

October 22, 2010

Ms. Debra A, Howland
Executive Director
New Hampshire Public Utilities Commission
21 S. Fruit Street, Suite 10
Concord, NH 03301



Re: DM 10-203, Application of South Jersey Energy Company to become a Competitive Natural Gas Supplier

Dear Ms. Howland:

Please accept the attached application for South Jersey Energy Company ("SJE") to become a Competitive Natural Gas Supplier in the state of New Hampshire. This application is submitted in response to your letter dated October 13, 2010, denying our initial application.

The denial of our application was based on Staff's recommendations. BPU Staff identified deficiencies in the initial application. With this application, and supporting documentation, SJE believes that we have addressed all of Staff's concerns and rectified any deficiencies that existed in our previous application.

New Hampshire has adopted new rules, effective September 24, 2010. Prior to this adoption, requirement Puc 3003.01(b)(2) required SJE to provide documentation demonstrating that it "is an approved shipper on the upstream pipelines and underground storage facilities on which the LDC will assign capacity, if any to the CNGS." Staff raised a concern that "unsigned" agreements were submitted between Tennessee Gas Pipeline and South Jersey Resources Group, LLC ("SJRG"). Attached to the application are fully executed agreements between SJRG and Tennessee Gas Pipeline.

A second of Staff's concerns was that SJRG is not the CNGS, and therefore does not meet the requirement of Puc 3003.01(b)(2). In our application, we provided an explanation that SJRG is our sister company and both companies are wholly owned subsidiaries of a parent company, South Jersey Industries. SJRG holds the upstream capacity, and intends to act as SJE's sole upstream supplier to serve the New Hampshire market. Attached to this letter is a statement from the president of SJRG, Kenneth R. DePriest, acknowledging their role as upstream supplier to SJE and their intentions as such.

Under the BPU's newly adopted rules, the requirement that a CNGS be an approved shipper on the upstream pipelines and storage facilities does not seem to exist. If this is still a requirement, SJE

hereby asks for a waiver of this requirement based on the explanation of the relationship between SJE and SJRG and the attached letter from SJRG.

Also of concern to Staff, was SJE's response to the requirement Puc 3003.1(b)(2)o., which asks "whether applicant, or any of its principals, including its controlling stockholders, has been the subject of various types of complaints or investigations." SJE's response was "None". SJE concedes that it did not disclose the FERC investigation and apologizes for the omission. The following paragraphs summarize the investigation and outcome.

The staff of FERC's Office of Enforcement and two subsidiaries of South Jersey Industries, Inc., South Jersey Gas Company (South Jersey Gas) and South Jersey Resources Group, LLC (South Jersey Resources and, together with South Jersey Gas Company, South Jersey), entered into a Stipulation and Consent Agreement that has been approved by order of the FERC resolving an investigation into certain alleged violations of FERC's open access transportation program, including the competitive bidding requirements for long-term, discounted rate capacity releases, the shipper-must-have-title requirement, and the prohibition against buy/sell transactions.

FERC recently began focusing on the way in which participants in the natural gas industry were conducting natural gas transactions relative to its interpretation of certain specific rules governing such transactions. FERC's investigation of South Jersey arose from an investigation of a counterpart of South Jersey Gas. South Jersey Gas was a releasing shipper in certain of the counterparty's flipping transactions. Upon notification by FERC that these transactions were viewed as being in violation of certain FERC regulations, South Jersey conducted a comprehensive internal review of its natural gas trading and transportation practices to confirm compliance with FERC's capacity release rules and voluntarily disclosed possible violations of the shipper-must-have-title requirement and the prohibition on buy/sell transactions.

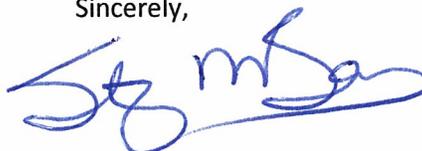
The FERC staff determined that South Jersey's cooperation in the investigation was "exemplary." South Jersey engaged outside counsel to assist with a comprehensive review of its interstate pipeline and gas storage transportation transactions, which resulted in South Jersey providing the Office of Enforcement staff with a thorough self-report. South Jersey promptly ceased all activities in question and revised its operational practices to avoid potential violations in the future.

South Jersey has always strived to maintain a culture of compliance, with no history of violating FERC rules, regulations or policies. At the time of the transactions in question, South Jersey had in place a substantial compliance program to address recognized compliance risks. However, that program under-identified risks associated with FERC's open access transportation program. Upon becoming aware of the views of FERC on these issues, South Jersey formulated and implemented significant enhancements to its existing compliance program. Those enhancements include providing extensive training on the Commission's open access transportation requirements to its employees, senior management and Board of Directors.

While not admitting that it had, in fact, violated the FERC's rules and regulations, South Jersey reached agreement with the FERC to resolve the dispute without further proceedings. South Jersey has agreed to pay a civil penalty of \$950,000 and to disgorge approximately \$121,000, plus interest, of profits from the transactions in question. The Stipulation and Consent did not include a revocation of South Jersey Resources Group's Blanket Marketing Certificate.

If you or your staff needs any additional information, please don't hesitate to contact me. I can be reached at (609) 568-9028 ext. 6964. Thank you in advance for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Stacey M. Barnes". The signature is fluid and cursive, with a long horizontal flourish at the end.

Stacey M. Barnes
Manager Business Expansion



South Jersey Resources Group, LLC

Where we put all of our energy[®]

October 22, 2010

Debra Howland
Executive Director
New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, NH 03301-2429

Re: DM 10-203, Application of South Jersey Energy Company to become a
Competitive Natural Gas Supplier

Dear Ms. Howland:

We are in receipt of your letter dated October 4, 2010. The letter referenced the New Hampshire requirement Puc 3003.01(b)(2)v., which provides that the CNGS (South Jersey Energy Company – “SJE”) must provide documentation demonstrating that it “is an approved shipper on the upstream pipelines and underground storage facilities on which the LDC will assign capacity, if any, to the CNGS.”

As stated in SJE’s application, South Jersey Resources Group, LLC (“SJRG”) is, in fact, an affiliate of SJE, which are both wholly-owned subsidiaries of South Jersey Industries, Inc. SJRG intends to be the sole supplier of natural gas to SJE for purposes of supplying the New Hampshire retail market.

SJRG does not intend or foresee any supply interruptions to the New Hampshire market. We will fulfill the needs of SJE and its customers in New Hampshire.

Very truly yours,

Kenneth R. DePriest, President

Puc 3006.01 Form for Initial and Renewal Registration of Competitive Natural Gas Suppliers.

(a) The registration application required by Puc 3003.01(a) and Puc 3003.02(a) shall include the following:

(1) The legal name of the applicant as well as any trade name(s) under which it intends to operate in this state and, if available, its website address;

South Jersey Energy Company, Inc.
www.southjerseyenergy.com

(2) The applicant's business address, telephone number, and e-mail address;

South Jersey Energy Company
1 South Jersey Plaza
Folsom, New Jersey 08037
Phone 609-561-9000
Email: sbarnes@sjindustries.com or drobbins@sjindustries.com
Fax: 609 704 3017

(3) The applicant's place of incorporation, if anything other than an individual;

State of New Jersey

(4) The name(s), title(s), business address(es), telephone number(s), and e-mail address(es) of the applicant if an individual, or of the applicant's principal(s) if the applicant is anything other than an individual;

The applicant, South Jersey Energy Company, is a wholly owned subsidiary of South Jersey Industries (SJI). SJI stock is traded on the New York Stock Exchange under the symbol SJI. As of December 31, 2009, the latest available date, our records indicate that there were 7,324 shareholders of record.

Officers of South Jersey Energy Company are the following;

Michael J. Renna – President
David Robbins, Jr. – Treasurer & Secretary
William R. Deter – Asst. Vice President
Joseph M. Scheufele – Asst. Vice President

The address, phone numbers, and fax numbers for ALL officers is the following;

South Jersey Energy Company
South Jersey Industries

**1 South Jersey Plaza
Folsom, NJ 08037
Telephone: 609-561-9000
Fax Number: 609-704-3017**

(5) The following regarding any affiliate or subsidiary of the applicant which is conducting business in New Hampshire:

- a. The name, business address and telephone number of the entity;
- b. A description of the business purpose of the entity; and
- c. A description of any agreement(s) with any affiliated New Hampshire LDC(s);

None

(6) The telephone number of the applicant's customer service department or the name, title, telephone number and e-mail address of the customer service contact person of the applicant, including toll free telephone numbers if available;

**Howard Plante, Marketing Manager
877-292-4232**

(7) The name, title, business address, telephone number, and e-mail address of the individual responsible for responding to commission inquiries.

**Stacey M. Barnes
Manger Business Expansion, South Jersey Energy Company
1 South Jersey Plaza
Folsom, NJ 08037
609-561-9000
Fax: 609-561-7130
Email: drobbins@sjindustries.com**

(8) The name, title, business address, telephone number and e-mail address of the individual who is the applicant's registered agent in New Hampshire for service of process;

**Lawyers Incorporating Service
14 Centre St
Concord, NH 03301
Phone: 800-927-9800**

(9) A copy of the applicant's authorization to do business in New Hampshire from the New Hampshire secretary of state, if anything other than an individual;

Authorization Attached

(10) A list of LDCs in New Hampshire through which the applicant intends to provide service. To the extent an applicant does not intend to provide service in the entire franchise area of an LDC, this list shall delineate the cities and towns where the applicant intends to provide service;

South Jersey Energy Company intends to sell natural gas at retail in the following service territories: The National Grid territory formerly known as Keyspan. And the Northern Utilities territory now owned by Unutil.

(11) A description of the types of customers the applicant intends to serve;

South Jersey Energy Company intends to sell natural gas at retail to end-users that use greater than 10,000 therms per month.

(12) A listing disclosing the number and type of customer complaints concerning the applicant or its principals, if any, filed with a state or federal licensing/registration agency, attorney general's office or other governmental consumer protection agency for the most recent calendar year in every state in which the applicant has conducted business relating to the sale of natural gas;

None

(13) A statement as to whether the applicant or any of the applicant's principals, as listed in a. through c. below, have ever been convicted of any felony that has not been annulled by a court:

a. For partnerships, any of the general partners;

b For corporations, any of the officers, directors or controlling stockholders; or

c. For limited liability companies, any of the managers or members;

None

(14) A statement as to whether the applicant or any of the applicant's principals:

a. Has, within the 10 years immediately prior to registration, had any civil, criminal or regulatory sanctions or penalties imposed against them pursuant to any state or federal consumer protection law or regulation;

- b. Has, within the 10 years immediately prior to registration, settled any civil, criminal or regulatory investigation or complaint involving any state or federal consumer protection law or regulation; or
- c. Is currently the subject of any pending civil, criminal or regulatory investigation or complaint involving any state or federal consumer protection law or regulation;

A Federal Energy Regulatory Commission (FERC) investigation into two subsidiaries of South Jersey Industries, South Jersey Gas and South Jersey Resources Group, LLC, was conducted to investigate certain alleged violations of FERC's open access transportation program.

(15) If an affirmative answer is given to any item in (13) or (14) above, an explanation of the event;

Please see attached SEC Form 8-K for further explanation and resolution.

(16) For those applicants intending to telemarket, a statement that the applicant shall:

- a. Maintain a list of consumers who request being placed on the applicant's do-not-call list for the purposes of telemarketing;
- b. Obtain monthly updated do-not-call lists from the National Do Not Call Registry; and;
- c. Not initiate calls to New Hampshire customers who have either requested being placed on the applicant's do-not-call list(s) or customers who are listed on the National Do Not Call Registry;

Not Applicable, as applicant does not intend to offer supply to residential or small commercial customers

(17) For those applicants that intend not to telemarket, a statement to that effect;

Applicant does not intend to telemarket to residential or small commercial customers

(18) A sample of the bill form(s) the applicant intends to use or a statement that the applicant intends to use the LDC's billing service;

Please see sample bill attached, however South Jersey Energy Company may decide to utilize the LDC's billing service at some point in time.

(19) A copy of any customer contracts or representative samples of contracts the applicant intends to use;

Please see attached

(20) A statement that the CNGS has verified the registration of any aggregator with which it has any agreements to provide service to New Hampshire customers, prior to entering into such agreements; and

Not Applicable

(21) A statement certifying the applicant has the authority to file the application on behalf of the CNGS and that its contents are truthful, accurate and complete; and

David Robbins, Jr., Treasurer and Secretary, has the authority to file this application on behalf of South Jersey Energy Company and states that its contents are truthful, accurate and complete.

(22) The signature of the applicant or its representative.

Signed: 

Dated: 10-22-10

**David Robbins, Jr., Treasurer and Secretary
South Jersey Energy Company**

State of New Hampshire Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that South Jersey Energy Company doing business in New Hampshire as South Jersey Energy Company, Inc., a(n) New Jersey corporation, is authorized to transact business in New Hampshire and qualified on August 14, 2007. I further certify that all fees and annual reports required by the Secretary of State's office have been received.



In TESTIMONY WHEREOF, I hereto set my hand and cause to be affixed the Seal of the State of New Hampshire, this 8th day of September, A.D. 2010

A handwritten signature in cursive script, appearing to read "William Gardner".

William M. Gardner
Secretary of State

State of New Jersey



Department of State

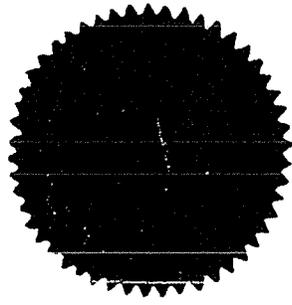
I, the Secretary of State of the State
of New Jersey, do hereby Certify that the foregoing is a true
copy of the Certificate of
Incorporation
of
SOUTH JERSEY ENERGY COMPANY

and the endorsements thereon,
as the same is taken from and compared with the original filed
in my office on the 15th day of January A.D. 1973

, and now remaining on file and of record therein.
In Testimony Whereof, I have hereunto
set my hand and affixed my Official
Seal at Trenton, this 15th

day of January A.D. 1973

Robert M. Foley
ASSISTANT Secretary of State



8-K 1 form8k.htm SOUTH JERSEY INDUSTRIES, INC 8-K 9-27-2010

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549**

FORM 8-K

**CURRENT REPORT
Pursuant to Section 13 or 15(d) of the
Securities Exchange Act of 1934**

Date of report (Date of earliest event reported): September 27, 2010

SOUTH JERSEY INDUSTRIES, INC

(Exact Name of Registrant as Specified in Charter)

New Jersey	1-6364	22-1901645
(State or Other Jurisdiction of Incorporation)	(Commission File Number)	(I.R.S. Employer Identification No.)

1 South Jersey Plaza, Folsom, NJ 08037
(Address of Principal Executive Offices) (Zip Code)

(609) 561-9000
(Registrant's Telephone Number, Including Area Code)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
-
-

Item 8.01. Other Events.

The staff of the Office of Enforcement of the Federal Energy Regulatory Commission (FERC) and two subsidiaries of South Jersey Industries, Inc., South Jersey Gas Company (South Jersey Gas) and South Jersey Resources Group, LLC (South Jersey Resources and, together with South Jersey Gas Company, South Jersey), have entered into a Stipulation and Consent Agreement that has been approved by order of the FERC resolving an investigation into certain alleged violations of FERC's open access transportation program, including the competitive bidding requirements for long-term, discounted rate capacity releases, the shipper-must-have-title requirement, and the prohibition against buy/sell transactions.

FERC recently began focusing on the way in which participants in the natural gas industry were conducting natural gas transactions relative to its interpretation of certain specific rules governing such transactions. FERC's investigation of South Jersey arose from an investigation of Constellation NewEnergy – Gas Division (Constellation). South Jersey Gas was a releasing shipper in certain of Constellation's flipping transactions. Upon notification by FERC that these transactions were viewed as being in violation of certain FERC regulations, South Jersey conducted a comprehensive internal review of its natural gas trading and transportation practices to confirm compliance with FERC's capacity release rules and voluntarily disclosed possible violations of the shipper-must-have-title requirement and the prohibition on buy/sell transactions.

The FERC staff determined that South Jersey's cooperation in the investigation was "exemplary." South Jersey engaged outside counsel to assist with a comprehensive review of its interstate pipeline and gas storage transportation transactions, which resulted in South Jersey providing the Office of Enforcement staff with a thorough self-report. South Jersey promptly ceased all activities in question and revised its operational practices to avoid potential violations in the future.

South Jersey has always strived to maintain a culture of compliance, with no history of violating FERC rules, regulations or policies. At the time of the transactions in question, South Jersey had in place a substantial compliance program to address recognized compliance risks. However, that program under-identified risks associated with FERC's open access transportation program. Upon becoming aware of the views of FERC on these issues, South Jersey formulated and implemented significant enhancements to its existing compliance program. Those enhancements include providing extensive training on the Commission's open access transportation requirements to its employees, senior management and Board of Directors.

While not admitting that it had, in fact, violated the FERC's rules and regulations, South Jersey reached agreement with the FERC to resolve the dispute without further proceedings. South Jersey has agreed to pay a civil penalty of \$950,000 and to disgorge approximately \$121,000, plus interest, of profits from the transactions in question.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

SOUTH JERSEY INDUSTRIES, INC.

Dated: September 27, 2010

By: /s/ David A. Kindlick

Name: David A. Kindlick
Title: Senior Vice President and
Chief Financial Officer



South Jersey Energy

Where we put all of our energy™

Corporate Office
5429 Harding Highway, Building 501
Mays Landing, New Jersey 08330
Phone (609) 568-9028 Fax (609) 625-3994
Billing Questions? 609-568-9028 ext. 6936



Payment Due Date **7/29/2010**

Billing Month	6/1/2010
Invoice Date	7/9/2010
Utility	NJN
Commodity	Gas

Invoice No. **G07091027214**

Account No.	Service Address	Billing Period		Quantity	Measurement Unit
		Start Date	End Date		
220007932839	48 RT. 9	5/3/2010	6/1/2010	357.0000	Decatherms

Line Item Description	Volume	Price*	Total Line Item
Current Charges	357.0000	\$6.01880	\$2,148.71

Total Invoice No. **G07091027214** \$2,148.71
 Previous Balance Due \$0.00
 Total Balance Due **\$2,148.71**



For Your Information: PLEASE REMIT TO:
 South Jersey Energy, Lockbox #6471, PO Box 8500
 Philadelphia, PA 19178-6471

**BASE CONTRACT (“Contract”)
FOR SALE AND PURCHASE OF NATURAL GAS (“Gas”)**

1. PURPOSE

- 1.1 This Contract is intended to facilitate purchase and sale transactions of natural gas on a Firm or Interruptible basis. “Buyer” refers to _____ the party receiving Gas and “Seller” refers to **SOUTH JERSEY ENERGY COMPANY**, the party delivering Gas.
- 1.2 All capitalized terms used herein without definition shall have the meanings assigned to them on the document attached hereto as Exhibit A (hereinafter called “Exhibit A”), unless the context clearly indicates to the contrary.

2. PERFORMANCE OBLIGATION

- 2.1 Seller agrees to sell and deliver, and Buyer agrees to receive and purchase, the Contract Quantity as defined in Exhibit A, for a particular transaction in accordance with the terms of this Contract. Sales and purchases will be on a Firm or Interruptible basis, as specified in the Exhibit A. It is contemplated that before the end of the Contract Term set forth on Exhibit A, the parties will execute a new Exhibit A each successive Contract Term.
- 2.2 In addition to any liability for Imbalance Charges specified in Exhibit A, which shall not be recovered twice by the following remedy, the exclusive and sole remedy of the parties in the event of a breach of a Firm obligation by Seller on any day(s) shall be recovery of the following: payment by Seller to Buyer in an amount equal to the difference between the Contract Quantity and the actual quantity delivered by Seller and received by Buyer for such Day(s), multiplied by the positive difference, if any, obtained by subtracting the Contract Price as defined in Exhibit A, from the Gas Daily Zone 6 price.
- 2.3 In addition to any liability for Imbalance Charges specified in Exhibit A, which shall not be recovered twice by the following remedy, the exclusive and sole remedy of the parties in the event of a breach of a Firm obligation by Buyer on any day(s) shall be recovery of the following: payment by Buyer to Seller in an amount equal to the difference between the Contract Quantity and the actual quantity delivered by Seller and received by Buyer for such day(s), multiplied by the positive difference, if any, obtained by subtracting the applicable Gas Daily Zone 6 price from the Contract Price.
- 2.4 EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED HEREIN, IN NO EVENT WILL EITHER PARTY BE LIABLE UNDER THIS CONTRACT, WHETHER IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), OR OTHERWISE, FOR INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES.

3. PROCEDURES

- 3.1 Any Gas purchase and sale transaction may be effectuated in an electronic data interchange transmission or telephone conversation with the offer and acceptance, whether oral or written, constituting the agreement of the parties. The parties shall be legally bound from the time they so agree to transaction terms and may each rely thereon. Notwithstanding the next sentence, any such transaction, whether expressed in writing or by oral communication, shall be deemed to be in writing, to have been signed and to be final. The parties also agree that Seller and Buyer shall each confirm a telephonic transaction by sending the other party a written confirmation by facsimile, e-mail or other mutually agreeable electronic means. Each party's letterhead or the like shall represent its signature on any confirmation as the identification and authentication of such party.
- 3.2 The entire agreement between the parties shall be those provisions contained in both the Contract and any effective Exhibit A. In the event of a conflict among terms of an Exhibit A and the Contract, the terms of the Exhibit A shall govern.
- 3.3 Each party acknowledges and agrees that the other party may record telephone conversations and other discussions regarding any proposed or concluded transaction or any matter arising under the Contract. Each party agrees to notify and obtain the consent of its employees and agents to such recording to the extent required by law. In the event of a good faith dispute, each party agrees to deliver to the other party a true and complete copy of any relevant tape recording.

4. TERM AND TERMINATION

- 4.1 The Term of this Contract shall commence on _____ and shall remain in effect until the expiration of the latest Term of any Exhibit A or confirmation(s) effectuated pursuant to Section 3.1, unless sooner terminated pursuant to Subsection 4.2, below.
- 4.2 Seller may terminate this Contract at any time upon the occurrence of any one or more of the following events (each being an "Event of Default"): (1) Buyer shall fail to pay any amount due to Seller within ____ () days of the date when payment is due, (2) a bankruptcy, receivership or similar insolvency proceeding is initiated by or against the Buyer, (3) Seller determines in its sole and absolute discretion that the Buyer will not remain able to continue to pay its current operating expenses as they fall due in the ordinary course, or (4) Buyer shall breach any obligation set forth in this Contract. The rights of either party pursuant to Section 8.2, the obligations to make payment hereunder, and the obligation of either party to indemnify the other pursuant hereto shall survive the termination of the Contract, Exhibit A or any valid confirmation.
- 4.3 Should Seller terminate this Contract due to an Event of Default or other breach by Buyer of any obligation set forth in this Contract, Seller shall be entitled to recover from Buyer reasonable termination costs, if any, based on the difference between the contract price and current market price multiplied by the unused volume of contracted quantity, sustained as a result of the early termination and, in addition to all rights under the Uniform Commercial

Code and those otherwise specifically set forth herein, Seller shall have all of the rights of a forward contract merchant under a forward contract for the sale of a commodity as set forth in the 11 U.S.C. §§ 101 *et seq.* (the “Bankruptcy Code”), including, without limitation, the right to terminate this Contract without violating the automatic stay of Section 362 of the Bankruptcy Code, and the right to liquidate and accelerate this contract as provided in Section 556 of the Bankruptcy Code, and all rights and defenses under the “safe harbor” provisions Section 546(e) of the Bankruptcy Code.

5. TRANSPORTATION, NOMINATIONS AND IMBALANCES

- 5.1 The parties shall coordinate their nomination activities, giving sufficient time to meet the deadlines of the affected Transporter(s). Transporter shall mean all Gas gathering or pipeline companies, or local distribution companies transporting Gas upstream or downstream, respectively, of the Delivery Point(s) as defined in Exhibit A, pursuant to a particular transaction. Each party shall give the other party timely prior notice, sufficient to meet the requirements of all Transporter(s) involved in the transaction, of the quantities of Gas to be delivered and purchased each Day. Should either party become aware that actual deliveries at the Delivery Point(s) are greater or lesser than the gas scheduled for delivery, such party shall promptly notify the other party.
- 5.2 The parties shall use commercially reasonable efforts to avoid imposition of any Imbalance Charges. If the Imbalance Charges were incurred as a result of Buyer's actions or inactions (which shall include, but not be limited to, Buyer's failure to accept quantities of Gas equal to the scheduled gas), then Buyer shall pay for such Imbalance Charges, or reimburse Seller for such Imbalance Charges paid by Seller to the Transporter according to the provisions included in the Exhibit A.

6. QUALITY AND MEASUREMENT

All Gas delivered by Seller shall meet the quality and heat content requirements of the Transporter. The unit of quantity measurement for purposes of this Contract shall be one MMBtu dry. Measurement of Gas quantities Hereunder shall be in accordance with the established procedures of the Transporter.

7. TITLE, WARRANTY AND INDEMNITY

- 7.1 Unless otherwise specifically agreed, title to the Gas shall pass from Seller to Buyer at the Delivery Point(s). Seller shall have responsibility for and assume any liability with respect to the Gas prior to its delivery to Buyer at the specified Delivery Point(s). Buyer shall have responsibility for and assume any liability with respect to said Gas after its delivery to Buyer at the Delivery Point(s).
- 7.2 Seller warrants that it will have the right to convey and will transfer good and merchantable title to all Gas sold hereunder and delivered by it to Buyer, free and clear of all liens, encumbrances, and claims.

7.3 Seller agrees to indemnify Buyer and save it harmless from all losses, liabilities or claims including attorneys' fees and costs of court ("Claims"), from any and all persons, arising from or out of claims of title, personal injury or property damage from said Gas or other charges thereon which attach before title passes to Buyer. Buyer agrees to indemnify Seller and save it harmless from all Claims, from any and all persons, arising from or out of claims regarding payment, personal injury or property damage from said Gas or other charges thereon which attach after title passes to Buyer.

8. BILLING AND PAYMENT

8.1 Seller shall invoice Buyer for total amount of Gas delivered and received and the dollar amount payable for such services in such manner as is defined in the attached Exhibit A.

8.2 If only one party owes a debt or obligation to the other party for the purchase of Gas on any given due date under the Contract, including any related liquidated damages, interest, and payment or credits, the party that owes such amount shall pay such sum in full when due to the other party. Except as set forth in this Contract, all payments under the Contract shall be paid when due without setoff or counterclaim.

8.3 Notwithstanding anything to the contrary in this Section 8, a party may demand payment from the other party of any amounts due from such other party under Section 2 of the Contract; such payment shall be due within two (2) Business Days of such demand.

9. FINANCIAL RESPONSIBILITY

9.1 Nothing in the Contract requires Seller to extend credit to Buyer. Seller may at any time in its sole discretion modify its credit requirements applicable to Buyer, and Buyer shall satisfy any such requirements as a condition to Seller's performance under or entering into any transactions. Buyer shall provide Seller upon request, within two (2) Business Days thereof, any reasonable credit information requested by Seller, including but not limited to financial statements (including audited and unaudited statements) and annual and quarterly reports and its credit support provider or guarantor, if any. Such request for credit information shall be in addition to and not in lieu of any request that Buyer may make for a showing of creditworthiness by Buyer or for adequate assurances of Buyer's ability to pay or perform under the Contract.

9.2 When reasonable grounds for insecurity of payment or title to the Gas arise, Seller may demand adequate assurance of Buyer's performance. Adequate assurance shall mean sufficient security in the form and for the term reasonably specified by the party demanding assurance, including, but not limited to, a standby irrevocable letter of credit, a prepayment, a security interest in an asset acceptable to the demanding party or a performance bond or guarantee by a creditworthy entity.

9.3 Buyer acknowledges and agrees that this Contract and all commitments of the Seller to acquire Gas for the Buyer under this Contract and all Exhibits hereto are "forward contracts"

as such term is defined and utilized under 11 U.S.C. §§ 101 *et seq.* (the "Bankruptcy Code"). In the event Buyer or any affiliate of such party shall (i) make an assignment or any general arrangement for the benefit of creditors; (ii) fail to pay or perform, when due, any obligation to the other party under the Contract or in connection with credit support obligations or otherwise, and such failure is not cured within two (2) Business Days after written notice thereof to the Defaulting Party; (iii) fail to pay when due amounts owed under Section 2.2 of the Contract (iv) file or have filed against it a petition or otherwise to commence, authorize, or acquiesce in the commencement of a proceeding or cause under any bankruptcy, insolvency, reorganization or similar law for the protection of creditors of have such petition filed or proceeding commenced against it; (v) have a liquidator, administrator, receiver or trustee appointed with respect to it or any substantial portion of its property or assets; (vi) otherwise become bankrupt or insolvent (however evidenced); (vii) be unable to pay its debts as they fall due; or (viii) fail to provide adequate security for or assurance of its ability to perform its outstanding obligations under the Contract, any transaction(s) or otherwise within forty-eight (48) hours of a reasonable request by the Seller, then the Seller shall have the right, without notice, to suspend performance or to terminate and liquidate this and any and all other forward contracts then outstanding at any time or from time to time thereafter.

9.4 Seller may immediately suspend deliveries to Buyer hereunder in the event Buyer has not paid any amount due Seller hereunder on or before the second day following the date such payment is due.

9.5 Each party reserves to itself all rights, set-offs, counterclaims, and other defenses which it is or may be entitled to arising from the Contract.

10. FORCE MAJEURE

10.1 Except with regard to a party's obligation to make payment due under Section 8 and Imbalance Charges under Section 5, neither party shall be liable to the other to perform a Firm obligation, to the extent such failure was caused by Force Majeure. The term "Force Majeure" as employed herein means any cause not reasonably within the control of the party claiming suspension, as further defined in Section 10.2.

10.2 Force Majeure shall include but not be limited to the following: (1) physical events such as acts of God, landslides, lightning, earthquakes, fires, storms or storm warnings, such as hurricanes, which result in evacuation of the effected area, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery or equipment or lines of pipe, (ii) weather related events affecting an entire geographic region, such as low temperatures which cause freezing or failure of wells or lines of pipe; (iii) interruption of firm transportation and/or storage by Transporters; (iv) acts of others such as strikes, lockouts or other industrial disturbances, riots, sabotage, insurrections or wars; and (v) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, or regulation promulgated by a governmental authority having jurisdiction. Seller and Buyer shall make reasonable efforts to avoid the adverse impacts of a Force Majeure and to resolve the event or occurrence once it has occurred in order to resume performance.

- 13.1. This Contract shall be binding upon and inure to the benefit of the successors, assigns, personal representatives, and heirs of the respective parties hereto, and the covenants, conditions, rights and obligations of this Contract shall run for the full term of this Contract. No assignment of this Contract, in whole or in part, will be made without the prior written consent of the non-assigning party, which consent will not be unreasonably withheld or delayed; provided, either party may transfer its interest to any parent or affiliate by assignment, merger or otherwise without the prior approval of the other party. Upon any transfer and assumption, the transferor shall not be relieved of or discharged from any obligations hereunder.
- 13.2. If any provision in this Contract is determined to be invalid, void or unenforceable by any court having jurisdiction, such determination shall not invalidate, void, or make unenforceable any other provision, agreement or covenant of this Contract.
- 13.3. No waiver of any breach of this Contract shall be held to be a waiver of any other or subsequent breach.
- 13.4. This Contract sets forth all understandings between the parties respecting each transaction subject hereto, and any prior contracts, understandings and representations, whether oral or written, relating to such transactions are merged into and superseded by this Contract and any effective transaction confirmation(s). This Contract may be amended only by a writing executed by both parties.
- 13.5. The interpretation and performance of this Contract shall be governed by the laws of the state of New Jersey, without regard to its conflict of law principles. The parties expressly agree that the Superior Court of New Jersey – Atlantic County shall have exclusive jurisdiction and venue to hear and determine any claims arising out of or under this Contract.
- 13.6. This Contract and all provisions herein will be subject to all applicable and valid statutes, rules, orders and regulations of any Federal, State, or local governmental authority having jurisdiction over the parties, their facilities, or Gas supply, this Contract or transaction confirmation or any provisions thereof.
- 13.7. The terms of the Contract and of any transactions entered into, including but not limited to the Contract Price, the Contract Quantity, the identified Transporter(s), and all other material terms thereof, shall be kept confidential by the parties hereto, except to the extent that any information must be disclosed to a third party for the purpose of effectuating transportation of Gas subject to a transaction or to meet New York Mercantile Exchange requirements or regulatory filing requirements where necessary or otherwise as required by law. If a party is required by an agency or court order or otherwise by law to disclose information, then that party shall provide reasonable notice to the other party prior to such disclosure.

13.8 Each party to this Contract represents and warrants that it has full and complete authority to enter into and perform this Contract. Each person who executes this Contract on behalf of either party represents and warrants that it has full and complete authority to do so and that such party will be bound thereby.

SELLER:

BUYER:

**SOUTH JERSEY ENERGY
COMPANY**

Name:
Title:

Name:
Title: