



STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

ENERGY

IN THE MATTER OF THE PETITION OF NEW JERSEY)
NATURAL GAS COMPANY FOR A DETERMINATION)
CONCERNING THE SOUTHERN RELIABILITY LINK)
PURSUANT TO N.J.S.A. 40:55D-19 AND N.J.S.A. 48:9-)
25.4)
ORDER ON MOTION TO
COMPEL DISCOVERY
RESPONSES
DOCKET NO. GO15040403

John G. Valeri Jr., Esq., Chiesa, Shahinian & Giantomasi, P.C., on behalf of New Jersey Natural Gas Company
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel
William R. Burns, Esq., Capehart Scatchard, on behalf of Burlington County Board of Chosen Freeholders
John C. Gillespie, Esq., Parker McCay, P.A., on behalf of Township of Chesterfield
Mark Roselli, Esq., Roselli Griegel Lozier & Lazzaro, P.C., on behalf of Township of North Hanover
Denis P. Kelly, Esq., Gilmore & Monahan, P.C., on behalf of Township of Plumsted
Paul Leodori, Esq., Law Offices of Paul Leodori, P.C., on behalf of Pinelands Preservation Alliance

BY COMMISSIONER DIANNE SOLOMON:

On April 2, 2015, New Jersey Natural Gas ("NJNG" or "Company"), a New Jersey public utility that supplies natural gas to approximately 510,000 customers in Monmouth, Ocean, Morris, Middlesex and Burlington Counties, filed a petition with the New Jersey Board of Public Utilities ("Board") pursuant to N.J.S.A. 40:55D-19 of the New Jersey Municipal Land Use Law ("MLUL") and N.J.S.A. 48:9-25.4.

According to the petition, NJNG's customers at the southern end of its pipeline system, particularly those in Ocean, Burlington and Monmouth Counties, may be adversely affected by a supply interruption or system failure. The Company represents that the proposed Southern Reliability Link project ("Project") will connect the natural gas system in these counties to a new supply point with the Transcontinental Pipe Line Company ("Transco") in Chesterfield, New Jersey, adjacent to the New Jersey Turnpike. The Company further represents that, by creating a new redundant major feed, the Project will support safe, reliable, and resilient delivery of natural gas to its customers in Ocean, Burlington and Monmouth Counties.

By Order dated May 19, 2015 ("May 19 Order"), the Board retained this matter for hearing and I was designated as the Presiding Officer with the authority to establish and modify schedules, decide all motions and otherwise control the conduct of this case, subject to Board ratification. Additionally, the May 19 Order set June 30, 2015 as the deadline to file motions to intervene or participate in this matter.

On June 18, 2015, I issued a Prehearing Order and accompanying procedural schedule. On request of the parties, that schedule has been modified several times. By Order dated July 21, 2015 ("July 21 Order"), I granted the motions to intervene filed by the Burlington County Board of Chosen Freeholders, the Township of North Hanover and the Township of Chesterfield ("Chesterfield"). The July 21 Order also permitted the Township of Plumsted and the Pinelands Preservation Alliance to participate in this proceeding.

Chesterfield timely served discovery, in the form of written questions, on NJNG on November 24, 2015. NJNG timely served its answers and objections to the requests on December 2, 2015. On December 4, 2015, Chesterfield sent a letter to NJNG stating that NJNG's answers to the requests were deficient, and that despite the fact that the evidentiary hearing was to commence on December 7, 2015, Chesterfield was reserving its right to pursue more specific responses to discovery.

The evidentiary hearing was held on December 7, 2015. Although a second day was reserved to receive additional testimony and evidence, the evidentiary hearing concluded on December 7, 2015, and the record was closed for the receipt of additional evidence. By Order dated December 10, 2015 ("December 10 Order"), I directed that initial post-hearing briefs were to be filed on or before January 15, 2016, and post-hearing reply briefs were to be filed on or before January 29, 2016.

Under cover letter dated December 21, 2015, Chesterfield filed a motion to compel discovery responses from NJNG, along with the Certification of Katelyn M. McElmoyl, Esq. ("Certification") and accompanying exhibits. In its motion, Chesterfield states that it attempted to amicably resolve the discovery dispute without the intervention of me, as Presiding Officer in this matter. The Certification further avers that on December 14, 2015, counsel for Chesterfield sent an e-mail to counsel for NJNG asking for more specific responses. On December 15, 2015, counsel for NJNG indicated via e-mail that more specific answers would not be provided, as the evidentiary record in this matter was closed. Copies of the e-mails are attached to the Certification as Exhibits G and H.

On December 29, 2015, NJNG filed a letter via e-mail with the Secretary of the Board in response to Chesterfield's motion. NJNG opposes the motion on the basis that Chesterfield is out of time to seek more specific responses because the evidentiary hearing has concluded and the record is therefore closed. NJNG also asserts that Chesterfield should be ordered to pay NJNG counsel fees for responding to the motion.

DISCUSSION AND FINDINGS:

As noted above, the May 19 Order authorized me to rule on all motions and otherwise control the conduct of this proceeding. Accordingly, I must look at Chesterfield's request in the context of the scope of this proceeding and within the scope of the authority granted to me.

As noted in previous matters before the Board, the purpose of discovery, as set forth in N.J.A.C. 1:1-10.1 is to provide litigants "access to facts which tend to support or undermine their position

or that of their adversary.” Likewise, discovery is appropriate if the information sought appears reasonably calculated to lead to the discovery of admissible evidence. N.J.A.C. 1:1-10.1(b). The test for the judge in reviewing a discovery motion requires the judge to weigh the need for the information and the extent it is in the control of the party from which it is being sought. N.J.A.C. 1:1-10.1(c).

Based on a review of the propriety of the discovery requests posed by Chesterfield, NJNG shall provide complete answers to the following:

- 81(b) and (d);
- 84(a)-(j);
- 85(a);
- 85(b) (only to the extent that NJNG is aware of relevant facts, otherwise NJNG is not required to explain circumstances in the negative);
- 86(b) (NJNG need only answer if it knows this information);
- 86(a);
- 87(a);
- 87(b) (only to the extent that NJNG is aware of relevant facts, otherwise NJNG is not required to explain circumstances in the negative);
- 90;
- 91 (except questions as to what NJNG “hopes”);
- 98(a)-(c) (NJNG need only answer if it knows this information);
- 99(c) and (d);
- 101 (b) and (c); and
- 103(a), (b) and (c) – except as noted below.

NJNG shall not be required to answer the following discovery requests:

- 91 (as stated above, NJNG need not respond as to what it “hopes” but the remaining portions of the request should be answered);
- 99(a) and (b) (these requests seek hypothetical information and need not be answered);
- 99(e) (this request is overly broad);
- 101(a) (this request is overly broad and unduly burdensome);
- 101(d) (this request is vague and overly broad; it is unclear what is meant by “ensure”);
- 103(a) (NJNG is not required to respond to “why or why not”);

- 103(b) (NJNG is not required to respond to “why or why not”); and
- 103(c) - The preliminary request is acceptable (subparts (a)-(c) need not be answered as objectionable; (d) is acceptable to answer if NJNG knows what is meant by “representations;” and (e) need not be answered as it is overly broad).

Accordingly, the motion is **HEREBY GRANTED IN PART** and **DENIED IN PART** as more specifically set forth above. It is noted that to the extent NJNG refers Chesterfield to the Joint Base McGuire-Dix-Lakehurst for information, it must directly answer the request as to whether NJNG possesses the requested factual information, and if so, what that information is.

NJNG shall provide more specific answers to discovery, as specified above, on or before January 11, 2016. Although the evidentiary record has been closed, under the circumstances of this case, NJNG’s objection to the motion as untimely is **HEREBY OVERRULED**.

As stated, the parties are currently scheduled to file initial post-hearing briefs January 15, 2016 and reply post-hearing briefs on January 29, 2016.

While Chesterfield claims to have made a good faith effort to resolve the dispute which is the subject of the motion, Chesterfield waited nearly one (1) week to file its motion following NJNG’s refusal to provide more specific discovery responses. Moreover, the adopted schedule was proposed by Chesterfield knowing that this issue was outstanding, and other parties have relied on the briefing schedule. Nonetheless, I feel that a slight modification to the schedule is appropriate. Therefore, I **HEREBY DIRECT** that initial briefs are to be filed on or before January 22, 2016, but the date for the filing of post-hearing reply briefs shall remain on or before January 29, 2016, as I previously directed in the December 10, 2015 Order.

Although Chesterfield has sought to reserve its right to request additional hearings, no additional hearings are granted.

NJNG’s request for counsel fees is **HEREBY DENIED**.

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: January 5, 2016


DIANNE SOLOMON
COMMISSIONER

IN THE MATTER OF THE PETITION OF NEW JERSEY NATURAL GAS COMPANY FOR A
DETERMINATION CONCERNING THE SOUTHERN RELIABILITY LINK PURSUANT TO
N.J.S.A. 40:55D-19 AND N.J.S.A. 48:9-25.4

BPU DOCKET NO. GO15040403

SERVICE LIST

NJNG:

John J. Valeri, Esq.
Chiesa, Shahinian & Giantomasi, P.C.
One Boland Drive
West Orange, NJ 07052
jvaleri@csglaw.com

Jeffrey S. Chiesa, Esq.
Chiesa, Shahinian & Giantomasi, P.C.
One Boland Drive
West Orange, NJ 07052
jchiesa@csglaw.com

Michael K. Plumb, Esq.
Chiesa, Shahinian & Giantomasi, P.C.
One Boland Drive
West Orange, NJ 07052
mplumb@csglaw.com

Matthew Korkes
Chiesa, Shahinian & Giantomasi, P.C.
One Boland Drive
West Orange, NJ 07052
mkorkes@csglaw.com

Andrew Dembia, Esq.
New Jersey Natural Gas Company
1415 Wyckoff Road
P.O. Box 1464
Wall, NJ 07719
adembia@njng.com

Craig Lynch
New Jersey Natural Gas Company
1415 Wyckoff Road
P.O. Box 1464
Wall, NJ 07719
clynch@njng.com

Board of Public Utilities:

Jerome May, Director
NJ Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350
jerome.may@bpu.state.nj.us

Robert Schultheis, Chief
NJ Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350
robert.schultheis@bpu.state.nj.us

John Masiello
NJ Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350
john.masiello@bpu.state.nj.us

Scott Sumliner
NJ Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350
scott.sumliner@bpu.state.nj.us

James Giuliano
NJ Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350
james.giuliano@bpu.state.nj.us

Keith Sturn
New Jersey Natural Gas Company
1415 Wyckoff Road
P.O. Box 1464
Wall, NJ 07719
kstum@njng.com

Mariellen Dugan, Esq.
New Jersey Natural Gas Company
1415 Wyckoff Road
P.O. Box 1464
Wall, NJ 07719
mdugan@njng.com

Mark R. Sperduto
New Jersey Natural Gas Company
1415 Wyckoff Road
P.O. Box 1464
Wall, NJ 07719
msperduto@njng.com

Division of Rate Counsel:

Stefanie A. Brand, Director
State of New Jersey
Division of Rate Counsel
140 East Front Street, 4th Floor
Post Office Box 003
Trenton, NJ 08625-003
sbrand@rpa.state.nj.us

Felicia Thomas-Friel, Esq.
State of New Jersey
Division of Rate Counsel
140 East Front Street, 4th Floor
Post Office Box 003
Trenton, NJ 08625-003
ftthomas@rpa.state.nj.us

Brian O. Lipman, Litigation Manager
State of New Jersey
Division of Rate Counsel
140 East Front Street, 4th Floor
Post Office Box 003
Trenton, NJ 08625-003
blipman@rpa.state.nj.us

Michael Stonack
NJ Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350
michael.stonack@bpu.state.nj.us

Eric Weaver
NJ Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350
eric.weaver@bpu.state.nj.us

Maureen Wagner, Esq.
NJ Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350
maureen.wagner@bpu.state.nj.us

Megan Lupo, Esq.
NJ Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350
megan.lupo@bpu.state.nj.us

Cynthia Covie, Chief Counsel
NJ Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350
cynthia.covie@bpu.state.nj.us

Paul Flanagan, Executive Director
NJ Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350
paul.flanagan@bpu.state.nj.us

Henry M. Ogden, Esq.
State of New Jersey
Division of Rate Counsel
140 East Front Street, 4th Floor
Post Office Box 003
hogden@rpa.state.nj.us

Maura Caroselli, Esq.
State of New Jersey
Division of Rate Counsel
140 East Front Street, 4th Floor
Post Office Box 003
Trenton, NJ 08625-003
mcaroselli@rpa.state.nj.us

Shelly Massey
State of New Jersey
Division of Rate Counsel
140 East Front Street, 4th Floor
Post Office Box 003
Trenton, NJ 08625-003
smassey@rpa.state.nj.us

Kimberly Dismukes
Acadian Consulting Group, LLC
5800 One Perkins Place Drive, Suite 5-F
Baton Rouge, LA 70808
kimdismukes@acadianconsulting.com

Edward McGee
Acadian Consulting Group, LLC
5800 One Perkins Place Drive, Suite 5-F
Baton Rouge, LA 70808
edmcgee@acadianconsulting.com

Burlington County Board of Chosen
Freeholders:

William R. Burns, Esq.
Capehart & Scatchard, P.A.
142 West State Street
Trenton, NJ 08608
wburns@capehart.com

DAsG:

Alex Moreau, DAG
State of New Jersey
Department of Law & Public Safety
Division of Law
124 Halsey Street
Post Office Box 45029
Newark, NJ 07101-45029
alex.moreau@dol.lps.state.nj.us

Christopher Psihoules, DAG
State of New Jersey
Department of Law & Public Safety
Division of Law
124 Halsey Street
Post Office Box 45029
Newark, NJ 07101-45029
christopher.psihoules@dol.lps.state.nj.us

Geoffrey Gersten, DAG
State of New Jersey
Department of Law & Public Safety
Division of Law
124 Halsey Street
Post Office Box 45029
Newark, NJ 07101-45029
geoffrey.gersten@dol.lps.state.nj.us

Township of Chesterfield:

Katelyn M. McElmoyl, Esq.
Parker McCay, P.A.
9000 Midlantic Drive, Suite 300
P.O. Box 5054
Mount Laurel, New Jersey 08054
kmcelmoyl@parkermccay.com

John C. Gillespie, Esq.
Parker McCay, P.A.
9000 Midlantic Drive, Suite 300
P.O. Box 5054
Mount Laurel, New Jersey 08054
jpgillespie@parkermccay.com

Joint Base McGuire-Dix-Lakehurst:

Alice Good, Chief, Environmental and Real
Property Law
2901 Falcon Lane
Joint Base McGuire-Dix-Lakehurst, NJ
08641
alice.good@us.af.mil

County Administrators:

Paul Drayton, Jr.
Burlington County Administrator
49 Rancocas Road, Room 108
Mount Holly, NJ 08060
clerkoftheBoard@co.burlington.nj.us

Carl W. Block
Ocean County Administrator
101 Hooper Avenue
Toms River, NJ 08754-2191
cblock@co.ocean.nj.us

Teri O'Connor
Monmouth County Administrator
Hall of Records
Freehold, NJ 07728
teri.oconnor@co.monmouth.nj.us

State Agricultural Development Committee:

Steven Bruder, PP
State Agriculture Development Committee
369 S. Warren St.
P.O. Box 330
Trenton, NJ 08625-0330
Steven.Bruder@ag.state.nj.us

Pinelands Preservation Alliance:

Paul Leodori, Esq.
Law Offices of Paul Leodori, P.C.
The Haines Building
61 Union Street, 2nd Floor
Medford, NJ 08055
paul@leodori.com

Township of Upper Freehold:

Dennis A. Collins, Esq.
Collins, Vella & Casello, L.L.C.
2317 Highway 34, Suite 1A
Manasquan, NJ 08736
dcollins@cvclaw.net

Township of North Hanover:

Mark Roselli, Esq.
Roselli Griegel Lozier & Lazzaro, P.C.
1337 Highway 33
Hamilton, NJ 08690
mroselli@roselligriegel.com

Township of Plumsted:

Denis P. Kelly, Esq.
Gilmore & Monahan, P.A.
10 Allen Street
P.O. Box 1540
Toms River, NJ 08754
dpk@gm-law.net

Municipal Clerks:

Cindy Dye
North Hanover Township Clerk
41 Schoolhouse Rd.
Jacobstown, NJ 08562
clerk@northhanovertwp.com

Dana L. Tyler
Upper Freehold Township Clerk
314 Route 539
Cream Ridge, NJ 08514
dtyler@uftnj.com

Dorothy J. Hendrickson, R.M.C.
Plumsted Township Clerk
121 Evergreen Road
New Egypt, NJ 08533
municipalclerk@plumsted.org

Ann Marie Eden, RMC
Jackson Township Clerk
95 W. Veterans Hwy.
Jackson, NJ 08527
clerk@jacksonwpnj.net

Todd M. Parisi, Esq.
Law Offices of Paul Leodori, P.C.
The Haines Building
61 Union Street, 2nd Floor
Medford, NJ 08055
todd@leodori.com

Sabina T. Skibo, RMC, CMR, CPM
Manchester Township Clerk
1 Colonial Drive
Manchester, NJ 08759
clerk@manchestertwp.com

Carleton Montgomery, Executive Director
Pinelands Preservation Alliance
Bishop Farmstead
17 Pemberton Road
Southampton, NJ 08088
carleton@pinelandsalliance.org