



Agenda Date: 12/15/21
Agenda Item: IIB

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 1st 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 APPROVAL OF A)
MUNICIPAL FRANCHISE IN THE TOWNSHIP OF)
BYRAM, SUSSEX COUNTY) ORDER APPROVING OF
FRANCHISE AGREEMENT
DOCKET NO. GE21060921

Parties of Record:

Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel
Andrew Dembia, Esq., on behalf of New Jersey Natural Gas Company

BY THE BOARD:

New Jersey Natural Gas Company (“NJNG” or “Company”), a regulated public utility subject to the jurisdiction of the New Jersey Board of Public Utilities (“Board”), is a corporation duly organized under the laws of the State of New Jersey and engaged in the distribution and transportation of natural gas to approximately 560,000 residential, commercial and industrial customers located in Monmouth, Ocean, Middlesex, Burlington and Morris counties in New Jersey.

NJNG does not currently provide natural gas service within the Township of Byram (“Township”). On June 15, 2021, by Ordinance No. 008-2021 (“Ordinance”), the Township approved a franchise agreement for NJNG for a period of 50 years, and granted NJNG consent to lay, maintain, and operate gas facilities within a specified portion of the Township.¹ By letter dated June 16, 2021, NJNG accepted and agreed to the terms and conditions of the Ordinance consistent with N.J.S.A. 48:3-16. Copies of the Ordinance and letter of acceptance are attached to this Order as Exhibits “A” and “B”, respectively.

On June 17, 2021, NJNG filed a petition with the Board, pursuant to N.J.S.A. 48:2-14 and N.J.A.C. 14:1-5.5, seeking approval of the franchise agreement granted by the Township. As required by law and after notice, a municipal consent hearing in this matter was held on September 28, 2021. A copy of the hearing notice is attached to this Order as Exhibit “C”. Suzanne Patnaude, Esq., the Board’s duly appointed Hearing Officer, presided over the hearing. Appearances were made

¹ The Board previously approved a franchise agreement for Elizabethtown Gas Company in the Township. See In the Matter of the Petition of Elizabethtown Gas Company (“ETG”) - Approval of a Municipal Franchise in the Township of Byram, Sussex County, BPU Docket No. GE21020618, Order dated September 14, 2021.

on behalf of the Company, the New Jersey Division of Rate Counsel (“Rate Counsel”) and Board Staff. No other party participated in the hearing or filed any written comments with the Board related to this matter.

At the hearing, the Company relied upon its petition and exhibits filed with the Board and presented the testimony of Mr. Joseph Puglisi, Managing Engineer. According to Mr. Puglisi’s testimony, NJNG is working on a marketing plan and sending a survey to customers, but did not have an estimated number of potential new customers. Mr. Puglisi testified that the Company has gas transmission and distribution systems adjacent to the Township and has sufficient capacity to serve potential customers within the Township.

Rate Counsel, in its written comments to the petition dated November 10, 2021, indicated that it does not object to the Company’s petition since the Company represented that it has the capacity necessary to provide natural gas service to the Township. The term of the municipal consent related to the use of streets is limited to a term of 50 years. However, Rate Counsel requested that the approval of the petition include certain restrictions which are incorporated in this Order.

DISCUSSION AND FINDINGS

After careful review and consideration of the petition and exhibits submitted in this matter, the Board **HEREBY FINDS** that the franchise agreement granted to NJNG by the Township is necessary and proper for the public convenience, properly serves the public interest, and that NJNG 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 adjacent to the Township to provide adequate and appropriate service to the Township’s customers, and that the 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 NJNG by the Township to provide gas service, and for the use of its public streets for that purpose for a period of 50 years.

The approval granted hereinabove shall be subject to the following provisions:

1. As required by N.J.S.A. 48:3-15, and limited by the Ordinance, the municipal consent to construct, maintain, and operate gas lines in the streets and other public places in the Township is limited to a term not exceeding 50 years.
2. 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 NJNG.
3. This Order shall not affect nor in any way limit the exercise of the authority of this Board or 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 NJNG.
4. Any map submitted by NJNG showing its proposed service territory within the Township shall be consistent with any map submitted by ETG showing its proposed territory within the Township.

5. The Company will submit any agreement it proposes to enter into with ETG regarding their respective service territories within the Township to the Board and Rate Counsel for review and approval.
6. In the event that NJNG is unable to resolve a dispute with ETG over the allocation of their respective territories within the Township, including the determination of which company will serve a customer, NJNG will notify the Board and Rate Counsel and submit the dispute to the Board for resolution.
7. The Board reserves the right to modify the respective territories of NJNG and ETG within the Township, if necessary to resolve a dispute or other issue arising from the allocation of their territories or ability to provide safe, adequate and proper service to customers.

This Order shall be effective on December 22, 2021.

DATED: December 15, 2021

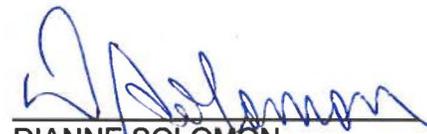
BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER



UPENDRA J. CHIVUKULA
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER

ATTEST: 

AIDA CAMACHO-WELCH
SECRETARY

IN THE MATTER OF THE PETITION OF NEW JERSEY NATURAL GAS COMPANY FOR
APPROVAL OF A MUNICIPAL FRANCHISE IN THE TOWNSHIP OF BYRAM, SUSSEX
COUNTY

DOCKET NO. GE21060921

SERVICE LIST

| | |
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| <p>Township of Byram Ms. Cindy Church, Clerk Byram Township 10 Mansfield Drive Stanhope, NJ 07874 cchurch@byramtwp.org</p> <p>New Jersey Natural Gas Company 1415 Wyckoff Road P.O. Box 1464 Wall, NJ 07719</p> <p>Andrew K. Dembia, Esq. Regulatory Affairs Counsel adembia@njng.com</p> <p>Susan Fastuca sfastuca@njng.com</p> <p>Department of Law and Public Safety R.J. Hughes Justice Complex Public Utilities Section 25 Market Street P.O. Box 112 Trenton, NJ 08625</p> <p>Pamela Owen, ASC pamela.owen@law.njoag.gov</p> <p>Terel Klein, DAG terel.klein@law.njoag.gov</p> <p>Matko Ilic, DAG matko.ilic@law.njoag.gov</p> | <p>Board of Public Utilities 44 South Clinton Avenue, 1st Floor Post Office Box 350 Trenton, NJ 08625-0350</p> <p>Aida Camacho-Welch, Board Secretary board.secretary@bpu.nj.gov</p> <p>Stacy Peterson, Deputy Executive Director stacy.peterson@bpu.nj.gov</p> <p><u>Division of Energy</u></p> <p>Paul Lupo, Acting Director paul.lupo@bpu.nj.gov</p> <p>Dean Taklif dean.taklif@bpu.nj.gov</p> <p><u>Counsel's Office</u></p> <p>Heather Weisband, Esq., Senior Counsel heather.weisband@bpu.nj.gov</p> <p>Division of Rate Counsel 140 East Front Street - 4th Floor P.O. Box 003 Trenton, NJ 08625</p> <p>Brian O. Lipman, Esq., Director blipman@rpa.nj.gov</p> <p>Brian Weeks, Esq. bweeks@rpa.nj.gov</p> |
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Exhibit A: Ordinance

ORDINANCE NO. 008 -2021

AN ORDINANCE OF THE TOWNSHIP OF BYRAM GRANTING MUNICIPAL CONSENT TO NEW JERSEY NATURAL GAS COMPANY TO CONSTRUCT, MAINTAIN AND OPERATE NATURAL GAS TRANSMISSION AND DISTRIBUTION FACILITIES

WHEREAS, New Jersey Natural Gas Company (“NJNG,” or the “Company,”), is a corporation of the State of New Jersey, having its principal offices at 1415 Wyckoff Road, Wall, New Jersey, NJNG is a public utility subject to the jurisdiction of the New Jersey Board of Public Utilities;

WHEREAS, the Township of Byram, in the County of Sussex, New Jersey is not served with natural gas under a franchise consent; and

WHEREAS, New Jersey Natural Gas Company is desirous of obtaining a partial franchise within the Township of Byram for the purpose of furnishing natural gas therein.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Township Council of the Township of Byram that New Jersey Natural Gas Company be and it is hereby authorized to lay, maintain and operate its conductors, mains and pipes, together with the appurtenances thereto, in all the public streets, alleys, squares and public places in this municipality which are under the control and jurisdiction of the Township for the purpose of conducting gas, including natural gas, or any mixture of gases of various types and for the purpose of transmitting and distributing such gas within the portion of the Township as shown in the green colored area of the map attached hereto as Exhibit A for a period of fifty (50) years from the date hereof, upon the following terms and conditions:

1. That New Jersey Natural Gas Company shall agree that, in all cases in which street openings or excavations are made for the purposes aforesaid, that restoration of same will be conducted in accordance with the requirements of the Township Ordinances in existence at the time of said excavation; and
2. That New Jersey Natural Gas Company shall conduct the work or the laying or maintaining of gas pipes therein in a careful and prudent manner; and
3. That New Jersey Natural Gas Company shall safeguard the public interest in continuous and uninterrupted service at and after the expiration of the term of the grant; and
4. That New Jersey Natural Gas Company shall maintain its property in good order throughout the full term of the grant; and
5. That New Jersey Natural Gas Company shall continuously afford safe, adequate and proper service at just and reasonable rates.

BE IT FURTHER ORDAINED, that New Jersey Natural Gas Company shall file with the clerk of this municipality, within sixty (60) days from the date hereof, its acceptance of the terms and provisions of the franchise consent herein granted and its agreement to be bound by the terms and provisions thereof; and

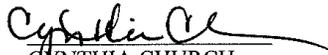
BE IT FURTHER ORDAINED, that this resolution shall not become effective until it is approved by the Board of Public Utilities of the State of New Jersey.

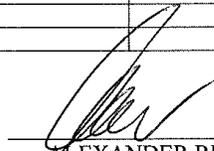
INTRODUCED: June 1, 2021

ADOPTED: June 15, 2021

| | Councilman Bonker | Councilwoman Franco | Councilman Gallagher | Councilman Roseff | Mayor Rubenstein |
|---------|----------------------|------------------------|-------------------------|----------------------|---------------------|
| Motion | | | Y | | |
| 2nd | | | | X | |
| Yes | Y | Y | X | X | X |
| No | | | | | |
| Abstain | | | | | |
| Absent | | | | | |

Attest:


 CYNTHIA CHURCH
 MUNICIPAL CLERK


 ALEXANDER RUBENSTEIN
 MAYOR

NOTICE OF ADOPTION

NOTICE is hereby given that Ordinance 008-2021 was introduced and passed on first reading at a meeting of the Township Council of the Township of Byram, held on an audio conference call using Zoom on the 1st day of June 2021. The said ordinance was further considered for final adoption at a meeting of the Byram Township Council on an audio conference call using Zoom on the 15th day of June at 7:30 p.m. at which time all persons were given the opportunity to be heard. It was finally passed and adopted and will be in full force in the Township according to law.


 CYNTHIA CHURCH, RMC
 TOWNSHIP CLERK

Exhibit B: Letter of Acceptance



June 16, 2021

Via Electronic Mail

Honorable Cynthia Church RMC/CMR
Byram Township Clerk
10 Mansfield Drive
Stanhope, NJ 07874

**Re: Ordinance No. 008-2021
An Ordinance of The Township of Byram Granting Municipal
Consent To New Jersey Natural Gas Company To Construct,
Maintain And Operate Natural Gas Transmission And Distribution
Facilities**

Dear Ms. Church:

New Jersey Natural Gas Company ("NJNG") hereby accepts the terms and provisions of the franchise agreement granted by the Byram Township Council on June 15, 2021 and hereby agrees to be bound by the terms and provisions thereof. See Ordinance No. 008-2021 attached hereto.

Please be advised that NJNG will submit the Ordinance to the New Jersey Board of Public Utilities for approval.

Respectfully submitted,

A handwritten signature in blue ink that reads 'Andrew K. Dembia'.

Andrew K. Dembia, Esq.
Regulatory Affairs Counsel

AKD:sf

Exhibit C: Hearing Notice



August 24, 2021

BY ELECTRONIC MAIL

Honorable Cynthia Church, RMC/CMC
Borough Clerk
Township of Byram
10 Mansfield Drive
Stanhope, NJ 07874

Honorable Jeffrey Parrott
County Clerk
Sussex County Clerk's Office
Hall of Records
83 Spring Street, Suite 304
Newton, NJ 07860

Honorable Gregory V. Poff II
Sussex County Administrator
Office of the County Administrator
Sussex County Administrative Center
One Spring Street
Newton, NJ 07860

**RE: IN THE MATTER OF THE PETITION OF NEW JERSEY NATURAL GAS
FOR APPROVAL OF A MUNICIPAL FRANCHISE IN THE TOWNSHIP OF
BYRAM, SUSSEX COUNTY
BPU Docket No. GE21060921**

Dear Parties Addressed:

Pursuant to the provisions of N.J.S.A. 48:2-14, New Jersey Natural Gas Company ("NJNG") has applied to the New Jersey Board of Public Utilities ("Board") for approval of the Township of Byram's ("Township") Ordinance No. 008-2021, which granted NJNG permission to provide natural gas service in the Township as provided in said Ordinance. Please be advised that the Board has set September 28, 2021 at 10:00am EST, as the date and time for the Municipal Consent Hearing. Due to the COVID-19 pandemic, this Municipal Consent Hearing will be held via Zoom. The Zoom log-in information is as follows:

<https://zoom.us/j/2458136397?pwd=S1pxamxGV3RNdHJ0T3A0UGVFOHFkQT09>
Passcode: 871017

My assistant, Susan Fastuca is the Zoom meeting organizer. A Zoom meeting invitation will be sent to you in advance of the scheduled date for this Municipal Consent Hearing. You are welcome to participate in the Zoom meeting to put your views on the record if you so desire. Also, notice of the hearing is posted on the Company's web site, njng.com, so interested members of the public may view the hearing.

Respectfully submitted,

A blue ink signature of Andrew K. Dembia.

Andrew K. Dembia, Esq.
Regulatory Affairs Counsel

AKD:sf
C: Service List

NEW JERSEY NATURAL GAS COMPANY
PETITION FOR AUTHORIZATION AND APPROVAL OF
MUNICIPAL FRANCHISE IN TOWNSHIP OF
BYRAM, SUSSEX COUNTY
GE21060921

SERVICE LIST

BYRAM TOWNSHIP

Honorable Cynthia Church RMC/CMR
Byram Township Clerk
10 Mansfield Drive
Stanhope, NJ 07874

NJNG

Andrew K. Dembia, Esq.
Regulatory Affairs Counsel
New Jersey Natural Gas Company
1415 Wyckoff Road
P.O. Box 1464
Wall, NJ 07719

Susan Fastuca
New Jersey Natural Gas Company
1415 Wyckoff Road
P.O. Box 1464
Wall, NJ 07719

NJ BOARD OF PUBLIC UTILITIES

Stacy Peterson
N.J. Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, NJ 08625-0350

Heather Weisband
N.J. Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, NJ 08625-0350

Dean Taklif
N.J. Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, NJ 08625-0350

DIVISION OF RATE COUNSEL

Stephanie A. Brand, Esq.,
Director, Division of Rate Counsel
140 East Front Street, 4th Floor
P. O. Box 003
Trenton, N.J. 08625

Brian O. Lipman, Esq.
Litigation Manager
Division of Rate Counsel
140 East Front Street, 4th Floor
P. O. Box 003
Trenton, N.J. 08625

Brian Weeks, Esq.
Division of Rate Counsel
140 East Front Street, 4th Floor
P.O. Box 003
Trenton, NJ 08625

DEPT. OF LAW & PUBLIC SAFETY –
DIVISION OF LAW

Terel Klein, DAG
Department of Law & Public Safety
Division of Law, Public Utilities Section
R.J. Hughes Justice Complex
25 Market Street
P.O. Box 112
Trenton, NJ 08625

Pamela Owen, ASC
Department of Law & Public Safety
Division of Law, Public Utilities Section
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