



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

IN THE MATTER OF THE PETITION OF NEW JERSEY )  
NATURAL GAS COMPANY FOR APPROVAL OF THE ) AMENDED SCHEDULING  
SAFETY ACCELERATION AND FACILITY ) ORDER  
ENHANCEMENT PROGRAM PURSUANT TO N.J.S.A. )  
48:2-23, AND FOR APPROVAL OF THE ASSOCIATED )  
RECOVERY MECHANISM PURSUANT TO N.J.S.A. ) DOCKET NO. GO12030255  
48:2-21 AND 2-21.1 )

**Tracey Thayer, Esq.**, New Jersey Natural Gas  
**Stefanie A. Brand, Director**, New Jersey Division of Rate Counsel

By Commissioner Holden:

By Order dated July 19, 2012, I set a procedural schedule for submissions on the question of whether requests for accelerated replacement of cast iron and unprotected steel infrastructure with interim rates over a multi-year period, should be addressed through a contested case proceeding or through a rule making process similar to that employed to develop the Distribution System Improvement Charge ("DSIC") rules at N.J.A.C. 14:9-10.

By letter motion dated July 27, 2012, the New Jersey Division of Rate Counsel ("Rate Counsel") requested that the procedural schedule be suspended, and that a telephone conference be scheduled to clarify the scope of the issues to be addressed, the method of providing notice, and revisions to the schedule. By e-mail on July 30, 2012, the procedural schedule was stayed pending further action by me as the presiding officer in this matter.

By letter dated July 31, 2012, the New Jersey Large Energy Users Coalition ("NJLEUC") joined in Rate Counsel's request. By letter dated August 6, 2012, AARP added its support for suspension of the procedural schedule.

As authorized by me, on August 13, 2012, DAG Babette Tenzer noticed a telephone conference for August 16, 2012 to address the scope of the procedural issues to be briefed, the method of notice to interested parties, and revisions to the procedural schedule. Anyone unable to participate in the call was requested to submit comments on these issues by August 15, 2012. No comments were received.

Representatives of the following parties participated in the telephone conference:

New Jersey Natural Gas Company  
South Jersey Gas Company  
New Jersey Division of Rate Counsel  
Board Staff  
AARP  
New Jersey Large Energy Users Coalition  
New Jersey Chemistry Council  
Public Service Electric & Gas Company  
Jersey Central Power and Light Company  
Atlantic City Electric Company  
Elizabethtown Gas Company  
Rockland Electric Company

According to information provided to me by DAG Tenzer, New Jersey Natural Gas presented a proposed schedule that was acceptable to the gas and electric utilities. Rate Counsel and AARP needed additional time to consider the schedule. Concerning the question of notice, while the utilities maintained that adequate notice of the opportunity to comment had been given, Rate Counsel felt that notice had been restricted and was insufficient. Rate Counsel and AARP were given until close of business on August 17 to comment on the schedule. Rate Counsel was requested to provide guidance on what would constitute adequate notice.

By e-mail on August 17, 2012, Rate Counsel stated that it would file an initial brief with the Board by August 30, 2012 in accordance with the proposed schedule but reserved the right to request additional time to file a reply brief after September 7, 2012, depending on the number and content of the actual briefs received on August 30 from interested parties. Additionally, Rate Counsel maintained that it was improper for the Board to invite briefs from non-parties concerning the disposition of a petition filed in a contested case, and that it was therefore unable to provide any guidance concerning the appropriate form of notice for procedures which it believes are outside those permitted by the Administrative Procedure Act.

No comment was received from AARP prior to close of business. After close of business, AARP submitted a request that 10 business days after posting by the Board of the revised scheduling Order be given for the submittal of the first briefs.

As stated in the July 19, 2012 Order that designated me as the presiding commissioner in the matter, it is the Board that has the flexibility to determine how to proceed in matters presented to it, and it may use its discretion to choose the most appropriate manner including by contested case, rulemaking or informal process, based on the issues raised and the potential effects of the resolution. See, In re Request for Solid Waste Util. Customer Lists, 106 N.J. 508 (1987); In re the Petitions of MP Real Estate LP, Studebaker Submetering, Inc. and the New Jersey Apartment Association for Permission to Check-Meter Water Service, BPU Dkt Nos. WO00040254, WO00060360, WO00070510 (June 24, 2004).

Therefore, based on discussion during the telephone conference, the sole issue to be addressed by the filings is the following:

Whether the request for accelerated replacement of cast iron and unprotected steel infrastructure with interim rates over a multi-year period should be addressed through a contested case proceeding or through a rule making process similar to that employed to develop the Distribution System Improvement Charge ("DSIC") rules at N.J.A.C. 14:9-10.

Based upon the needs of the case, I HEREBY MODIFY the procedural schedule for submissions by interested parties as follows:

Initial Briefs

August 30, 2012

Reply Briefs

September 7, 2012

Any further requests for changes to the schedule should be made prior to the due date with notice to all those included on this e-mail.

I HEREBY DIRECT that this Order be posted on the Board's website and include the following language in the heading: Notice of Revised Briefing Schedule.

All filings should be made by electronic mail to the Board's Secretary at [board.secretary@bpu.state.nj.us](mailto:board.secretary@bpu.state.nj.us), and to the parties on this e-mail list. A hard copy of any filing should also be made with the Board's Secretary. Parties wishing to be added to the e-service list may do so by emailing [board.secretary@bpu.state.nj.us](mailto:board.secretary@bpu.state.nj.us).

This provisional ruling is subject to the ratification or other alteration by the Board as deemed appropriate.

DATED: 8/21/12

BY:



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MARY-ANNA HOLDEN  
COMMISSIONER

IN THE MATTER OF THE PETITION OF NEW JERSEY NATURAL GAS COMPANY FOR APPROVAL OF THE SAFETY ACCELERATION AND FACILITY ENHANCEMENT PROGRAM PURSUANT TO N.J.S.A. 48:2-23, AND FOR APPROVAL OF THE ASSOCIATED RECOVERY MECHANISM PURSUANT TO N.J.S.A. 48:2-21 AND 2-21.1

DOCKET NO. GO12030255

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