gained expertise in performing

hydraulic analyses of natural gas flow through pipelines, meters, and regulators. (Id. at 3.) Mosley is also knowledgeable about the engineering requirements of maintaining adequate and appropriate pipeline capacity, operating pressures and temperatures, as well as other aspects of moving gas from production to end user. (Ibid.)

### **BACKGROUND OF CASE**

Before setting forth the substance of the testimony in the record, the following descriptions of NJNG's current temporary regulator station and its system, the proposed station, and the two sites considered as part of these petitions were referenced by the parties universally throughout the proceedings.<sup>1</sup> As there appears to be no dispute as to their contents, I **FIND** the following descriptions to be **FACT**.

#### **NJNG's Natural Gas System**

NJNG is a public utility subject to the jurisdiction and regulation of the BPU. N.J.S.A. 48:2-13. NJNG provides natural-gas transmission and distribution service to more than 538,000 customers in Monmouth and Ocean counties, as well as portions of Burlington, Middlesex, and Morris counties. (P-1 at 2.) The Company estimates that the proposed regulator station will provide improved service to 5,791 metered residential customers and 323 metered commercial customers in Holmdel, as well as customers in adjacent municipalities in Monmouth County. (Id. at 9.)

NJNG has a statutory obligation to provide safe, adequate, and proper service, and to maintain its infrastructure in a condition to enable provision of the required service. N.J.S.A. 48:2-23; N.J.S.A. 48:3-3; (P-8 at 29). NJNG's system includes large-diameter transmission lines, smaller diameter distribution mains and service lines, line valves, pressure-reducing regulator stations, and meter stations. (P-1 at 3.) The transmission lines operate at a maximum allowable operating pressure (MAOP) of 722 pounds per

---

<sup>1</sup> The initial sponsoring witnesses for these narratives and corresponding exhibits were Sanders (P-1), Panaccione (P-2), and the NJNG panel (P-8).

square inch gauge (psig), while distribution mains and service lines operate at around 100 psig. (Ibid.)

### **Proposed Regulator Station**

The NJNG Panel testified that the proposed facility is a natural-gas pressure-reduction station that will reduce the pressure of gas between the Holmdel transmission line and the local distribution system for delivery to customers in Holmdel and surrounding communities. (P-2 at 2; P-1 at 4–5.) The regulator station will consist of below-ground equipment (i.e., piping) and above-ground equipment (i.e., a filter to clean the gas of impurities, a heater to pre-heat the gas, a control box housing communications and electrical equipment, and two redundant regulators allowing one to operate if the other fails or requires maintenance). (P-2 at 2–3; P-1 at 2; see also P-4 (site plan).) The heater must be located adjacent to the regulator equipment to pre-heat the incoming gas immediately prior to pressure reduction. (P-8 at 17; P-4.) The heater and filter are located above ground to ensure adequate ventilation, air flow, and company access for maintenance. (P-2 at 4; P-8 at 8, 17.) There is no building associated with the facility; but the equipment will be enclosed by landscaping and a fence with green privacy slats. (P-2 at 3.)

The station is designed to include a Cold Weather Technologies (CWT) dry line heating unit. This heater is the largest piece of equipment at thirty feet by seven and a half feet, with three fifteen-foot-tall twelve-inch-wide exhaust stacks. (P-2 at 3.) Because of the heater’s design, NJNG considers it to be generally fuel efficient with low operating costs and low emissions. (P-8 at 24–25; 10/16 Tr. at 110–14.) NJNG has used CWT heaters since 2011 and has had positive experience regarding their performance and reliability, with low failure rates and minimal maintenance. (P-8 at 25.)

The proposed site is located on a parcel of private property at Lot 13, Block 13, in Holmdel, New Jersey. The site contains several easement areas for the facility, piping, facility access, berms, and other landscaping. The station will occupy an area of approximately 40 feet by 150 feet on the southeastern side of the lot (P-2 at 2, 11; P-4;

P-5.) The lot already contains a large office building with an attached parking lot and a cellular communications tower and is bordered on its southern side by a solar farm. The station's fence enclosure will be set back 180 feet from the edge of the Holmdel Road right-of-way, 200 feet from Holmdel Road itself, and 260 feet from the nearest residential property line across Holmdel Road. (P-2 at 3; P-8 at 22, att. SPW-3; P-4.)

There is a twelve-foot downward slope from the Holmdel Road right-of-way to the proposed station. Near the front of the property are numerous forty- to fifty-foot-tall white pine trees and other evergreen trees providing a visual buffer along the southern property line. NJNG will install a twelve-foot-high fence with green wooden privacy slats around the facility and two L-shaped twenty-foot-wide earthen berms, each four to five feet high. Inside the fence an eight-foot sound-barrier wall will be installed along the eastern side and portions of the northern and southern sides to minimize noise impacts. On the lot's eastern side (fronting the road), and a portion of the northern side, NJNG will install a masonry wall to support the berms. On top of the berms a variety of twelve-to-fourteen-foot trees and shrubs will be planted to help further obscure the station from public view. Within two years of planting these trees will be higher than the station's heating vents. NJNG has obtained an additional eighteen by ninety-five-foot easement where a stand of evergreens will be planted approximately sixty feet from the Holmdel Road right-of-way. This additional landscaping was added at the request of Township officials during a visit to the proposed site in November 2017. (P-2 at 3; P-8 at 19–21.)

## **Proposed Sites**

In selecting the site for the proposed station, NJNG considered several criteria narrowing its search. The criteria were properties: (1) that were adjacent to the transmission line and close to the southern end of the line; (2) that were zoned for commercial or utility uses; (3) that were not Preserved Farmland, Green Acres, wetlands, contaminated property, or properties that would require extensive deforestation; and (4) that contained preexisting development. (P-2 at 4–7.)

NJNG initially identified six possible properties. Two properties were near land owned by AT&T, but were not chosen, as the sites were located on the northern portion

of the transmission line and the owner was unwilling to make the properties available for NJNG's use. (*Id.* at 12--13.) The third was property owned by Monmouth County on the northern end of the line, but was later deemed to be unsuitable, as it was determined to have been purchased using Green Acres funding. (*Ibid.*) The fourth was property owned by Verizon on the southern end of the line, but was not reasonably available, as Verizon was unwilling to grant NJNG an easement despite good-faith negotiation attempts. (*Ibid.*) The final two properties were located at 970 and 960 Holmdel Road. The original site (970 Holmdel Road) is one lot north of the Verizon property, was available by the owner, and is co-located with another utility facility, a solar farm. The proposed site (960 Holmdel Road) is one lot further north of the original site, is available by the owner, and is co-located with another utility, a cellular communications tower.

The most recent cost estimates, site-plan designs, and air and noise-emission analyses are all for the proposed site. Beyond a preference that the proposed station is not built at all, Holmdel Township otherwise stated that the station should be built at an unspecified location further back on the lot of the proposed site. NJNG has stated that while from an engineering standpoint both the original and proposed sites are viable, it prefers the proposed site, as it includes additional measures included specifically to address the concerns raised by the Township, namely, the distance from Holmdel Road and the additional landscaping. For these reasons, this decision will be based on NJNG's latter petition for a regulator station at 960 Holmdel Road. (NJNG Initial Brief at 53 n.13.)

### **WITNESS TESTIMONY**

The following is a summarization of the substantive testimony of the witnesses of both petitioner and intervenor Holmdel. Neither the Board nor the Rate Counsel called witnesses to testify in this proceeding.

#### **The Need for the Facility**

The NJNG panel testified that due to a change in federal regulations in 2004, the company was required to replace the prior transmission line in its system. (P-1 at 4-5; 10/14 Tr. at 133-34.) NJNG did so in 2012 with the approval of the BPU. However,



because of this new transmission line the natural gas must now undergo a significant decrease in pressure in order to be transported by the connecting distribution lines, and consequently supply natural-gas-utility service to NJNG's customers. (P-1 at 5–6; 10/14 Tr. at 132–33.) When NJNG first installed the new transmission line in 2012 it simultaneously installed a temporary regulator station under Holmdel Road until it could find a permanent location for an above-ground station. (10/14 Tr. at 135.)

The proposed regulator station includes a heating unit to address a consequence of the pressure drop between the transmission and distribution lines. Sanders testified that because of the thermodynamic principle known as the Joule-Thomson effect, for every drop in 14.7 psig the temperature conversely drops one degree Fahrenheit. (P-1 at 5–6.) NJNG is required to drop the pressure between the two systems approximately 600 psi, which equates to an approximate 40-degree drop in temperature. (Id. at 6.) Sanders additionally testified that natural gas is transported underground and therefore takes on the temperature of the surrounding earth, which in New Jersey is around 40 to 55 degrees Fahrenheit. (Ibid.) Consequently, Sanders testified that the natural gas drops below freezing temperatures when moved between the two systems, which results in ice forming on the regulator and its related equipment. (Ibid.; see also P-8 att. SPW-1.) The icing of the system has led to malfunctions in the equipment and requires extensive, lengthy repairs. (P-1 at 8–9.) Because of the icing issue that occurs with the pressure drop and the lack of a heater at the temporary station, the NJNG panel testified that the company has been running the temporary station at suboptimal pressures to mitigate the resulting icing issue. (P-8 at 13; 10/14 Tr. at 149–50.) However, even with this mitigation method the Company has still experienced icing issues. (Ibid.)

While NJNG has only experienced two significant icing incidents since the line was installed (2014 and 2018), there have been other incidents where NJNG personnel were required to take preventative measures to thaw the equipment. (P-8 at 13–14; 10/14 Tr. at 150–52, 163–64.) As the regulator station is currently underground, and the icing occurs more frequently during the winter months, NJNG's personnel cannot easily perform this necessary maintenance. The NJNG panel testified that this is because the company's crew must first thaw and then drain any groundwater before the regulator can even be accessed, a lengthy and resource-intensive process. (P-1 at 9–10; 10/14 Tr. at

161, 165–66, 169, 172.) The panel testified that the regulator is continuously cased in ice during the winter and regularly experiences icing issues throughout the year. (P-8 at 12; P-1 at 8, att. SPW-1.)

As NJNG was aware when designing the facility that the icing issue could occur, the company chose to use a CWT in-line heater. NJNG originally purchased this heater in or around November 2012. (10/16 Tr. at 67.) NJNG uses a CWT heater at six other similar stations in its system. These heaters have been used reliably with minimal maintenance and no outages since 2011. (P-8 at 24–25.) When NJNG purchased the CWT heater it had considered other heating systems, including a catalytic heater, which it was currently using at five other stations. (P-8 at 26; 10/16 Tr. at 72–73.) However, between 2008 and 2010, when the catalytic heaters were installed, NJNG experienced numerous reliability issues with these heaters, including defects in the heater panels and circuit boards, and electrical failures (e.g., wiring, thermocouples, and connectors). (P-8 at 26; 10/16 Tr. at 82–84.) Because of these reliability issues, the panel testified, NJNG decided to stop using catalytic heaters in its system, consequently designing the proposed facility with a CWT heater instead. (P-8 at 26; 10/16 Tr. at 73–74, 79–80.) The NJNG panel did testify that beyond the reliability issues, the CWT and catalytic heaters are approximately the same in terms of cost and emissions. (10/16 Tr. at 78–79.)

Sanders testified that as of the time of his testimony the lifespan of the temporary regulator from a mechanical standpoint is still another two to five years. (10/14 Tr. at 137–38.) And Wyckoff testified that according to the station’s depreciation schedule, the station has another twenty more years of useful life. (Id. at 139–40.)

In response to comments about the proposed facility becoming a “stranded asset,” the NJNG panel also testified that even as the State moves to 100 percent electricity-based energy and phases out the use of natural gas, NJNG will still need to reduce the pressure between the transmission and distribution lines. (P-8 at 31.) And, as the transition away from using natural gas will be a gradual process, the NJNG panel testified that the company must still fulfill its duty to provide reliable service, which necessitates addressing the icing issue with the temporary station. (Ibid.)

Finally, the panel testified that in response to concerns voiced by Holmdel residents, NJNG made a good-faith effort to have the facility located as far back on the proposed site as the property's owner permitted. (P-8 at 22–23; 10/16 Tr. at 23–24.) Panaccione, on behalf of NJNG, entered into negotiations with the owner (Holmdel Venture, LLC), but was only allowed to locate the facility around 200 feet from Holmdel Road. (Ibid.) The owner wished to preserve the ability to further develop the rest of the site, and the facility's presence further back on the site would inhibit this goal. (Id. at 26–27.) Panaccione testified that during the time the company was negotiating with Holmdel Venture it did not consider seeking to place the facility further back on the proposed site by taking the property through eminent domain. Panaccione testified that because the negotiations were going well and the company was able to move the proposed facility four times further back than the original facility's plan, he believed that such an action was unnecessary. (10/16 Tr. at 27, 44; 10/14 Tr. at 199–200.) During the hearing the NJNG panel also testified that the back area of the lot at 960 Holmdel Road is unusable due to an existing septic system. (10/16 Tr. at 40, 42–43.)

I **FIND** that the testimony from these witnesses individually and as a panel was credible as to the need for the proposed facility, that the most reasonable and practical method for heating the regulator is the CWT heater chosen by the company, and that the proposed site was the most reasonable option available on the lot at 960 Holmdel Road.

## **Property-Value Impacts**

### **Dr. Donald Moliver**

In his pre-filed direct testimony, Dr. Moliver noted that his analysis was hampered by the short time frame allotted him to complete his research. (Holm-2 at 3.) However, following his limited research, Dr. Moliver still determined (Id. at 3–4) that:

1. The regulator station would be an industrial-sized one located in a non-industrial area. Specifically, it would be considered atypically large relative to other regulator stations; some would consider it to be unsightly and a visual impairment.

2. NJNG's attempt to address the station's appearance may not be properly addressed by the proposed landscaping, as the facility's stacks may still be visible to the public.
3. The stacks would emit noxious odors that are purported to be unhealthy to both plant and human life.
4. The heating system would generate a constant noise, raising issues about noise pollution.
5. There is concern among Holmdel residents about the proposed regulator station due to the potential safety risks inherent with natural gas.

Based on the above, Dr. Moliver testified that in his professional opinion, if the regulator station is developed it will create an environmental stigma, which may lead to uncertainty, market resistance, and diminished value in the neighborhood. (Id. at 4.) Dr. Moliver admitted that he does not have any expertise in noise or air pollution, but as an expert in appraisals and land valuation he testified that when determining the value of real property, one must consider governmental, economic, environmental, and societal forces (i.e., public perception). (10/20 Tr. at 24–25.) Consequently, if there is a public perception that a condition exists (e.g., noise pollution), then even if that condition is not actually present, the perception and belief that it is can negatively impact property values. (Ibid.; Holm-2 at 4–5.)

Dr. Moliver believed that Otteau's methodology involved too many components that required adjustments, and that a better methodology would have been using a repeat-sales analysis. (Holm-2 at 6.) He also noted that based on the information he had available he was unable to determine what adjustments were made and by how much. (Ibid.<sup>2</sup>) Dr. Moliver testified that in his opinion, Otteau's matched-pair analysis is better suited for isolating the impact of a single factor on a sales price. (Ibid.) Dr. Moliver's

---

<sup>2</sup> The adjustments for residential properties were later supplied through Otteau's pre-filed testimony and attached exhibits.

preferred method, the repeat-sales technique, could be used to compare the sale value of the same residence both before and after the construction of a nearby regulator station. (Id. at 7.) This would “preclud[e] the need for any location, lot size, improvement size, quality of construction, etc. adjustments.” (Ibid.) He testified that a repeat-sales analysis should have been performed, as there are several areas in New Jersey with repeat-sales data near a constructed regulator station, and that after an adjustment for time, any differences in sales price could be ascribed to the presence of a regulator station. (Ibid.)

During cross-examination, Dr. Moliver clarified that his conclusion on the size of the proposed regulator station was based on a comparison of the proposed station to both regulators found on residential properties (which are typically the size of a shoe box) and other larger regulator stations in the state, of which he had done only a cursory review. (10/20 Tr. at 19–21.) Dr. Moliver testified that he is aware of both larger and smaller regulator stations in the state and does not know how the proposed station compares to most other such facilities in New Jersey or the natural-gas industry. (Ibid.)

### **Jeffrey Otteau**

Otteau testified that he used a paired-sales analysis technique to analyze what effect a natural gas regulator station has on surrounding property values. (P-12 at 3.) The paired- or matched-sales methodology is defined as a “quantitative technique used to identify and measure adjustments to the sale prices or rents of comparable properties; to apply this technique, sales or rental data on nearly identical properties are analyzed to isolate a single characteristic’s effect on value or rental.” (Ibid.) Based on this research, Otteau determined that the selling or renting prices of homes or commercial properties located near a natural gas regulator station are similar to the selling or renting prices of comparable properties located further away, and both groups also have similar exposure time (i.e., time property is listed on the market). (Ibid.) Consequently, Otteau concluded that in his professional opinion, to a reasonable degree of certainty, the installation of a regulator station will not have any adverse effect on nearby real-estate values. (Id. at 10.)

Otteau's research, the first portion of which was presented to the HZBA, consisted of a quantitative analysis comparing the selling prices of a target group (i.e., properties near a natural gas regulator station) and a control group (i.e., properties farther from a natural gas regulator station). The study analyzed thirty-four residential properties (ten in the target group and fourteen in the control group) and the leasing price for nine commercial properties (three in the target group and six in the control group). (Id. at JO-1 at 8,11; JO-2.) The residential properties all contained a single-family home, and the commercial properties all contained a commercial office space.

Otteau determined that the average selling-price deviation between the target and control groups for residential properties was 0.6 percent on an unadjusted basis and 0.5 percent on an adjusted basis. (Id. at JO-1 at 10.) The average distance between the homes in the target group and their respective regulator stations was 1,072 feet, while the average distance between NJNG's proposed station and the neighboring homes is 2,130 feet. (Ibid.) As part of the calculations, Otteau made adjustments between the residential target and control groups to help eliminate any difference in price for reasons other than proximity to a regulator station.<sup>3</sup> These adjustments were for: the size of the property; the house style; the age of the home; the gross living area; the presence, and level of finishing, of any basements; the car capacity and style of the garage; and the existence of a fireplace, pool, or other additional features (e.g., terrace overlooking pond). (Id. at JO-2.)

For the leased commercial properties, the average difference between the asking rent and contracted rent was substantially similar for both the target and control groups. (P-12 att. JO-1 at 11.) Although the control group's average contracted rent was slightly lower than the target group's rent, Otteau concluded that commercial properties near to regulator stations do not experience a discount or reduction in price compared to similar spaces located further away. (Ibid.)

---

<sup>3</sup> The details of these adjustments were not included in the original report submitted to the HZBA but were later provided to the HZBA in a supplemental document breaking down the adjustments for each of the residential calculations.

In response to Dr. Moliver's testimony, Otteau opined that if a regulator station can create an "environmental stigma" it would create quantifiable market evidence, and that there is no such evidence providing a factual foundation for Dr. Moliver's conclusion on this issue. (Id. at 4.) Relatedly, Otteau testified that if prospective buyers found a station to qualify as an "off-site materiality" there would be evidence of buyer resistance and market data demonstrating a diminution in value based on the buyer's proximity to a regulator station. (Id. at 5.)

Finally, Otteau testified that the repeat-sales method Dr. Moliver advocated for is not a better or more reliable method and has some of the same issues Dr. Moliver identified in Otteau's methodology. (Id. at 8.) The repeat-sales method also requires adjustments due to the long-term characteristic of home ownership, as most homes in New Jersey are owned for more than ten years. (Ibid.; 10/20 Tr. at 37–38.) This long-term home ownership results in physical changes which require adjustments, namely, the deterioration, modernization, additions, and renovations of the homes. (Ibid.) As the buying and selling of homes does not exist in a vacuum, one must account for any market and economic changes between the times the house was bought and sold. (P-12 at 8.) During the hearing, Otteau testified that he did look for residential properties within the vicinity of a regulator station that had been purchased and then sold within a relatively short period of time after the regulator station was constructed. This would address some of the necessary adjustments that would come with a repeat-sales analysis and better indicate whether a regulator station's presence affected property value, or the owner's perception of their home's value. However, Otteau was unable to find any properties that fit these criteria. (10/20 Tr. at 39.)

I **FIND** the testimony of both Dr. Moliver and Otteau to have been credible. However, while considering the reason Dr. Moliver's testimony was limited, this decision must be based on the evidence within the record. For that reason, I am more persuaded by the quantitative data in Otteau's report and his testimony on why the matched-sales analysis is a reasonable and accurate method for calculating the impact of a regulator station on nearby property values. Additionally, as both witnesses testified to the subjective nature of real-estate valuation and appraisal, and the impact other socioeconomic forces have on the real-estate market, I **FIND** that the presence of the

proposed regulator station will have little to no material impact on the value of nearby properties.

## **Environmental Impacts**

### **Noise and Air Emissions**

Potentia concluded that based on the results from his noise assessment the station will comply with applicable State and local noise regulations, and that the noise generated will be lower than the existing daytime and nighttime ambient noise levels and so will not be noticeable at the surrounding residences nor have an adverse impact on the surrounding community. (P-11 at 2–3.) Potentia also concluded that neither the heater nor the regulator will emit an odor, and that the heater’s emissions will be negligible and will not cause an adverse impact on local or state air quality. (Id. at 3.)

### **Noise-Pollution Assessment**

Potentia’s study demonstrated that the proposed station would comply with the 65dBA (daytime) and 50dBA (nighttime) octave band noise standards.<sup>4</sup> (Id. at 4, att. EJP-2.) Potentia measured the ambient noise levels at four different sites near the proposed site in accordance with N.J.A.C. 7:29-1. (Id. at 6, att. EJP-2.) The four sites were: (1) the proposed site’s eastern-most property line, (2) the nearest residence to the east of the proposed station, (3) the second nearest residence to the east of the proposed station on an elevated rise, and (4) the nearest residence to the northeast of the proposed station. (Ibid.) At the four sites the noise level heard 90 percent of the time ranged from 46dBA to 49dBA (daytime) and 33dBA to 35dBA (nighttime). (Ibid.) The overall ambient noise-level range was 39dBA to 81dBA (daytime) and 31dBA to 40dBA (nighttime). (Ibid.)

Potentia calculated the noise level that would be generated by the regulator station using the manufacturers’ noise-measurement data, an accepted industry standard. (Id.

---

<sup>4</sup> Noise at 65dBA is equivalent to two people three feet apart having a conversation, and noise at 50dBA is equivalent to the same two people whispering instead. (Ibid.)



at 4.) He also verified the data provided by the regulator's manufacturer by measuring the sound levels at NJNG's Browntown Station in Old Bridge, New Jersey, which has a similar regulator setup to the proposed station. (Id. at 5.) While the Browntown Station generated only 79dBA (compared to the 84dBA specified by the manufacturer), Potenta chose to still use the manufacturer's provided data, as it would indicate the "worst-case scenario" for the proposed facility. (10/22 Tr. at 61; P-11 at 5.) The manufacturer's data indicated that the heater would generate 56dBA to the regulator's 84dBA, consequently, Potenta determined that the regulator would be the dominant noise, and it was used to calculate the proposed station's impact on the community's ambient noise levels. (P-11 at 5.) Taking the regulator's data, Potenta then calculated the attenuation impact of the facility's sound wall. (10/22 Tr. at 39-40; P-11 at 5-6, att. EJP-2.) Potenta concluded that from one meter away, the station would generate a maximum of 61dBA in the summer and 84dBA in the winter. (P-11 att. EJP-2.)

Next, using standard noise-propagation calculations, the equipment's noise data was adjusted for both the inclusion of the sound wall and the distance from the units to the nearest property lines and residential sites to determine the audible level of the station to the community. (P-11 at 5; 10/22 Tr. at 39-40.) The predicted maximum noise level for the four sites was calculated to be from 12dBA to 18dBA (summer) and 29dBA to 35dBA (winter). (P-11 att. EJP-2.) Potenta thus concluded that the noise generated by the station, when dampened with the sound wall, would be lower than the existing ambient noise levels in the surrounding area and so will not be noticeable to the residents or the community. (Id. at 5-6.)

### Air-Quality Assessment

Potentia also performed an air-quality impact analysis and concluded that the proposed station's heater will have no adverse local impacts on air quality, because the concentrations of generated criteria air pollution at the sites near the station would be negligible, even if the station were to always run at maximum capacity throughout the year and without reaching the proper ignition point (i.e., the "worst-case scenario"). (10/22 Tr. at 21-22, 61; P-11 at 3, att. EJP-3.) Potenta also determined that the non-criteria emissions (i.e., carbon dioxide and water vapor) were also negligible when

compared to major sources of emissions in the state. (P-11 at 3.) Finally, Potenta determined that because the regulator is a closed system it would not emit any odors or other air emissions. (Id. at 6–7.)

Potentia testified that the heater, when combusting its fuel with oxygen, will result in emissions of approximately 99 percent carbon dioxide and 0.1 percent water vapor. (P-11 at 7.) Potenta continued that if proper combustion temperatures are not maintained, there is a possibility for trace amounts of criteria air pollutants to be emitted due to incomplete combustion. (Id. at 7, 12; 10/22 Tr. at 20-21.) Criteria air pollutants are defined and regulated according to the U.S. Environmental Protection Agency’s (EPA) National Ambient Air Quality Standards (NAAQS).<sup>5</sup> (Id. at 8.) The EPA has established primary and secondary NAAQS for pollutants considered harmful to public health and the environment. (Ibid.; 10/22 Tr. at 65.) The primary standards are intended to protect public health, and the secondary standards are intended to protect public welfare against decreased visibility and damage to animals, crops, vegetation, and buildings. (Ibid.)

Using the NJDEP’s Division of Air Quality Permitting Program’s risk-screening method, Potenta calculated the source emission pollutant impact levels that would be generated by the heater as well as using the EPA’s AERMOD regulatory air prediction model. (P-11 at 10.) This model is used to meet NJDEP permitting requirements and was used to determine the potential air-quality impact of the facility’s emissions to the nearby properties. (Ibid.) Potenta’s analysis presumed that the station would not reach proper combustion for the entire year (i.e., a “worst-case scenario”). (Id. at 11.) The results showed that the predicted annual criteria air-pollutant concentrations would be considered negligible (i.e., significantly below the pollutants’ standards), or a “trace” amount for both the primary and secondary NAAQS. (Id. at 11.) The predicted emissions were also compared to the DEP’s major source inventory of emissions, which are designed to address incremental impacts where no numerical air standards have been set by the EPA (i.e., carbon-dioxide equivalents). (Id. at 12.) These emissions were also

---

<sup>5</sup> There are six criteria air pollutants: carbon monoxide (CO), nitrogen dioxide (NO<sub>2</sub>), particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>), sulfur dioxide (SO<sub>2</sub>), lead (Pb), and ozone (O<sub>3</sub>), each has their own air-quality standard. (Ibid.)

determined to be negligible when compared to the annual greenhouse-gas emissions present in the state from other sources. (Id. at 12–13.)

The total predicted annual non-criteria emissions were calculated to be: 1,196 tons of carbon dioxide; 979 tons of water vapor; 0.022 tons of nitrogen oxides (NO<sub>x</sub>); and 0.023 tons of methane (CH<sub>4</sub>). (P-11 att. EJP-3.) The predicted concentration of criteria pollutants generated will be negligible when compared to the EPA and DEP standards. (Ibid.) For example, the closest residential site to the facility (367 feet east of the heater stacks) will be exposed to a maximum concentration of nitrogen dioxide at no more than 12.3 percent of the EPA/DEP one-hour standard, and 1.3 percent of the annual standard. (Ibid.<sup>6</sup>)

I **FIND** the testimony of Potenta to be credible. His testimony was undisputed and consistent with the evidence placed in the record and is therefore **ADOPTED** in its entirety and **FOUND** as **FACT**. Accordingly, I **FIND** that the regulator station will have no adverse impact on the area’s ambient noise levels or air quality and will present a negligible impact on the state’s overall air quality and greenhouse-gas emissions.

## Energy Master Plan

New Jersey law requires that every ten years an energy master plan be prepared “on the production, distribution, consumption, and conservation of energy in this State.”

6

	Site 1 Calculations	EPA/DEP Standards	Percentage of Standards
NO <sub>2</sub> (1-hr)	0.0123 ppm	0.10 ppm	12.30%
NO <sub>2</sub> (annual)	0.00069 ppm	0.053 ppm	1.30%
CO (1-hr)	0.0169 ppm	35 ppm	0.04%
CO (8-hr)	0.00096 ppm	9 ppm	0.01%
PM <sub>10</sub> (24-hr)	0.704 ug/m <sup>3</sup>	150 ug/m <sup>3</sup>	0.47%
PM <sub>2.5</sub> (24-hr)	0.704 ug/m <sup>3</sup>	35 ug/m <sup>3</sup>	2.01%
PM <sub>2.5</sub> (annual)	0.10 ug/m <sup>3</sup>	12 ug/m <sup>3</sup>	0.83%
SO <sub>2</sub> (1-hr)	0.0000528 ppm	0.075 ppm	0.07%
SO <sub>2</sub> (3-hr)	0.000003 ppm	0.50 ppm	0.0006%
Pb (3-mo)	0.000117 ug/m <sup>3</sup>	0.15 ug/m <sup>3</sup>	0.078%

[P-11 att. EJP-3.]

N.J.S.A. 52:27F-14(b). This master plan is to be revised and updated every three years and lays forth the general long-term energy goals, and interim implementation measures consistent with achieving those goals. Ibid. To achieve these goals, the actions, decisions, determinations, and rulings of State government entities with respect to energy “shall to the maximum extent practicable and feasible conform” with the provisions of the energy master plan. N.J.S.A. 52:27F-15(b). In implementing its regulatory powers and responsibilities, the BPU must consider the directives of the master plan. Ibid. The most recent energy master plan (EMP) was published on January 27, 2020, followed by Executive Order 100 (EO) signed by Governor Murphy. In 2020 the State released the 2019 New Jersey Energy Master Plan: Pathway to 2050 (EMP). The 2019 EMP’s overarching goal is to reach 100 percent clean energy<sup>7</sup> and 80 percent of emissions reduction from 2006 levels by 2050. (Holm-18 (excerpt of 2019 EMP, also available at [www.nj.gov/emp/docs/pdf/2020\\_NJBPU\\_EMP.pdf](http://www.nj.gov/emp/docs/pdf/2020_NJBPU_EMP.pdf).) The EO directed the DEP to develop new regulations to be implemented by 2022 to coincide with the goals of the EMP, and to identify which regulations the Department will update, but did not include specifics as to how those regulations will be updated.

On June 11, 2020, the undersigned issued an Order denying Holmdel’s motion to direct NJNG to reassess the proposed regulator station in light of the EMP and the EO. This Order concluded that definite regulations and standards must be put into place before any reliance on the general declarations within the EMP and EO can impact these proceedings. Finally, because neither the EMP nor the EO put a moratorium on ongoing or new projects, there is no regulation in place that would mandate compliance with the new EMP.

Of the EMP’s seven goals and sub-goals, Holmdel specifically points to the sub-goals of Goal 5.4 as being inconsistent with NJNG’s proposed regulator station.<sup>8</sup> The sub-goals of Goal 5.4 are to

---

<sup>7</sup> Meaning carbon-neutral electrical energy. (Holm-18.)

<sup>8</sup> Goal 5 is to Decarbonize and Modernize New Jersey’s Energy System. (Holm-18.)

5.4.1 Develop a planning process to quantify and analytically assess the need for future expansion of the gas system and take appropriate action.

5.4.2 Instruct gas public utilities to propose and adopt non-pipeline solutions when seeking expansion or upgrade of the distribution system.

5.4.3 Evaluate and support innovative efforts to decarbonize the state's energy system and perform a study of the regulatory and programmatic mechanisms that support, incentivize, or otherwise bolster the natural gas industry to determine if continued support aligns with state goals.

5.4.4 Instruct gas utilities to identify and prioritize the replacement of pipelines leaking methane.

[Holm-18.]

### **Robert Chilton**

With his prior experience in the development and implementation of EMPs, Chilton testified that the EMP is intended to set forth a “broad vision and leaves the detailed implementation process to be worked out through legislative and/or regulatory actions, a process that can often take years.” (P-10 at 9; see also 10/23 Tr. at 30.) Chilton testified that this is evidenced within the plans of Goal 5, where there are multiple references to needing future studies, stakeholder proceedings, BPU directives, and pilot programs. (Ibid.) Chilton went on to say that a public utility is required by law to provide “safe, adequate, and proper service,” and so must maintain its infrastructure in a condition to enable it to do so. (Id. at 8.) And based on his understanding of why the proposed regulator is necessary to ensure reliable service, Chilton concluded that (1) the station is entirely consistent with Goal 5.4; and (2) the station is not an “expansion” of the gas system as addressed in Goal 5.4.1, but rather equipment necessary to maintain reliability for NJNG’s existing distribution and transmission system. (Id. at 12.)

In discussing the EMP, Chilton reiterated that achieving the EMP’s goals will be a gradual process and that moving from gas-fueled to electric-powered buildings will take time, since the EMP itself noted that it may take upwards of a decade for the State to

make the necessary upgrades to the electric grid. (Id. at 14; see also 10/23 Tr. at 46–49.) Chilton also testified that the conversion away from natural gas to other, more environmentally friendly methods will take time, as most are still emerging technologies and not yet suitable to take the place of the natural-gas system on a large-scale basis. (10/23 Tr. at 41–42, 44–45.)

Chilton also emphasized that the proposed project is not increasing the gas capacity or flow, and is not an expansion or upgrade, but rather is a necessary project to ensure that NJNG fulfills its obligation to provide “safe, adequate, and proper service” to the public.<sup>9</sup> He testified that the EMP relates to the proposed station and NJNG’s duties by requiring NJNG to maintain its existing pipeline system to ensure system reliability and safety, which is what installing the facility will achieve. (Id. at 7–8.) Finally, Chilton reiterated that the EMP’s goals and sub-goals must be read together as a policy/planning document. (Id. at 4, 7.)

### **Berne Mosley**

Mosley was asked by Holmdel to provide testimony on the following issues: (1) is the regulator station necessary; (2) is it appropriately sized and scaled; (3) does the Hazlet Township regulator station obviate the need for the proposed station; (4) can the facility be moved deeper on the site; (5) can the facility use a catalytic heater; and (6) what are the implications of the 2019 EMP and the Governor’s Executive Order 100. (Holm-1 at 4.)

For the first five issues Mosley gave general answers suggesting perhaps a lack of specific knowledge necessary to give a more thorough, detailed expert opinion. While Mosley’s general expertise on these topics is not in question, Mosley himself admitted that he was unable to reach firm conclusions on these issues because of the timeline Holmdel had to complete discovery and provide him certain information. (Id. at 4–5.)

---

<sup>9</sup> See also Holm-18 (noting that public utilities have an ongoing duty to properly and safely maintain their existing systems and support infrastructure investments to maintain reliability because gas infrastructure may be useable for other fuel sources as the State moves away from natural gas and can be “vital [in] providing dispatchable power generation in times of low renewable output”).

Further, during cross-examination, these five issues were only expanded upon in establishing that Mosley was not aware of the specific eminent-domain process for public utilities in New Jersey. (10/16 Tr. at 183–85, 190–91.) Therefore, I found his testimony on the five topics to be less persuasive than that of Chilton.

The sixth topic of Mosley’s testimony, i.e., the EMP and EO as they apply to the proposed station, has already been partially addressed during this proceeding.<sup>10</sup> Mosley testified that he believes NJNG did not consider the EMP’s goals when planning the station and should have, at the least, paused its plans for the regulator to reassess and reconsider its future infrastructure needs and requirements to make sure it is in compliance with the EMP. (*Id.* at 14.) Mosley also testified that in his opinion, NJNG’s proposed station does not meet the EMP’s goals to assess the need for future expansion of the gas system and to propose and adopt non-pipeline solutions (i.e., Goals 5.4.1 and 5.4.2). (*Id.* at 17.) Finally, Mosley testified that his first time reviewing any New Jersey EMP was in February 2020, and before this point he has had no prior experience with prior New Jersey EMPs. (10/16 Tr. at 161–63.)

I **FIND** that while both Mosley and Chilton were credible witnesses, I was better persuaded by the more thorough and detailed presentation by Chilton. I **FIND** that the law-of-the-case doctrine currently bars re-litigation of the binding effect of the EMP in this matter. Additionally, I **FIND** that EMP Goal 5.4.2 is not implicated in this matter, as the proposed station is to address reliability concerns and not an expansion or improvement project. Finally, I **FIND** that the proposed facility is consistent with the EMP when considering the lack of express regulations issued by either the DEP or the BPU and the NJNG’s obligation to maintain a reliable and safe natural-gas system.

---

<sup>10</sup> See June 11, 2020, Order.

## **Community Impact & Zoning**

### **Christine Nazzaro-Cofone**

Cofone testified that the proposed site is in Holmdel's OL-2 District (Office Buildings and Laboratories), where public utilities are a conditionally permitted use if they satisfy the conditions set forth in Holmdel Code § 30-155.2(a) (P-9 at 3), and that the proposed station meets these conditions (Id. at 3–4). She continued, testifying that the proposed station is also consistent with Holmdel's Master Plan to maintain the character of the area and preserve open spaces, as it will be built in an already developed commercial area with existing uses (i.e., the cellular tower, solar farm, and office building complex). (Id. at 4.) The station is also consistent with the Master Plan's goal to "provide adequate infrastructure to serve Township residences and businesses but limit the development of growth-inducing infrastructure." (Id. at 5.)

In response to testimony by Dr. Moliver that the regulator station will be an "industrial-sized one," Cofone noted that Holmdel's zoning code separates "limited industrial uses" and "public utility uses," and that the station falls into the latter category. (Id. at 5–6.) In Cofone's professional opinion the proposed station will not have any negative impact on the surrounding neighborhood, and she characterized it as "a benign facility." (Id. at 7.) Cofone bases this conclusion on the following facts (Id. at 6–7):

- The site and surrounding area already have some development, including an 80,000-square-foot multi-tenanted office building with a related parking lot.
- The pre-existing presence of a cellular-communications tower over 100 feet tall which is visible to the public, as well as the adjacent property containing a visible solar farm.
- Testimony from Panaccione as to the landscaping and other screening that will be installed around the station obscuring it from public view. This, along with the 180-foot distance from the Holmdel Road right-of-way, and the fact that the tallest



component of the equipment reaches only fifteen-feet in height, would make the station less visible than the surrounding area's existing structures.

- Testimony from Potenta that the station will not produce odors and will not be heard over the area's ambient noise.
- Testimony from the NJNG panel that the station will have no associated parking lots or lighting and NJNG personnel should only be on-site once or twice a year.

Finally, Cofone compared the station to the existing cellular tower, which the HZBA found to be a passive use because "there will be no traffic, employees, population increase, noise, or other detrimental impacts." (Id. at 8.) Cofone concluded that the proposed regulator station also qualifies as a passive use as defined by the HZBA when it allowed the cellular-communications tower, and thus should be permitted. (Ibid.; see also 10/21 Tr. at 78–79.) During cross-examination, Cofone testified that moving the station further back on the proposed site, as Holmdel has suggested, would not achieve any planning benefits, and would not lessen any negative impacts. (10/21 Tr. at 79–81.)

I **FIND** that the testimony given by Cofone was credible. Additionally, no other expert on city planning and land use testified. Cofone's testimony was undisputed and is consistent with the evidence placed in the record and is therefore **ADOPTED** in its entirety and **FOUND** as **FACT**. Consequently, I **FIND** that NJNG gave due consideration to Holmdel Township's zoning ordinances and Master Plan when selecting the site for its proposed regulator station. I also **FIND** that considering the physical characteristics of the site, the regulator station will not be incongruent with the existing structures and their uses.

### **Prakash Santhana**

Santhana described Holmdel as having two distinct parts—the northern half, which has high-density housing and shopping complexes, and the southern, which is rural and less developed, with more fields, parks, Green Acres, and other preserved land. (Holm-

3 at 3.) The residents of Holmdel are keen to maintain the current ratio of developed and undeveloped land within this southern half of Holmdel. (ibid.)

As a member of the Township's Committee, Santhana heard from a number of residents who are concerned that NJNG has not adequately considered their reasonable comments on the station's possible impacts. (Id. at 4.) These comments were also raised during the two public hearings and include concerns such as a decrease in air quality, increased noise and other environmental pollution, the creation of a visual impairment, an increased risk of fires, and higher gas rates. (ibid.) Santhana testified that for the last twenty years Holmdel has had safe, efficient, and reliable services, and that there has been insufficient growth in either Holmdel's or Monmouth County's population to require either increased pressure or the regulator station. (Id. at 5.)

An overarching theme from Santhana's testimony, as well as comments heard during the public hearings, is that Holmdel residents desire full candor and fair treatment from NJNG. (See, e.g., 10/21 Tr. at 20–22.)

During cross-examination, Santhana testified that he had no personal knowledge of anything that occurred in Holmdel prior to 2013 when he moved to New Jersey and became a resident of the Township. (10/21 Tr. at 24.) Santhana also lacks personal knowledge of any settlement discussions or other privileged communications between the Township Committee and NJNG prior to his joining the Committee in 2020. (Id. at 23.)

I **FIND** the testimony of Santhana to be credible. I am persuaded by his testimony of his deep concern for the community he represents, and that he is accurately portraying the views and concerns he has received from his constituents.

To that end, it is noted that many residents testified during the public hearings that NJNG's contention that the need for the proposed station derives from when the company installed the new transmission line in 2012 was not adequately conveyed to the Township. Consequently, they are concerned that the regulator station may also lead to additional NJNG construction projects and structures in their neighborhoods that are not disclosed

at this time. While it is not the purpose of the public-hearing testimony to provide a basis for findings of fact as to the requirements of the petition, it is clear that the testimony conveyed Holmdel's residents' sincere care and appreciation for their town and concerns regarding this project.

### **LEGAL ANALYSIS AND CONCLUSIONS**

N.J.S.A. 40:55D-19 provides that the New Jersey Municipal Land Use Law, or any regulations or ordinances made pursuant to that act, shall not apply to a project proposed by a public utility if upon a petition to the Board, the Board finds that the project is "reasonably necessary for the service, convenience, or welfare of the public," and "is necessary to maintain reliable electric or natural gas supply service for the general public and that no alternative site or sites are reasonably available to achieve an equivalent public benefit."

The New Jersey Supreme Court in In re Public Service Electric and Gas Co. explained the applicable legal principles:

1. The statutory phrase, "for the service, convenience and welfare of the public" refers to the whole "public" served by the utility and not the limited local group benefited by the zoning ordinance.
2. The utility must show that the proposed use is reasonably, not absolutely or indispensably, necessary for public service, convenience and welfare at some location.
3. It is the "situation," i.e., the particular site or location . . . , which must be found "reasonably necessary," so the Board must consider the community zone plan and zoning ordinance, as well as the physical characteristics of the plot involved and the surrounding neighborhood, and the effect of the proposed use thereon.
4. Alternative sites or methods and their comparative advantages and disadvantages to all interests involved, including cost, must be considered in determining such reasonable necessity.

5. The Board's obligation is to weigh all interests and factors in the light of the entire factual picture and adjudicate the existence or non-existence of reasonable necessity therefrom. If the balance is equal, the utility is entitled to the preference, because the legislative intent is clear that the broad public interest to be served is greater than local considerations.

[35 N.J. 358, 376–77 (1961); see also Application of Hackensack Water Co., 41 N.J. Super. 408, 423 (App. Div. 1956); In re Petition of South Jersey Gas Co., 447 N.J. Super. 459, 481 (App. Div. 2016); In re Monmouth Consolidated Water Co., 47 N.J. 251 (1966).]

### **Reasonably Necessary**

To determine if a particular site is “reasonably necessary,” the BPU must consider the project in regard to the community’s zoning plan, the physical characteristics of the site, and the surrounding neighborhood. Public Service, 358 N.J. at 377.

The record reflects that NJNG gave serious consideration to Holmdel’s zoning ordinance and master plan and the character of the surrounding neighborhood when selecting the site and designing the station. The proposed site is located in the OL-2 district. NJNG’s proposed facility will be located on an already developed site with a large office building and parking lot and a 100-foot-tall cellular tower, and adjacent to property with a visible solar farm. In response to the concerns of Holmdel residents, NJNG is installing two berms, on top of which will be planted trees and shrubs which should obscure the regulator’s equipment within two years, a stand of evergreen trees sixty feet from Holmdel Road, an eight- to twelve-foot-high fence with green wooden privacy slats, and an eight-foot-tall sound barrier wall. Additionally, in response to comments on how close the station would be to Holmdel Road for the original site, NJNG negotiated with the property owner of the proposed site to have the station located as far back as possible, moving it four times further back from Holmdel Road as the original plan’s design. The record also shows that the regulator’s presence should not have any adverse impact on property values in the area.

Expert testimony has also shown that the station will have no adverse impact on the noise or air quality of the surrounding area. The noise generated by the station, when mitigated with the sound wall, will be lower than the existing ambient noise in the neighborhood, consequently complying with the noise standards set by New Jersey and as adopted by Holmdel Township. The station will generate no odors, as the regulator is a closed system and the emissions generated by the heater are odorless and colorless. The heater will only emit trace amounts of criteria air pollutants. The vast majority of the expected emissions are carbon dioxide and water vapor. And, according to EPA and DEP regulations, the station is considered to be an insignificant source of air-pollution emissions and is not required to have an air permit.

The station will be emitting a greenhouse gas (carbon dioxide) which, when considering the goals and mandates set forth in the 2019 EMP, is an area of concern. However, NJNG has shown that even when the station is run according to a worst-case scenario, the amount of greenhouse gases emitted by the station are negligible compared to the overall emissions generated by New Jersey and the energy industry. At the time of this decision the DEP and BPU are still developing rules to guide the implementation of the EMP. Neither the EMP nor the EO require a moratorium on projects such as this. Finally, as the proposed station is not an expansion or upgrade of NJNG's system and is necessary for NJNG to continue providing reliable service to its customers, the sub-goals of Goal 5.4 are not implicated here.

### **Alternative Methods**

The alternative methods considered under this project are: do nothing (i.e., continue using only the temporary regulator); use other NJNG regulator stations; and build the proposed station but use a different heater than the one proposed. In determining the reasonable necessity of NJNG's proposed facility, alternative methods must be considered to see if they are "reasonable, practical, and permanent alternatives to the construction of the proposed facility." In re the Appeal of Jersey Cent. Power & Light Co. Pursuant to N.J.S.A. 40:55D-19 from a Decision of the Twp. of Tewksbury Land Use Bd., BPU Dkt. No. EO09010010 at \*16 (Sept. 14, 2009). The alternatives should be considered in relation to the utility's existing methods and the customary practices of the

industry. Tewksbury, BPU Dkt. No. EO09010010 at \*14; Hackensack, 41 N.J. Super. at 426–27. However, once the utility company makes its showing as to the alternate methods, “the burden of demonstrating a feasible alternate method ought to devolve on the objectors.” Hackensack, 41 N.J. Super. at 426–27; In re Petition of Jersey Cent. Power & Light Co. Pursuant to N.J.S.A. 40:55D-19 for a Determination that the Montville-Whippany Project is Reasonably Necessary, BPU Dkt. No. EO 15030383 at \*3 (Nov. 21, 2017).

While the record demonstrates that the CWT and catalytic heaters are comparable in terms of costs and emissions, NJNG has already purchased the CWT heater and has explained why it is the most reasonable and practical option to heat the proposed station. Although Holmdel has suggested an alternative method, it has not shown why the catalytic heater is a feasible alternative to the CWT heater, considering that the record demonstrates the reliability issues likely to occur with the catalytic heater.

### **Alternative Locations**

To determine if a proposed site is reasonably necessary, the BPU must look at whether NJNG demonstrated good-faith efforts to obtain the most suitable location and showed an absence of alternative sites that are reasonably available to achieve equivalent public benefit with less adverse impact on the environment, community, and local zoning. Tewksbury, BPU Dkt. No. EO09010010 at \*13–16.

The record reflects that NJNG used reasonable site-selection criteria when selecting the location for the proposed station. The record likewise reflects that NJNG demonstrated that it made good faith attempts to address the concerns of Holmdel when negotiating for the proposed site, and that no other alternative site is reasonably available that will achieve the equivalent public benefit with less adverse impact on the environment, community, and local zoning plans.

## CONCLUSIONS

Upon considering the documentary and testimonial evidence provided in the matter, and weighing the relevant factors and considerations outlined above, I **FIND** and **CONCLUDE**:

1. That the project as proposed is reasonably necessary to provide safe, adequate, and reliable natural gas services in New Jersey;
2. That the project as proposed is reasonably necessary for the service, convenience, and welfare of the public;
3. That the petitioner considered alternative sites and methods for this project;
4. That the site and facility's design is reasonable considering the alternatives;
5. That the project as proposed to be designed and constructed will minimize adverse impacts on the environment;
6. That based upon the record, the project is not adverse to the public health and welfare.

Considering the foregoing, I further **CONCLUDE** that petitioner should be able to construct the regulator station as proposed; that the Local Land Use and Zoning Ordinance, and any other ordinances, rules, or regulations promulgated under the auspices of the Municipal Land Use Law of the State of New Jersey, should not apply to the construction, installation, and operation of the project; and that the petition of the New Jersey Natural Gas Company should be granted as to the proposed site, located at 960 Holmdel Road.

**ORDER**

It is hereby **ORDERED** that the Petition of New Jersey Natural Gas Company seeking a determination pursuant to the provisions of N.J.S.A. 40:55D-19 that the construction of a regulator station in Holmdel Township, in Monmouth County, New Jersey, is reasonably necessary for the service, convenience, or welfare of the public, and that the zoning and land-use ordinance of the municipality and its county shall have no application thereto is hereby **GRANTED** as to the proposed site, located at 960 Holmdel Road.

I hereby **FILE** my initial decision with the **BOARD OF PUBLIC UTILITIES** for consideration.

This recommended decision may be adopted, modified or rejected by the **BOARD OF PUBLIC UTILITIES**, which by law is authorized to make a final decision in this matter. If the Board of Public Utilities does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.



Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **SECRETARY OF THE BOARD OF PUBLIC UTILITIES, 44 South Clinton Avenue, P.O. Box 350, Trenton, NJ 08625-0350**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.



May 18, 2022  
DATE

\_\_\_\_\_  
**ELIA A. PELIOS, ALJ**

Date Received at Agency:

\_\_\_\_\_

Date Mailed to Parties:

\_\_\_\_\_

EAP/as

**APPENDIX**

**WITNESSES**

**For NJNG:**

Kraig Sanders (individually and as part of NJNG Panel)  
Marc Panaccione (individually and as part of NJNG Panel)  
John Wyckoff (as part of NJNG Panel)  
Christine Nazzaro-Cofone  
Robert Chilton  
Jeffrey Otteau  
Edward Potenta

**For Township of Holmdel**

Prakash Santhana  
Dr. Donald Moliver  
Berne Mosley

**For Other Parties:**

None

**EXHIBITS**

**For BPU Staff:**

S-1 NJNG responses to discovery requests RCR-ENG-1, -2, -5 to -9  
(BUP Dkt. No. GO17010023) (see also RC-1)  
S-2 NJNG responses to discovery requests RCR-ENG-3, -4, and -10  
(BUP Dkt. No. GO17010023) (see also RC-2)  
S-3 NJNG responses to discovery requests RCR-ENG-11 to -14 (BUP  
Dkt. No. GO17010023) (see also RC-3)

- S-4 NJNG responses to discovery requests RCR-ENG-15 to -17 (BUP Dkt. No. GO17010023) (see also RC-4)
- S-5 NJNG responses to discovery requests RCR-ENG-18 and -19 (BUP Dkt. No. GO17010023) (see also RC-5)
- S-6 NJNG responses to discovery requests RCR-ENG-1 to -14 (BUP Dkt. No. GO17010023) (see also RC-6)
- S-7 NJNG responses to discover requests Holmdel 1-22 and HOLM-NJNG-PNL-23 to -125 (see also Holm-22 to -125)
- S-8 NJNG responses to discover requests HOLM-NJNG-OTT-126 to -156 (except HOLM-NJNG-OTT-133) (see also Holm-123 to -147)
- S-9 NJNG responses to discover requests HOLM-NJNG-OTT-133
- S-10 NJNG responses to discover requests HOLM-NJNG-NCF-157 to -167 (see also Holm-149 to -152)
- S-11 NJNG responses to discover requests HOLM-NJNG-POT-168 to -180 (see also Holm-153 to -165)
- S-12 NJNG responses to discover requests HOLM-NJNG-CH-181 to -210 (see also Holm-166 to -195)
- S-13 NJNG supplemental responses to discover requests HOLM-NJNG-CH-193 and -194 (see also Holm-178A and -179A)
- S-14 NJNG responses to Holmdel's discovery requests 117 and 118, designated as confidential (see also Holm-116 and -117)
- S-15 Holmdel response to discovery request RCR-TWP-1 (see also RC-15)
- S-16 Holmdel responses to discovery requests NJNG-HOLM-BLM-1 to -30 (see also P-13 to -25)
- S-17 Holmdel responses to discovery requests NJNG-HOLM-DM-1 to -29 (see also P-26)
- S-18 Holmdel responses to discovery requests NJNG-HOLM-PS-1 to -13 (see also P-28)

For NJNG:

- P-1 Kraig Sanders, Direct Testimony (960 Holmdel Road)

- P-1o Kraig Sanders, Direct Testimony (970 Holmdel Road)
- P-2 Marc Panaccione, Direct Testimony (960 Holmdel Road)
- P-2o Marc Panaccione, Direct Testimony (970 Holmdel Road)
- P-3 Map of Holmdel identifying location of transmission line as well as Zoning and environmental restrictions (960 Holmdel Road)
- P-3o Map of Holmdel identifying location of transmission line as well as Zoning and environmental restrictions (970 Holmdel Road)
- P-4 Overall Plan and Site Plan and Grading Plan (960 Holmdel Road)
- P-4o Facility Site Plan (970 Holmdel Road)
- P-5 Site Plan with Landscaping (960 Holmdel Road)
- P-5o Transcript of Holmdel Zoning Board of Adjustment, final vote (December 7, 2016) (excerpted pages) (970 Holmdel Road)
- P-6 Transcript of Holmdel Zoning Board of Adjustment, final vote (October 25, 2018) (excerpted pages) (960 Holmdel Road)
- P-7 Public hearing exhibit (including proof of publications, and mailing of notice to municipal and county clerks/executives)
- P-8 Company Panel (Sanders, Panaccione, and Wyckoff), Rebuttal Testimony
- P-9 Christine Nazarro-Cofone, City Planning Rebuttal Testimony
- P-10 Robert S. Chilton, Energy Master Plan Rebuttal Testimony
- P-11 Edward J. Potenta, Air Quality and Noise Impact Rebuttal Testimony
- P-11A Errata to Rebuttal Testimony of Potenta
- P-12 Jeffrey Otteau, Real Estate Valuation Rebuttal Testimony
- P-13 Cover letter enclosing Holmdel responses to NJNG data requests NJNG-HOLM-BLM-1 to -30 (see also S-16)
- P-14 to -25 Holmdel responses to discovery requests NJNG-HOLM-BLM-2 to -5, -9 to -13, -15, -17, and -20 (see also S-16)
- P-26 Cover letter and Holmdel responses to NJNG discovery requests NJNG-HOLM-DM-1 to -29 (see also S-17)
- P-28 Cover letter and Holmdel responses to NJNG discovery requests NJNG-HOLM-PS-1 to -13 (see also S-18)
- P-29 Cover letter and Holmdel supplemental responses to NJNG discovery requests NJNG-HOLM-PS-11 to -13

P-30 Excerpted pages from Recreation Needs Assessment

For Holmdel Township:

- Holm-1 Berne Mosley, Energy Master Plan Direct Testimony
- Holm-2 Dr. Donald Moliver, Real Estate Valuation Direct Testimony (including attachments Holm-2A to -2C)
- Holm-3 Prakash Santhana, Direct Testimony
- Holm-4 to -9 Transcripts of Meetings of Holmdel Township Zoning Board of Adjustment (970 Holmdel Road)
- Holm-10 Resolution of Denial of NJNG's Application for Preliminary and Final Site Plan and Use and Related Variances (970 Holmdel Road)
- Holm-11 to -16 Transcripts of Meetings of Holmdel Township Zoning Board of Adjustment (960 Holmdel Road)
- Holm-17 Resolution of Denial of NJNG's Application for Preliminary and Final Site Plan and Use and Related Variances (960 Holmdel Road)
- Holm-18 Excerpts from 2019 New Jersey Energy Master Plan
- Holm-20 Decision and Order Approving Stipulation, In re Petition of NJNG, Dkt. Nos. GR07110889 and GR10100793 (Mar. 30, 2011)
- Holm-21 Order, In re Petition of NJNG, Dkt. Nos. GO110804798 (Nov. 9, 2011)
- Holm-22 NJNG response to discovery request HOLM-NJNG-PNL-50 (second number 50) (see also S-7)
- Holm-23 to-44 NJNG responses to discovery requests Holmdel-1 to -22 (see also S-7)
- Holm-45 to -121 NJNG responses to discovery requests HOLM-NJNG-PNL-42 to -77, -79 to -104, -105 to -112, -117 to -118, and -122 to -125 (see also S-7)
- Holm-123 to -147 NJNG responses to discovery requests HOLM-NJNG-OTT-126 to -129, -135 to -144, and -146 to -156 (see also S-8)
- Holm-148 Excerpts from Appraisal Institute, The Appraisal of Real Estate (14 ed.)

- Holm-149 to -152 NJNG responses to discovery requests HOLM-NJNG-NCF-157, -160, -164, and -166 (see also S-10)
- Holm-153 to -165 NJNG responses to discovery requests HOLM-NJNG-POT-168 to -180 (see also S-11)
- Holm-166 to -195 NJNG responses to discovery requests HOLM-NJNG-CH-181 to -210 (see also S-12)
- Holm-178A NJNG revised response to discovery request HOLM-NJNG-CH-193 (see also S-13)
- Holm-179A NJNG revised response to discovery request HOLM-NJNG-CH-194 (see also S-13)

For Rate Counsel:

- RC-1 Cover letter and NJNG responses to discovery requests RCR-ENG-1, -2, -5 to -9 (BPU Dkt. No. GO17010023) (see also S-1)
- RC-2 Cover letter and NJNG responses to discovery requests RCR-ENG-3, -4, and -10 (BPU Dkt. No. GO17010023) (see also S-2)
- RC-3 Cover letter and NJNG responses to discovery requests RCR-ENG-11 to -14 (BPU Dkt. No. GO17010023) (see also S-3)
- RC-4 Cover letter and NJNG responses to discovery requests RCR-ENG-15 to -17 (BPU Dkt. No. GO17010023) (see also S-4)
- RC-5 Cover letter and NJNG responses to discovery requests RCR-ENG-18 and -19 (BPU Dkt. No. GO17010023) (see also S-5)
- RC-6 Cover letters and NJNG responses to discovery requests RCR-ENG-1 to -14 (BPU Dkt. No. GO18111257) (see also S-6)
- RC-15 Cover letter and Holmdel response to discovery request RCR-TWP-1 (see also S-15)