



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

ENERGY

IN THE MATTER OF THE PETITION OF SOUTH )  
JERSEY GAS COMPANY FOR APPROVAL OF A )  
MUNICIPAL CONSENT IN THE BOROUGH OF )  
CLAYTON, GLOUCESTER COUNTY, NEW JERSEY ) DECISION AND ORDER  
DOCKET NO. GE14091051

**Parties of Record:**

**Stacy A. Mitchell, Esq.**, Cozen O'Connor, P.C. on behalf of Petitioner, South Jersey Gas Company  
**Stefanie A. Brand, Esq.**, Director, New Jersey Division of Rate Counsel

BY THE BOARD<sup>1</sup>:

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

SJG currently provides natural gas service within the Borough of Clayton ("Borough") to approximately 2,477 residential, 123 commercial, and 7 (seven) industrial customers. The Company's consent to use the streets within the Borough for the provision of gas service expired on March 2, 2006.<sup>2</sup> On May 8, 2014, the Borough adopted Ordinance No. 5-2014 which granted SJG (1) continued exclusive and perpetual consent and permission to furnish gas for light, heat and power in the Borough; and (2) continued permission to lay and construct its pipes and mains and related appurtenances and facilities within the streets, alleys, squares and public places within the Borough for a period of fifty (50) years. By letter dated July 21, 2014, the Company accepted and agreed to the terms of the consent. Copies of the Ordinance and the letter of acceptance are attached to this Order as Exhibits "A" and "B," respectively.

<sup>1</sup> Commissioner Upendra J. Chivukula recused himself due to a potential conflict of interest and as such took no part in the discussion or deliberation of this matter.

<sup>2</sup> The Board notes that municipal consents often expire some time prior to their renewal even when the Company initiates the renewal process prior to the expiration of the previous term. This is primarily the result of the time necessary for a municipality to fulfill the legal requirements that attend to all formal actions it must take along with the additional time for hearing and Board approval as required by law. The Board has been assured that pending review of its petition, SJG has continued to provide service to its customers within the Borough in an uninterrupted manner.

On September 25, 2014, pursuant to N.J.S.A. 48:2-14 and N.J.A.C. 14:1-5.5, SJG filed a petition requesting that this Board approve the consent adopted by the Borough. As required by law and after notice, a hearing in this matter was held on December 2, 2014 before William Agee, Esq., the Board's duly appointed hearing officer. Appearances were made on behalf of the Company, the Division of Rate Counsel ("Rate Counsel") and Board Staff. No other party participated in the hearing or filed any written submission with the Board related to this proceeding.

At the hearing, the Company relied on its petition and exhibits filed with the Board and presented the testimony of Joseph Schneider, its General Manager of System Engineering and Planning. According to Mr. Schneider's testimony, SJG anticipates growth in its defined service territory to be approximately one (1) percent annually for the next three (3) to five (5) years. According to the Company, it has the capacity to ensure continuation of its natural gas service and does not foresee any concerns regarding its ability to meet the existing and future demands of the Borough.

Rate Counsel, in its written comments to the petition dated February 13, 2015, did not object to the Board's approval of the municipal consents granted by the Borough. However, it recommended that the Board condition its approval on the limitation of the consent as to the furnishing of service to a reasonable period not to exceed fifty (50) years, and that any Order approving the consents reserve ratemaking issues for future proceedings. Rate Counsel maintains that grants in perpetuity are not favored under New Jersey law, and under N.J.S.A. 48:2-14, the Board can impose conditions on its approvals, including limiting the consent to a reasonable term.

The Company responded to Rate Counsel's comments by letter dated February 17, 2015, objecting to the proposed limitation and/or modification of the duration of the consent to serve, but agreeing that there is a fifty (50) year limit on the right to use the streets. SJG argued that the imposition by the Board of any limitation on the duration of the consent to serve would be contrary to the expressed intent of the Borough, unsupported by the record in the proceeding, and inconsistent with existing law.

After a full review of the entire record, the Board **HEREBY FINDS** that the municipal consent which is the subject of this matter, is necessary and proper for the public convenience and properly conserves the public interest, and that SJG has the ability to provide safe, adequate and proper service. The Board **FURTHER FINDS** that the Company has the necessary experience, financial capability, capacity and facilities in the Borough to continue to provide adequate and appropriate service to its existing customers, as well as expected future customers, and that the fifty (50) year duration of the municipal consent to use the streets is consistent with N.J.S.A. 48:3-15. Accordingly, the Board, pursuant to N.J.S.A. 48:2-14, **HEREBY APPROVES** the consent granted to SJG by the Borough for the continued provision of gas service in the Borough as sought in the Company's petition, and **HEREBY APPROVES** the consent to use the public streets for a period of fifty (50) years for the provision of gas service in the Borough subject to the following provisions:

1. This Order shall not be construed as directly or indirectly fixing for any purposes whatsoever the value of any tangible or intangible assets now owned or hereafter to be owned by SJG.
2. This Order shall not effect nor in any way limit the exercise of the authority of this Board of the State in any future petition or in any proceedings with respect to

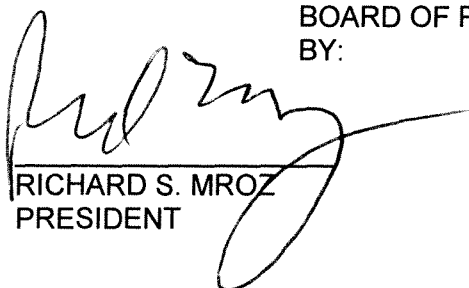
rates, franchises, services, financing, accounting, capitalization, depreciation, or in any other matters affecting SJG.

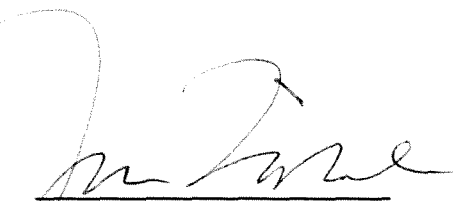
3. In an appropriate subsequent proceeding, SJG shall have the burden of demonstrating whether, and to what extent, any of the costs associated with this petition shall be allocated to ratepayers.
4. The rates for service to the Company's customers in the Borough shall continue to be those set out in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

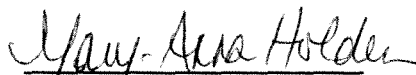
This Order shall be effective as of April 24, 2015.


DATED: 4/15/15

BOARD OF PUBLIC UTILITIES  
BY:

  
RICHARD S. MROZ  
PRESIDENT

  
JOSEPH L. FIORDALISO  
COMMISSIONER

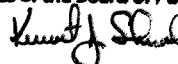
  
MARY-ANNA HOLDEN  
COMMISSIONER

  
DIANNE SOLOMON  
COMMISSIONER

ATTEST:

  
KENNETH J. SHEEHAN  
SECRETARY

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



IN THE MATTER OF THE PETITION OF SOUTH JERSEY GAS COMPANY FOR APPROVAL  
OF A MUNICIPAL CONSENT IN THE BOROUGH OF CLAYTON, GLOUCESTER COUNTY,  
NEW JERSEY - DOCKET NO. GE14091051

SERVICE LIST

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# Exhibit A

**ORDINANCE 5-2014**  
**AN ORDINANCE AMENDING ORDINANCE 2-2014 GRANTING RENEWED**  
**CONSENT AND PERMISSION TO SOUTH JERSEY GAS COMPANY TO USE THE**  
**PUBLIC STREETS TO FURNISH GAS FOR LIGHT, HEAT AND POWER IN THE**  
**BOROUGH OF CLAYTON**

**WHEREAS**, South Jersey Gas Company, a corporation of the State of New Jersey, provides natural gas service to the Borough of Clayton pursuant to the municipal consent first granted to South Jersey Gas Company in that certain ordinance passed on March 2, 1906; and

**WHEREAS**, South Jersey Gas Company now seeks, pursuant to N.J.S.A. 48:3-15, the consent of the Borough of Clayton to renew the Ordinance applicable to the use of the streets in the Borough of Clayton by adopting the following;

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Clayton, County of Gloucester and State of New Jersey as follows:

**Section 1.** That exclusive and perpetual consent and permission to furnish gas for light, heat and power in the Borough of Clayton, County of Gloucester, State of New Jersey, is hereby renewed and granted to South Jersey Gas Company, a New Jersey corporation, subject to approval of such consent and permission by the Board of Public Utilities of the State of New Jersey.

**Section 2.** That exclusive consent and permission is hereby renewed and granted to South Jersey Gas Company to lay and construct its pipes and mains and related appurtenances and facilities within the streets, alleys, squares and public places with the Borough of Clayton in the manner prescribed by N.J.S.A. 48:9-21, and subject to reasonable regulations imposed by ordinance or resolution with respect to the opening of streets and public places, subject to approval of such consent and permission by the Board of Public Utilities.

**Section 3.** This consent is granted for the entire geographical area of the Borough of Clayton and extends to the boundaries of the Borough of Clayton. Further, Section 2 of this consent shall remain in effect for a period of Fifty (50) years from the date of final adoption of this Ordinance.


**Section 4.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by the any Court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

**Section 5.** This Ordinance shall take effect immediately upon posting, publication, final passage in the manner prescribed by law, and acceptance by South Jersey Gas Company.

**BOROUGH OF CLAYTON**

  
\_\_\_\_\_  
THOMAS BIANCO, Mayor

ATTEST:

  
\_\_\_\_\_  
CHRISTINE NEWCOMB, Clerk

**5-2014**

**NOTICE OF ADOPTION**

**AN ORDINANCE AMENDING ORDINANCE 2-2014 GRANTING  
RENEWED CONSENT AND PERMISSION TO SOUTH JERSEY GAS  
COMPANY TO USE THE PUBLIC STREETS TO FURNISH GAS FOR  
LIGHT, HEAT AND POWER IN THE BOROUGH OF CLAYTON**

The foregoing Ordinance was finally adopted by the Mayor and Council of the Borough of Clayton on May 8, 2014.

Christine Newcomb  
Borough Clerk

5-2014

**NOTICE OF INTRODUCTION**

**AN ORDINANCE AMENDING ORDINANCE 2-2014 GRANTING  
RENEWED CONSENT AND PERMISSION TO SOUTH JERSEY GAS  
COMPANY TO USE THE PUBLIC STREETS TO FURNISH GAS FOR  
LIGHT, HEAT AND POWER IN THE BOROUGH OF CLAYTON**

**TAKE NOTE** that the foregoing ordinance was introduced at a meeting of the Mayor and Council of the Borough of Clayton held on April 24, 2014 and was then read for the first time. The said ordinance will be further considered for final passage by the Mayor and Council at the Municipal Building, 125 N. Delsca Drive, Clayton, New Jersey, at a meeting beginning 7:30 p.m. on May 8, 2014, at which time and place, or any time and place to which such meeting be adjourned, all persons interested will be given an opportunity to be heard concerning such ordinance.

**BY ORDER** of the Mayor and Council of the Borough of Clayton.

Christine Newcomb  
Borough Clerk



# Exhibit B



**South Jersey Gas**

*Where we put all of our energy\**

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

July 21, 2014

*(Via email: [cnewcomb@claytonnj.com](mailto:cnewcomb@claytonnj.com))*  
Ms. Christine Newcomb, Municipal Clerk  
Borough of Clayton  
125 North Delsea Drive  
Clayton, New Jersey 08312

Re: Acceptance of Ordinance No. 05-2014 Granting Municipal Consent to South Jersey Gas Company to Use the Streets for the Provision of Natural Gas Service

Dear Ms. Newcomb:

I am writing on behalf of South Jersey Gas Company ("SJG") to advise that we received a fully executed copy of Ordinance No. 05-2014 (copy attached) granting municipal consent for SJG to provide gas and lay its mains and pipes in the Borough of Clayton. Pursuant to the requirements of N.J.S.A. 48:3-16, SJG hereby accepts Ordinance No. 05-2014, as passed.

Very truly yours,

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

Enclosure

cc: John Stanziola, Director, Regulatory Affairs  
Sherri Ramos, Supervisor, Revenue Analyst Permits  
Abbey Greenberg, Public Affairs Specialist  
Stacy A. Mitchell, Esq.