



Agenda Date: 1/18/12
Agenda Item: 2B

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

ENERGY

IN THE MATTER OF THE PETITION OF NEW JERSEY)
NATURAL GAS COMPANY FOR THE ANNUAL)
REVIEW AND REVISION OF SOCIETAL BENEFITS)
CLAUSE (SBC) FACTORS FOR CALENDAR YEAR)
2010)
ORDER ADOPTING INITIAL
DECISION AND
APPROVING STIPULATION
DOCKET NO. GR10060433

Parties of Record:

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

BY THE BOARD:

On June 25, 2010, New Jersey Natural Gas Company ("NJNG" or the "Company") filed a petition with the Board to approve, pursuant to N.J.S.A. 48:2-21, the Company's filing related to its Societal Benefits Charge ("SBC") factors. NJNG requested Board approval to maintain its existing overall SBC rate of \$0.0719 per therm on an after-tax basis based on remediation expenditures for the period July 1, 2008 through June 30, 2009 ("Remediation Year 2009") as shown in the petition, with the rate to be effective October 1, 2010 or as of the date of the Board Order in this proceeding. The factors included in the SBC are the Remediation Adjustment ("RA") rate, the statewide Universal Service Fund ("USF") rate, and the New Jersey Clean Energy Program ("NJCEP") rate.

BACKGROUND

RA Rate:

As part of the settlement of the Company's base rate case in BPU Docket No. GR91081383J, the Board approved and established the remediation adjustment clause ("RAC") as the cost recovery method by which the Company is permitted to recover its actual remediation costs associated with the clean-up of former manufactured gas plant ("MGP") sites, on a deferred basis, over a rolling-seven year period. On April 28, 2010, in BPU Docket No. GR09010076, the Board authorized NJNG to increase its RA factor of \$0.0260 per therm to \$0.0324 per therm after-tax.

According to NJNG, the filing in this docket supports a RA factor of \$0.0328 per therm after-tax; however, the Company is proposing to maintain its current RA factor of \$0.0324 per therm after-tax due to the minimal resulting increase in the rate required to recover the additional costs. According to the petition, NJNG incurred actual RAC expenses of approximately \$17.3 million for Remediation Year 2009. When adjusted under the approved RAC methodology to reflect prior years' reconciliation and interest, the total recoverable RAC expenses are approximately \$20.7 million. NJNG maintains that the interest rate calculation used complies with the Board's April 28, 2010 Order in Dkt. No. GR09010076. The calculation reflects the offset of deferred taxes, and reduces the annual SBC interest rate by 30 basis points through September 30, 2009. Effective October 1, 2009 the SBC interest rate for NJNG is 3.03 percent plus 60 basis points or 3.63 percent.

USF Rate:

The Board established the USF to help provide affordable electric and natural gas service to eligible New Jersey residential customers. The Company had proposed a USF/Lifeline rate of \$0.0192 per therm after-tax as that was the statewide rate at the time the petition was filed. However, on October 13, 2011, in docket number ER11070397, the Board approved a new statewide rate of \$0.0185 per therm after-tax effective as of November 1, 2011¹ which will not be affected by this filing.

NJCEP Rate:

On August 7, 2008, in the BPU Docket No. EO07030203, the Board established each utility's level of expenditures for the statewide NJCEP for the calendar years 2009 through 2012. According to the Company, its filing in this docket supports an after-tax NJCEP factor of \$0.0204 per therm. The Company is proposing to maintain its after-tax NJCEP factor of \$0.0203 per therm, since the increase necessary to recover NJNG's under recovery balance and mandated contributions to the NJCEP through September 2011 would result in an additional charge of \$0.0001 per therm or 0.5 percent.

Following an exchange of discovery as well as several settlement conferences, on November 16, 2011, the Company, the Division of Rate Counsel ("Rate Counsel") and Board Staff (collectively known as "the Parties") entered into a stipulation resolving the issues raised in or relating to the 2010 SBC filing and the Company's overall SBC billing factor, including its related RA, USF/Lifeline and NJCEP rates and factors.

The key provisions of the Stipulation are as follows:

- The Overall SBC Rate shall be maintained at \$0.0712 per therm, after-tax, until changed by further order of the Board.
- RA Factor:

The RA factor within the SBC rate shall continue to be \$0.0324 per therm, after-tax, until changed by further order of the Board.

All issues raised relating to the SBC, including RA expenditures incurred by NJNG

¹ The rate for USF and Lifeline are collected through the SBC and are established on a statewide basis through annual filings made each July. The NJNG SBC filing does not change the USF/Lifeline rate.

during Remediation Year 2009, shall be deemed fully resolved except where specifically deferred for further review.

- NJNG will incorporate in all future RA filings an analysis that includes a monthly interest calculation supported by the monthly activity associated with remediation expenditures, revenue recovery and the deferred income tax provision.
- Interest applicable to the Company's unamortized RA balance shall be Calculated and will accrue on a monthly basis and shall be rolled into the RA balance at the beginning of the next RA recovery year, starting October 1.
- The RA factor set for the above is based upon and reflects recoverable RA costs of approximately \$20.71 million², which amount includes interest for the period beginning October 1, 2008 through September 2009.

The USF/Lifeline shall be \$0.0185 per therm, after tax, as approved by the Board on October 13, 2011 in Docket No. ER11070397 and shall continue to remain in effect until changed by further order of the Board.

- The NJCEP shall continue to be \$0.0203 per therm, after tax, and shall continue to remain in effect until further order of the Board.
- NJNG will provide a final reconciliation of its annual RA factor recovery within ninety (90) days of the completion of each RA recovery year, including the calculation of actual volumes that recovered the RA factor and the resultant net expense or credit amount which is to be carried over to the next recovery year. Recovery of RA factor costs shall also continue to be subject to the same conditions as set forth in the stipulations approved by the Board in December 21, 1994 Order in Docket No. GR94070333, and the November 22, 1995 Order in BPU Docket No. GR95090409.
- NJNG expenditures that it recovers through the RA factor remain subject to audit. Such audit may be through a review of the Company's Internal Audits or through any other audit mechanism determined to be appropriate by the Board.
- NJNG represents that its RA filing in this 2010 SBC does not include the recovery of any costs associated with Natural Resource Damage ("NRD") claims currently being investigated by the New Jersey Department of Environmental Protection. For the 2009 SBC period, \$155 associated with NRD has been deferred with a total to-date deferral of \$86,807. This amount also does not include any deferred incentive compensation related to NRD activities. The Parties stipulate and agree that the Board should make no determination in this proceeding as to the reasonableness, or the recoverability under the Company's RA clause, of NRD damages or related costs, if any.
- NJNG represents that its 2010 SBC petition does not include a request for the recovery of any incentive compensation paid to personnel who worked on MGP remediation matters during the July 1, 2008 through June 30, 2009 time period and the Parties agree that NJNG incentive compensation costs through June 30, 2009 in the amount of \$47,115.55 will be deferred. NJNG agrees to establish a separate sub-account in the deferred remediation expenditure account to recognize deferred incentive compensation associated with NJNG's internal MGP labor.

² This amount does not include the costs associated with incentive compensation which, pursuant to Paragraph 12 herein, the Parties agree to defer.

- NJNG will continue to include with its RAC filings responses to the minimum filing requirements (“MFRs”) as set forth in this stipulation.

Administrative Law Judge McGee issued an Initial Decision on December 9, 2011 adopting the Stipulation finding that the Parties have voluntarily agreed to the settlement and that the settlement fully disposes of all issues in controversy and is consistent with the law.

DISCUSSION AND FINDINGS

The Board having carefully reviewed the attached Initial Decision and the Stipulation HEREBY FINDS that, subject to the terms and conditions set forth below, the Initial Decision and the Stipulation fully dispose of all issues in controversy are reasonable, in the public interest, and in accordance with the law. Accordingly, the Board HEREBY ADOPTS the Initial Decision and the Stipulation in their entirety, and HEREBY INCORPORATES their terms and conditions as if fully set forth herein.

The Board HEREBY ORDERS that the Company's overall SBC rate shall be \$0.0712 per therm, after-tax, and shall continue to remain in effect until changed by further order of the Board. The Board HEREBY DIRECTS the Company to file conforming tariff sheets within five (5) business days of the service of this Order.


The Company's SBC expenditures will remain subject to audit by the Board. This Decision and Order shall not preclude nor prohibit the Board from taking any actions determined to be appropriate as a result of any such audit.

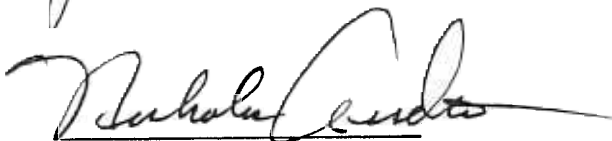
DATED: 1/18/12

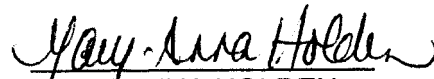
BOARD OF PUBLIC UTILITIES
BY:


ROBERT M. HANNA
PRESIDENT


JEANNE M. FOX
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER

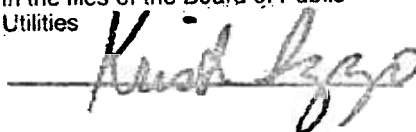

NICHOLAS ASSELTA
COMMISSIONER


MARY-ANNA HOLDEN
COMMISSIONER

ATTEST:

KRISTI IZZO
SECRETARY

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



In the Matter of the Petition of New Jersey Natural Gas Company for the Annual Review and
Revision of Societal Benefits Clause (SBC) Factors for Calendar year 2010
DOCKET NO. GR10060433

SERVICE LIST

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State of New Jersey
OFFICE OF ADMINISTRATIVE LAW
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**A copy of the administrative law
judge's decision is enclosed.**

**This decision was mailed to the parties
on DEC - 9 2011**



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

SETTLEMENT

OAL DKT. NO. PUC 10888-10

AGENCY DKT. NO. GR10060433

**IN THE MATTER OF NEW JERSEY NATURAL
GAS COMPANY ANNUAL REVIEW AND
REVISION OF SOCIETAL BENEFITS CHARGE
FACTORS FOR 2010**

Tracey Thayer, Esq., for petitioner, New Jersey Natural Gas

Anne Marie Shatto, Deputy Attorney General, for respondent, Board of Public
Utilities (Paula Dow, Attorney General of New Jersey, attorney)

Babette Tenzer, Deputy Attorney General, for Division of Rate Counsel (Paula
Dow, Attorney General of New Jersey, attorney)

Record Closed: November 17, 2011

Decided: December 6, 2011

BEFORE LELAND S. MCGEE, ALJ

On October 6, 2010, this matter was transmitted to the Office of Administrative Law (OAL) for hearing as a contested case pursuant to N.J.S.A. 52:14B-1 to-15 and N.J.S.A. 52:14F 1 to- 13. A telephone conference was held on August 2, 2011 and during that time, the parties advised the undersigned that a settlement had been

reached between the parties. A Settlement Agreement was prepared and signed by the parties on November 16, 2011, indicating the terms of the agreement. A copy of the executed Settlement Agreement is attached hereto and made a part hereof.

have reviewed the record and the terms of settlement and I **FIND**:

- 1 The parties have voluntarily agreed to the settlement as evidenced by their agreement or their representatives' agreement as set forth above.
2. The settlement fully disposes of all issues in controversy and is consistent with the law.

I **CONCLUDE** that this agreement meets the requirements of N.J.A.C. 1:1-19.1 and that the settlement should be approved. I approve the settlement and therefore **ORDER** that the parties comply with the settlement terms and that these proceedings be concluded.

I hereby **FILE** my initial decision with the **BOARD OF PUBLIC UTILITIES** for consideration.

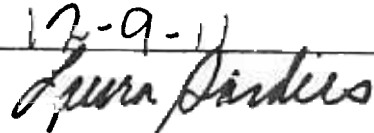
This recommended decision may be adopted, modified or rejected by the **BOARD OF PUBLIC UTILITIES**, which by law is authorized to make a final decision in this matter. If the Board of Public Utilities does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

December 6, 2011

DATE


LELAND S. MCGEE, ALJ

Date Received at Agency:

12-9-11


Date Mailed to Parties:

DEC - 9 2011

sej

DIRECTOR AND
CHIEF ADMINISTRATIVE LAW JUDGE

Attachment

**STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES**

IN THE MATTER OF THE PETITION OF)	
NEW JERSEY NATURAL GAS COMPANY)	BPU DOCKET NO. GR10060433
FOR THE ANNUAL REVIEW AND)	
REVISION OF SOCIETAL BENEFITS)	OAL DOCKET NO. PUC 10888-10
CLAUSE (SBC) FACTORS FOR CALENDAR)	
YEAR 2010)	

STIPULATION

APPEARANCES:

Tracey Thayer, Esq., New Jersey Natural Gas Company for the Petitioner, New Jersey Natural Gas Company

Henry M. Ogden, Esq., Assistant Deputy Rate Counsel, and Felicia Thomas-Friel, Esq., Deputy Rate Counsel, (Stefanie A. Brand, Esq., Director)

Alex Moreau, Esq. and Veronica Beke, Esq., Deputy Attorneys General, for the Staff of the New Jersey Board of Public Utilities (Paula T. Dow, Attorney General of New Jersey)

**TO: THE HONORABLE LELAND S. MCGEE
PRESIDING ADMINISTRATIVE LAW JUDGE**

1. On June 25, 2010, New Jersey Natural Gas Company ("NJNG" or the "Company") filed its annual petition in Docket No. GR10060433 seeking approval from the New Jersey Board of Public Utilities ("BPU" or the "Board") for NJNG's proposed Societal Benefits Clause ("SBC") factors for calendar year 2010 (the "2010 SBC"). In its 2010 petition SBC petition, the Company proposed to leave unchanged its overall SBC rate¹. The factors

¹ The rates for USF and Lifeline are established on a Statewide basis through annual filings made each July. The NJNG SBC filing does not impact the USF/Lifeline rate but reference is made here since those rates are collected through the SBC. On October 20, 2010, in BPU Docket No. ER10060436, the Board approved a \$0.0002 per therm increase to the USF/Lifeline after-tax rate to \$0.0194 effective November 1, 2010. On October 13, 2011, in BPU Docket No. ER11070397, the Board approved a \$0.0009 per therm decrease to the USF/Lifeline after-tax rate to \$0.0185 effective November 1, 2011. As a result, NJNG's after-tax SBC factor is \$0.0712 per therm effective November 1, 2011.

included in the SBC for NJNG are the Remediation Adjustment ("RA") rate, the statewide Universal Service Fund ("USF") rate, and the New Jersey Clean Energy Program ("NJCEP") rate.

2. The SBC was established within the Electric Discount and Energy Competition Act ("EDECA"), N.J.S.A. 48:3-49 et seq. Pursuant to the Board Order dated March 30, 2001 approving a stipulation in BPU Docket Nos. GX99030121 and GO99030123 (the "Unbundling Order"), NJNG received approval to implement and assess an SBC as a non-bypassable charge applicable to customers.

3. The SBC factors include the RA factor, created for the recovery of costs associated with the clean-up of former MGP sites; the statewide USF program, which is a fund established by the Board to make the cost of electricity and natural gas more affordable to qualifying residential customers in New Jersey; the Lifeline program, which provides assistance with heating costs to qualifying low-income elderly and disabled persons; and the NJCEP charge, which is designed to recover costs incurred for the Company's allocated share of statewide energy efficiency and renewable energy expenditures.

4. In its 2010 SBC, the Company proposed to maintain the then existing overall SBC rate of \$0.0719 per therm on an after-tax basis and to maintain each of the then current underlying SBC factors: the existing RA rate of \$0.0324 per therm (Exhibit B), the USF/Lifeline rate of \$0.0192 per therm, and the NJCEP rate of \$0.0203 per therm (Exhibit C), all on an after-tax basis. The Company also requested that the BPU approve the Company's remediation expenditures for the period July 1, 2008 through June 30, 2009 ("Remediation Year 2009") to be effective October 1, 2010 or as of the date of the Board Order in this proceeding.

5. Public hearings in this proceeding were held on August 10, 2010 in Rockaway Township, New Jersey, and on August 11, 2010 in Freehold Township, New Jersey, at which Suzanne Patnaude, then-BPU Legal Specialist, presided. No members of the public appeared at any of the public hearings. In October, 2010, the Company's 2010 SBC was transmitted to the Office of Administrative Law as a contested case and the Honorable Leland S. McGee has been assigned to the case.

6. NJNG has received and responded to all discovery requests that have been propounded in this proceeding by Board Staff and by the Division of Rate Counsel ("Rate Counsel").

7. Representatives of NJNG, Board Staff and Rate Counsel (collectively, the "Parties"), the only parties to this proceeding, have discussed the matters at issue in this proceeding. Based upon those discussions, the Parties have reached an agreement to enter into this Stipulation in resolution of all issues raised in or relating to the 2010 SBC and the Company's overall SBC billing factor, including its related RA, USF/Lifeline and NJCEP rates and factors.

8. Specifically, based upon and subject to the terms and conditions set forth herein, the Parties **STIPULATE AND AGREE** as follows:

(a) **Overall SBC Rate.** The Company's overall SBC rate shall be maintained at \$0.0712² per therm, after-tax, and shall continue to remain in effect until changed by further order of the Board.

² The rates for USF and Lifeline are collected through the SBC and are established on a Statewide basis through annual filings made each July. The NJNG SBC filing does not impact the USF/Lifeline rate. On October 13, 2011, in BPU Docket No. ER11070397, the Board approved a USF/Lifeline after-tax rate of

(b) RA Factor.

(i) The Company's RA factor within the SBC rate shall continue to be \$0.0324 per therm, after-tax, (Exhibit B) and shall continue to remain in effect until changed by further order of the Board.

(ii) All issues raised by the Company's filing herein relating to the SBC, including RA expenditures incurred by the Company during Remediation Year 2009, have been examined and shall be deemed fully resolved.

(iii) The Company agrees to incorporate in all future RA filings an analysis to include a monthly interest calculation supported by the monthly activity associated with remediation expenditures, revenue recovery and the deferred income tax provision.

(iv) Interest applicable to the Company's unamortized RA balance shall be calculated and will accrue on a monthly basis and shall be rolled into the RA balance at the beginning of the next RA recovery year, commencing on October 1.

(v) The RA factor set for the above is based upon and reflects recoverable RA costs of approximately \$20.71 million³ (Exhibit B), which amount includes interest for the period beginning October 1, 2008 through September 2009. The current period RAC costs are \$17.3 million with the rolling seven-year average being \$19.6 million.

(c) USF/Lifeline. The USF/Lifeline statewide rate effective November 1, 2011 shall be \$0.0185 per therm, after tax, as approved by the Board on October 13, 2011 in Docket No. ER11070397 and shall continue to remain in effect until changed by further order of the Board.

\$0.0185 effective November 1, 2011. As a result, NJNG's after-tax SBC factor is \$0.0712 per therm effective November 1, 2011.

³ This amount does not include the costs associated with incentive compensation which, pursuant to Paragraph 12 herein, the Parties agree to defer.

(d) NJCEP. The Company's NJCEP rate shall continue to be \$0.0203 per therm, after tax, (Exhibit C) and shall continue to remain in effect until changed by further order of the Board.

9. The Company agrees to provide a final reconciliation of its annual RA factor recovery within ninety (90) days of the completion of each RA recovery year, which reconciliation will include the calculation of actual volumes that recovered the RA factor and the resultant net expense or credit amount which is to be carried over to the next recovery year. Recovery and adjustments of the RA factor is subject to the Parties' review of NJNG's RA expenditures and reconciliation thereof in NJNG's next SBC proceeding. Recovery of RA Factor costs shall also continue to be subject to the same conditions as set forth in the Stipulations approved by the Board in its December 21, 1994 Order Adopting Initial Decision in BPU Docket No. GR94070333, and its November 22, 1995 Decision and Order Adopting Initial Decision and Stipulation in BPU Docket No. GR95090409.

10. As part of this Stipulation, the Parties agree that expenditures the Company recovers through the RA factor are subject to audit. Such audit may be through a review of the Company's Internal Audits conducted in relation to costs associated with this proceeding, or through any other audit mechanism determined to be appropriate by the Board.

11. The Company represents that its RA filing in this 2010 SBC does not include the recovery of any administrative, legal, consulting or other costs associated with Natural Resource Damage ("NRD") claims currently being investigated by the New Jersey Department of Environmental Protection. For the 2009 SBC period, \$155 associated with NRD has been deferred with a total to-date deferral of \$86,807. This amount does not include any deferred incentive compensation related to NRD activities. The Parties accordingly stipulate and agree

that the Board should make no determination in this proceeding as to the reasonableness, or the recoverability under the Company's RA clause, of NRD damages or related costs, if any. The Parties expressly reserve their rights to argue their respective positions on these and related issues in future proceedings, as appropriate.

12. The Company represents that its 2010 SBC petition does not include a request for the recovery of any incentive compensation paid to NJNG personnel who worked on MGP remediation matters during the July 1, 2008 through June 30, 2009 time frame and the Parties agree that NJNG incentive compensation costs through June 30, 2009 in the amount of \$47,115.55 will be deferred. There are no NRD-related costs included in the \$47,115.55. Upon resolution of this case, NJNG agrees to establish a separate sub-account in the deferred remediation expenditure account to recognize deferred incentive compensation associated with NJNG's internal MGP labor.

13. The Company agrees that it will continue to include with its RAC filings responses to the minimum filing requirements ("MFRs") as set forth in Exhibit A to this stipulation.

14. The Parties stipulate and agree that this Stipulation fully disposes of all issues in controversy in this proceeding, is consistent with law, and is in the public interest. This Stipulation represents a mutual balancing of interests, contains interdependent provisions and, therefore, is intended to be accepted and approved in its entirety. In the event any provision of this Stipulation is not accepted and approved in its entirety by the Board, any Party aggrieved thereby shall not be bound to proceed with this Stipulation and shall have the right to litigate all issues addressed herein to a conclusion. More particularly, in the event the Board, in any applicable order(s), does not adopt this Stipulation in its entirety then any Party hereto is free to

pursue its then available legal remedies with respect to all issues addressed in this Stipulation as though this Stipulation had not been signed.

15. The Parties further agree that they consider the Stipulation to be binding on them for all purposes herein.

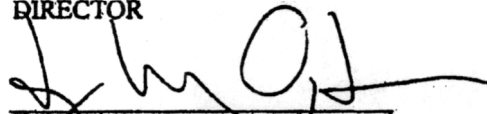
16. It is specifically understood and agreed that this Stipulation represents a negotiated agreement and has been made exclusively for the purpose of these proceedings. Except as expressly provided herein, NJNG, Board Staff, or Rate Counsel shall not be deemed to have approved, agreed to, or consented to any principle or methodology underlying or supposed to underlie any agreement provided herein.

WHEREFORE, the Parties hereto do respectfully submit this Stipulation to the Presiding Administrative Law Judge for review and the issuance of an Initial Decision that will then be submitted to the Board for its review and issuance of a Decision and Order approving the Initial Decision and this Stipulation in their entirety, in accordance with the terms hereof, as soon as reasonably possible.

**NEW JERSEY NATURAL GAS
PETITIONER**

By: 
TRACEY THAYER, ESQ.
NEW JERSEY NATURAL GAS

**DIVISION OF RATE COUNSEL
STEFANIE A. BRAND, ESQ.
DIRECTOR**

By: 
HENRY M. OGDEN, ESQ.,
ASSISTANT DEPUTY RATE COUNSEL

**STAFF OF THE NEW JERSEY BOARD OF PUBLIC UTILITIES
PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY**

By: 
ALEX MOREAU
DEPUTY ATTORNEY GENERAL

Date: November 16, 2011

Exhibit A

New Jersey Natural Gas Company
RAC Minimum Filing Requirements

As part of the Company's annual RAC filing, the Company will provide responses to the following Minimum Filing Requirements ("MFRs"). The requests, unless noted otherwise, relate to the historical 12-month RAC period.

1. The Company currently provides a vendor summary as part of its annual RAC filing. This document provides a summary of the expenditures by vendor by site for the twelve-month RAC period. Hereafter, the vendor summary will be supplemented with a general description of the services provided by each vendor. The data noting expenditures incurred through June 30 of each year will continue to be submitted with the Company's annual RAC filing.
2. Identify the two MGP sites with the highest level of expenditures during the prior RAC period. For each identified site, provide a copy of the latest work plan, remediation report, or major work product submitted to the NJDEP. The copies should include the narrative portion of the report or work plan but need not include the technical supporting workpapers, charts and tables.
3. For each of the same two MGP sites, provide all correspondence between the Company and the NJDEP concerning submissions for the site, reply comments, and other major items which have a material impact on remediation activities and associated costs incurred by the Company. The correspondence should span the twelve-months preceding June 30 of the most recent RAC period.
4. For each of the same two MGP sites, provide expense documentation for any contractor or supplier whose invoices for the RAC period exceed \$250,000 in aggregate. The expense documentation should include descriptions of services rendered, applicable invoices, and any tracking of invoiced charges vs. budgets. The expense detail need not include expense reports or time sheets, but it should include supporting documentation for any subcontractor and third party expenses totaling \$100,000 or more for the period.
5. For each of the same two MGP sites, provide a narrative description and organization chart for that site, showing the vendors and project control structure

for the remediation effort. The response should show what entities supervise all significant contractors and subcontractors and which Company personnel are involved in site and remediation supervision and control.

6. Provide a detailed narrative describing Company activities and any reimbursements related to insurance claims or potentially responsible parties' liabilities for all of the Company's MGP sites. The narrative, with supporting documentation, should cover the prior RAC period.
7. Provide copies of any RAC audit reports or related materials prepared by the Board's Audit Staff, FERC, or the Company's internal or external auditors during the previous twelve months. To the degree applicable, please also provide any materials prepared in response to the audits or in compliance with any audit findings.
8. Provide a narrative concerning all material events, whether related to NJDEP mandates or not, which could have an impact on the Company's ultimate MGP remediation liability, with claimed confidential information provided pursuant to a confidentiality agreement. The narrative should encompass all sites, whether or not active remediation efforts on the site are under way.
9. Provide schedules and supporting workpapers and documents, which show the reconciliation of the prior period RAC expenditures and recoveries as well as the derivation of the deferred tax credit and the interest accrual on any unamortized balances.
10. Provide the Company's bid evaluation studies, reports, workpapers or other material related to the two largest MGP remediation contracts awarded during the previous RAC period. The response should include the criteria utilized for bid evaluation and the comparisons between the terms and conditions offered by the competitive bidders.
11. Provide documentation relating to the two largest supplemental contract amendments authorized by the Company during the previous RAC period. The response should provide the contractor's request for supplemental funding, the reasons cited for the request, and the Company's evaluation and action taken concerning the request.
12. Provide documentation relating to any instances during the previous RAC period where the Company sought to modify, change, or eliminate the NJDEP site remediation requirements for any of its MGP sites. The response should provide

copies of any such Company requests, the NJDEP responses, and the ultimate outcome concerning the requests.

- 13. Provide a calculation of the carrying costs that the Company seeks to recover in this filing, including workpapers and supporting documentation.**
- 14. For each of the Company's MGP sites, provide a schedule showing the status of the remediation effort and estimated dates for the completion of remaining milestones. Provide an update concerning the status of discussions with the NJDEP concerning its NRD initiative as well as any other NRD-related activities, with claimed confidential information provided pursuant to a confidentiality agreement.**

**EXHIBIT
B**

**NEW JERSEY NATURAL GAS COMPANY
SOCIETAL BENEFITS CHARGE (SBC)
REMEDIATION ADJUSTMENT RIDER
REMEDIATION YEAR 2009**

1	AMORTIZATION			
	7/08-8/09		<u>\$19,647,291</u>	
	Total Amortization		\$19,647,291	\$19,647,291
2	PRIOR YEARS' RECONCILIATION			
	Total to be Recovered 10/08-9/09	\$20,842,056		
	Actual Recovery through September 30, 2009	<u>\$16,104,808</u>		
	Projected Under-recovery	\$4,537,248		\$4,537,248
3	INTEREST CALCULATION			
	Interest 10/08-9/09			\$1,890,693
4	NET ACCUMULATED DEFERRED 3RD PTY RECOVERABLE COSTS			<u>(\$5,366,667)</u>
	TOTAL TO BE RECOVERED			\$20,708,565
6	THERM SALE PROJECTION (October 1, 2010 - September 30, 2011)			
	FIRM SALES	527,770,957		
	FIRM TRANSPORTATION	89,258,395		
	RESIDENTIAL TRANSPORTATION	16,531,828		
	INTERRUPTIBLE TRANSPORTATION	29,090,000		
	OCEAN PEAKING POWER	<u>13,941,000</u>		
	TOTAL	676,592,180		
	PRE-TAX RA FACTOR PER THERM			<u>\$0.0306</u>
	AFTER-TAX RA FACTOR PER THERM			**\$0.0327

** At this time NJNG is proposing that the current RA Factor of \$0.0324, after-tax, be maintained since the increase results in only a \$0.006 per therm increase

EXHIBIT C

**NJNG
NEW JERSEY CLEAN ENERGY ADJUSTMENT CLAUSE
CALCULATION**

		<u>Estimated Balance (\$ 000)</u>
NJ Clean Energy Underrecovery Balance @ 3/31/10		(\$14)
Estimated Recovery through September 2010		(\$2,795)
Board Mandated Contributions for April 2010 through September 2011 ¹		<u>\$15,733</u>
Estimated Amount to be Recovered		\$12,924
	Projected 10/10/-9/11 Sales	
Firm Sales	527,771	
Firm Transportation	105,790	
Interruptible	29,090	
Ocean Peaking Power	13,941	
Total	676,592	676592
Pre-tax NJ Clean Energy Recovery Rate \$ per Therm as Calculated		\$0.0191
After-tax NJ Clean Energy Recovery Rate \$ per Therm as Calculated		\$0.0204
Current Pre-tax NJ Clean Energy Recovery Rate \$ per Therm		\$0.0190
Current After-tax NJ Clean Energy Recovery Rate \$ per Therm		\$0.0203
Calculated Pre-tax NJ Clean Energy Recovery Rate \$ per Therm Increase		\$0.0001
Calculated After-tax NJ Clean Energy Recovery Rate \$ per Therm Increase		\$0.0001

¹ Per 8/7/08 Order, in BPU Docket NO. E007030203

**STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES**

IN THE MATTER OF THE PETITION OF NEW JERSEY NATURAL GAS COMPANY FOR THE ANNUAL REVIEW AND REVISION OF SOCIETAL BENEFITS CLAUSE (SBC) FACTORS FOR CALENDAR YEAR 2010)))))))	BPU DOCKET NO. GR10060433 OAL DOCKET NO. PUC 10888-10
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STIPULATION

APPEARANCES:

Tracey Thayer, Esq., New Jersey Natural Gas Company for the Petitioner, New Jersey Natural Gas Company

Henry M. Ogden, Esq., Assistant Deputy Rate Counsel, and **Felicia Thomas-Friel, Esq.,** Deputy Rate Counsel, (**Stefanie A. Brand, Esq.,** Director)

Alex Moreau, Esq. and Veronica Beke, Esq., Deputy Attorneys General, for the Staff of the New Jersey Board of Public Utilities (**Paula T. Dow, Attorney General of New Jersey**)

**TO: THE HONORABLE LELAND S. MCGEE
PRESIDING ADMINISTRATIVE LAW JUDGE**

1. On June 25, 2010, New Jersey Natural Gas Company ("NJNG" or the "Company") filed its annual petition in Docket No. GR10060433 seeking approval from the New Jersey Board of Public Utilities ("BPU" or the "Board") for NJNG's proposed Societal Benefits Clause ("SBC") factors for calendar year 2010 (the "2010 SBC"). In its 2010 petition SBC petition, the Company proposed to leave unchanged its overall SBC rate¹. The factors

¹ The rates for USF and Lifeline are established on a Statewide basis through annual filings made each July. The NJNG SBC filing does not impact the USF/Lifeline rate but reference is made here since those rates are collected through the SBC. On October 20, 2010, in BPU Docket No. ER10060436, the Board approved a \$0.0002 per therm increase to the USF/Lifeline after-tax rate to \$0.0194 effective November 1, 2010. On October 13, 2011, in BPU Docket No. ER11070397, the Board approved a \$0.0009 per therm decrease to the USF/Lifeline after-tax rate to \$0.0185 effective November 1, 2011. As a result, NJNG's after-tax SBC factor is \$0.0712 per therm effective November 1, 2011.

included in the SBC for NJNG are the Remediation Adjustment ("RA") rate, the statewide Universal Service Fund ("USF") rate, and the New Jersey Clean Energy Program ("NJCEP") rate.

2. The SBC was established within the Electric Discount and Energy Competition Act ("EDECA"), N.J.S.A. 48:3-49 et seq. Pursuant to the Board Order dated March 30, 2001 approving a stipulation in BPU Docket Nos. GX99030121 and GO99030123 (the "Unbundling Order"), NJNG received approval to implement and assess an SBC as a non-bypassable charge applicable to customers.

3. The SBC factors include the RA factor, created for the recovery of costs associated with the clean-up of former MGP sites; the statewide USF program, which is a fund established by the Board to make the cost of electricity and natural gas more affordable to qualifying residential customers in New Jersey; the Lifeline program, which provides assistance with heating costs to qualifying low-income elderly and disabled persons; and the NJCEP charge, which is designed to recover costs incurred for the Company's allocated share of statewide energy efficiency and renewable energy expenditures.

4. In its 2010 SBC, the Company proposed to maintain the then existing overall SBC rate of \$0.0719 per therm on an after-tax basis and to maintain each of the then current underlying SBC factors: the existing RA rate of \$0.0324 per therm (Exhibit B), the USF/Lifeline rate of \$0.0192 per therm, and the NJCEP rate of \$0.0203 per therm (Exhibit C), all on an after-tax basis. The Company also requested that the BPU approve the Company's remediation expenditures for the period July 1, 2008 through June 30, 2009 ("Remediation Year 2009") to be effective October 1, 2010 or as of the date of the Board Order in this proceeding.

5. Public hearings in this proceeding were held on August 10, 2010 in Rockaway Township, New Jersey, and on August 11, 2010 in Freehold Township, New Jersey, at which Suzanne Patnaude, then-BPU Legal Specialist, presided. No members of the public appeared at any of the public hearings. In October, 2010, the Company's 2010 SBC was transmitted to the Office of Administrative Law as a contested case and the Honorable Leland S. McGee has been assigned to the case.

6. NJNG has received and responded to all discovery requests that have been propounded in this proceeding by Board Staff and by the Division of Rate Counsel ("Rate Counsel").

7. Representatives of NJNG, Board Staff and Rate Counsel (collectively, the "Parties"), the only parties to this proceeding, have discussed the matters at issue in this proceeding. Based upon those discussions, the Parties have reached an agreement to enter into this Stipulation in resolution of all issues raised in or relating to the 2010 SBC and the Company's overall SBC billing factor, including its related RA, USF/Lifeline and NJCEP rates and factors.

8. Specifically, based upon and subject to the terms and conditions set forth herein, the Parties **STIPULATE AND AGREE** as follows:

(a) Overall SBC Rate. The Company's overall SBC rate shall be maintained at \$0.0712² per therm, after-tax, and shall continue to remain in effect until changed by further order of the Board.

² The rates for USF and Lifeline are collected through the SBC and are established on a Statewide basis through annual filings made each July. The NJNG SBC filing does not impact the USF/Lifeline rate. On October 13, 2011, in BPU Docket No. ER11070397, the Board approved a USF/Lifeline after-tax rate of

(b) RA Factor.

(i) The Company's RA factor within the SBC rate shall continue to be \$0.0324 per therm, after-tax, (Exhibit B) and shall continue to remain in effect until changed by further order of the Board.

(ii) All issues raised by the Company's filing herein relating to the SBC, including RA expenditures incurred by the Company during Remediation Year 2009, have been examined and shall be deemed fully resolved.

(iii) The Company agrees to incorporate in all future RA filings an analysis to include a monthly interest calculation supported by the monthly activity associated with remediation expenditures, revenue recovery and the deferred income tax provision.

(iv) Interest applicable to the Company's unamortized RA balance shall be calculated and will accrue on a monthly basis and shall be rolled into the RA balance at the beginning of the next RA recovery year, commencing on October

(v) The RA factor set for the above is based upon and reflects recoverable RA costs of approximately \$20.71 million³ (Exhibit B), which amount includes interest for the period beginning October 1, 2008 through September 2009. The current period RAC costs are \$17.3 million with the rolling seven-year average being \$19.6 million.

(c) USF/Lifeline. The USF/Lifeline statewide rate effective November 1, 2011 shall be \$0.0185 per therm, after tax, as approved by the Board on October 13, 2011 in Docket No. ER11070397 and shall continue to remain in effect until changed by further order of the Board.

\$0.0185 effective November 1, 2011. As a result, NJNG's after-tax SBC factor is \$0.0712 per therm effective November 1, 2011.

³ This amount does not include the costs associated with incentive compensation which, pursuant to Paragraph 12 herein, the Parties agree to defer.

(d) NJCEP. The Company's NJCEP rate shall continue to be \$0.0203 per therm, after tax, (Exhibit C) and shall continue to remain in effect until changed by further order of the Board.

9. The Company agrees to provide a final reconciliation of its annual RA factor recovery within ninety (90) days of the completion of each RA recovery year, which reconciliation will include the calculation of actual volumes that recovered the RA factor and the resultant net expense or credit amount which is to be carried over to the next recovery year. Recovery and adjustments of the RA factor is subject to the Parties' review of NJNG's RA expenditures and reconciliation thereof in NJNG's next SBC proceeding. Recovery of RA Factor costs shall also continue to be subject to the same conditions as set forth in the Stipulations approved by the Board in its December 21, 1994 Order Adopting Initial Decision in BPU Docket No. GR94070333, and its November 22, 1995 Decision and Order Adopting Initial Decision and Stipulation in BPU Docket No. GR95090409.

10. As part of this Stipulation, the Parties agree that expenditures the Company recovers through the RA factor are subject to audit. Such audit may be through a review of the Company's Internal Audits conducted in relation to costs associated with this proceeding, or through any other audit mechanism determined to be appropriate by the Board.

11. The Company represents that its RA filing in this 2010 SBC does not include the recovery of any administrative, legal, consulting or other costs associated with Natural Resource Damage ("NRD") claims currently being investigated by the New Jersey Department of Environmental Protection. For the 2009 SBC period, \$155 associated with NRD has been deferred with a total to-date deferral of \$86,807. This amount does not include any deferred incentive compensation related to NRD activities. The Parties accordingly stipulate and agree

that the Board should make no determination in this proceeding as to the reasonableness, or the recoverability under the Company's RA clause, of NRD damages or related costs, if any. The Parties expressly reserve their rights to argue their respective positions on these and related issues in future proceedings, as appropriate.

12. The Company represents that its 2010 SBC petition does not include a request for the recovery of any incentive compensation paid to NJNG personnel who worked on MGP remediation matters during the July 1, 2008 through June 30, 2009 time frame and the Parties agree that NJNG incentive compensation costs through June 30, 2009 in the amount of \$47,115.55 will be deferred. There are no NRD-related costs included in the \$47,115.55. Upon resolution of this case, NJNG agrees to establish a separate sub-account in the deferred remediation expenditure account to recognize deferred incentive compensation associated with NJNG's internal MGP labor.

13. The Company agrees that it will continue to include with its RAC responses to the minimum filing requirements ("MFRs") as set forth in Exhibit A to this stipulation.

14. The Parties stipulate and agree that this Stipulation fully disposes of all issues in controversy in this proceeding, is consistent with law, and is in the public interest. Stipulation represents a mutual balancing of interests, contains interdependent provisions and, therefore, is intended to be accepted and approved in its entirety. In the event any provision of this Stipulation is not accepted and approved in its entirety by the Board, any Party aggrieved thereby shall not be bound to proceed with this Stipulation and shall have the right to litigate all issues addressed herein to a conclusion. More particularly, in the event the Board, in any applicable order(s), does not adopt this Stipulation in its entirety then any Party hereto is free to

pursue its then available legal remedies with respect to all issues addressed in this Stipulation as though this Stipulation had not been signed.

15. The Parties further agree that they consider the Stipulation to be binding on them for all purposes herein.


16. It is specifically understood and agreed that this Stipulation represents a negotiated agreement and has been made exclusively for the purpose of these proceedings. Except as expressly provided herein, NJNG, Board Staff, or Rate Counsel shall not be deemed to have approved, agreed to, or consented to any principle or methodology underlying or supposed to underlie any agreement provided herein.

WHEREFORE, the Parties hereto do respectfully submit this Stipulation to the Presiding Administrative Law Judge for review and the issuance of an Initial Decision that will then be submitted to the Board for its review and issuance of a Decision and Order approving the Initial Decision and this Stipulation in their entirety, in accordance with the terms hereof, as soon as reasonably possible.

**NEW JERSEY NATURAL GAS
PETITIONER**

By: 
TRACEY THAYER, ESQ.
NEW JERSEY NATURAL GAS

**DIVISION OF RATE COUNSEL
STEFANIE A. BRAND, ESQ.
DIRECTOR**

By: 
HENRY M. OGDEN, ESQ.
ASSISTANT DEPUTY RATE COUNSEL

**STAFF OF THE NEW JERSEY BOARD OF PUBLIC UTILITIES
PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY**

By: 
ALEX MOREAU
DEPUTY ATTORNEY GENERAL

Date: November 16, 2011

Exhibit A

New Jersey Natural Gas Company
RAC Minimum Filing Requirements

As part of the Company's annual RAC filing, the Company will provide responses to the following Minimum Filing Requirements ("MFRs"). The requests, unless noted otherwise, relate to the historical 12-month RAC period.

1. The Company currently provides a vendor summary as part of its annual RAC filing. This document provides a summary of the expenditures by vendor by site for the twelve-month RAC period. Hereafter, the vendor summary will be supplemented with a general description of the services provided by each vendor. The data noting expenditures incurred through June 30 of each year will continue to be submitted with the Company's annual RAC filing.
2. Identify the two MGP sites with the highest level of expenditures during the prior RAC period. For each identified site, provide a copy of the latest work plan, remediation report, or major work product submitted to the NJDEP. The copies should include the narrative portion of the report or work plan but need not include the technical supporting workpapers, charts and tables.
3. For each of the same two MGP sites, provide all correspondence between the Company and the NJDEP concerning submissions for the site, reply comments, and other major items which have a material impact on remediation activities and associated costs incurred by the Company. The correspondence should span the twelve-months preceding June 30 of the most recent RAC period.
4. For each of the same two MGP sites, provide expense documentation for any contractor or supplier whose invoices for the RAC period exceed \$250,000 in aggregate. The expense documentation should include descriptions of services rendered, applicable invoices, and any tracking of invoiced charges vs. budgets. The expense detail need not include expense reports or time sheets, but it should include supporting documentation for any subcontractor and third party expenses totaling \$100,000 or more for the period.
5. For each of the same two MGP sites, provide a narrative description and organization chart for that site, showing the vendors and project control structure

for the remediation effort. The response should show what entities supervise all significant contractors and subcontractors and which Company personnel are involved in site and remediation supervision and control.

6. Provide a detailed narrative describing Company activities and any reimbursements related to insurance claims or potentially responsible parties' liabilities for all of the Company's MGP sites. The narrative, with supporting documentation, should cover the prior RAC period.
7. Provide copies of any RAC audit reports or related materials prepared by the Board's Audit Staff, FERC, or the Company's internal or external auditors during the previous twelve months. To the degree applicable, please also provide any materials prepared in response to the audits or in compliance with any audit findings.
8. Provide a narrative concerning all material events, whether related to NJDEP mandates or not, which could have an impact on the Company's ultimate MGP remediation liability, with claimed confidential information provided pursuant to a confidentiality agreement. The narrative should encompass all sites, whether or not active remediation efforts on the site are under way.
9. Provide schedules and supporting workpapers and documents, which show the reconciliation of the prior period RAC expenditures and recoveries as well as the derivation of the deferred tax credit and the interest accrual on any unamortized balances.
10. Provide the Company's bid evaluation studies, reports, workpapers or other material related to the two largest MGP remediation contracts awarded during the previous RAC period. The response should include the criteria utilized for bid evaluation and the comparisons between the terms and conditions offered by the competitive bidders.
11. Provide documentation relating to the two largest supplemental contract amendments authorized by the Company during the previous RAC period. The response should provide the contractor's request for supplemental funding, the reasons cited for the request, and the Company's evaluation and action taken concerning the request.
12. Provide documentation relating to any instances during the previous RAC period where the Company sought to modify, change, or eliminate the NJDEP site remediation requirements for any of its MGP sites. The response should provide

copies of any such Company requests, the NJDEP responses, and the ultimate outcome concerning the requests.

13. Provide a calculation of the carrying costs that the Company seeks to recover in this filing, including workpapers and supporting documentation.
14. For each of the Company's MGP sites, provide a schedule showing the status of the remediation effort and estimated dates for the completion of remaining milestones. Provide an update concerning the status of discussions with the NJDEP concerning its NRD initiative as well as any other NRD-related activities, with claimed confidential information provided pursuant to a confidentiality agreement.

**EXHIBIT
B**

**NEW JERSEY NATURAL GAS COMPANY
SOCIETAL BENEFITS CHARGE (SBC)
REMEDATION ADJUSTMENT RIDER
REMEDATION YEAR 2009**

AMORTIZATION			
7/08-8/09		<u>\$19,647,291</u>	
	Total Amortization	\$19,647,291	\$19,647,291
2 PRIOR YEARS' RECONCILIATION			
	Total to be Recovered 10/08-9/09	\$20,642,056	
	Actual Recovery through September 30, 2009	<u>\$16,104,808</u>	
	Projected Under-recovery	\$4,537,248	\$4,537,248
3 INTEREST CALCULATION			
	Interest 10/08-9/09		\$1,890,693
4 NET ACCUMULATED DEFERRED 3RD PTY RECOVERABLE COSTS			<u>(\$5,366,667)</u>
5 TOTAL TO BE RECOVERED			\$20,708,565
6 THERM SALE PROJECTION (October 1, 2010 - September 30, 2011)			
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RESIDENTIAL TRANSPORTATION	16,531,828		
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TOTAL	676,592,180		
PRE-TAX RA FACTOR PER THERM			<u>\$0.0306</u>
AFTER-TAX RA FACTOR PER THERM			**\$0.0327

** At this time NJNG is proposing that the current RA Factor of \$0.0324, after-tax, be maintained since the increase results in only a \$0.006 per therm increase

EXHIBIT C

**NJNG
NEW JERSEY CLEAN ENERGY ADJUSTMENT CLAUSE
CALCULATION**

		Estimated Balance (\$ 000)
NJ Clean Energy Underrcovery Balance @ 3/31/10		(\$14)
Estimated Recovery through September 2010		(\$2,795)
Board Mandated Contributions for April 2010 through September 2011 ¹		\$15,733
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After-tax NJ Clean Energy Recovery Rate \$ per Therm as Calculated		\$0.0204
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Current After-tax NJ Clean Energy Recovery Rate \$ per Therm		\$0.0203
Calculated Pre-tax NJ Clean Energy Recovery Rate \$ per Therm Increase		\$0.0001
Calculated After-tax NJ Clean Energy Recovery Rate \$ per Therm Increase		\$0.0001

¹ Per 8/7/08 Order, in BPU Docket NO. E007030203