



Agenda Date: 3/18/16  
Agenda Item: 2C

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 3<sup>rd</sup> Floor, Suite 314  
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 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 ) DOCKET NO. GO15040403

**Parties of Record:**

**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

BY THE BOARD:

The Board of Public Utilities (“Board”) is empowered to ensure that regulated public utilities provide safe, adequate and proper service to the citizens of New Jersey. N.J.S.A. 48:2-23. Pursuant to N.J.S.A. 48:2-13, the Board has been vested by the Legislature with the general supervision and regulation of and jurisdiction and control over all public utilities, "so far as may be necessary for the purpose of carrying out the provisions of [Title 48]." The courts of this State have held that the grant of power by the Legislature to the Board is to be read broadly, and that the provisions of the statute governing public utilities are to be construed liberally. See, e.g. In re Public Service Electric and Gas Company, 35 N.J. 358, 371 (1961); Township of Deptford v. Woodbury Terrace Sewerage Corp., 54 N.J. 418, 424 (1969); Bergen County v. Dep't of Public Utilities, 117 N.J. Super. 304 (App. Div. 1971). The Board is also vested with the authority, pursuant to N.J.S.A. 48:2-19, to investigate any public utility, and to issue orders to public utilities, pursuant to N.J.S.A. 48:2-16 and 48:2-40.

**I. BACKGROUND/PROJECT DESCRIPTION:**

New Jersey Natural Gas Company (“NJNG,” or “Company”) is a corporation of the state of New Jersey, and a gas public utility as defined within Title 48 of the New Jersey Statutes engaged in

the business of purchasing, distributing, transporting, and selling natural gas to approximately 510,000 customers within its service areas in Monmouth, Ocean, Morris, Middlesex and Burlington Counties. As such, the Company is subject to the jurisdiction of the Board.

#### **A. MLUL Proceeding**

On April 2, 2015, and amended on June 5, 2015 ("Amended Petition"), NJNG filed a petition ("Petition") with the 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. NJNG seeks authorization and approval from the Board to construct and operate the Southern Reliability Link Project ("Pipeline," "Project" or "SRL"), which consists of approximately thirty (30) miles of thirty (30) inch natural gas transmission pipeline with an alignment that runs through the Township of Chesterfield ("Chesterfield") and Township of North Hanover ("North Hanover") in Burlington County; Township of Upper Freehold ("Upper Freehold") in Monmouth County; and Township of Plumsted ("Plumsted"), Township of Jackson ("Jackson") and Township of Manchester ("Manchester") in Ocean County. Petition at 4-6; Amended Petition at 5-6.

NJNG is requesting, amongst other items, that the Board (1) determine that the Project, as described above, is reasonably necessary for the service, convenience and welfare of the public; (2) designate the route through North Hanover and Chesterfield pursuant to N.J.S.A. 48:9-25.4<sup>1</sup>; and (3) find and determine that the zoning and land ordinances and all regulations promulgated thereto by Burlington, Monmouth and Ocean Counties, and Chesterfield, North Hanover, Upper Freehold, Plumsted, Jackson and Manchester shall not apply to the Project. Amended Petition at 1, 5.

The Pipeline will be designed for the use of in-line inspection equipment to assess the Pipeline's integrity and will be certified to a maximum allowable operating pressure ("MAOP") of seven-hundred and twenty-two ("722") pounds per square inch gauge ("psig"). Petition at 4; Amended Petition at 5.

According to the Company, 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 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. Petition at 6-7; Amended Petition at 7.

The Project's alignment in Manchester runs through a coastal zone under the jurisdiction of the New Jersey Department of Environmental Protection's ("DEP") Land Use Regulations Program ("LURP"). NJNG met with DEP to discuss the LURP application, which includes a Freshwater Wetlands General Permit or Individual Permit, confirmation of field wetlands delineations, a Coastal Areas Facility Act ("CAFRA") application and verification of Flood-Area Permits by-Rule.

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<sup>1</sup> N.J.S.A. 48:9-25.4, entitled Distribution of natural gas, designation of route, permits municipalities to designate the street or other location to be used for purposes of transmitting natural gas service. If a municipality fails or refuses to make such a designation or designate a practicable route, the statute mandates that the Board "shall make such designation" upon an application by a gas company after hearing on notice to the affected municipality. N.J.S.A. 48:9-25.4.

The Company states that these discussions have also addressed Threatened and Endangered Species protection. Petition at 7; Amended Petition at 8.

A portion of the Project is also located within the Pinelands. Specifically, the Project runs through the Joint Base McGuire-Dix-Lakehurst ("Joint Base") within the Military and Federal Installation Area of the New Jersey Pinelands National Reserve. Petition at 8; Amended Petition at 8-9. By letter dated December 9, 2015, Charles M. Horner, P.P., the Director of Regulatory Programs at the New Jersey Pinelands Commission ("Pineland Commission"), notified the Company that, pursuant to N.J.A.C. 7:50-4.2(c) of the Pinelands Comprehensive Management Plan ("CMP"), the completion of the Company's application resulted in the issuance of a Certificate of Filing ("COF").

By letter dated February 4, 2016, Nancy Wittenberg, the Executive Director of the Pinelands Commission, transmitted a copy of the Pinelands COF for the Pipeline to Paul Flanagan, the Board's Executive Director, under the Pinelands Commission's coordinated state permitting provisions. See N.J.A.C. 7:50-4.81(b). Ms. Wittenberg requested that the Board provide the Pinelands Commission staff with copies of certain documents issued or filed in this proceeding. These documents were provided to the Pinelands Commission as requested. On March 10, 2016, the Board received confirmation from Ms. Wittenberg that nothing submitted in connection with this proceeding before the Board has changed the Pinelands Commission staff's prior determination in the COF that the Project is consistent with the minimum standards of the CMP.

Specifically, Ms. Wittenberg's correspondence stated that Pinelands Commission Staff evaluated all of the information submitted to the BPU to identify any information that raised issues regarding consistency with the CMP. After reviewing the information, Pinelands Commission Staff concluded that based on the COF dated December 9, 2015, and review of the additional information submitted to the Board as part of its public and evidentiary hearings, the finding in the December 9, 2015 COF issued for the Project continues to be valid. Pinelands Commission Staff identified the only new issue raised as part of the Board process pertained to whether the Project was associated with a function of Joint Base. Ms. Wittenberg stated that the application record for the Project aptly supports the Joint Base's need for the Project. Accordingly, Pinelands Commission staff determined that "the applicant has demonstrated that the proposed gas main is a permitted land use in a Military and Federal Installation Area 7:50-5.29(a)2." See correspondence from Nancy Wittenberg, Executive Director of the Pinelands Commission, to Paul Flanagan, Executive Director of the Board, dated March 10, 2016 at 2.

## **B. Pipeline Safety Proceeding**

The Company simultaneously filed a second petition, also amended on June 5, 2015, with the Board pursuant to N.J.A.C. 14:7-1.4, which requires Board approval to construct and operate a natural gas pipeline that is intended to be operated in excess of two-hundred and fifty (250) psig if it is located within one-hundred (100) feet of any building intended for human occupancy. See I/M/O the Petition of New Jersey Natural Gas Company for Approval and Authorization to Construct and Operate the Southern Reliability Link Pursuant to N.J.A.C. 14:7-1.4, BPU Docket No. GE15040402 ("Pipeline Safety Proceeding"). The Pipeline must satisfy the requirements of 49 C.F.R. 192 and other provisions of N.J.A.C. 14:7. By Order dated January 27, 2016 ("January 27, 2016 Order"), the Board authorized the construction of the Pipeline along the proposed route pursuant to N.J.A.C. 14:7-1.4, subject to certain conditions. Id. at 10.

## **II. PROCEDURAL HISTORY:**

By Order dated May 19, 2015 (“May 19, 2015 Order”), the Board retained this matter for hearing and Commissioner Dianne Solomon 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, 2015 Order set June 30, 2015 as the deadline to file motions to intervene or participate in this matter.

On June 18, 2015, Commissioner Solomon issued a Prehearing Order and accompanying procedural schedule (“June 18, 2015 Order”). On request of the parties, that schedule was modified several times and Commissioner Solomon issued a revised procedural schedule on October 1, 2015. By Order dated July 21, 2015 (“July 21, 2015 Order”), Commissioner Solomon granted intervener status to Burlington County, North Hanover and Chesterfield (collectively, “Governmental Entities”). The July 21, 2015 Order denied intervener status but granted participant status to the Pinelands Preservation Alliance (“PPA”), and also granted participant status as requested by Plumsted.

### **A. Public Hearings**

An open house was held by NJNG on June 11, 2015 at the Upper Elementary School in North Hanover, for the public to learn about the Project and review proposed routing. Joint public hearings were held in this matter and the Pipeline Safety Matter. On July 28, 2015, two (2) public hearings were held at 3:00 p.m. and 6:00 p.m., at the municipal building in Manchester, New Jersey. A third public hearing was held on August 26, 2015 in the Enterprise Center at Rowan College at Burlington County’s Mount Laurel campus in Mount Laurel, New Jersey. Commissioner Dianne Solomon presided over the public hearings. Michael Stonack, Bureau Chief, Bureau of Pipeline Safety, appeared and commented on behalf of the Staff of the Board. Maura Caroselli, Esq. and Henry M. Ogden, Esq. appeared on behalf of the Division of Rate Counsel (“Rate Counsel”), and John G. Valeri, Jr., Esq. appeared on behalf of Petitioner. Mr. Flanagan appeared on behalf of Board Staff, but commented solely on the MLUL Proceeding.

As stated, all public hearings in this matter were held jointly with public hearings in the Pipeline Safety Proceeding. The Board discussed the public comments in this matter in great detail in the January 27, 2016 Order, which is incorporated by reference herein. See I/M/O the Petition of New Jersey Natural Gas Company for Approval and Authorization to Construct and Operate the Southern Reliability Link Pursuant to N.J.A.C. 14:7-1.4, Docket No. GE15040402 (Order dated January 27, 2016) at 2-6. Additionally, the identity of the individuals who submitted written comments are more fully set forth in Exhibit A which is incorporated and attached to this Order.

### **B. Discovery and Pre-filed Testimony**

A technical conference was held by NJNG on September 2, 2015, at its offices in Wall, New Jersey. Representatives from Chesterfield, North Hanover, Burlington County and PPA attended the technical conference.

Discovery was issued and responded to pursuant to the procedural schedule issued by Commissioner Solomon. Discovery was propounded by NJNG, Board Staff, Rate Counsel and the Governmental Entities. In all, there were approximately two-hundred and thirty-five (235) data requests and responses with the large majority of the requests directed to NJNG.

Pre-filed direct and rebuttal testimony was filed with the Board pursuant to Commissioner Solomon's June 18, 2015 Order, as modified on October 1, 2015. More specifically, pre-filed direct testimony was submitted by the following:

1. NJNG (direct testimony filed along with Petition on April 2, 2015 and Amended Petition on June 5, 2015):
  - a. Craig A. Lynch, Senior Vice-President Energy Delivery;
  - b. John B. Wyckoff P.E., Director of Engineering; and
  - c. Barry A. Baker, Power and Industry Business Unit Lead and Department Manager for the Impact Assessment and Permitting Department at AECOM Technology Corporation
2. Rate Counsel: Edward A. McGee, Principal of McGee Consulting, LLC
3. Burlington County: Joseph T. Brickley, P.E.
4. Chesterfield: Jeremy Liedtka, Mayor of Chesterfield
5. North Hanover: James Durr, Mayor of North Hanover

Thereafter, and in accordance with the procedural schedule as modified, on October 1, 2015, NJNG submitted pre-filed rebuttal testimony of Craig A. Lynch, John B. Wyckoff and Barry A. Baker.

### **C. Evidentiary Hearing<sup>2</sup>**

After a series of efforts to modify the hearing schedule, evidentiary hearings in this matter commenced on December 7, 2015 at 9:30 a.m. at the Board's offices, 44 South Clinton Street, Trenton, New Jersey, with Commissioner Solomon presiding. The evidentiary hearing was attended by representatives of the Petitioner, Rate Counsel, the Governmental Entities, PPA and Board Staff.

Counsel for NJNG, Kevin Marino, Esq., made an opening statement describing the need and the overview of the Project. Mr. Marino also discussed the alternative routes explored by the Company, and stated that the Company has proposed the safest and most reliable route between the SRL's starting point in Chesterfield and its terminus in Manchester. He further stated that the Company has demonstrated that the SRL is reasonably necessary for the service, convenience and welfare of the public. T 13:4-19:4.

Counsel for Chesterfield, Harris Feldman, Esq., offered an opening statement presenting the basis for Chesterfield's opposition and for its position that the Company has not demonstrated that the Project is reasonably necessary for the service, convenience or welfare of the public. T 19:17-20:10.

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<sup>2</sup> Reference to the Transcript of the December 7, 2015 evidentiary hearing is referred to as "T" followed by the page and paragraph number.

Counsel for North Hanover, Mark Roselli, Esq., made an opening statement at the evidentiary hearing and expressed North Hanover's frustration with the process. He stated the municipalities have not had the opportunity to get their points across. Mr. Roselli also stated that the process has caused the local municipalities to lose control over the logistics associated with the installation of the Project. He urged the Board to keep an open mind and consider the impact of the Project on the affected municipalities. T 20:12-25:6.

The Township of Plumstead's Counsel, Dennis P. Kelly, Esq. made a brief opening statement, mentioning an alternative route proposed by Assemblyman Dancer. T: 25:9 – 16.

Counsel for Burlington County, William Burns, Esq., offered an opening statement in which he stated that Burlington County never opposed the Project, but it had attempted to advance an alternative route that utilized the existing JCP&L ROW. Mr. Burns stated that this route was, however, prohibited by State law because it crossed preserved farmland. He also stated that Burlington County also supported a route that proceeded through the Joint Base, however it was determined by the Joint Base that it was not feasible because it would traverse Joint Base operations and involve significant environmental issues. T 25:18-31:11.

PPA, through its counsel Todd Parisi, Esq., offered an opening statement opposing the Pipeline and stating that the Board should deny the relief requested. Mr. Parisi argued that the Project was a solution to a problem that does not exist. Mr. Parisi stated that the Pipeline is going to traverse two (2) Superfund sites in the Joint Base, which has not been addressed by the Company. He also stated that there is no guarantee that the Joint Base is going to tie into the Project and use any gas because two-thirds (2/3) of the Joint Base is already served by Public Service Electric and Gas Company, while the remaining portion is serviced by NJNG. Mr. Parisi further argues that a Certificate of Filing has not been issued by the Pinelands Commission and, as such, the Board cannot make a determination as to this Petition. T 31:14-36:21.

Rate Counsel and Board Staff waived opening statements. T 19:13-14; 36:23-24.

The following items were marked for identification and stipulated into the record by the parties at the hearing:

1. Exhibit Staff-1 (All Discovery)
2. Exhibit P-1 (Petition, which incorporated the direct testimony of Mr. Lynch, Mr. Baker and Mr. Wyckoff)
3. Exhibit P-2 (Amended Petition, which incorporated the supplemental testimony of Mr. Lynch)
4. Exhibit P-3 (Rebuttal Testimony of Craig A. Lynch)
5. Exhibit P-4 (Rebuttal Testimony of Barry A. Baker)
6. Exhibit P-5 (Rebuttal Testimony of John D. Wyckoff)
7. Exhibit P-6 (Proof of Publication, Certification, Verification of Mailing)
8. Exhibit RC-1 (Direct Testimony of Edward A. McGee)

9. Exhibit BC-1 (Direct Testimony of Joseph Brickley)
10. Exhibit CHES-1 (Direct Testimony of Mayor Jeremy Liedtka)

T 8:22-11:15.

NJNG produced its three (3) witnesses in a panel, to address the following issues:

1. Project need – Craig A. Lynch, Senior Vice-President Energy Delivery
2. Construction/Engineering – John B. Wyckoff P.E., Director of Engineering
3. Routing – Barry A. Baker, Power and Industry Business Unit Lead and Department Manager for the Impact Assessment and Permitting Department at AECOM Technology Corporation

The Governmental Entities produced two (2) witnesses<sup>3</sup>:

1. Chesterfield: Jeremy Liedtka, Mayor of Chesterfield
2. North Hanover: James Durr, Mayor of North Hanover<sup>4</sup>

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, Commissioner Solomon 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.

#### **D. Post-Hearing Motion**

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. and accompanying exhibits. On January 5, 2016 (“January 5, 2016 Order”), Commissioner Solomon granted Chesterfield’s motion to compel in part and denied the motion in part. The January 5, 2016 Order required NJNG answer discovery requests identified as CHES-NJSRL-81 (b) and (d), CHES-NJSRL-84(a)-(j), CHES-NJSRL-85(a), CHES-NJSRL-85(b), CHES-NJSRL-86(b), CHES-NJSRL-86(a), CHES-NJSRL-87(a), CHES-NJSRL87(b), CHES-NJSRL-90, CHES-NJSRL-91, CHES-NJSRL-98(a)-(c), CHES-NJSRL-99(c) and (d), CHES-NJSRL-101 (b) and (c), and CHES-NJSRL-103(a)-(c), which were answered by the Company by correspondence dated January 8, 2016. The Company also indicated that it had no objection to the responses being entered into evidence as either part of all other discovery entered into evidence in Board Staff’s Exhibit S-1, or otherwise. The January 5, 2016 Order further provided that initial briefs were to be filed on or before January 22, 2016, but the date for the filing of post-hearing reply briefs remained on January 29, 2016, as Commissioner Solomon previously directed on December 10, 2015.

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<sup>3</sup> Mr. McGee and Mr. Brickley were not produced at the evidentiary hearing, as their pre-filed direct testimony was stipulated into the record and the parties waived cross-examination.

<sup>4</sup> Although Mayor Durr’s testimony was admitted into the record at the evidentiary hearing, it was not assigned an exhibit number. T 106:19-25.

### **III. TESTIMONY PRESENTED:**

#### **A. The Need for the Project**

##### **(1) Testimony Presented by NJNG**

At the December 7, 2015 evidentiary hearing, NJNG presented the pre-filed and live testimony of Craig A. Lynch, Senior Vice-President Energy Delivery for NJNG<sup>5</sup>. Exhibit P-1A: 1:8-10. Mr. Lynch's pre-filed testimony describes NJNG's delivery system and proposed Southern Reliability Link Project and explains the need for the Project. Exhibit P-1A: 1:19-22. The Project is needed to support the reliability and integrity of NJNG's intrastate transmission system by providing a redundant major transmission feed. Currently over eighty-five (85) percent of NJNG's winter peak day gas supply is provided by a single interconnection with TETCO and NJNG customers in Ocean, Burlington, and Monmouth Counties are most vulnerable to a TETCO supply chain failure. Exhibit P-1A 1:23 – 2:7. The remaining fifteen (15) percent is provided by two (2) smaller connections. By way of contrast, the Northern Division has five (5) major feeds, three (3) of which could independently supply that entire division. Exhibit P-1A 5:12-14. SRL is designed to connect the system serving these customers to a different major interstate supplier from a new supply point in Chesterfield and terminate in Manchester. This new redundant major feed supports the safe, reliable, and resilient delivery of natural gas to NJNG customers in Ocean, Burlington, and Monmouth Counties. Exhibit P-1A 2:7 – 2:13.

NJNG serves approximately 510,000 retail customers in Monmouth, Ocean, Morris, Middlesex, and Burlington Counties, with operations separated into four (4) divisions, via a network of two-hundred and twenty-seven (227) miles of large diameter transmission lines, approximately 6,930 miles of distribution mains, and approximately 473,400 service lines. Pressure varies on the NJNG system from utilization pressure up to seven-hundred and twenty-two (722) psig. The system has been designed on engineering requirements and design day criteria to provide safe and reliable service throughout the entire year. The distribution system also includes two (2) liquefied natural gas ("LNG") peaking facilities to support pressure and provide storage. Exhibit P-1A 2:16 – 3:17.

Safety and resiliency are improved through redundancy. After Superstorm Sandy, a portion of NJNG's local distribution system was depressurized resulting in major service curtailments. The extent or area of the curtailment and the duration of recovery would have been significantly reduced if the area was served with a redundant feed. NJNG is in the process of enhancing the local distribution system by building in redundancies under BPU approved infrastructure programs. Constructing a redundant main feed for the Central and Ocean Divisions will address the same safety, reliability, and resiliency concerns on a larger scale. Exhibit P-1A 5:16-6:2.

The Project would allow NJNG to minimize service disruptions associated with potential interruptions, as well as minimize costs associated with such interruptions. Exhibit P-1A 6:6-8.

The SRL, a thirty (30) inch transmission main, would connect the NJNG transmission system in Manchester with the Transco interstate pipeline in Chesterfield. The Project would begin at the Transco supply point and traverse portions of Chesterfield, North Hanover, Upper Freehold and

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<sup>5</sup> For purposes of this Order, Mr. Lynch's testimony that was attached to the Petition will be referred to as Exhibit P-1A, while the supplemental testimony that was attached to the Amended Petition will be referred to as Exhibit P-2A.

Plumsted until it enters the Joint Base and Jackson. From the Joint Base, the Project will connect with the NJNG transmission system in Manchester. Exhibit P-1A 6:17-22.

Mr. Lynch's testimony described the original proposed route in detail. Exhibit P-1A 7:4-8:4. Mr. Lynch revised this route in supplemental testimony, due to the fact that Upper Freehold designated an alternate route in accordance with N.J.S.A. 48:9-25.4. Exhibit P-1A 1:12-21. The revised route starts in Chesterfield at a proposed Transco compressor station (14 Bordentown-Chesterfield Rd – Block 204, Lot 1) and follows County Road 528, County Road 677, Matthews Lane, private easements through three (3) properties, and County Road 528. In Upper Freehold, the route follows Province Line Road to County Road 537 and continues to Plumsted, where it follows County Road 537, County Road 26, County Road 539, County Road 528, County Road 24, County Road 640, and County Road 539. The route continues in Jackson on County Road 539 and, just before the border of Jackson, the route turns into the fenced portion of the Joint Base to follow the base's southern fence line along the following access roads: East Boundary Road, East Clubhouse Lake Road, Lakehurst Naval Air Center Taxiway, Broome Road, Lakehurst Naval Air Center Access Road, and Lakehurst-Whitesville Road. The route exits the base along County Road 547, continues through several easements along private properties, then follows Lowell Road and Route 70 before terminating at NJNG's existing transmission system on Colonial Drive south of Route 70 in Manchester. Exhibit P-1A 2:2-3:3.

TETCO deliveries to NJNG's city gate in Middlesex County comprise over eighty-five (85) percent of the winter season peak day gas supply and, because of this, customers at the southern end of the NJNG system in Ocean, Burlington, and southern Monmouth Counties are particularly vulnerable to a supply interruption or system failure in the interstate pipelines, the gate station, or NJNG's upstream transmission backbone system. Exhibit P-1A 8:7-16.

The Project is exclusively a reliability project, meant to provide an alternate interstate transmission feed for customers, and is not designed to service new or additional load. Exhibit P-1A 9:2-4.

When all aspects of the transmission system are available and working, the existing NJNG transmission system is designed to provide safe, adequate, and proper service under firm design day loading conditions. Exhibit P-1A 9:7-12. If there were an interruption to NJNG's transmission system caused by damage to an existing transmission line, the existing pipeline would need to be brought back to service by repair or replacement. After the existing pipeline was restored, each affected distribution system would need to be restored. This involves restoring each customer's service individually, with multiple door-to-door visits, potentially a months-long process. In addition to enhancing system integrity in the case of interruptions to the NJNG transmission system, the Project will provide security in the event of interstate supply disruptions. NJNG could minimize or avoid service disruptions by utilizing natural gas from the Transco line. Exhibit P-1A 10:6-11:2.

Mr. Lynch's testimony describes two (2) instances in which the Project would have benefitted NJNG's transmission and distribution system. From January 7, 2015 to January 15, 2015, unplanned outages at TETCO compressor stations reduced the capacity flowing to NJNG. TETCO declared the outages a force majeure event. Also, during the 2014 Polar Vortex, an unplanned outage at a TETCO compressor station decreased the availability of natural gas to NJNG. This outage resulted in decreased line pressure, which necessitated NJNG run its LNG plants for thirty-six (36) hours to maintain system integrity and replace lost supply. A lengthier or more intense TETCO curtailment could have resulted in significant customer interruptions, due to the limited LNG supply and send out capacity. LNG plants cannot replace lost supply of more than 160,000 Dth/day or a curtailment that exhausts the supply of LNG. With the Project,

there would have been no risk to customer interruptions because gas would have been provided via the SRL's connection to Transco. Exhibit P-1A 11:5-19.

The loss of natural gas would result in the loss of heat, hot water, and the use of stoves and ovens for many of NJNG's customers. For businesses, that typically means the loss of business. For residential customers, particularly during events like the 2014 Polar Vortex, the loss of heat can have negative consequences and damage homes due to burst water pipes. Exhibit P-1A 12:1-8. The Project also supports redundant infrastructure to provide natural gas to the Joint Base. Exhibit P-1A 12:10-15.

NJ Reinvestment in System Enhancement ("NJ RISE") is a program approved by the BPU in 2014 that includes the provision of secondary feeds to large, single feed distribution systems along the coast. This program enhances NJNG's distribution infrastructure to make it less susceptible to extreme weather events. In contrast, SRL would provide a major redundant transmission supply to Ocean, Burlington, and Monmouth Counties. SRL and NJ RISE are complimentary programs, enhancing overall system reliability, safety, and integrity. Exhibit P-1A 12:4-11.

## **(2) Testimony Presented by Rate Counsel**

At the December 7, 2015 evidentiary hearing, Rate Counsel presented the pre-filed testimony of Edward A. McGee, an Engineering Associate with the Acadian Consulting Group ("ACG"). ACG is a research and consulting firm that specializes in the analysis of regulatory, economic, financial, accounting, statistical, and public policy issues associated with regulated and energy industries. Mr. McGee possesses a Bachelor and Master Degree in Chemical engineering and a Master's Degree in Business Administration. Exhibit RC-1 1:8-20.

The purpose of Mr. McGee's testimony was to provide an expert opinion to the Board, on behalf of Rate Counsel, on management and engineering issues associated with the SRL proposal. Exhibit RC-1 1:22-2:2. Mr. McGee's primary conclusion was that only a portion of the cost of the proposed line should be borne by ratepayers. The proposed pipeline was oversized for the current Firm Transportation contract that was negotiated with the interstate pipeline transporting gas to the SRL. This entire amount of gas could be supplied to NJNG's system through a smaller-diameter line. Therefore, only the cost of a smaller-diameter line should be borne by ratepayers. Exhibit RC-1 2:20-3:3.

The cost estimate in the Company's most recently approved 2014 SRL budget totals \$147.6 million, based on the cost of recent twenty (20) and twenty-four (24) inch pipeline projects that were then prorated for a thirty (30) inch installation. Exhibit RC-1 4:17-19. The Board should utilize a more detailed, up-to-date, and preferably independent cost estimate to determine whether to approve the Project. Exhibit RC-1 5:5-7.

The Company's response to interrogatories RCR-ENG 21 and 22 indicate that a smaller-diameter pipeline would be sufficient. Specifically, a twenty-four (24) inch diameter line would be able to move the Company's contract volume of 180,000 Dth/day. Exhibit RC-1 5:9-16.

According to Rate Counsel, the company indicated the following reasons for selecting a thirty (30) inch line. First, the diameter was selected based on iterative flow modeling of the existing system with various demand and supply configurations under design day conditions with SRL in place. Exhibit S-1 at NJNG response to RCR-ENG19a. Second, the diameter is also equal to NJNG's existing backbone transmission system and other recently installed existing

transmission segments. Exhibit S-1 at NJNG response to RCR-ENG-21a. Third, the diameter will allow for greater capacity to be delivered into NJNG's system from Transco in the future. Exhibit S-1 at NJNG response to RCR-ENG-21a and Exhibit RC-1 6:6-16.

Mr. McGee opined that these are not valid reasons for the following: (1) the transmission system where the SRL will connect has a design day pressure of four-hundred and ninety-seven (497) pounds per square inch absolute ("psia") and the Company has indicated that a twenty-four ("24") inch SRL would provide a pressure of six-hundred and forty-seven (647) psia, which is sufficient to deliver the entire 180,000 Dth/day; (2) pipelines should also be sized to handle the flow that they will transport, not based on standardization of pipeline size. The ratepayer should only have to pay for the minimum size pipeline required to serve the Project objective; and (3) as stated in the Petition, "the Project was developed as a redundant supply line to an existing system in which additional growth of the system was not taken into account during its design." Exhibit S-1 at NJNG response to RCR-ENG19a; Exhibit S-1 at NJNG response to RCR-ENG-21a and Petition at Section 14. Therefore, future supplies and growth cannot be part of the decision to size and allocate costs to ratepayers. Exhibit RC-1 6:20-7:18.

According to Mr. MGee, the principle of "used and useful" applies to the cost allocations in this case, since only a portion of the larger pipeline would be effectively used to deliver gas. A smaller line that can deliver the same volume of gas to current ratepayers would be better used. Typically, Rate Base excludes plant held for future use. RC-1 8:5-8 (citing to <http://www.naruc.org/international/Documents/Tariff%20Development%20I--Basic%20Ratemaking%20Process%20-%20final%20draft%20ver%201%200.pdf>). This does not suggest that the company should install a twenty-four (24) versus a thirty (30) inch pipeline. The Company should choose the size of the line, but ratepayers should not be expected to pay the cost of an oversized line. Exhibit RC-1 8:5-14. By comparing estimated costs of a twenty-four (24) inch pipeline versus a thirty (30) inch pipeline, ratepayers should be allocated eighty (80) percent of the cost of the thirty (30) inch line. This is equivalent to the cost of a twenty-four (24) inch pipeline that can carry the total amount of gas needed. Exhibit RC-1 9:6-10:5.

### **(3) Testimony of Chesterfield**

At the December 7, 2015 evidentiary hearing, Chesterfield presented the live and pre-filed testimony of Jeremy I. Liedtka, Mayor of Chesterfield. Exhibit CHES-1 1:2. The primary purpose of Mr. Liedtka's testimony is to provide the perspective of a local government official whose municipality would be adversely impacted if the Project were to be approved. Exhibit CHES-1 1:5-9. However, as for the need for the Project, Mayor Liedtka stated that through discovery, Rate Counsel asked the Company to identify the number of times in the last 60 years that customers in Ocean, Burlington, and Monmouth counties were adversely affected by a system failure or supply interruption. Exhibit S-1 at NJNG response to RCR-POL-7. The company's response stated that NJNG does not maintain a record of service or supply interruptions for the timeframe specified and that, with the exception of Superstorm Sandy and other sporadic operational issues, the obligation to provide safe, reliable, and proper gas service to its customers has been met with limited supply interruption or system failures for the past sixty (60) years. The Company cannot claim that SRL will improve reliability and redundancy if it does not have a baseline from which to measure a potential supply or service interruption or to objectively show the need for enhance infrastructure to support reliability and redundancy. Exhibit CHES-1 4:99-118.

NJNG states that its customers could be adversely impacted by a supply interruption or system failure. It should be just as persuasive to the BPU that there could be a major catastrophic event

where adverse impacts could be experienced by the local communities. Exhibit CHES-1 4:119-5:128. However, according to Chesterfield, NJNG has done nothing to prove to the Board that this project is “reasonably necessary for the service, convenience, or welfare of the public”, pursuant to N.J.S.A. 40:55D-19. The Company has no way of telling whether the SRL will diminish the number of supply interruptions or failures because the Company does not keep track of them. NJNG has also admitted that the system presently in place is adequate to handle expected growth of customers in its service area, or portions of Monmouth, Ocean, and Burlington Counties. Exhibit S-1 at NJNG response to CHES-NJSRL-27; See also Exhibit CHES-1 5:133-139.

In rebuttal, Mr. Lynch addresses statements concerning safety and the need for the Project and provides testimony in further support for the Project. Exhibit P-3 1:2-3. He states that the safe and reliable operation of NJNG’s system is the Company’s primary operational goal. All of NJNG’s transmission systems are designed, built, and operated to the strictest safety standards. In 2009, the Board changed its regulations to require all transmission mains constructed in New Jersey to meet the design standard for a Class Four (4) pipeline location. This was done to recognize the densely populated nature of the state and set the appropriate level for design standards given this. NJNG adopted this position twenty (20) years prior to the rule change. Exhibit P-3 1:9-19.

NJNG has more transmission lines than the combined total of the three other local distribution companies in New Jersey, due to the fact that the Company’s service area is isolated from interstate pipeline suppliers. This required NJNG to develop a separate group whose only focus is the maintenance and safety of the transmission system. NJNG’s commitment to safety is evident in the conservative approach taken to comply with the federally mandated Transmission Integrity Management Program (“TIMP”). NJNG developed a prudent program based on internal transmission line inspection using “smart-pigs.” Although more time and capital-intensive, this method provides a much greater capability to detect potentially hazardous anomalies. Exhibit P-3 2:21-3:20. NJNG’s integrity management programs have significantly increased the level of preventative and mitigating activities on our pipeline system as part of ongoing assessments (i.e., in-line inspections, direct assessment, and integrity-related pressure tests). Exhibit P-3 6:1-4.

All newly constructed or upgraded NJNG transmission lines, including SRL, are designed and operated to conform to the most stringent standards by designating the pipeline adhere to the High Consequence Area (“HCA”) standard. There are sections of this project which would not qualify for HCA status. However, as part of its commitment to safety, NJNG requires all new and replacement transmission lines to be operated at HCA standards. Exhibit P-3 4:1-15.

While operating at an HCA standard requires assessing pipe condition and correcting identified anomalies, there are also other requirements. This includes development of improved management and analysis processes for integrating available integrity related data and information for HCA pipeline segment risk assessment, enhanced damage prevention programs, and additional risk control measures beyond those of other transmission lines. To that end, the SRL project will have remotely controlled valves (“RCVs”) so that segments can be isolated quickly in the unlikely event of a problem. Exhibit P-3 4:17-5:7.

NJNG received over 153,000 One-Call requests last year and did not receive any violations involving transmission lines, which are the subject of this matter. Mayor Liedtka’s testimony makes repeated references to two (2) incidents in Ocean County, neither involving transmission

lines. The Point Pleasant incident did not involve Company infrastructure or equipment. The Board is investigating the cause of the Stafford Township incident. Exhibit P-3 5:9-18.

The underlying premise of critiques to the need for SRL are that it is not necessary because the Company has never experienced a widespread system failure based on the failure or interruption of service at the TETCO connection point. The Company believes that waiting for a system failure is bad planning and irresponsible. Curtailments have tremendous consequences for customers. Although those following Superstorm Sandy were not supply related, they demonstrate the tremendous cost of widespread curtailment. Exhibit P-3 6:20-7-8.

The vast majority of winter season peak day gas being delivered through a single gate station, from a single interstate source, presents a real risk of interruption. Examples of this risk include (1) the aforementioned unplanned outages at TETCO compressor stations; and (2) An event that requires the reduction of pressure or results in a failure of part of the transmission system that requires NJNG to close off sections of pipe. Exhibit P-1A 11:5-19. With the supply feed at the north end of the system, it would be difficult to transport enough gas to the customers downstream of the interruption. During the December holiday season, a downed electric line damaged a pipeline and required NJNG to significantly lower operating pressure until repairs were complete; and (3) Equipment failure at one of the gate stations. NJNG maintains equipment to ensure availability, but unforeseen events are a concern. Exhibit P-3 7:11-8:13.

Testimony directed toward the size of the Pipeline demonstrates a fundamental misunderstanding of the purpose of SRL. The Petition states SRL is capable of providing NJNG's contract volume of 180,000 Dth/day. Based on that statement, calculations were performed that demonstrate this volume can be delivered with a twenty-four (24) inch pipe and a conclusion that only a twenty-four (24) inch pipe is necessary is reached in error. This error lies in the assumption that the contract volume is the reliability requirement. The contract volume was limited by interstate pipeline infrastructure and does not reflect the full reliability requirement. By way of comparison, the city gate where TETCO provides eighty-five (85) percent winter season peak day capacity is connected to three (3) pipelines that consist of diameters of thirty (30), twelve (12), and ten (10) inches. Collectively, these far exceed the transmission capacity of either SRL or of a twenty-four (24) inch line. The Company has a contract at the TETCO city gate for a maximum delivery obligation of 641,590 Dth/day and a total system capacity of 771,112 Dth/day. This is more than four (4) times the current contract volume for SRL. In the event of a fifty (50) percent reduction of supply from TETCO, which exceeds the capacity provided by a twenty-four (24) inch pipeline, the design of SRL would ensure transmission system integrity. In the event where a large scale TETCO interruption occurs, even without upgrades to the Transco interstate system, with a 30-inch pipeline the company could acquire in excess of the contract volume by entering into transactions with other firm shippers that have rights on the interstate system. Thus, the 180,000 Dth/day contract is irrelevant when determining the appropriate SRL size. Finally, a thirty (30) inch SRL would facilitate a fully looped thirty (30) inch transmission backbone, which is a long term reliability planning goal for NJNG. Exhibit P-3 8:17-10:12.

As made clear in the Company's response to RCR-ENG-21, the Project is not designed to accommodate future growth. Rather, the response addresses the future potential to acquire firm supply contracts in excess of 180,000 Dth/day. Additional capacity transacted for in the event of an interruption (e.g., 280,000 Dth/day) could not flow through a twenty-four (24) inch pipe because it would result in an unacceptable pressure drop. To ensure reliability, the Project must account for growth during its anticipated lifespan. If sized only for 180,000 Dth/day, the SRL

would be rendered inadequate by anticipated future growth over the next twenty (20) years. Exhibit P-3 11:8-12:2 (citing Exhibit S-1 at NJNG response to RCR-ENG-22b).

The purpose of this proceeding is not for determining cost recovery, but to obtain a determination regarding the SRL route. The Company disagrees with Mr. McGee's cost estimates. The Company's cost estimates were developed using best available information. The Company is unable to issue a request for proposal ("RFP") for the engineering construction work until a final route determination is made. Exhibit P-3 12:6-20.

## **B. Engineering and Construction**

### **(1) NJNG Testimony**

At the December 7, 2015 evidentiary hearing, NJNG presented the pre-filed and live testimony of John B. Wyckoff P.E, the Director of Engineering for NJNG.<sup>6</sup> Exhibit P-1B: 1:8-10. In this capacity, Mr. Wyckoff oversees the engineering design, project management, construction, and system planning of NJNG's transmission and distribution systems, as well as the contractor construction quality control and scheduling and facility mapping functions. Exhibit P-1B: 1:13-16. The purpose of Mr. Wyckoff's testimony is to describe the proposed construction of the SRL.

Interstate transmission supply connections for the NJNG Divisions serving Ocean, Monmouth, and Burlington counties are all located in Middlesex County, at the northern end of the service area. Currently, NJNG's transmission system is looped off a central backbone, but potential interruptions to the existing interstate supply will lead to interruptions of customers in these counties because all interstate connections are at the northern end of the system. The SRL provides a redundant supply to the southern end of NJNG's transmission system, increasing reliability. Exhibit P-1B: 1:21-2:8.

The Project is expected to provide 180,000 Dth/day, or more than twenty-five (25) percent of NJNG's winter design day capacity. Future upgrades would eventually allow additional throughput. Exhibit P-1B: 2:10-12.

The Project consists of approximately twenty-eight (28) miles of new thirty (30) inch, one-half (.500) inch wall thickness transmission line, with the route being described in the testimonies of Mr. Lynch and Mr. Baker. The Pipeline will be manufactured, constructed, and operated in accordance will all applicable standards and regulations and NJNG's Transmission Integrity Management Program ("TIMP"). Exhibit P-1B: 2:14-3:2.

NJNG's TIMP is a written framework that the United States. Department of Transportation ("NJDOT") Pipeline and Hazardous Materials Safety Administration ("PHMSA") has required all natural gas transmission pipeline operators to adopt. The TIMP has four (4) primary objectives: (1) accelerating integrity assessment of pipelines in High Consequence Areas ("HCAs"); (2) improving operator integrity management systems; (3) improving government's role in reviewing the adequacy of integrity programs and plans; and, (4) providing increased public assurance in pipeline safety. The TIMP identifies all HCAs, which are defined based on 49 C.F.R. 192.905 and are designed to identify line segments near locations where people live, work, or are known to congregate on a regular basis. HCAs receive added layers of inspection to avoid incidents that would otherwise have the largest negative consequence on the public. Based on New

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<sup>6</sup> Mr. Wyckoff's direct testimony is identified as Exhibit P-1B.

Jersey's dense population and NJNG's commitment to safety, the Company made the decision to treat its entire transmission pipeline system as being located in an HCA, even if it is not located in an HCA. The Company's safety philosophy is to take the most conservative approach in operating its transmission and distribution systems and this philosophy is applied to SRL. The entirety of SRL is designed to meet the most stringent state and federal safety standards, even though the majority of the line is not in an HCA. Exhibit P-1B 3:14-4:14.

The Pipeline will be subject to non-destructive testing on all welds and a hydrostatic test at a minimum pressure of 1,500 psig for twenty-four (24) hours. As part of the test, the Pipeline will be subject to pressure of approximately 1,800 psig for no greater than one (1) hour. This is intended to produce ninety (90) percent of the lines Specified Minimum Yield Strength. As a result the Pipeline's MAOP will be seven-hundred and twenty-two (722) psig, consistent with NJNG's existing transmission system. Exhibit P-1B 4:17-23.

Construction is expected to take up to approximately one year, with multiple crews working simultaneously on different Project segments. Each construction site will be approximately a quarter mile long. Directional drilling will be used to pass under most creeks or streams. Traffic control, road closings, detour routes, and the need for night work will be coordinated with local police and township/county officials. Emergency access will always be allowed in accordance with local ordinances. Daily construction activities will be coordinated with residents and businesses adjacent to the construction to address their unique circumstances, as they arise. At the end of the work day, the road will be opened to normal traffic. Exhibit P-1B 5:2-15.

In Manchester, the Project is located in the coastal zone under the jurisdiction of DEP LURP. NJNG met with DEP to discuss the LURP Applications and address Threatened and Endangered Species protection. Exhibit P-1B 5:18-6:4.

The Project runs through the Joint Base within the Military and Federal Installation Area of the New Jersey Pinelands National Reserve. An application will be submitted to the Pinelands Commission for a determination that the Project conforms to the requirements of the CMP. Exhibit P-1B 6:6-12.

NJNG also intends to submit applications for Utility Highway Occupancy and Road Opening Permits as needed from the affected counties and municipalities and NJDOT. An application for certification of NJNG's Soil Erosion and Sediment Control Plan will also be submitted to Burlington, Ocean, and Freehold Soil Conservation Districts. Exhibit P-1B 6:14-20.

## **(2) Burlington County Testimony**

At the December 7, 2015 evidentiary hearing, Burlington County presented the pre-filed testimony of Joseph T. Brickley, the County Engineer. Mr. Brickley is a licensed professional engineer for the State of New Jersey and has been the duly appointed engineer by the Burlington County Board of Chosen Freeholders for five (5) years. BC-1 1:9-12.

The Project will be located within the ROW of Burlington County Routes 528 and 664 in Chesterfield and North Hanover Townships. Both County Routes are generally unimproved roads with numerous design deficiencies, including inadequate drainage and substandard cross-section. Neither of the roadways currently meet County or State NJDOT standards. These roadways are limited by a narrow ROW, established in the 1800s, with no plan or consideration for accommodating future intrastate transmission pipelines. The primary function of the County ROW is to service the County Road. A pipeline use of the ROW is subordinate to

the public use of the ROW for transportation. Even though future pipeline relocation costs will be borne by NJNG, the Board must recognize that the proposed pipeline's usage of the County ROW impairs the ability to plan, design, and construct future roadway safety improvements. This ultimately results in higher project costs to taxpayers, who should not bear these additional costs. Exhibit BC-1 2:27-41.

NJNG fails to adequately address construction related traffic impacts. The Company appears to be avoiding Board review of these significant adverse impacts. The Board should require the Company to address this issue with the County and municipalities before approving any Petition. Exhibit BC-1 4:76-82.

There are significant issues related to traffic impact. The Petition does not include information on the proposed closures and associated detours. Limited detour routes exist. The County investigated several detour options. Those detours are up to six and forty-five one-hundredths (6.45) long and use mainly municipal roads that were not designed to accommodate the traffic flow of County Routes 528 and 664. These roads also have substandard geometry and weight restrictions. Exhibit BC-1 4:82-90.

To date, NJNG has not requested or obtained the necessary approvals to close municipal or county roads and use municipal or county roads for detours. Exhibit BC-1 4:91-5:96. There also appears to be a discrepancy between the proposed length of each construction site (1,320 feet) and the proposed optimum daily production (three-hundred (300) feet). Multiple construction crews will be working simultaneously on different sections of the project. There is no information in the Petition as it relates to the progression of construction. Multiple, concurrent lane closures will not be permitted along County Roads. Exhibit BC-1 5:97-5:103.

NJNG proposes open cut construction for the majority of the route, but also horizontal directional drill ("HDD") to avoid impacts to wetland, bridge, and other structures. HDD results in fewer construction related traffic impacts. However, the Petition plans show bore pits in the roadway, which will necessitate road closures. Burlington County will not allow this. No specific information regarding the workspace required for HDD is provided. Exhibit BC-1 5:104-5:112.

Although the Petition does weigh engineering factors for locating the line within the ROW, NJNG has failed to weigh construction related traffic impacts to over 6,300 vehicles using the roadway per day for a period of two and one-half (2.5) years. Exhibit BC-1 5:113-6:119.

NJNG's plans do not conform to Burlington County's current practices and requirements for use of the existing ROW. For longitudinal installations of pipelines within the ROW, it shall be located at or immediately adjacent to the outer limit of the ROW.<sup>7</sup> In placing the pipeline within the paved roadway, NJNG does not conform to these requirements and, as a result, does not accurately reflect the distance to occupied structures. Exhibit BC-1 6:122-132.

The proposed route also interferes with the expansion of local utility services. Various utility companies occupy the ROW for Routes 528 and 664 to provide local service. Both are constrained by the same narrow ROW. Local gas, water, and sewer utility services have been planned and have not been fully constructed to service the existing communities. The proposed use interferes with the expansion of these local services, which may no longer be feasible to construct. At minimum, the standard of care associated with proximity construction to the

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<sup>7</sup> See N.J.A.C. 16:25-3.1 – Location and alignment.

transmission line will spur increased costs for this expansion of local service. Exhibit BC-1 6:133-7:147.

The proposed route needlessly places the SRL in close proximity to homes and businesses in Burlington County, for what appear to be only economic reasons. NJNG has failed to analyze and consider an alternate route following State Route 68 and passing through the Joint Base that greatly reduces the number of residents and businesses in close proximity to the pipeline, thereby mitigating safety concerns. Exhibit BC-17:150-10:210.

### **(3) Chesterfield Testimony**

Mayor Liedtka presented testimony on behalf of Chesterfield with regard to potential safety impacts associated with the construction of the Project. He stated that Chesterfield requested NJNG to provide documentation related to the Ocean County natural gas explosions involving their infrastructure. See Exhibit S-1 at NJNG response to CHES-NJSRL-21 and 22. He stated that it is his understanding that these explosions were caused by mains of two (2) inches in diameter, compared to the thirty (30) inch, high-pressure line proposed by NJNG. Rather than providing a transparent reply, the Company objected to the request on the grounds that the information was publicly available, was in the custody of local and/or county governmental agencies, and was not designed to obtain information reasonably calculated to lead to the discovery of admissible evidence. Exhibit CHES-1 2:35-49.

The Board must consider the fact that NJNG's own infrastructure was recently involved with two (2) explosions, within a week of each other, which injured people and destroyed property. There is no possible way that NJNG does not have any of these documents in its custody or control. The Township Committee of Chesterfield must be informed as to the Company's safety record so that community risks can be fully evaluated. Exhibit CHES-1 2:50-3:66.

Chesterfield will be completely inconvenienced if the proposed route is approved and all proposed alternative routes need to be fully vetted. At the time of testimony, Mayor Liedtka had no knowledge of whether an alternative route along Route 68 was fully evaluated. Exhibit CHES-1 3:67-73.

From the onset of talks between Chesterfield and NJNG about the project, the Company provided very little information, other than the preferred route would pass the main thoroughfare of the Township. On April 2, 2014, on the eve of the four (4) day Easter weekend, the company formally filed the Petition for the Project with the Board. NJNG also requested expedited treatment of the Petition with no support for that request. NJNG's insistence on rushing the proceeding is completely unacceptable. Only on July 21, 2015 was the Township granted intervenor status. At the time of this testimony, Chesterfield has only had intervenor status for three (3) months, while NJNG has had the benefit of developing the project for at least three years. The unreasonably expeditious treatment of this obviously contested and opposed Project undermines the public's confidence in the Board. Acquiescence to the company's demands to expedite the process does not advance the public interest. Exhibit CHES-1 3:84-4:97.

### **(4) NJNG Rebuttal Testimony**

In rebuttal, Mr. Wyckoff addressed the proposed construction and design of the Project, traffic impacts, and the alternative route through the Joint Base. Exhibit P-5 1:21-23. Burlington County has raised concern related to locating the Project within the traveled portion of the roadway ROW. The Project does not cause significant future complications for road upgrades or local utility service expansion beyond those possible of any other proposed utility project. Exhibit

P-5 2:4-9.

Regarding the impacts for roadway drainage improvements, the Project will have minimal impact on roadway reconstruction or drainage improvement, as is typical for projects of this nature. The requirement for additional ROW width for drainage improvement is independent of the existence of SRL. Locating SRL within the roadbed may significantly reduce conflicts with drainage, which is typically installed near the edge of the ROW to accommodate future road widening. NJNG has asked Burlington County to provide their Master Plan for a better understanding of their concerns, to date they have not done so. Exhibit P-5 2:11-21.

The Project will not complicate the future expansion of local utility service. The SRL will have minimal impact on most utilities due to its four (4) foot depth. NJNG's experience has been that water and sanitary sewer projects can be effectively designed to avoid most, if not all, conflicts with other utilities. Specifically, water will not conflict, since it operates under pressure. Exhibit P-5 3:1-6.

Furthermore, NJNG is not aware of any special qualifications a contractor would need in order to work around the Project and has never encountered any requirements for special insurance on projects around the Company's existing transmission facilities. Exhibit P-5 3:15-18.

Regarding the narrowness of County Routes 528 and 664, which have at least fifty (50) feet of ROW, the SRL will be thirty (30) inches wide with a minimum clearance of twelve inches around the pipeline. These leaves at least forty-five and one-half (45.5) feet of ROW width for other utilities to occupy. Exhibit P-5 3:20-4:3.

NJNG will work with the county to relocate the Project in the unlikely event that SRL is incompatible with Burlington County's future plans. Proper project planning will avoid delays and extra costs. Exhibit P-5 4:5-10.

Concerns about mitigating traffic impacts have not yet been addressed because the parties necessary to develop mitigation have refused to cooperate in their development. Early on, NJNG met with Burlington County officials to discuss traffic planning and were referred to the Townships for coordination to minimize inconvenience and ensure safety. Typically, the local police are involved in the development of traffic control plans as well as modifications on a daily basis based on construction progress. NJNG is willing to mutually develop a traffic plan when the interveners agree to participate in the discussion necessary to do so. Exhibit P-5 4:14-5:2.

The construction of the SRL will not be two and one-half (2.5) years, but a more reasonable estimate of the duration of construction activity in Burlington County would be six (6) months. This is based on typical working conditions for similar projects with realistic work hours, appropriate detours, and multiple crews working simultaneously within the Burlington County portion. Two and a half (2.5) years is a duration calculated by adopting all of the worst case estimates for construction activity. Temporary impacts would be localized to defined work areas, not the entire road system and only during work hours. The open construction zones are backfilled and opened to traffic during non-work hours. It is in the Company's interest to expedite construction and minimize overall project duration. Exhibit P-5 5:4-17.

The General William C. Doyle Memorial Cemetery has three (3) public entrances on three (3) separate roads and will be able to accommodate traffic detours by coordinating construction with the cemetery. The cemetery has an entrance on a road that will not be impacted by construction, making this coordination more realistic. Furthermore, the SRL route abuts the

cemetery for approximately one mile and is separated from the developed portion of the cemetery by over one-hundred and fifty (150) yards of wooded, vacant land. Working in a manner that does not interrupt burial services is precisely the type of issue that the Company would address if North Hanover would agree to meet with the Company to address traffic control. At that meeting, the Company would suggest either coordinating schedules to work around burial services, or if such a work-around proved infeasible, working at night along that short stretch of road. It has always been the Company's desire and intent to provide the proper respect and dignity that is due this important facility. Exhibit P-5 5:20-6:13.

With respect to a proposed route following State Route 68 and proceeding through the Joint Base the Company had discussions with Joint Base leadership that included this route. At the time, the Joint Base advised the alignment was not suitable because it passed through operational areas of the Joint Base, including firing ranges and environmentally sensitive areas. Accordingly, the route did not advance to the alternative analysis. At an October 29, 2015 meeting with Joint Base leadership, Assemblyman Dancer, and others, Joint Base leadership again reiterated that the Company's preferred route remains the Joint Base's preference, for reasons stated above. Exhibit P-5 7:1-13.

## **C. Routing**

### **(1) NJNG Testimony**

At the December 7, 2015 evidentiary hearing, NJNG presented the pre-filed and live testimony of Barry A. Baker<sup>8</sup>. Mr. Baker is the Power and Industry Business Unit Lead and Department Manager for the Impact Assessment and Permitting department of the Philadelphia Metro Region of AECOM Technology Corporation, formerly URS. In this role, Mr. Baker is a Certified Project Manager, a Principal Geographic Information Systems ("GIS") Specialist, and the region lead for transmission projects. Mr. Baker manages projects for siting utility transmission facilities and has been in this role for approximately ten years at URS and AECOM. AECOM provides comprehensive life-cycle services for utility projects from alternative route analyses, licensing and permitting, conceptual engineering, right-of-way services, and public involvement in detailed engineering and design. Mr. Baker holds a Bachelor of Science, with Honors, degree in Environmental Science and has completed relevant continuing education presented by URS and Environmental System Research Institute. Exhibit P1-C 1:11-2:22.

NJNG retained AECOM to assist in the evaluation and development of alternate routes study for the Project to select a route that would best minimize impacts to local communities and the natural environment while maintaining constructability. Mr. Baker is also coordinating the overall permitting and approval efforts on behalf of NJNG, including surveys, investigations, and permit preparation and submittal. These efforts include wetland delineations, cultural resources investigations, threatened and endangered species surveys, erosion and sedimentation control plans, National Pollution Discharge Elimination System storm water permits, and Section 404 Clean Water Act permits, as needed. Exhibit P-1C 2:3-20.

The purpose of Mr. Baker's testimony is to sponsor and explain the SRL Project Alternatives Analysis ("Alternatives Analysis"), dated April 2015 attached to Mr. Baker's testimony and identified as Exhibit C-2. The Alternatives Analysis is a narrative description of alternative

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<sup>8</sup> Mr. Baker's direct testimony is identified as Exhibit P-1C.

routes for the Project, prepared by AECOM under Mr. Baker's supervision. Exhibit P-1C 3:22-4:8.

The first step of the Alternative Analysis is called a Tier 1 Analysis. This is where system alternatives to accomplish the Project's objectives, set forth in Mr. Lynch's testimony, are considered. The system alternatives considered are (1) no action; (2) postponed action; (3) system alternatives; (4) operational alternatives; and (5) a new service feed. It was determined that only a new service feed would accomplish the Project's objectives. Therefore, alternative route analysis for the Project is the focus of the Alternative Analysis. Exhibit P-1C 4:18-5:4.

The Project is split in two (2) sections. Five (5) alternatives were considered for Section One (1) and Four (4) for Section Two (2). The selected routes for Sections One (1) and Two (2) will result in the minimum combined impacts to the built and natural environments while maintaining a feasible engineering design. Exhibit P-1C 4:10-5:4.

NJNG and AECOM conducted detailed siting analysis to determine the routes for the Project that best balance social, environmental, engineering, and economic considerations. The Study Area was determined by the physical location of the project start and end points, the geographic characteristics of the region, and professional judgment. The start and end points are fixed, as the proposed compressor station and the interconnection with NJNG's transmission system are the only feasible locations for connecting a redundant main feed that meets the Project's goals. Exhibit P-1C 5:6-22.

The study approach incorporates GIS technology, statistical evaluation, and professional judgment into the decision-making process and formalizes past industry practice. Exhibit P-1C 6:10-13.

Opportunities to parallel existing pipeline and utility ROWs, co-locate within or parallel to existing road ROWs, and cross undeveloped land were considered in the identification of alternate routes. Alternative route identification also considered potential impacts to (1) the Built Environment, which addresses human and cultural resources including residential neighborhoods, community-valued buildings, and historic sites; (2) the Natural Environment, which addresses plants, animals, aquatic and ecological resources, and natural habitat; and (3) Engineering Considerations which addresses maximizing co-location and minimizing cost and schedule challenges by seeking the shortest path, using existing ROWs, and avoiding areas that pose significant construction obstacles. Exhibit P-1C 6:15-7:3.

The Project was considered in two (2) sections because the eastern portion of the study area is within the New Jersey Pinelands National reserve and the regulatory implications of this only apply to that portion of the Project within the Pinelands. As a result, the western portion is described and analyzed as Section One (1) and the eastern portion Section Two (2). Exhibit P-1C 7:5-11.

The alternative routes are evaluated based on quantitative and qualitative assessments as to the advantages and disadvantages of each. Metrics were assigned to specific route features, such as the number of residences within one-hundred and fifty (150) feet of the line, acres of wetland crossed, or the length of line paralleling roadways and organized into the three impact areas described above. Exhibit P-1C 7:14-22.

The metrics were normalized to allow comparison of unrelated data and the alternative routes were scored and compared according to the metrics. The metrics were weighted based on past experience and information received from NJNG regarding public input. Normalization and

weighting allow for overall scoring, with lower scores indicating potentially less impact and a preferred route. Exhibit P1-C 8:1-7.

The weighting factor for the metric of passing within one-hundred and fifty (150) feet of residences is thirty (30) percent of the built environment total and the built environment represents thirty-seven and one-half (37.5) percent of the total factors considered. This metric is the largest consideration of any factor considered in the quantitative analysis. Exhibit P-1C 8:9-22.

The qualitative analysis involves reviewing the results of the quantitative evaluation and assessing the alternatives on other considerations, such as visual concerns, community concerns, schedule delay risk, special permit issues, and construction, maintenance, and accessibility issues. Exhibit P-1C 9:1-11.

The selected route is described at length in Mr. Lynch's testimony and also in Mr. Baker's testimony. Exhibit P-2A at 2:2-3:3; Exhibit P1-C 9:14-10:15. The selected route consists of Section One (1), Route B and Section 2, Route D of the Alternative Analysis. Exhibit P-1C 10:17-19.

The alternative routes A, B, C, D, and E evaluated for Section One (1) are described in Section Four at 4.5.1 and depicted in Figure 4-2a of the Alternatives Analysis. Exhibit P1-C 11:4-9. Section One (1). Route B received the lowest overall total quantitative and qualitative score. Exhibit P1-C 11:17-12:18.

The alternative routes A, B, C, and D evaluated for Section Two (2) are described in Section Four at 4.6.1 and depicted in Figure 4-2b of the Alternatives Analysis. Exhibit P-1C 13:4-6. Section Two (2), Route D received the lowest overall total quantitative and qualitative score. Exhibit P-1C 13:18-14:14.

## **(2) Chesterfield Testimony**

Mayor Liedtka provided testimony on behalf of Chesterfield with regard to the proposed route for the Project. He stated that the proposed route would cause a thirty (30) inch diameter high-pressure pipeline to be installed as close as fifty (50) to seventy-five (75) feet from the nearest Township residence, downtown business, and historic property and just over one-hundred (100) feet from the nearest existing municipal services building. According to the alternative route analysis conducted on behalf of NJNG, the SRL will impact fifty-five (55) structures intended for human occupancy. Chesterfield is one of, if not the most, highly impacted municipalities along the pipeline's route. These buildings include homes, businesses, Chesterfield's current and proposed municipal complex, police station, firehouse, and emergency squad headquarters. The proposed municipal complex, on which land clearing has already begun, would fall within one-hundred (100) feet of the pipeline. CHES-1 at 1:13-25.

As evidenced by comments during the public hearings held on July 28, 2015 and August 26, 2015, residents and business owners are concerned for their safety. Some of these individuals would have the pipeline as close as fifty (50) feet from a bedroom window. With last winter's two natural gas explosions in Ocean County involving substantially smaller capacity NJNG infrastructure, it is essential that the Project be fully evaluated for public safety and well-being. Particularly, with respect to alternative routes which are less impactful and more logical. CHES 1:30-2:34.

### **(3) North Hanover Testimony**

At the December 7, 2015 Evidentiary Hearing, the Township of North Hanover presented the live testimony of Mayor James Robert Durr. Mayor Durr is currently Mayor of North Hanover Township and has served on the Township Committee and in the capacity of mayor for the last ten (10) years. T 107:5-8) Mr. Durr is a lifelong resident of the immediate area, including North Hanover and Chesterfield , whose family has farmed since 1903. T 107:11-108:9.

Mayor Durr testified about the historical significance of the Village of Arneytown. Arneytown is located on the province line, which was the line between east and west Jersey before the formation of the United States. Arneytown is in the northeastern part of the Township and is an official historic district. Of eighteen (18) original eighteenth (18<sup>th</sup>) century homes, currently only three (3) are left. T 109:9-19.

One historically significant property, the Arneytown Tavern, was in danger of being demolished and purchased by Mayor Durr approximately seven (7) years ago. T 109:3-6. The Tavern was originally built and owned by a grandson of the governor of west Jersey and was listed on the State's ten (10) most endangered historical structures before Mayor Durr purchased and began restoring it. T 111:3-9. Myrtle Bank is another historical home in Arneytown that was built by an early senator, John Emly and owned by a member of Congress in the late 1700s. T 110:25-11:2. Both Arneytown Tavern and Myrtle Bank were also included in a depression era survey of historical structures, copies of which are in the Library of Congress. T 111:9-112:6.

Arneytown Tavern is likely to be the most important historical house in the State of New Jersey and many elements of the exterior are original to 1730. T 112:19-25. Both Myrtle Bank and Arneytown Tavern are on the New Jersey and National Historic Registers. T 113:3-7.

The route proposed by the SRL Project would pass through and around the heart of Arneytown. T 108:23-24. The Arneytown Tavern is eighteen (18) feet from the edge of the road. T 110:8-15. The Township is concerned about damage to the houses that cannot be fixed. The foundations for these early homes were constructed from sandstone, a readily available indigenous stone. Sandstone is not a strong stone. It is a sedimentary rock formed with inclusions of iron. The home construction is also "brick paint" construction, with clapboards on the outside and interior walls of solid brick and is an additional reason the structures are fragile. T 113:8-25.

The Township is also concerned about damage to the trees along Province Line Road and in Arneytown. There is a canopy of trees that proceeds down Province Line Road. These are mostly oak and tulip poplar and this mature canopy takes over a hundred years to create. T 114:8-12. Currently, the trees in Arneytown are in very good condition. They are American sycamores planted by the Quaker settlers and are likely in the road right-of way, with roots underneath the roadway. T 114:17-115:6. Once these trees are damaged, they will die over a period of time. T 114:1-6.

Recently, the North Hanover undertook a major road improvement project that is expected to take about two (2) years. T 115:14-16. The road improvements are being done at great expense to North Hanover and this is an extremely large project for such a small town. The tax impact to the residents is substantial, as North Hanover had to issue bonds to cover the cost of improvements. T 117:11-118:4. These roads are in the area where the Pipeline route is located. T 116:14-18. Any potential detours would traverse those local roads that have either been recently resurfaced or are expected to be resurfaced within the next year. T 117:6-10.

The proposed pipeline route will also pass the Little Quaker cemetery. (T 119:23-25) The cemetery is a Quaker cemetery, with markers of early families that lived in Arneytown. There are also many unmarked graves. Evidence supports that the famous outlaw John Bacon is buried under the road in front of the cemetery, as was the tradition in those times with a murderous outlaw. T 119:2-15.

Mayor Durr also added, in support of the historical significance of Arneytown, that the State of New Jersey acquired two-hundred and twenty-five (225) acres of farmland in Arneytown in approximately 1950. At the time, Officials decided it should be the location of a state prison. The Village of Arneytown and town of North Hanover objected and, based on the historical importance of Arneytown, the idea was dropped. T 120:8-17.

Later, the aforementioned land was designated as a veterans' cemetery. T 120:17-19. The entire cemetery is located in North Hanover. T 120:22-25. Any impacts on the cemetery are unacceptable, as there are approximately seventy (70) funerals a day. Mr. Durr added that the installation of a thirty (30) inch gas main being installed while interments are occurring would disturb the tranquility of the area. T 121:6-14.

From the initial meetings with the NJNG, North Hanover Township has not been against the transmission of natural gas through the town. North Hanover's main concern is that it takes a responsible route, which the current route does not represent by putting residents in harm's way. T 122:5-13.

Interstate pipelines were moved onto preserved farmland as a result of the New Jersey Turnpike widening project. Because it is an interstate project that falls under federal jurisdiction, arrangements were made to accommodate that pipeline on preserved farmland. T 123:11-16. Mayor Durr questioned the Pipeline's classification as an intrastate pipeline, under Board jurisdiction, and stated that the route that traverses the JCP&L ROW along preserved farmland would make the most sense. T 124:5-25.

#### **(4) NJNG Rebuttal Testimony**

In rebuttal, Mr. Baker's testimony addresses the historic impacts and the alternative route analysis for the Project. Exhibit P-4 2:5-6. With regard to the alleged lack of concern about impacts on historic structures, the alternatives analysis involved consideration of potential impacts from three aspects: (1) the Built Environment, addressing human and cultural resources, including historic sites; (2) the Natural Environment; and (3) Engineering Considerations. Historic structures are one element of the Built Environment, which was given the greatest weight of the three aspects (thirty-seven and one-half (37.5) percent). Within the Built Environment, proximity to residences was given the greatest weight (thirty (30) percent) and proximity to historic properties within one-hundred and fifty (150) feet of centerline assigned a fourteen (14) percent weight. Thus, historic properties were taken into account in determining the preferred route. Exhibit P-4 2:12-3:2.

Identifying the number of historic properties along a proposed route is a factor in selecting the preferred route, which takes into account all potential impacts. Once the preferred route is selected, analysis of impacts to historic resources does not end. A Historic Architectural Survey Report and Phase One (1) Archaeological Survey need to be completed and submitted to the New Jersey Historic Preservation Office ("HPO"). Both have been submitted with respect to the Arneytown Historic District. Exhibit P-4 3:13-20.

The HPO recently reviewed and commented on the Architectural Survey, stating in part: "HPO concurs that the choice to locate the pipeline ROW within the existing roadway at most locations will avoid direct adverse effects to historic properties eligible for or listed on the National Register of Historic Places. In addition, the locations of valves and laydown areas will avoid indirect visual effects. The report concludes that fencing should be erected during construction to avoid unforeseen damage by construction equipment. The HPO concurs with this recommendation."

Exhibit P-4 3:22-4:9.

To avoid vibration impacts, the HPO requested vibration monitoring of construction occurring within the Arneytown Historic District. HPO further recommends a three phase vibration avoidance control process, in keeping with applicable federal standards. These fully address the concerns raised by Mayor Durr. Exhibit P-4 4:10-15.

Additionally, regarding buttonwood trees in Arneytown, the alignment runs on the side of the road opposite of the identified trees in order to specifically avoid any impacts to them. Exhibit P-4 4:17-19.

The proposed alternative route that follows Route 68 and then the JCP&L ROW is not feasible because it passes through Preserved Farmland parcels. Only farming activities are permitted to occur on those lands and building a pipeline across Preserved Farmland is prohibited by law. Notwithstanding, AECOM analyzed the JCP&L ROW route and found this route would have cumulative impacts higher than any other previously evaluated alternative. Exhibit P-4 5:5-13.

#### **D. Cost**

As mentioned in section A. above, Rate Counsel presented the testimony of Mr. McGee in which he concluded that the proposed pipeline has been oversized for the current Firm Transportation contract that was negotiated with the interstate pipeline transporting gas to the SRL. According to Mr. McGee, the entire amount of gas could be supplied to NJNG's system through a smaller-diameter line. As such, he concludes that only the cost of a smaller-diameter line should be borne by ratepayers. Exhibit RC-1 2:20-3:3.

Mr. Brickley provided testimony concerning the cost of the Project. He stated that, specifically, there will be extra costs for the acquisition of ROW for drainage improvements. Due to the narrow ROW, drainage designs will become complex and need to be modified and expanded due to the loss of useable ROW taken by the pipeline. Costs of construction around the pipeline will be increased as well. Special construction techniques are required to monitor and ensure the safe operation and protection of the line. This will slow construction work around the line, resulting in higher labor costs. Also, there is a limited selection of contractors qualified to work in such close proximity to the line. These contractors will need higher insurance coverage, which leads to higher construction costs. Costs and construction delays will be increased when scheduling pipeline outages while NJNG maintains adequate gas service to its customers. Future pipeline relocation to accommodate roadway construction could require Board approval, resulting in increased costs and delays. NJNG may also have financial constraints that delay or prevent the Company from performing the relocation work. Additionally, the County will incur additional costs to coordinate with NJNG to accurately locate the line, perform test pits, conduct survey work, and perform traffic control. Overall costs will increase by twenty-five (25) to fifty (50) percent. BC-1 2:41-4:73.

As set forth in section A above, Mr. Wyckoff stated in his rebuttal testimony that NJNG will work with Burlington County to relocate the Project in the unlikely event that SRL is incompatible with Burlington County's future plans. Proper project planning will avoid delays and extra costs. Exhibit P-5 4:5-10.

#### **IV. POST-HEARING INITIAL BRIEFS**

Pursuant to the modified briefing schedule issued by Commissioner Solomon on January 5, 2016, post-hearing initial briefs were submitted by the parties on January 22, 2016.

##### **1. NJNG**

In its post-hearing initial brief ("NJNG Initial Brief"), NJNG contends that it has submitted indisputable evidence in this matter that the Project is reasonably necessary for the service, convenience or welfare of the public and requests that the Board issue an Order finding that it is exempt from local zoning regulations and ordinances and designate the route for the SRL through certain municipalities. NJNG Initial Brief at 2-3.

NJNG initially argues that, under the established legal principles pertaining to N.J.S.A. 40:55D-19, the Board must grant the relief requested by Petition. To obtain an order from the Board exempting a multi-municipality infrastructure project from local zoning ordinances and regulations, a public utility must demonstrate (1) that the proposed project is reasonably—but not absolutely or indispensably—necessary for the service, convenience or welfare of the entire public served by the public utility, taking into account the affected municipalities' zone plans and zoning ordinances and the physical characteristics of the affected land and surrounding neighborhood (and the effect of the proposed use on that land and neighborhood) and (2) that the site, method or route chosen for the proposed project is the best available, and thus its use is reasonably necessary, based on consideration of alternative sites, methods and routes and their comparative advantages and disadvantages to all interests involved, including costs. NJNG claims that it has presented evidence overwhelmingly satisfying both of these criteria. NJNG Initial Brief at 21.

With respect to the issue of need, NJNG emphasizes that the Project is needed to support the reliability and system integrity of NJNG's intrastate transmission system by providing a redundant transmission feed because currently more than eighty-five (85) percent of NJNG's winter season peak day gas supply is provided by one supplier, which delivers to NJNG's city gate Middlesex County. That supplier is located northwest of NJNG's service area and outside of its franchise area. Because the majority of the natural gas NJNG delivers is supplied through this location, the Company alleges that its customers in the Central and Ocean Divisions—and, in particular, those at the southern end of NJNG's system, in Ocean, Burlington and southern Monmouth Counties—could be adversely affected by a supply interruption or system failure in the interstate pipelines, the gate station or NJNG's transmission backbone system. The SRL Project would connect the natural gas system that serves these customers to a new interstate supply point in Chesterfield in Burlington County and would terminate in Manchester in Ocean County. By creating a new major feed connecting to the southern portion of NJNG's service area, the Project supports the safe, reliable, and resilient delivery of natural gas to NJNG customers in Ocean, Burlington and Monmouth Counties. Id. at 21-22.

Relying on discovery responses, NJNG also states that the goal of the SRL will support and advance the State's 2011 Energy Master Plan<sup>9</sup> ("EMP"), which expresses the need for additional natural gas supply and/or reliable natural gas transportation in New Jersey. NJNG Initial Brief at 22-23. The Company also refers at length to Mr. Lynch's testimony for an explanation of the need for the SRL Project. Id. at 23-27.

In sum, NJNG argues that the Petition presents overwhelming evidence establishing that the Project provides critically important benefits to the public as a redundant transmission feed, and is therefore reasonably necessary for the service, convenience or welfare of the public. Id. at 27. According to NJNG, none of the interveners presents any evidence or argument to dispute this demonstration. Mayor Durr's testimony makes no attempt whatsoever to dispute the Project's significant benefits or that it is reasonably necessary for the service, convenience or welfare of the public.

The Company relies on Burlington County's opening statement that it "never opposed" the Project and, in fact, adopted a resolution on June 10, 2010, stating that it does not oppose it "the construction of a natural gas pipeline that will create jobs for local residents, assist the operations of [the Joint Base]" and "provide services to [its] neighbors in Ocean County." Id. at 27-28. Burlington County also confirmed at the evidentiary hearing that it concurs in the assessment that the SRL is reasonably necessary, particularly for system redundancy purposes, and its counsel cited to this conclusion made by the former Joint Base commander and present Joint Base commander. Id. at 28. NJNG further states that, despite Chesterfield's argument to the contrary, the evidence in the record demonstrates beyond dispute that the Project is reasonably necessary for the service, convenience or welfare of the entire public served by the Company. Id. at 29.

As for the selection of the route, NJNG asserts that the evidence in the record overwhelmingly establishes that the route chosen and proposed by the Company is the best available. The Company refers to Mr. Baker's testimony and the Amended Petition and states that it has demonstrated beyond dispute that it extensively analyzed the advantages and disadvantages of numerous alternative routes for the Project and its analysis makes clear that the route chosen for the Project is the best one available. Id. at 30-37.

The Company addresses the alternative routes proposed by Chesterfield and North Hanover, arguing that the evidence demonstrates beyond dispute that the only two (2) alternative routes for which these interveners have advocated are not feasible. The record demonstrates that these proposed alternative routes would involve the Project traversing preserved farmland and a section of the Joint Base, which NJNG argues causes them to be unviable. The Company points out that Burlington County concurs in that assessment, referring to the opening statement made by counsel for Burlington County at the evidentiary hearing. Id. at 37-42.

According to the Company, North Hanover and Chesterfield's remaining arguments regarding other complaints and concerns about the proposed route and its purported impact on specific features of their municipalities. Leaving aside that none of these interveners proposes an alternative route that is even feasible much less preferable to the selected route, the record evidence demonstrates that their complaints and concerns are unfounded. Id. at 43.

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<sup>9</sup> The 2011 New Jersey EMP is available at [http://www.nj.gov/emp/docs/pdf/2011\\_Final\\_Energy\\_Master\\_Plan.pdf](http://www.nj.gov/emp/docs/pdf/2011_Final_Energy_Master_Plan.pdf).

The Company claims that while Mayor Durr's concerns regarding Arneytown are understandable, they were taken into account and addressed by NJNG, both when selecting a route and when devising measures to minimize the impact of the SRL on the towns affected by that chosen route. Id. at 45. The evidence refutes Mayor Durr's contention that NJNG failed to take Arneytown and the Doyle Cemetery into consideration in designing the SRL Project. To the contrary, NJNG reiterates that it has gone, and will continue to go, to great lengths to ensure that the features of North Hanover—and all other towns through which the SRL will pass—are not negatively impacted by the Project. Id. at 47-48. NJNG further states that the evidence presented in this matter establishes beyond dispute that Mayor Liedtka's safety concerns regarding the SRL, while understandable, are unfounded, and present no impediment to granting the relief requested. Id. at 51.

## 2. Rate Counsel

Rate Counsel, in its post-hearing initial brief ("Rate Counsel Initial Brief"), contends that the Company has not provided sufficient evidence to allow the Board to determine that the cost of the Project is "reasonably necessary" pursuant to the New Jersey Supreme Court's interpretation of N.J.S.A. 40:55D-19. Id. at 1. Pursuant to this statute and its subsequent legal interpretations, Rate Counsel submits that the Board is required to consider the costs of the SRL in reaching its determination, which has not been adequately determined. Rate Counsel refers to Mr. Lynch's testimony wherein he states that the Company cannot determine costs until a final route determination has been made by the Board. Id. at 5. Rate Counsel argues that the Company has not provided other cost scenarios to demonstrate that the Project is less costly than alternatives and it has not provided comprehensive information regarding lasting effects on the local and State economy to reasonably compare the scope and scale of the project. Id. at 6. Rate Counsel requests that the Board reserve judgment on this matter and require more accurate cost estimates of the Project after the Pipeline Safety Proceeding is resolved. Id. at 7.

Rate Counsel also argues that ratepayers should not be charged the full cost for a thirty (30) inch versus a twenty-four ("24") inch pipeline. In Mr. McGee's direct testimony, it is clear that only a portion of the Project should be borne by ratepayers. Citing to Atlantic City Sewage Co. v. Board of public Utilities Comm'rs, 128 N.J.L. 359, 365 (1942) and In re Petition of Jersey Central Power and Light Co., 85 N.J. 520, 529 (1981), Rate Counsel claims that the Company can only pass on costs to ratepayers that are deemed "used and useful in the public service" and, in this matter, the Company has not provided evidence to support that the entire width of the Pipeline would be "used and useful." Id. at 7.

According to Rate Counsel, the Company offered three (3) reasons for selecting the larger diameter pipeline. The first reason is that was selected by performing iterative flow modeling of its existing system with various demand and supply configurations under design day conditions with the SRL in place. According to Rate Counsel, the Company's discovery responses indicate that a twenty-four ("24") inch pipeline is more than sufficient to deliver the entire 180,000 Dth/day of gas required. The second reason offered by the Company is that the Pipeline is equal to its existing system connecting with the TETCO supply. To this end, Rate Counsel asserts that the Company may choose to build the larger size, but oversizing a pipeline is not in the interest of and shouldn't be the responsibility of ratepayers. The Company's final reason is that the larger diameter will allow greater capacity from the Transco supply in the future. However, Rate Counsel asserts that future growth cannot be part of the decision to size and allocate the cost of the pipeline in the most economical method for ratepayers. Id. at 8.

In sum, since the Company has not provided accurate cost estimates for the project, Rate Counsel emphasizes that the Board cannot determine whether the benefits of the Project outweigh the cost to ratepayers and it cannot determine whether the cost is "reasonably necessary" compared to potential alternatives. Moreover, Rate Counsel claims that when more precise cost assessments are presented, ratepayers should only bear the cost of a twenty-four (24) inch diameter pipeline, and not the proposed thirty (30) inches, since the Company has not demonstrated that the full diameter will be "used and useful" for public service.

### 3. Governmental Entities

#### a. Burlington County

Burlington County filed its post-hearing initial brief ("Burlington County Initial Brief"), which attached as Exhibit A Resolution 2015-00792, entitled "Burlington County Board of Chosen Freeholders Policy, Procedures and Specifications Manual for Road Occupancy, Road Opening, Driveway Access, Charitable Solicitation and Municipal Events," adopted on December 28, 2015.

Burlington County reiterates that it has never opposed this Project. In fact, it refers to Burlington County Resolution 2015-282 adopted by the Freeholders on June 10, 2015, which reads "The Board does not oppose the construction of a natural gas pipeline that will create jobs for local residents, assist the operations of Joint Base McGuire Dix and Lakehurst and ultimately provide services to our neighbors in Ocean County." Burlington County Initial Brief at 1. It also recognizes that both the former and current commanders of the Joint Base have supported this project. Id. at 1-2.

Rather, Burlington County claims that it intervened in this matter to oppose the route of the Pipeline along county roads and to clarify the actual alignment and placement of the Southern Reliability Link along the designated route. Burlington County refers to the same resolution in which the Freeholders supported the Project and points out that they also voiced their disapproval of the route and asked the Board to consider alternate routes that would minimize the impacts on Burlington County Roads, residents, taxpayers and the affected communities. This position was reaffirmed at the Freeholders meeting on November 25, 2015. Burlington County believed that there was a better route for the SRL and advanced and supported two (2) alternate routes for the construction of the Pipeline. Id. at 2. Burlington County details the course of events by which those routes were deemed infeasible. Id. at 2-4.

Burlington County states that it is unable to identify other alternative routes for the Pipeline. Accordingly, as Burlington County does not oppose the Project, it leaves it to the Board to determine whether NJNG's designated preferred route is appropriate. Id. at 4. Nevertheless, Burlington County asserts that, if the Board approves the Project, the Company should be compelled to construct the Pipeline in accordance with Burlington County road opening permit regulations. It cites to various case law for the proposition that it is nonetheless permitted to exercise its zoning power, despite the fact that this matter involves a public utility. It argues that its policies, procedures and specifications for road occupancy, road opening and driveway access are reasonable and the Company should be required to abide by them. Id. at 4-5.

b. Chesterfield

In its post-hearing initial brief ("Chesterfield Initial Brief"), Chesterfield argues that NJNG has overwhelmingly failed to demonstrate that the Southern Reliability Link is "reasonably necessary for the service, convenience or welfare of the public." Chesterfield urges the Board to consider and balance all of the facts and circumstances that it has been presented with over the last several months. The Board should also be aware of the lack of tangible support, proof, and independent corroboration of NJNG's claims of reliability and redundancy. The Company's bases of support for this Project are bald assertions which NJNG likely believed would never be questioned or challenged. Chesterfield also urges the Board to withhold approval and designation of NJNG's "preferred route" based on a failure to meaningfully analyze the alternate route proposed by Chesterfield. Chesterfield Initial Brief at 4-5.

Chesterfield states that NJNG has failed to demonstrate the likelihood of a supply interruption or system failure that would detrimentally impact NJNG customers, and without more, the mere possibility of a supply interruption or system failure does not make the SRL "reasonably necessary for the service, convenience or welfare of the public." NJNG has failed to show that a supply interruption or system failure is an imminent threat when, historically, this is a rare occurrence that the Company has sufficiently managed over the last sixty (60) years without the SRL. NJNG provides no basis, studies, or reports that calculate the likelihood of a "worst case scenario" event occurring and disrupting service to customers. Finally, the Company's reliance on Superstorm Sandy is misleading. Had the SRL been in operation when NJNG depressurized the local distribution system on the Barrier Islands, without a connection onto the Islands, the SRL would have been ineffectual to returning gas service to those affected customers. For these reasons and without showing that a supply interruption or system failure is more than just a mere possibility, NJNG has failed to show that a project as costly and disruptive as the SRL is reasonably necessary for the service, convenience or welfare of the public. Chesterfield Initial Brief at 6-9.

NJNG's admissions to discovery requests propounded by Chesterfield undermine all assertions that the SRL serves a military purpose or in any way benefits the Joint Base. The Board is left only to consider unremarkable and vague statements that completely fail to prove that the Joint Base is a beneficiary of the Pipeline. Id. at 11. NJNG relies heavily on a letter from the Joint Base commander to support its petition; however, the letter makes statements that completely contradict NJNG's own admissions regarding the Pipeline's supposed benefits to the Joint Base. Id. at 13.

Aside from Superstorm Sandy as a reason why the SRL should be deemed "reasonably necessary," NJNG's Petition before the Board hinges on whether the Project will benefit the Joint Base. In turn, the proof is merely a single letter that is barely one page in length, signed by Colonel Frederick D. Thaden and dated November 6, 2015. Chesterfield submits that the Board should be troubled by the Company's reliance on this letter. Id. at 13-14. Chesterfield claims that the Board should be skeptical of NJNG's reliance on the November 6 letter as a basis for proving the Joint Base's supposed need for the SRL because of the sheer amount of inconsistencies between the naked assertions made in the letter and the admissions made by the Company throughout discovery. The letter contains three statements that cannot possibly be factually accurate, based on discovery responses provided by NJNG. Chesterfield urges the Board and its Staff to scrutinize the letter upon which NJNG places so much emphasis to support the "need" for its project. Id. at 15.

In addition, while the November 6 letter indicates that a meeting was held on October 29, 2015, and NJNG insists that "stakeholder outreach" is important to the Company, no invitation to attend meetings involving Joint Base leadership was extended to the local officials of Chesterfield. Therefore, Chesterfield has not had an opportunity to have discussions with Joint Base officials as to the need for the SRL or the benefits to be gained from the SRL. Id. at 14.

Chesterfield reiterates that NJNG's repeated invocation of Superstorm Sandy and curtailments experienced during that storm fail to support the assertion that the SRL is "reasonably necessary for the service, convenience or welfare of the public." Id. at 18-21. Chesterfield points out that the only evidence in the record that lends any support to NJNG's assertion that the SRL is "reasonably necessary for the service, convenience or welfare of the public" is a statement made by the company's own Senior Vice President of Energy Delivery. Chesterfield emphasizes that a theme throughout the record is NJNG's failure to provide a single study, report, or analysis which supports any of the Company's assertions that the SRL will improve reliability of natural gas supply or that the SRL is "reasonably necessary for the service, convenience or welfare of the public." Id. at 21-23.

Lastly, Chesterfield asserts that NJNG has failed to properly analyze and vet a viable alternate route for the SRL that was proposed by Chesterfield and endorsed by Burlington County. A major component of NJNG's Petition is to seek the Board's designation and approval of the "preferred route." This route is more accurately described in the AECOM Alternatives analysis attached to the Petition. Chesterfield's concerns lie not only with the absence of public necessity for the Project at all, but secondarily with the choice of "Route B" for Section One (1) of the preferred route. These concerns are well documented throughout the record. Chesterfield urges the BPU to deny the designation and approval of NJNG's preferred route. The route proposed by Chesterfield cannot be ignored simply because NJNG says it cannot be done. If a law exists prohibiting the SRL from being installed within the JCP&L ROW, that law was required to be identified and produced as part of the record. Id. at 24-27.

#### c. North Hanover

In its post-hearing initial brief ("North Hanover Initial Brief"), North Hanover asserts that, based upon the facts and evidence presented, and specifically as it relates to North Hanover, it is clear that NJNG has failed to meet its burden of demonstrating that the SRL Project is "reasonably necessary" and therefore this Board must deny the application. North Hanover Initial Brief at 2.

North Hanover states that the Company failed to consider the physical characteristics of the proposed route for the SRL, as described in Mayor Durr's testimony at the evidentiary hearing, discussed supra, and its impact on the surrounding neighborhoods. Id. at 3-7. Alternatively, North Hanover argues that, given the significance of this Project and the universal opposition by the communities and residents in Burlington County to NJNG's preferred route for the SRL, NJNG should be made to further consider an alternative route that includes the JCP&L ROW. Id. at 7-8.

#### 4. PPA

In addition to filing a post hearing initial brief ("PPA Initial Brief"), PPA filed Exhibits A through Q, which included the following:

- (1) Exhibit A – Transcript of a New York City Analyst Meeting hosted by New Jersey Resources C.E.O., Larry Downes, and Craig Lynch, on October 23, 2013;

- (2) Exhibit B - Memorandum from Greg Lander of Skipping Stone to Carleton Montgomery, PPA Executive Director, dated January 19, 2016 and curriculum vitae of Greg Lander;
- (3) Exhibit C - Correspondence from Micah Rasmussen to Irene Kim Asbury, Board Secretary, dated October 8, 2016;
- (4) Exhibit D – Email correspondence, dated May 12, 2014;
- (5) Exhibit E – Email correspondence, dated June 9, 2014;
- (6) Exhibit F – Email correspondence, dated October 15, 2014;
- (7) Exhibit G – Email correspondence, dated October 28, 2014;
- (8) Exhibit H – Email correspondence, dated December 1, 2014;
- (9) Exhibit I – Correspondence from Colonel Frederick D. Thaden, United States Air Force to the Assemblyman Dancer, date stamp received November 6, 2015;
- (10) Exhibit J – Correspondence from Barry Baker to Ernest Deman, Supervising Environmental Specialist at the New Jersey Pinelands Commission, dated November 30, 2015
- (11) Exhibit K –Final Environmental Assessment of Installation Development at Joint Base McGuire-Dix-Lakehurst, New Jersey, prepared by the Department of the Air Force for Headquarters, Air Mobility and Command and Joint Base McGuire-Dix-Lakehurst, dated February 2014
- (12) Exhibit L –Final Environmental Assessment for the Central Issue Facility at Joint Base McGuire-Dix-Lakehurst, New Jersey, prepared by the EHS Technologies, Moorestown, New Jersey, dated May 2013;
- (13) Exhibit M –Final Environmental Assessment, Solar Panel Systems at Joint Base McGuire-Dix-Lakehurst, prepared by the EHS Technologies, Moorestown, dated March 2012;
- (14) Exhibit N – Environmental Protection Agency Superfund Record of Decision, AJROD1R02-99/081, dated September 27, 1999;
- (15) Exhibit O – Draft 2013 Annual Progress Report Natural Restoration Study Lakehurst Areas I and J, prepared by URS Corporation for the Army Corps of Engineers, dated July 1, 2014;
- (16) Exhibit P - Environmental Baseline Study for the Southern Reliability Link Project, prepared by URS Corporation for New Jersey Natural Gas Company, dated December 12, 2014; and
- (17) Certificate of Filing issued by the Charles Horner, P.P., Director of Regulatory Programs at the New Jersey Pinelands Commission, dated December 9, 2015.

PPA claims that the Pipeline is not necessary and is not in the public interest because (1) there is no record evidence sufficient to demonstrate that a redundant transmission line is necessary or in the public interest; (2) NJNG has not provided a rational or sufficient basis for the claim that a redundant transmission line is necessary or appropriate in this situation; (3) given the redundant design of NJNG's existing transmission network, SRL will not even provide needed redundancy; and (4) the SRL is part of a larger corporate business plan to benefit NJNG and its parent company at the expense of NJNG's ratepayers. PPA Initial Brief at 2-11.

Next, PPA asserts that the proposed route of the SRL does not comply with the Pinelands CMP and is not being built to serve the natural gas needs of the Joint Base. PPA states that there has been no determination that the Pipeline route complies with the Pinelands CMP. PPA states that the Pinelands Commission issued a COF, but that this document does not constitute a Pinelands Commission review of the merits of the application or an approval of the Project. Nor has the Board itself made such a determination for the Pinelands Commission. Nothing in Board's statute or regulations provide for it to make such a determination, and the Board has made clear in this proceeding that its hearings and decision making does not include taking responsibility for determining Pinelands CMP compliance. Thus argues PPA, Board approval would be premature until the Project is fully evaluated by the Pinelands Commission. Id. at 11-12.

PPA also alleges that the Pipeline as proposed is not associated with the functions of the Joint Base. The record demonstrates that the proposed route is not associated with the function of the federal installation, and it is feasible to build the Pipeline outside the Preservation Area because (1) the SRL has absolutely nothing to do with serving the Joint Base, according to PPA, and the claimed connections between the project and serving the base are simply inventions to make regulatory approvals easier on NJNG; (2) the report entitled "Final Environmental Assessment of Installation Development at Joint Base McGuire-Dix-Lakehurst, New Jersey" dated February 2014, concludes, amongst other things, that the base's natural gas facilities are adequate; and (3) the Joint Base endorsed installation of substantial solar energy generating facilities in 2012 in order to both reduce energy costs and to meet renewable energy goals of the Energy Policy Act of 2005. PPA concludes, therefore, that there is no association between the function of the Joint Base and the Pipeline, and the only purported "future" benefits are nothing more than an attempt to streamline the process with the Pinelands Commission. Id. at 12-17.

PPA further argues that the Joint Base is listed on the National Priorities List under the Comprehensive Environmental Response, Compensation and Liability Act, and the Pipeline route runs through two (2) Superfund sites, which are subject to Records of Decisions approved by the Environmental Protection Agency. The proposed pipeline route runs through large areas specified by DEP as Classification Exception Areas due to soil and groundwater contamination, including at least two (2) sites Superfund sites identified as Areas "C" and "I-J" on the Joint Base. Id. at 18 (citing <http://www.nj.gov/dep/srp/guidance/ceaJ>).

PPA states that the alternative route analysis is biased and fails to consider multiple factors making it incomplete and unreliable. Id. at 18-19. AECOM assumes that use of the JCP&L ROW based on the premise that the existence of preserved farms under the state's farmland preservation program represents a "fatal flaw" to this route. Id. at 20-21.

PPA states that NJNG's discovery response regarding discussions with the State Agricultural Development Committee ("SADC") misrepresents the state of the law on the use of such a

ROW through preserved farmland. In fact, PPA argues that state law permits the condemnation of an easement on preserved farmland with the Governor's consent. The SADC "guidance document" cited in NJNG's response to S-NJSRL-10d is incorrect to the extent it assumes that utilities do not have powers of eminent domain. Id. at 22.

PPA states that NJNG concedes it has no precedent for the weighting of factors used in the study for this case. Instead, it claims that even the weighting of factors is unique to each study, essentially ensuring that each analysis will be tailored and biased to justify the client's preferences. Id. at 23.

PPA reiterates that that the board should deny NJNG's Petition because the SRL is not for the service, convenience or welfare of the public and the alternative routes analysis is unreliable, and the Board cannot properly compare the advantages and disadvantages of all interests involved. Additionally, PPA restates that the Board cannot approve the SRL because it violates the CMP, the Board cannot waive compliance with the CMP, and N.J.S.A. 40:55D-19 does not apply to municipal ordinances and procedures adopted pursuant to the Pinelands Protection Act and CMP. Id. at 24-33.

## **V. POST-HEARING REPLY BRIEFS**

### **1. NJNG**

In its post-hearing reply brief ("NJNG Reply Brief"), NJNG asserts that it has demonstrated that the SRL is reasonably necessary for the service, convenience or welfare of the public because it will act as a major redundant gas feed from a different interstate supply source for the customers in NJNG's Central and Ocean Divisions, an area that currently receives more than eighty-five (85) percent of its winter season peak day gas supply from a single interstate supplier, TETCO. The attempts by the interveners and participants in their post-hearing briefs to undercut that overwhelming showing are unavailing. NJNG Reply Brief at 1-2.

NJNG argues that the demonstration is not based solely on a "hypothetical occurrence." It would surely be poor—if not grossly irresponsible—planning for NJNG to wait for a catastrophic event resulting in widespread loss of gas service before taking steps to avoid or mitigate such an event, citing Exhibit P-3 6:20-7:8. As Mr. Lynch testified at the December 7, 2015 evidentiary hearing, having all of NJNG's "eggs in one basket" by relying a single interstate feed for nearly all of its gas supply in the Central and Ocean Divisions is simply, and quite obviously, not a good idea, citing T 52:17-21. Id. at 3-4.

NJNG also states that it always acknowledged that Superstorm Sandy did not involve an interruption in the interstate gas supply. Nonetheless, Superstorm Sandy is significant because it demonstrated to NJNG the devastating impact that an extensive curtailment of service can have on its customers. In addressing Chesterfield's assertion that the Company has failed to demonstrate that a supply interruption or system failure is an imminent threat, NJNG states that such a showing would require NJNG to demonstrate not that the Project is reasonably necessary, but that it is "absolutely or indispensably" necessary, which the New Jersey Supreme Court has expressly held is not the standard, citing In re Public Service Electric & Gas Co., 35 N.J. 358, 377 (1961). Id. at 6-7.

NJNG refutes the assertion that the reasonable necessity of the Project is not based on any need of or benefit to the joint base. The Project will act as a major redundant gas feed for NJNG's Central and Ocean Divisions. Chesterfield's and the PPA's arguments regarding the Joint Base are misguided and provide no basis to deny the Petition. Id. at 7-9.

NJNG asserts that North Hanover has presented nothing to contradict the showing that the Project is reasonably necessary for the service, convenience or welfare of the public. According to NJNG, North Hanover's brief simply reiterates the arguments made by its Mayor Durr in his direct testimony. Id. at 9-12.

In addressing Rate Counsel's assertion concerning the cost of the Project, NJNG has presented evidence that the benefits of the SRL outweigh its likely cost. Id. at 13-14. By insisting that NJNG present final costs associated with the Project, Rate Counsel is attempting to convert this application under N.J.S.A. 40:55D-19 into a rate recovery proceeding. NJNG is not seeking on this Petition recovery of any costs or approval of a cost recovery mechanism. NJNG has filed a separate rate recovery proceeding, which will address whether the costs NJNG incurs in connection with the SRL Project are reasonable and prudent. Id. at 15-16.

Nonetheless, NJNG asserts that it has proffered sufficient evidence to permit the Board to determine that the estimated cost of the Project is reasonable from the perspective of New Jersey ratepayers. Likewise, NJNG has demonstrated the benefits resulting from the Project to permit the Board to consider the costs of the Project and determine that it is reasonably necessary for the service, convenience or welfare of the public. Id. at 17-18.

NJNG claims that the Board should reject PPA's contention that the SRL will not provide redundancy for NJNG's existing system. As a participant, argues NJNG, PPA does not have the right to introduce evidence, such as the Lander report, into the record. Id. at 19-21.

In addressing the PPA's arguments regarding the Project's consistency with the CMP, the Company argues that the question of whether the Project complies with the requirements of the CMP is not before the Board. Compliance with the CMP is an issue for the Pinelands Commission, not the Board on this Petition. NJNG also states that the Pinelands Commission issued a COF as a result of NJNG's completion of its application. The COF does not indicate that the Project is in any way inconsistent with the CMP, citing N.J.A.C. 7:50-4.34 (authorizing the Certificate of Filing to "identify any inconsistencies of the proposed development with the standards of the [CMP]").) It is indisputable, therefore, that the SRL Project is consistent with the CMP, claims NJNG. Id. at 21-22.

NJNG reiterates that it has demonstrated that the JCP&L ROW route is not feasible because it would traverse preserved farmland that NJNG is prohibited as a matter of law from utilizing. Id. at 23-26. Finally, NJNG argues that the Board should decline Burlington County's attempt to undermine the Project through the adoption of post hoc zoning regulations in the guise of road opening policies and procedures. NJNG states that it has not asked the Board to exempt it from zoning regulations, including the post hoc zoning attempt reflected in the Road Opening Policies, merely because a utility is involved. Id. at 27-29.

In conclusion, NJNG requests that the Board (a) determine that the Project is necessary to maintain system integrity and reliability, supports the 2011 EMP, and is reasonably necessary for the service, convenience or welfare of the public; (b) order that the zoning, site plan review and all other municipal land use ordinances and regulations promulgated under the auspices of

the MLUL shall not apply to the Project; (c) designate the route for the Project as described in the Petition; and (d) authorize the Company to construct, lay, maintain and use facilities, conductors, mains and pipes, with the appurtenances thereto, in, through and beyond the public streets, roads, highways and/or places of the counties and municipalities described herein, for the purpose of transmitting through the same natural gas for use in its business. Id. at 29-30.

## 2. Rate Counsel

By letter dated January 29, 2016, Rate Counsel advised the Board that it would not be filing a post-hearing reply brief in this matter, but would instead rely entirely upon its Initial Brief filed on January 22, 2016.

## 3. Governmental Entities

### a. Burlington County

Burlington County did not file a post-hearing reply brief.

### b. Chesterfield

In its post-hearing reply brief ("Chesterfield Reply Brief"), Chesterfield claims that NJNG does not have the "lawful authority" to lay or maintain gas pipes or mains for the purposes of distributing or transmitting natural gas within the boundaries of Chesterfield. Therefore, Chesterfield argues that the Board cannot force Chesterfield to allow the SRL simply by designating the Company's preferred route. Chesterfield Reply Brief at 1-6.

Chesterfield also argues that, according to N.J.S.A. 48:9-24, NJNG's lawful authority to transmit gas through Chesterfield is contingent on NJNG's lawful authority to first distribute gas through Chesterfield. Since NJNG lacks lawful authority to distribute gas through Chesterfield, it also lacks lawful authority to transmit gas through Chesterfield. Further, according to N.J.S.A. 48:9-25.4, the Board is not needed to designate a pipeline route since Burlington County, Chesterfield, North Hanover, Plumsted, and various public officials have already designated an alternate, practicable route. Id. 7-10.

In addition, municipal consent as a prerequisite to the presence of a gas company's infrastructure within a municipality is a recurring theme throughout Title 48, Chapter 9. The statutes from Title 48, Chapter 9 must be harmonized with consideration given to the plain language stated within. When examples of plain language consist of "permission," "consent," and "lawful authority," the intent of the Legislature was never to allow the Board or a gas company to force a municipality which did not consent to the company's presence or installation of infrastructure within its boundaries to accept such infrastructure against its will. Chesterfield urges the Board to refrain from treating this Petition like other petitions where municipalities may have already been serviced by a gas company or demonstrated consent to the company's installation of a pipeline by passing a resolution or ordinance in favor of the pipeline. Id. at 10-11.

In sum, NJNG has presented no proof which demonstrates that the SRL is reasonably necessary for the service, convenience or welfare of the public. Instead, NJNG relied upon the "trust me" approach in support of its Petition. Id. at 11-13.

c. North Hanover

In its post-hearing reply brief ("North Hanover Reply Brief"), North Hanover states that it joins in the arguments set forth by Chesterfield, the PPA and Burlington County in each party's respective post-hearing brief as a basis for the Board to find that NJNG has not met its burden pursuant to N.J.S.A. 40:55D-19, thereby making all local ordinance and regulations promulgated pursuant to the MLUL applicable to the Project. Furthermore, NJNG's conclusory determination that it has met the necessary requirements for exempting it from local zoning ordinances and regulations is simply not supported by the record. North Hanover Reply Brief at 1-2.

North Hanover states that with regard to Arneytown, NJNG did not and cannot provide the Board with any evidence that it fully evaluated the structures in Arneytown, the potentially negative impact that the Project will have on those structures and how it will avoid those impacts. NJNG also demonstrated a similar attitude towards the General Doyle Cemetery. Id. at 3-4. North Hanover reiterates that, while these are just two (2) examples of how NJNG has failed to demonstrate that the Project is reasonably necessary or that its proposed route is the best available route, they do illustrate the manner in which NJNG has simply failed to provide sufficient evidence and detail that is required for this Board. Id. at 4-5.

4. PPA

In its post-hearing reply brief ("PPA Reply Brief"), PPA argues that the Board should deny the petition because unsubstantiated possibilities and hypotheticals do not provide a rational basis for imposing massive costs on ratepayers, communities and the Pinelands. NJNG never undertook a genuine study of transmission-system failure scenarios and the most cost-effective means of addressing each situation. PPA Reply Brief at 1-2.

PPA again argues that the SRL does not comply with the CMP because the COF is not an approval, and imposes numerous environmental standards that the Company has not met. The issuance of the COF does not confer a blanket approval of all the conditions required for the preferred route. Id. at 2-5.

PPA further states that the Petition, Amended Petition and discovery responses demonstrate that the SRL is not associated with the functions of the Joint Base, contrary to its submissions to the Pinelands Commission and the assumptions of the base commander. Id. at 5-8.

Additionally, PPA claims that N.J.S.A. 40:55D-19 does not authorize the Board to negate compliance with the Pinelands CMP through municipal land use procedures and ordinances. The Board does not have the legal authority to exempt NJNG from the strict procedures and land use requirements of the Pinelands Protection Act and the CMP which are incorporated into municipal ordinances in order to ensure the "continued, uniform, and consistent protection of the pinelands area ...." Id. at 8-9.

**VI. DISCUSSION AND FINDINGS:**

The Board has previously authorized the construction of the Pipeline pursuant to N.J.A.C. 14:7-14 in the January 27, 2016 Order, finding that the Pipeline as proposed meets the requirements

of N.J.A.C. 14:7 and Federal safety requirements.<sup>10</sup> However, the standard to be applied in the present matter is set forth in N.J.S.A. 40:55D-19, which states that a public utility proposing a multiple-municipality project may petition the Board and that if, after hearing on notice to the affected municipalities, the Board finds that “the proposed installation of the development in question is reasonably necessary for the service, convenience or welfare of the public” then any ordinances or regulations promulgated under N.J.S.A. 40:55D, the MLUL, shall not apply to the Project.

The courts of this State have interpreted the standards set out above. Preliminarily, it should be noted that in making its decision, the Board has an obligation to weigh all the interests and that, in the event the interests are equal, the utility should be entitled to preference because the legislative intent is clear that the broad public interest to be served is greater than local considerations. See In re Public Service Electric & Gas Company, 35 N.J. 358, 377 (1961); In re Monmouth Consolidated Water Co., 47 N.J. 251 (1966); In re Application of Hackensack Water Co., 41 N.J.Super. 408 (App. Div. 1956). The Board further notes the applicable legal principles established In re Public Service Electric & Gas Co., 35 N.J. at 377:

- (1) The phrase “for the service, convenience and welfare of the public” refers to the whole public served by the utility and not the limited group that benefits from the local zoning ordinance;
- (2) The proposed use must be reasonably, not absolutely or indispensably, necessary for the service, convenience and welfare of the public;
- (3) The particular site or location must be found to be “reasonably necessary” and so the Board must consider the community zoning plan, the physical characteristics of the site, and the surrounding neighborhood;
- (4) Alternative sites and their comparative advantages and disadvantages, including cost, must be considered in determining reasonable necessity; and
- (5) The Board must weigh all interests and factors in light of all of the facts, giving the utility preference if the balance is equal, because the legislative intent is clear that the broad public interest is greater than local considerations.

See also, In re Public Service Elec. and Gas Co., 2013 WL 490171 (App. Div. 2013) (affirming the Board’s determination that the upgrade of the New Jersey portion of a 500 kV transmission system from Berwick, Pennsylvania to Roseland New Jersey (Susquehanna-Roseland Project) proposed by PSE&G was “reasonably necessary for the service, convenience and welfare of the public”).

At the outset, the Board will address several of the exhibits that were filed conjunction with PPA’s Initial Brief. While no formal certification was filed along with the Exhibits, PPA seeks to submit various documents to the Board for its consideration including some that were filed with the Pinelands Commission, as well communications related to the Company’s applications to that agency, redacted email correspondence, and a transcript from a New York City Analyst

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<sup>10</sup> See I/M/O the Petition of New Jersey Natural Gas Company for Approval and Authorization to Construct and Operate the Southern Reliability Link Pursuant to N.J.A.C. 14:7-1.4, BPU Docket No. GE15040402, Order dated January 27, 2016.

meeting and New Jersey Turnpike Authority plans. PPA also seeks to introduce environmental studies and economic analyses, Exhibits B, K, L, M, N, O and P, which were not previously presented to the Board or the parties to this proceeding. As the Board previously explained in I/M/O Petition of South Jersey Gas Company for a Determination Pursuant to the Provisions of N.J.S.A. 40:55D-19, BPU Docket No. GO13111049, Order dated December 16, 2015, while N.J.A.C. 1:1-15.2 allows the Board to take official notice of its own documents and the existence of documents issued by a sister agency, the studies which PPA now proffers were never subject to a review process by the Board or the other parties to this matter<sup>11</sup>. Essentially, PPA is attempting to import new evidence into the record, when the authoring witnesses have not been qualified to testify nor been subject to cross-examination. I/M/O Petition of South Jersey Gas Company for a Determination Pursuant to the Provisions of N.J.S.A. 40:55D-19, BPU Docket No. GO13111049, Order dated December 16, 2015 at 41.

Moreover, PPA was granted participant status. Participation is “the process by which a non-party may, by motion, be permitted to take limited part in a proceeding.” N.J.A.C. 1:1-2.1. As a participant, PPA was granted the rights to argue orally and submit a brief. N.J.A.C. 1:1-16.6(c). PPA exercised both of those rights but accompanied its brief submissions with exhibits intending to place additional documents and studies into the record. The brief is a written presentation of legal argument. Facts intended to be relied on which do not already appear of record and which are not judicially noticeable are required to be submitted by way of affidavit or testimony. See Celino v. Gen. Accident Ins., 211 N.J. Super 538, 544 (App. Div. 1986). Only parties, including those who have been granted intervener status under N.J.A.C. 1:1-16.1, have the right to present testimony at an evidentiary hearing on the issues to be determined through the hearing. As a participant, PPA does not have the right to introduce testimony into the record, and certainly not by way of its Initial Brief.

N.J.S.A. 52:14B-10(d) directs that a decision in a contested case must be based only on the evidence in the record. Any of the documents which the PPA seeks to interject into this proceeding that are not subject to official notice by the Board shall not be considered as evidence in this proceeding. The Board will consider them as public comments but afford them no evidentiary value.

#### **A. Need for the Project**

According to Mr. Lynch’s testimony, NJNG serves approximately 510,000 retail customers in Monmouth, Ocean, Morris, Middlesex, and Burlington Counties, with operations separated into four divisions, via a network of two-hundred and twenty-seven (227) miles of large diameter transmission lines, approximately 6,930 miles of distribution mains, and approximately 473,400 service lines. Pressure varies on the NJNG system from utilization pressure up to seven hundred and twenty-two (722) psig. Exhibit P-1A at 2:16-3:12.

Currently, customers in parts of Ocean, Burlington, and Monmouth Counties (together, the “Counties”) are most vulnerable to an interruption of supply from TETCO. These customers are served by a TETCO interconnection that currently provides approximately eighty-five (85) percent of NJNG’s winter peak day gas supply. Exhibit P-1A at 2:2-7. NJNG has a contract volume of 641,590 Dth/day, with a total system capacity of 771,112 Dth/day at that interconnection. See Exhibit S-1 at NJNG response to S-NJSRL-14 and 15. For reference,

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<sup>11</sup> N.J.A.C. 1:1-15.2 allows an agency to take official notice of facts that cannot reasonably be the subject of dispute after notice to the parties and an opportunity to respond.

NJNG's peak send-out in 2015 was 640,937 Dth, occurring on February 20. This volume includes send-out for electric generation. See Exhibit S-1 at NJNG response to S-NJSRL-16.

In the event of a disruption in TETCO supply, it is evident that NJNG's existing two remaining interconnections with Transco, which are also at the northern end of NJNG's transmission system servicing the Counties, lack the ability to maintain adequate pressure at the southern end of the system. These two Transco interconnections have an approximate capacity of 76,500 and 124,500 Dth/day and are their expansion is limited by the existing Transco transportation capacity available. NJNG's LNG facilities can also be utilized to help maintain system pressures. However, the LNG facilities have a maximum send-out of 170,000 Dth/day. At maximum send-out with a full tank, current LNG supplies will last approximately seven (7) to ten (10) days. See Exhibit S-1 at NJNG response to RCR-ENG-2a, b, and c and S-NJSRL18.

Any supply disruption that outstrips the capacity of the existing Transco interconnection and LNG's ability to maintain adequate system pressure will result in the loss of service to customers in the southern portion of the Company's service territory. Should this happen, NJNG would need to isolate portions of the distribution system by shutting line valves and go house-to-house in the isolated area to shut valves at each meter. The extent of the areas isolated depends on the extent of the supply interruption. Once supply issues are resolved, the isolated sections would need to be reenergized and each individual customer would need to be turned back on and their appliances re-lit. See Exhibit S-1 at NJNG response to RCR-ENG-2e.

NJNG, through its testimony and responses to interrogatories, has shown that the potential for an upstream supply interruption or disruption to its transmission backbone system exists. See, i.e., Exhibit S-1 at NJNG response to RCR-ENG-2d, Exhibit P-1A 11:5-19, and Exhibit P-3 at 7:11-8:13. The current TETCO interconnection, at the northern end of NJNG's transmission system servicing the Counties, essentially equates to a single point of failure. The design of SRL, and the fact that it provides an alternate interstate supply source to the southern portion of NJNG's transmission system, mitigates the potential impacts of this failure point.

In the process of developing projects to reinforce NJNG's transmission system, the Company sought to meet three (3) criteria. First, there must be an independent gate station capable of delivering large volumes of gas. Second, it must support the southern end of NJNG's transmission system and, third, it must not provide supply from TETCO. NJNG considered a new station in the northern end of their territory, but this would have required a longer pipeline than SRL to meet the project criteria. Looping options on the existing transmission system were also considered, but this would not have provided the upstream supply diversity sought. Additionally, new LNG facilities would only serve to alleviate short-term supply interruptions. NJNG discussed additional capacity through new gate stations with three (3) interstate pipelines and ultimately selected Transco's proposal to become SRL. See Exhibit S-1 at NJNG confidential response to RCR-ENG-5.

On behalf of Rate Counsel, Mr. McGee's testimony advances an argument that the full capacity of a thirty (30) inch pipeline is not necessary for redundancy purposes. Nevertheless, Mr. Lynch states that, in the event of a reduction in TETCO supply that exceeds the 180,000 Dth/day contract with Transco, and the capacity of a smaller pipeline, the Company could acquire natural gas in excess of the contract volume by entering into transactions with other firm shippers that have transportation rights on the interstate system. Therefore, the 180,000 Dth/day contract is not an appropriate tool to determine the correct size of the pipe for the Project. Exhibit P-3 at 9:1-10:2.

The EMP was released in 2011 and sets forth the strategic vision for the use, management and development of energy in New Jersey, with the overarching goal of saving money while stimulating the economy and protecting the environment. EMP at 1. One of the five (5) major goals of the EMP is to expand in-state electricity resources by promoting the “expansion of the existing [natural gas] pipeline network that serves gas utilities and power plants throughout New Jersey.” *Id.* at 6. An Update to the EMP (“EMP Update”) was released in 2015. The EMP Update recommended no changes to the goals stated in the 2011 EMP and further recommended the continued advocacy “for enhanced intrastate [pipeline] capacity at local levels.” EMP Update at 22. The actions, decisions, determinations and rulings of State government entities with respect to energy “shall to the maximum extent practicable and reasonable and feasible conform” with the provisions of the EMP. N.J.S.A. 52:27F-15(b). In implementing its regulatory powers and its responsibilities, the Board considers the directives of the EMP. Accordingly, the Board **FINDS** that the Project will serve the goals of the EMP in that the Pipeline will add a significant, diverse source of natural gas, while also increasing overall system reliability and reinforcement in NJNG’s service area.

Chesterfield and PPA allege that the need for the Project is undermined by the fact that the Pipeline is not associated with the functions of the Joint Base. As mentioned previously, however, the record reflects that the Pipeline is intended to increase reliability to NJNG’s existing customers in Ocean, Monmouth and Burlington Counties and not solely to serve the Joint Base. Moreover, the additional redundancy provided by SRL to NJNG’s transmission system benefits the Joint Base’s mission, which is served from this system.

Furthermore, the term “public” under the MLUL, as noted above, has been interpreted to mean “the public served by the utility,” not the “limited local group benefited by the zoning ordinance.” In re Public Service Elec. and Gas Co., 2013 WL 490171 (App. Div. 2013) (citing In re Public Service Electric & Gas Co., 35 N.J. at 376-77). Assuming arguendo that the needs of the Governmental Entities and the Company are equal, NJNG is entitled to preference because the legislative intent of the statute is clear that the broad public interest to be served—NJNG’s existing customers in Ocean and Monmouth Counties—is greater than local considerations. *Id.* at \*9-10 (citing In re Public Service Electric & Gas Co., 35 N.J. at 377). The final determination of whether the Project “is reasonably necessary for the service, convenience and welfare of the public” rests with the Board, and not the municipalities. N.J.S.A. 40:55D-19.

As such, the Company has demonstrated the need to address its risk of a supply interruption to its gas transmission system. Furthermore, the pipeline was selected to provide appropriate flows, in the case of curtailments in excess of 180,000 Dth/day. Therefore, the Board **HEREBY FINDS** that NJNG has met its burden of proof, and has shown that the Project “is reasonably necessary for the service, convenience or welfare of the public” pursuant to N.J.S.A. 40:55D-19. The SRL will provide a significant, diverse feed to NJNG’s transmission system and support the integrity of such, while minimizing the risk of an interstate supply interruption.

## **B. Routing**

NJNG, through its consultant AECOM, initially explored five (5) Section One (1) routes and four (4) Section Two (2) routes for SRL in its alternatives analysis. The analysis of these routes includes considerations for engineering feasibility and environmental, historical, and cultural resource impacts, as well as impacts to residences and occupied structures in close proximity to the Pipeline. The analysis gives consideration to, and balances, the interests represented by the parties to this matter. As a result of this analysis, Section One (1), Route B and Section Two (2), Route D represent the Company’s preferred alignment of the SRL. Based on the

alternatives analysis, the preferred route represents the lowest total sum of all normalized and weighted metrics that were assigned to each interest, indicating a lower overall impact.

Three (3) additional primary routes were considered by Board Staff after the original and amended petitions were filed with the Board, and were documented in discovery requests and responses S-NJSRL-20, S-NJSRL-21, and S-NJSRL-22. Several variations on the primary alternative routes were also considered by NJNG and Board Staff. The additional alternative routes included the use of State Route 68 and an existing JCP&L ROW. Much attention was given to alternate routes utilizing State Route 68 and the JCP&L ROW or State Route 68 and an alternate path through JBMDL by interested parties. This is evidenced in multiple public comments and the positions of Burlington County, the Township of Chesterfield, and the Township of North Hanover.

Chesterfield, PPA and North Hanover take exception to the preferred route, claiming that there are more feasible alternatives available, namely routes that follow the JCP&L ROW or traverse through the Joint Base. With respect to the JCP&L ROW, the Pipeline would cross preserved farmland protected under the New Jersey Farmland Preservation Program, known as the Agriculture Retention and Development Act ("ARDA"). N.J.S.A. 4:1C-11, et seq. It was determined that the Pipeline could not be constructed on preserved farmland as it was prohibited pursuant to ARDA, as well as State Agricultural Development Committee ("SADC") regulations. See N.J.S.A. 4:1C-24, 25, 32 (b) and (42); See also N.J.A.C. 2:76-6.15(a)(1). In addition, the utilization of the JCP&L ROW would also require extensive clearing and cross environmentally sensitive areas containing extensive wetlands as well as threatened and endangered species, resulting in a higher overall impact to the interests being balanced in the alternatives analysis.

With respect to Joint Base, a change in the route to traverse the Joint Base from State Route 68 would present undesirable operational impacts to the Joint Base. The route would traverse a range complex and other operational areas, with the possibility of encountering unexploded ordinance. In the November 6, 2015 letter to Assemblyman Dancer, the Joint Base Commander reiterates that NJNG's proposed route was developed in close coordination with Air Force engineering, environmental, and legal experts and remains the best available on-base route. In fact, Burlington County acknowledges that the Joint Base informed Assemblyman Dancer that this alternative route presents numerous impacts to operational requirements to the Joint Base and that, as result, it is unable to present any other viable routes. Burlington County Initial Brief at 3-4.

Safety is addressed in the Board's January 27, 2016 Order authorizing the Company to construct and operate the SRL pursuant to the requirements of N.J.A.C. 14:7. In part, the Order addresses the number of homes and occupied structures within 100 feet of the Pipeline, additional damage prevention measures, remote controlled valves, and qualifications for construction, installation, and inspection of the Pipeline. I/M/O the Petition of New Jersey Natural Gas Company for Approval and Authorization to Construct and Operate the Southern Reliability Link Pursuant to N.J.A.C. 14:7-1.4, BPU Docket No. GE15040402 Order dated January 27, 2016 at 9.

In addition, NJNG has demonstrated that it possesses the necessary experience to effectively manage the risks associated with operating a transmission pipeline. Due to the isolation of NJNG's service territory to interstate pipeline supply, the Company operates more transmission lines than the three (3) other New Jersey local distribution companies combined. NJNG also has a dedicated unit solely for maintaining transmission safety. Exhibit P-3 2:21-3:3. Furthermore,

two (2) recent incidents involving NJNG infrastructure did not involve transmission lines. Of the over 153,000 One-Call requests received by the Company last year, no violations were issued with respect to NJNG transmission lines. Exhibit P-3 5:9-18.

The rebuttal testimony of Barry A. Baker satisfactorily addresses the historical and cultural resource impacts to Arneytown. In part, the testimony details how historical and cultural resources are given consideration in the alternatives analysis and explains the requirements of the New Jersey HPO, as applicable to the Project. In order to avoid construction damage, the HPO will require vibration monitoring and construction fencing. Additionally, an alignment has been selected that minimizes or avoids impacts to historic trees. Thus, while the Board agrees that Arneytown is a significant historic and cultural resource in the State of New Jersey, NJNG has taken the appropriate steps to mitigate potentially damaging effects to the resources therein.

Traffic and ROW impacts are addressed in the rebuttal testimony of John B. Wyckoff. In part, the testimony provides that the Project will not have significant negative effects on the utilization of the ROW, mostly due to the projects depth and minimal occupancy of ROW width. With respect to traffic impacts, which are of a temporary nature, the Company has indicated a willingness to work with the interveners to mutually develop a traffic plan that minimizes the effects of detours and construction activity. Additionally, the proposed construction method allows the detours to be reopened during non-work hours. The General William C. Doyle Memorial Cemetery also has adequate public entrances to accommodate construction activity near the cemetery. Thus, it appears that the Company has satisfactorily addressed these concerns and **HEREBY ORDERS** the Company to coordinate with the affected counties and municipalities to develop a traffic plan that minimizes adverse traffic detours and allows emergency responders located along the route unimpeded ingress and egress.

The record reflects evidence of review and analysis of the alternate routes, as described above and further described in the Board's January 27, 2016 Order. Of those, the evidence supports that the route, identified as Section One (1), Route E and Section Two (2), Route B in the April 2015 analysis is the most appropriate, primarily because NJNG and AECOM have demonstrated that its alignment minimizes the overall potential impacts to the environment and the community. The Board **HEREBY FINDS** that there is no reasonable practicable alternative which would have less adverse impact upon the environment or upon the land use and zoning ordinances of the respective counties and municipalities.

PPA alleges that the proposed route of the SRL does not comply with the CMP. PPA states that although the Pinelands Commission issued a COF, this document does not constitute a Pinelands Commission review of the merits of the application or an approval of the Project. Thus, according to PPA, the Pinelands Commission must fully evaluate the Project before this Board acts. The Board has reviewed the COF issued on December 9, 2015 and the March 10, 2016 letter submitted by Ms. Wittenberg reaffirming that the Project as proposed is consistent with the CMP pursuant to N.J.S.A. 13:18A-10(c) and N.J.A.C. 7:50-4.81. The Board accepts this determination that the Project is consistent with the CMP.

PPA also claims that the record demonstrates that the proposed route is not associated with the function of the federal installation, and it is feasible to build the pipeline outside the Preservation Area. However, as discussed in Section A above, the additional redundancy provided to NJNG's system is to the benefit of the Joint Base. Indeed, its letter dated March 10, 2016, the Pinelands Commission staff stated the Project will "be associated with the function of [Joint Base McGuire-Dix-Lakehurst (JB MDL)] by providing energy redundancy to the Lakehurst

portion of JB MDL.” Thus, the Pinelands Commission staff found the Project to be a permitted land use in a Military and Federal Installation Area because it is associated with the function of the Federal installation pursuant to N.J.A.C. 7:50-5.29(a).

PPA further claims that the Pipeline will traverse through two (2) Superfund sites located on the Joint Base, which are subject to records of decision under the United States Environmental Protection Agency's supervision. Nonetheless, the Company has presented evidence that that it considered these Superfund sites as part of its alternatives analysis, as well as eight (8) other Superfund sites. Exhibit P-1C at Exhibit 2, page 25, 35 and Figure 4-1. Despite the existence of those two (2) Superfund sites, the Alternatives Analysis led AECOM to the conclusion that the proposed route is the best one available.

As expressed in its public comments and post hearing brief, PPA's concerns with the Project arise from what it views as the negative environmental impact of the installation and operation of the Project. The Board is sensitive to the alleged environmental, health and safety concerns, with respect to the construction and operation of a natural gas transmission pipeline. Analyzing alternatives involves reviewing the projected impact of the Project on the “natural environment” which includes measures taken for the protection of plants, animals, aquatic resources, ecological resources and natural habitat. After careful review of the record, the Board is persuaded that NJNG has considered the environmental impacts of the Project and has committed to constructing the Pipeline guided by the goal of minimizing those impacts where they cannot be avoided.

The record reflects that NJNG has taken steps throughout this process to minimize environmental impacts. Constructing the Project within existing ROWs clearly minimizes environmental impacts because the Company will not have to interrupt virgin or unpaved areas along ROW for the majority of the proposed route. Mr. Baker's testimony and the Petition reflect that the preferred route, identified as Section One (1), Route E and Section Two (2), Route B Route A was selected based upon environmental permitting considerations. NJNG indicates that it met with DEP to discuss the LURP application, which includes a Freshwater Wetlands General Permit or Individual Permit, confirmation of field wetlands delineations, a CAFRA application and verification of Flood-Area Permits by-Rule. The Company states that these discussions have also addressed Threatened and Endangered Species protection. NJNG has further indicated it intends to submit applications for Utility Highway Occupancy and Road Opening Permits as needed from the affected counties and municipalities and the NJDOT. An application for certification of NJNG's Soil Erosion and Sediment Control Plan will also be submitted to Burlington, Ocean, and Freehold Soil Conservation Districts and it appears that these applications are warranted and necessary for this Project.

Additionally, the Board **HEREBY ORDERS** the Company to continue, on an on-going basis, to minimize environmental and community impacts associated with the Project. The Company should accept public input, where possible, and implement those suggestions in its construction of the Project, where practical. The Board understands that other State and federal agencies have the necessary expertise and the primary obligation of completing a full review of any environmental impacts of the Project and their potential mitigation. This Order does not relieve NJNG from obtaining all necessary NJDEP and NJDOT required permits.

NJNG clearly considered alternative routes, as evidenced by the AECOM analysis and the testimony of NJNG's witnesses which are attached as exhibits to the Petition and described above. The burden of demonstrating a feasible alternative method lies with the parties to the proceeding, including interveners, yet there were no feasible alternatives advanced. See In re

Application of Hackensack Water Co., 41 N.J. Super. 408, 426-427 (App. Div. 1956). Thus, the Board **HEREBY FINDS** that NJNG has met its burden of proving that its proposed routing is reasonable, and that no alternative route would be less intrusive to the environment or community. In re Public Service Electric & Gas Co., *supra*, 35 N.J. at 377 (requiring consideration of “alternative sites” in determining “reasonable necessity”).

The Board **HEREBY ORDERS** NJNG to seek further approval of this Board should it be determined that any modifications to the Project route as proposed and approved by this Order are needed or desirable.

The Company also filed the Petition and Amended Petition with the Board pursuant to N.J.S.A. 48:9-25.4 for designation of the proposed route for the Project. N.J.S.A. 48:9-25.4 entitled Distribution of Gas; Designation of Route, permits a natural gas company to request the Board to designate a route through a municipality for a natural gas pipeline and related facilities when the municipality has refused to do so. The statute provides in pertinent part:

Any gas company organized under the laws of this State in addition to but not in limitation of the powers conferred by the laws under which it was organized may construct, lay, maintain and use facilities, conductors, mains and pipes, with the appurtenances thereto, in, through and beyond any municipality or municipalities, for the purpose of transmitting through the same natural gas or any mixture of gas or gases of any other type or types for use in its business; provided, that in each case such corporation shall first have obtained a designation by the governing body or official having control thereof, of the public street, road, highway or place, which may be occupied by such corporation for such purpose.

N.J.S.A. 48:9-25.4. This provision further provides that “if any governing body or official having control of any public street, road, highway or place, after having received from such corporation a request to designate such public street, road, highway or place, for occupancy by such corporation for such purpose, shall fail or refuse to make such designation or to designate a practicable route,” the Board, upon application by the gas company, “...shall make such designation.” *Ibid*.

Chesterfield argues that, according to this provision, it is unnecessary for the Board to designate the route since the Governmental Entities and various public officials have already designated an alternate, practicable route. Chesterfield Reply Brief at 7. Specifically, Chesterfield asserts that the Governmental Entities have proposed that the Company use the alternate route that travels along Route 68 to the JCP&L ROW to County Route 539.

Chesterfield further claims that there is no law prohibiting a natural gas pipeline from sharing an already-existing utility easement which crossing land that was later designated as preserved farmland. *Id.* at 8. PPA also argues that state law permits the condemnation of an easement on preserved farmland with the Governor's consent, citing N.J.S.A. 4:1C-19; 4:1C-25, and provides NJNG with condemnation powers for duly approved pipeline ROWs, such as the JCP&L ROW. PPA Initial Brief at 22.

However, as mentioned previously, the record reflects that the route proposed by the Governmental Entities and PPA that follows the JCP&L ROW is not feasible because the Pipeline would cross preserved farmland, and, pursuant to ARDA the Company cannot condemn preserved farmland. Farmland Preservation Program easements issued by the SADC restrict landowners' rights to use, construct, or develop the property for anything other than

agricultural use. See N.J.S.A. 4:1C-24(a)(3). Furthermore, N.J.S.A. 4:1C-32(b) provides that the agricultural easements “shall run with the land and shall be binding upon the landowner and every successor in interest thereto.” Id. In fact, Burlington County recognizes that this proposed route that utilizes the JCP&L ROW is not feasible because NJNG is prohibited by state law from using it. Burlington County Initial Brief at 2-3.

The Alternative Analysis also found that this route, identified as Route D in the study, would cross a “considerable length” of preserved farmland, and, “therefore effectively represents a fatal flaw for this route.” See Exhibit C-2, Section 4.5.5.3 at 53. The SADC has further confirmed that ARDA prohibits a private utility company from utilizing a route that crosses preserved farmland. See Exhibit S-1 at Company’s response to S-NJSRL-10d. Moreover, in its Landowner Guide to SADC Procedures for the Condemnation of Preserved Farmland, July 2015, the SADC recognizes that “there has been significant interest among private utility companies, predominantly those related to developing natural gas pipelines and electrical transmission systems, to cross over preserved farmland for the purposes of upgrading or expanding utility system capacity.” See Landowner Guide to SADC Procedures for the Condemnation of Preserved Farmland<sup>12</sup>, July 2015 at 1. The SADC states that the only manner in which utility companies obtain the ability to acquire new or expanded utility easement rights to cross preserved farmland is through a court-approved condemnation, or “taking,” action. Nonetheless, the SADC notes that not all utility projects are capable of obtaining the court’s approval for a taking, and expressly states that “...for those that are not—such as electric utility and intrastate natural gas pipeline projects (emphasis added)—the utility company cannot cross a preserved farm.” Id. at 1- 2.

Furthermore, as previously indicated, the utilization of the JCP&L ROW would require extensive clearing and cross environmentally sensitive areas containing extensive wetlands as well as threatened and endangered species, resulting in a higher overall impact to the interests being balanced in the alternatives analysis. As reflected in the Alternatives Analysis, AECOM found that Route D crossed the most streams, most wetlands, most floodplains and the most landscape-identified threatened and endangered (“T&E”) species habitat areas. See Exhibit C-2 at page 50, Section 4.5.4.2. Route D was also assigned the highest special permit value (five (5)) because this alignment would cross the most streams, most wetlands, most floodplains and the most landscape-identified T&E species habitat areas. See Exhibit C-2, Section 4.5.5.3 at 53.

Therefore, the record reflects that the route involving the utilization of the JCP&L ROW not only has the greatest environmental concerns, but also requires NJNG to traverse preserved farmland in contravention of State law. As such, this route proposed by the Governmental Entities is not feasible. The Board **HEREBY REAFFIRMS** its determination concerning the most practicable route as set forth in the January 27, 2016 Order.

### C. Cost

In determining whether the Project is “reasonably necessary for the service, convenience or welfare of the public,” the Board must consider the cost that New Jersey electricity customers will bear in connection with the Project. Construing this standard under the predecessor to N.J.S.A. 40:55D-19, the New Jersey Supreme Court stated:

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<sup>12</sup> The Landowner Guide to SADC Procedures for the Condemnation of Preserved Farmland, July 2015 is available at <http://www.nj.gov/agriculture/sadc/news/hottopics/Condemnation%20Procedural%20Guidelines%20for%20SADC%20Website%20FINAL%2007072015.pdf>

Alternative sites or methods and their comparative advantages and disadvantages to all interests involved, including cost, must be considered in determining such reasonable necessity.

In re Public Service Electric & Gas Co., 35 N.J. at 377(emphasis added).

The record reflects that, before finalizing the decision to proceed with the SRL, the Company considered alternative project proposals from multiple interstate suppliers. This included extending an interstate pipeline into NJNG's service territory. From meetings with the interstate suppliers, the Company established that construction costs associated with this would be approximately \$10 million per mile. Based on this cost and the estimated rates of return authorized by the Federal Energy Regulatory Commission, NJNG found it would be more costly to pursue an interstate pipeline extension. See Exhibit S-1 at NJNG Confidential response to RCR-ENG-5 and S-NJSRL-34. Since the Project is thirty (30) miles long, the costs of an interstate pipeline would be approximately \$300 million, compared with the current intrastate pipeline estimate of \$150-180 million.

A number of factors may influence and add to the cost of an intrastate pipeline, including overall length, road restoration, easement acquisition, site clearing, environmental mitigation, site access, and requirements for HDD to cross wetlands and streams. See Exhibit S-1 at NJNG response to S-NJSRL-26. Given that the alternatives analysis provides consideration to these factors when weighting and ranking the alternatives, logic would follow that a lower overall score should result in a reasonable final cost as compared to the alternatives. At the very least, the cost of a pipeline alignment following the various alternative routes evaluated in the analysis can be considered comparable.

As stated, the record reflects that cost estimates for the Project range from approximately \$150 million to \$180 million. See Exhibit S-1 at NJNG confidential response to RCR-ENG-5 and Exhibit RC-1 at 9. The Board has previously found that the Project is reasonably necessary, based in part on the fact that a single interstate supply from TETCO provides the majority of supply for the NJNG territory in question. If the Company experiences a loss of this TETCO supply, this would ultimately result in interruptions to approximately 350,000 to 400,000 customers during peak send-out periods in winter. Restoration of service to these customers would take a minimum of four (4) months and result in direct expenses to the company ranging from approximately \$170 to \$190 million, not including losses related to the loss of social services or economic activity. See Exhibit S-1 at NJNG response to S-NJSRL-11.

Based upon the above information in the record, the Board **HEREBY FINDS** that the cost of building an intrastate pipeline, owned and operated by NJNG and supplied by Transco, is reasonable as compared to the alternative of building a pipeline owned and operated by an interstate supplier. The Board **FURTHER FINDS** that there is sufficient evidence in the record to conclude that the estimated cost of the line is reasonable to prevent the loss of service to NJNG customers and as compared to intrastate and interstate route alternatives, and that the line "is reasonably necessary for the service, convenience or welfare of the public." N.J.S.A. 40:55D-19.

The Board is cognizant of Rate Counsel's assertion that a twenty-four (24) inch versus a thirty (30) inch pipeline would be more appropriate. Rate Counsel does not, however, assert that a pipeline is not reasonably necessary. As acknowledged by NJNG and Rate Counsel, this matter is not a rate proceeding. A rate case is presently proceeding separately before the Board wherein the prudence of expenditures by NJNG is being considered. As such, the Board

does not herein determine the recoverability of the cost of this Project, including the incremental cost difference between a twenty-four (24) and thirty (30) inch pipeline.

Therefore, based on its review of the record in this proceeding, the Board **HEREBY DETERMINES**, in accordance with N.J.S.A. 40:55D-19, that the Project “is reasonably necessary for the service, convenience, or welfare of the public” to enable NJNG to continue to provide safe, adequate, and reliable service to its customers; that NJNG should be able to construct and begin operation of the Project as proposed; and that the local land use and zoning ordinances, and any other ordinance, rule or regulation promulgated under the auspices of the MLUL of the State of New Jersey shall not apply to the construction, installation and operation of the Project.

Accordingly, the Board **HEREBY ORDERS** that neither N.J.S.A. 40:55D-1 et seq., nor any other government ordinances or regulations, permits or license requirements made under the authority of N.J.S.A. 40:55D-1 et seq. shall apply to the siting, installation, construction, or operation of the Project. This Order is subject to the approval of any pending road opening permits from the affected municipalities and the New Jersey Department of Transportation, all other pending permits and approvals, if any, and the pressure testing requirements of N.J.A.C. 14:7-1.14 prior to placing the Pipeline in operation, as well as the following:

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 New Jersey Natural Gas Company;
2. This Order shall not affect nor in any way limit the exercise of the authority of the Board or this 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 New Jersey Natural Gas Company;
3. In an appropriate subsequent proceeding, the Company shall have the burden of demonstrating whether, and to what extent, any of the costs associated with this petition shall be allocated to ratepayers. Approval of this petition does not include authorization to include in rate base the specific assets that are or will be completed as a result of the construction of the Pipeline; and
4. Approval of this petition 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 Pipeline, 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 cost and expenses, shall be made in an appropriate subsequent proceeding.

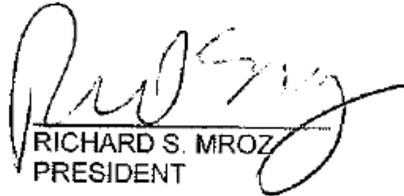
In addition, pursuant to N.J.S.A. 48:9-25.4, the Board **HEREBY DESIGNATES** the route for the Project that was previously approved and more fully described in the January 27, 2016 Order, consisting of an approximate thirty (30) mile alignment that traverses through the Township of Chesterfield, Township of North Hanover, Township of Upper Freehold, Township of Plumsted, Township of Jackson and Township of Manchester. See I/M/O the Petition of New Jersey Natural Gas Company for Approval and Authorization to Construct and Operate the Southern Reliability Link Pursuant to N.J.A.C. 14:7-1.4, BPU Docket No. GE15040402 at 8-9.

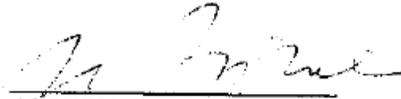
The Board **HEREBY RATIFIES** the decisions of Commissioner Solomon rendered during the proceedings for the reasons stated in her Orders.

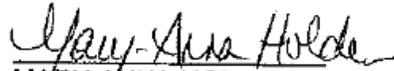
This Order shall be effective on March 28, 2016.

DATED: 3-18-16

BOARD OF PUBLIC UTILITIES  
BY:

  
RICHARD S. MROZ  
PRESIDENT

  
JOSEPH L. FIORDALISO  
COMMISSIONER

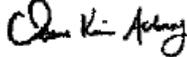
  
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COMMISSIONER

ATTEST:   
IRENE KIM ASBURY  
SECRETARY

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



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

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