



STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

ENERGY

IN THE MATTER OF THE PETITION OF SOUTH)
JERSEY GAS COMPANY TO CONTINUE ITS)
ACCELERATED INFRASTRUCTURE REPLACEMENT)
PROGRAM ("AIRP") PURSUANT TO N.J.S.A. 48:2-21)
AND N.J.S.A. 48:2-21.1 AND FOR APPROVAL OF A)
BASE RATE ADJUSTMENT TO REFLECT AIRP)
INVESTMENTS IN BASE RATES)

ORDER ON MOTION TO
PARTICIPATE AND
PREHEARING ORDER WITH
PROCEDURAL SCHEDULE

DOCKET NO. GR16020175

Parties of Record:

Ira G. Megdal, Esq., Cozen O'Connor, P.C., on behalf of South Jersey Gas Company
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel

BY COMMISSIONER DIANNE SOLOMON:

BACKGROUND:

SJG AIRP PETITION

On July 23, 2012, SJG filed a petition seeking the Board's approval to implement a five (5) year Accelerated Infrastructure Replacement Program ("AIRP") through which the Company would invest \$250 million prior to the capitalization of Allowance For Funds Used During Construction ("AFUDC") to replace cast iron and unprotected steel¹ distribution lines, services and meters. SJG proposed spending an incremental \$50.0 million per year and sought a return on program investments as it had under the prior Capital Investment Recovery Tracker ("CIRT") programs. The Company represented that many of its older mains and services were constructed of cast iron and/or unprotected steel, the most popular and readily available materials used in the industry prior to 1970. The Company maintained that its cast iron and unprotected steel infrastructure was generally more susceptible to corrosion damage, leaks, and material failure

¹ Included in the category of "unprotected steel" is pipe that is uncoated or that is coated but not cathodically protected. For convenience, these two categories of steel pipe are referred to as unprotected steel.

than the Company's other mains and services. While SJG stated that it had been consistently addressing the replacement of such assets through its annual capital construction planning for many years, the Company's testimony maintained that an accelerated approach was necessary to shorten the overall time it would take to replace this aged infrastructure. Additionally, the Company stated that there were national efforts underway to increase the safety, reliability and integrity of the country's pipeline infrastructure.

SJG requested expedited treatment of the filing and also requested that the Board retain jurisdiction over the matter, in light of the scheduled expiration of its CIRT program on December 31, 2013. On February 20, 2013, the Board issued an Order approving a stipulation entered into in Docket No. GO12070670, whereby the Parties agreed to \$35.3 million per year of incremental capital spending for four (4) years, totaling \$141.2 million under the AIRP.

SJG AIRP II PETITION

On February 29, 2016, the Company filed the instant petition with the Board seeking approval to continue its AIRP for a period of seven (7) years with a total program investment of \$500 million ("AIRP II"). The Company represents that it will continue its Distribution Integrity Management Program based approach to addressing the most significant threats on its distribution system and will replace and retire a significant portion of the vintage and most leak prone mains and services in its distribution system, including (i) all remaining cast iron and unprotected bare steel mains and associated services, (ii) the most leak prone coated steel mains that are two inches (2") in diameter or less and associated services, and (iii) other pipe materials and sizes found within replacement grids that would be logical and necessary to complete the modernization of the grid. The Company claims that the approval of the AIRP II will enable the Company to continue enhancing the reliability and safety of its gas distribution system in a cost effective manner, achieve increased operational efficiencies and continue the employment benefits that have been created by its previous and existing main replacements programs.

SJG proposes to recover the capital investment costs and expenses of the AIRP II through annual base rate adjustments. The Company's first AIRP II rate adjustment filing would be made on April 1, 2017 and there would be no rate adjustment or customer bill impact until October 1, 2017. The Company also seeks a return on the approved investments using an after-tax weighted average cost of capital of 7.10%, based on a Return on Equity of 9.75% and equity to capitalization ratio of 51.9%.

SJG requests that the Board retain this matter for review on an expedited basis, given the impending expiration of the AIRP at the end of 2016, the expectation that all authorized AIRP expenditures will be exhausted by September 30, 2016 and the importance of maintaining continuity of the program to achieve efficiencies and maintain jobs. The Company further requests that, in the event the proposed AIRP II is not approved by the Board by September 30, 2016, the Board enter an Order no later than September 30, 2016 authorizing an interim extension of the AIRP to bridge the gap between the expected exhaustion of expenditures and the approval of an AIRP II.

By Order dated April 27, 2016 ("April 27 Order"), the Board determined that the AIRP II petition described above should be retained by the Board for hearing and, pursuant to N.J.S.A. 48:2-32, designated Commissioner Dianne Solomon as the presiding officer authorized to rule on all motions that arise during the pendency of these proceedings and modify any schedules that may be set as necessary to secure a just and expeditious determination of the issues. Further,

the April 27 Order directed that any entities seeking to intervene or participate in this matter file the appropriate application with the Board by May 30, 2016.

To aid in the setting of an appropriate schedule, Board Staff requested that the New Jersey Division of Rate Counsel ("Rate Counsel") and the Company circulate a proposed procedural schedule. On May 16, 2016, the Company circulated a proposed procedural schedule. On May 18, 2016, Rate Counsel submitted a revised procedural schedule which extended the time frame for the completion of discovery and the evidentiary hearings by approximately one (1) month. Following receipt of the revised procedural schedule, the Company, Rate Counsel and Board Staff agreed to a procedural schedule which provided for discovery to be completed in early October, with evidentiary hearings occurring in late October and early November.

THE MOTION:

PSE&G Motion to Participate

By motion dated May 9, 2016, Public Service Electric and Gas Company, ("PSE&G") moved for an Order granting it status as a participant pursuant to N.J.A.C. 1:1-16.6. PSE&G asserts that it is a New Jersey public utility as defined by N.J.S.A. 48:2-13 and is engaged in the purchase, transmission, distribution, and sale of electric and related utility services to more than 2,100,000 residential, commercial, and industrial customers located within the State of New Jersey. PSE&G further asserts that it is engaged as a New Jersey public utility in the purchase, distribution, and sale of natural gas for more than 1,800,000 customers located within the State of New Jersey.

PSE&G argues that the Board's decision in this proceeding could have precedential effect and impact not only on the Petitioner, but also New Jersey's other electric and gas utilities, including PSE&G and its customers. PSE&G states that it will therefore likely be directly and specifically affected by the relief provided.

PSE&G also argues that the service territories, customers, and operations of PSE&G are distinct from those of other parties and participants, or potential parties and participants, in this case. Thus, no other party or participant will represent the interests of PSE&G in this case.

PSE&G finally states that it will coordinate its representation with other similarly situated parties in this docket to the extent it finds appropriate. It adds that the company's experience in the gas and electric industry will allow it to likely constructively add to this proceeding.

By correspondence dated May 23, 2016, counsel for SJG advised that the Company did not object to PSE&G's motion to participate. Rate Counsel took no position with regard to the motion to participate.

DISCUSSION AND FINDINGS:

In ruling on a motion to intervene, N.J.A.C. 1:1-16.3(a) requires that the decision-maker consider the following factors:

1. The nature and extent of the moving party's interest in the outcome of the case;
2. Whether that interest is sufficiently different from that of any other party so as to add measurably and constructively to the scope of the case;

3. The prospect for confusion and delay arising from inclusion of the party; and
4. Other appropriate matters.

As the Board has stated in previous proceedings, application of these standards involves an implicit balancing test. The need and desire for development of a full and complete record, which involves consideration of a diversity of interests, must be weighed against the requirements of the New Jersey Administrative Code, which recognizes the need for prompt and expeditious administrative proceedings by requiring that an intervenor's interest be specific, direct and different from that of the other parties so as to add measurably and constructively to the scope of the case. See, Order, In re the Joint Petition of Public Service Electric and Gas Company and Exelon Corporation for Approval of a Change in Control, Docket No. EM05020106 (June 8, 2005).

N.J.A.C. 1:1-16.5 provides for a more limited form of involvement in the proceeding as a "participant," if, in the discretion of the trier of fact, the addition of the moving party is likely to add constructively to the case without causing undue delay or confusion. Under N.J.A.C. 1:1-16.6(c), such participation is limited to the right to argue orally, or file a statement or brief, or file exceptions, or all of these as determined by the trier of fact.

After consideration of the papers and given the lack of any objections, I **HEREBY FIND**, pursuant to N.J.A.C. 1:1-16.6(b), that the participation of PSE&G in this matter is likely to add constructively to the case without causing undue delay or confusion. Accordingly, I **HEREBY GRANT** the motion to participate submitted on behalf of PSE&G, limited to the right to argue orally and file a statement or brief as set out in N.J.A.C. 1:1-16.6(c)(1) and (2).

In addition, I have reviewed the proposal for a preliminary schedule, after giving due consideration to the positions of Staff, Rate Counsel and the Company, I **HEREBY ISSUE** the following as the Prehearing Order, along with the procedural schedule identified as Exhibit A, and **HEREBY DIRECT** the parties to comply with its terms.

PREHEARING ORDER

1. NATURE OF PROCEEDINGS AND ISSUES TO BE RESOLVED:

Through this proceeding, South Jersey Gas Company ("SJG" or "Company") seeks approval to continue its AIRP for a period of seven (7) years with a total program investment of \$500 million ("AIRP II"). The Company represents that it will continue its Distribution Integrity Management Program based approach to addressing the most significant threats on its distribution system and will replace and retire a significant portion of the vintage and most leak prone mains and services in its distribution system, including (i) all remaining cast iron and unprotected bare steel mains and associated services, (ii) the most leak prone coated steel mains that are two inches (2") in diameter or less and associated services, and (iii) other pipe materials and sizes found within replacement grids that would be logical and necessary to complete the modernization of the grid. The Company claims that the approval of the AIRP II will it to continue enhancing the reliability and safety of its gas distribution system in a cost effective manner, achieve increased operational efficiencies and continue the employment

benefits that have been created by its previous and existing main replacements programs.

The Company proposes to recover the capital investment costs and expenses of the AIRP II through annual base rate adjustments. The Company's first AIRP II rate adjustment filing would be made on April 1, 2017 and there would be no rate adjustment or customer bill impact until October 1, 2017. The Company also seeks a return on the approved investments using an after-tax weighted average cost of capital of 7.10%, based on a Return on Equity of 9.75% and equity to capitalization ratio of 51.9%.

A. Issues to be Resolved:

- 1) The prudence, cost effectiveness and cost efficiency of the activities and programs proposed for the ten years of the AIRP II as proposed;
- 2) The reasonableness and lawfulness of the proposed cost recovery mechanism; and
- 3) The reasonableness of the proposed rates.

2. PARTIES AND THEIR DESIGNATED ATTORNEYS OR REPRESENTATIVES:

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No change in designated trial counsel shall be made without leave if such change will interfere with the dates for hearings. If no specific counsel is set forth in this Order, any partner or associate may be expected to proceed with evidentiary hearings on the agreed dates.

3. **SPECIAL LEGAL REQUIREMENTS AS TO NOTICE OF HEARING:**

Pursuant to N.J.S.A. 48:2-32.6, public hearings will be held in the Company's service territory after publication of notice in newspapers of general circulation in SJG's service territory. The public hearings will be held in July or August 2016 in Voorhees, New Jersey.

4. **SCHEDULE OF HEARING DATES, TIME AND PLACE:**

Evidentiary hearings will be held on October 21, November 3, and November 4, 2016, starting at 10 a.m. on each day, in the multipurpose room at the New Jersey Board of Public Utilities, 44 South Clinton Avenue, Trenton, New Jersey.

5. **STIPULATIONS:**

None at this time.

6. **SETTLEMENT:**

Settlement conferences will be held on July 18, July 19 and the weeks of September 19 and October 10, 2016. Settlement conferences among the parties are encouraged, and may be convened on other dates at the convenience of the parties on notice to all parties without my prior approval.

7. **AMENDMENTS TO PLEADINGS:**

None at this time.

8. **DISCOVERY AND DATE FOR COMPLETION:**

Discovery shall be conducted in accordance with N.J.A.C. 1:1-10.4 unless otherwise

provided in the schedule marked as Exhibit A.

9. **ORDER OF PROOFS:**

SJG has the burden of proof. The hearings will be conducted by topic (see point 12, below); within each topic, the hearings will be conducted in the following order:

First – SJG

Second – Rate Counsel

Third – Board Staff

10. **EXHIBITS MARKED FOR IDENTIFICATION:**

None at this time.

11. **EXHIBITS MARKED IN EVIDENCE:**

None at this time.

12. **ESTIMATED NUMBER OF FACTS AND EXPERT WITNESSES:**

SJG will present the following five (5) witnesses: Robert F. Fatzinger, Paul J. Zuccarino, Salvatore D. Marano, Kenneth J. Barcia and Michael Reno.

Rate Counsel will present the following two (2) witnesses: David E. Dismukes, Ph.D and Robert J. Henkes. Additional witnesses may be identified by Rate Counsel as necessary for purposes of testimony.

Any party substituting witnesses shall identify such witnesses within five (5) days of determining to replace a witness, and in no event later than five (5) days before filing of testimony of a substitute witness. All direct testimony will be pre-filed, and all witnesses submitting pre-filed direct testimony will be subject to cross examination at evidentiary hearings, which will be conducted by topic (e.g., program elements, revenue requirements, and so forth).

13. **MOTIONS:**

No other motions are pending at this time.

14. **SPECIAL MATTERS:**

None at this time.

I **HEREBY DIRECT** that all documents required to be served under the terms of the schedule described on Exhibit A, shall be served by electronic-mail, while still providing hard copies 1) to the Board for those documents which must be filed with the Board, and 2) to each party requesting hard copies.

The parties are directed to work cooperatively with each other to the fullest extent possible in

the interests of reaching a just determination in this proceeding.

I **HEREBY DIRECT** Staff to post this Order on the Board's website and serve a copy of the Order to the service list electronically.

This ruling is provisional and subject to ratification or other alteration by the Board as it deems appropriate during the proceeding in this matter.

DATED: June 16, 2016

A handwritten signature in black ink, appearing to read "Dianne Solomon". The signature is written in a cursive style with a large initial "D".

DIANNE SOLOMON
COMMISSIONER

IN THE MATTER OF THE PETITION OF SOUTH JERSEY GAS COMPANY TO CONTINUE
ITS ACCELERATED INFRASTRUCTURE REPLACEMENT PROGRAM ("AIRP") PURSUANT
TO N.J.S.A. 48:2-21 AND N.J.S.A. 48:2-21.1 AND FOR APPROVAL OF A BASE RATE
ADJUSTMENT TO REFLECT AIRP INVESTMENTS IN BASE RATES –
DOCKET NO. GR16020175

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Exhibit A

IN THE MATTER OF THE PETITION OF SOUTH JERSEY GAS COMPANY TO CONTINUE ITS ACCELERATED INFRASTRUCTURE REPLACEMENT PROGRAM ("AIRP") PURSUANT TO N.J.S.A. 48:2-21 AND N.J.S.A. 48:2-21.1 AND FOR APPROVAL OF A BASE RATE ADJUSTMENT TO REFLECT AIRP INVESTMENTS IN BASE RATES –
DOCKET NO. GR16020175

Procedural Schedule

June 15, 2016: Deadline for responses to initial discovery requests

July 1, 2016: Discovery conference (accounting issues only)

July or August 2016: Public hearings

July 8, 2016: Deadline for propounding second round discovery requests

July 15, 2016: Deadline for responses to second round discovery requests

July 18 and 19, 2016: Discovery/settlement conferences

August 26, 2016: Deadline for filing Rate Counsel direct testimony

September 2, 2016: Deadline for propounding discovery on Rate Counsel testimony

September 12, 2016: Deadline for filing responses to discovery on Rate Counsel testimony

Week of September 19, 2016: Settlement conferences

September 23, 2016: Deadline for Company to file rebuttal testimony

September 30, 2016: Deadline for propounding discovery on Company's rebuttal testimony

October 7, 2016: Deadline for responses to discovery on Company's rebuttal testimony

Week of October 10, 2016: Settlement conferences

October 21, November 3, and November 4, 2016: Evidentiary Hearings – with live sur-rebuttal in Trenton

November 15, 2015: Deadline for filing initial briefs

November 23, 2016: Deadline for filing reply briefs

Discovery will be conducted on a rolling basis, with responses due in accordance with N.J.A.C. 1:1-10.4, subject to the scheduled end dates.