

024

Agenda Date: 02/07/07  
Agenda Item: 2C



**State of New Jersey**  
**Board of Public Utilities**  
**Two Gateway Center**  
**Newark, NJ 07102**  
*www.bpu.state.nj.us*

ENERGY

IN THE MATTER OF THE PETITION OF )  
PIVOTAL UTILITY HOLDINGS INC., d/b/a )  
ELIZABETHTOWN GAS COMPANY TO: (1) )  
RECONCILE ITS PERIODIC BASIC GAS )  
SUPPLY SERVICE RATE; AND (2) REVISE ITS )  
COMMODITY RATES FOR COMMERCIAL AND )  
INDUSTRIAL AIR CONDITIONING AND )  
DISTRIBUTED GENERATION USES AND )  
SEASONAL DELIVERY SERVICE )

DECISION AND ORDER  
ADOPTING INITIAL DECISION  
AND STIPULATION

BPU DOCKET NO. GR05060494  
OAL DOCKET NO. PUC11902-05

(SERVICE LIST ATTACHED)

BY THE BOARD:

On June 1, 2005, Pivotal Utility Holdings, Inc.<sup>1</sup> d/b/a Elizabeth Gas Company ("Elizabethtown" or "Company") filed a petition with the Board requesting authorization to: (1) Revise its Periodic Basic Gas Supply Service rate ("BGSS-P") from \$0.8369 per therm including Sales and Use Tax ("SUT") to \$0.8724 per therm including SUT; (2) Revise its Commodity rates for Commercial and Industrial Air Conditioning ("CIAC") Service so that the applicable monthly BGSS rate ("BGSS-M") would apply to those uses; and (3) Increase its Seasonal Delivery Service ("SDS") commodity rate from \$0.5438 per dekatherm including SUT to \$1.0343 per dekatherm including SUT. Elizabethtown proposed an effective date of October 1, 2005. Elizabethtown also reserved the right to implement additional self-implementing increases in the BGSS-P rate on December 1, 2005 and February 1, 2006, respectively, pursuant to the mechanism established in the Board's Generic BGSS Order in Docket No. GX01050304, dated January 6, 2003 ("the BGSS Clause Mechanism"). Public hearings on the matter, presided over by Board appointed Legal Specialists, were held in Flemington, New Jersey and Rahway, New Jersey on August 9 and August 10, 2005, respectively. The public hearings were preceded by notices in newspapers of general circulation throughout the Company's service territory. No one from the public attended the proceedings.

<sup>1</sup> Pivotal Utility Holdings Inc., d/b/a Elizabethtown Gas Company was formerly known as NUI Utilities, Inc. d/b/a Elizabethtown Gas Company

On August 19, 2005, Elizabethtown, Division of Ratepayer Advocate<sup>2</sup> and Board Staff, the only parties to these proceedings (“the Parties”), entered into a Stipulation that approved the Company’s proposed Periodic BGSS-P, assessed the applicable BGSS-M rate as the CIAC rate and increased the SDS commodity rate to \$1.0343 per dekatherm effective September 1, 2005 on a provisional basis, subject to refund and the outcome of further proceedings.

On November 10, 2005, Elizabethtown filed an emergent motion in Docket No. GR05060494 seeking authority to further increase its BGSS-P rate from \$0.8724 per therm including SUT, to \$1.1690 per therm including SUT. Notice of this rate increase and a public hearing was also placed in newspapers having circulation in Elizabethtown’s service territory and was served on County Executives and Clerks in all municipalities within the service territory. A public hearing concerning the Company’s emergent increase was held on December 6, 2005 in Flemington, New Jersey. No one from the public attended the proceeding. By Order issued December 15, 2005 (“December 15 Order”), the Board approved a stipulation executed by the Company, the Ratepayer Advocate and the Board’s Staff that permitted the Company to implement the \$1.1690 per therm BGSS-P rate effective December 15, 2005 on a provisional basis, subject to refund. The December 15 Order provided that this provisional BGSS-P rate of \$1.1690 per therm would be in lieu of the self-implementing price increases of up to 5% otherwise available to the Company on December 1, 2005 and February 1, 2006. Subsequently, the matter was transferred to the Office of Administrative Law as a contested case.

On March 8, 2006 Elizabethtown provided a bill credit to all customers subject to the BGSS-P rate effective April 1, 2006 in order to refund a \$16.5 million overrecovery of purchased gas costs.

On December 19, 2006, the Parties executed a stipulation in this matter agreeing to the following with regard to the major issues:

The provisional BGSS-P rate of \$1.1690 per therm including SUT, the application of the BGSS-M rate as the commodity rates for CIAC uses, and the SDS rate of \$1.0343 per dekatherm including SUT, shall become final for the period in which they were and/or will remain in effect.

The Company shall credit the BGSS clause within 10 days of the effective date of this stipulation (and effective date of this Board Order), the amount of \$11,103, which represents interest calculated at 5.75% on the Gas Cost Under-recovery Adjustment (“GCUA”) over-recovery balance that existed in the GCUA in February and March of 2005. The interest rate is the same rate that applied to the GCUA under-recovery balance prior to the full recovery of the balance. The GCUA was terminated in February 2005 and the over-recovery balance of \$3,382,892 was credited to the BGSS clause on February 28, 2005.

The Asset Management Agreement (“AMA”) between Elizabethtown and Sequent Energy Management, L.P. (“Sequent”) shall be clarified and/or modified as follows:

---

<sup>2</sup> The Division of the Ratepayer Advocate is now the Department of the Public Advocate, Division of Rate Counsel.

- a) For the year commencing April 1, 2007, the schedule under which the fee of \$4.0 million is paid by Sequent to Elizabethtown shall be modified so that the fee will be paid in quarterly installments of \$1.0 million each at the end of June 2007, September 2007, December 2007 and March 2008.
- b) Sequent will no longer have the right to match any offers obtained by Elizabethtown for incremental peaking supplies.
- c) As modified pursuant to the letter agreement between Elizabethtown and Sequent attached to the stipulation as appendix "A", no provision in the AMA prevents Elizabethtown from fully complying with the portion of the Board's November 17, 2004 Order in Docket No. GM04070721 that states:

"Prior to the end of the three year term of the Sequent Agreement, ETG shall competitively bid its asset management unless the Board has previously authorized an alternative asset management procedure for ETG, which may include performing asset management in AGL Services Company on behalf of ETG, or other options the Board deems in the public interest. ETG shall file an asset management plan with the Board at least six months prior to the expiration of the Sequent Asset Management Agreement."

The Company shall file within ten days of the effective date of the Stipulation, revised tariff sheets terminating its SDS service classification tariff because there are no current customers under this schedule.

The Company shall investigate whether there are cost-effective ways to avoid incurring pipeline penalty charges in the future and shall report the results of its investigation as part of its 2007 BGSS annual filing.

Attached to the Stipulation as Appendix A is a letter agreement dated December 15, 2006, which contains the proposed modifications/clarifications to the AMA referenced in the Stipulation and which is executed by Patrick J. Strange on behalf of Sequent Energy Management, L.P.

On January 11, 2007, an Initial Decision was issued by Administrative Law Judge ("ALJ") Mumtaz Bari-Brown approving the December 19, 2006 Stipulation. The ALJ found that the parties voluntarily agreed to the stipulation and that the stipulation fully disposes of all issues in controversy and is consistent with the law.

### **Discussion and Findings**

The Board has reviewed the record to date in this proceeding including the Initial Decision and the December 19, 2006 Stipulation. The Board **HEREBY FINDS** the Initial Decision and December 19, 2006 Stipulation to be reasonable, the public interest and in accordance with law. Accordingly, the Board **HEREBY ADOPTS** the Initial Decision in its entirety and **HEREBY INCORPORATES** the terms of the December 19, 2006 Stipulation as if fully set forth herein.

The Board notes that in the Stipulation and the Letter Agreement of Elizabethtown and Sequent attached to the Stipulation as Appendix A, it is agreed that "there is nothing in the AMA that would in any way prevent Elizabethtown from fully complying with the portion of the Board's

November 17, 2004 Order in Docket No. GM04070721." The Board emphasizes that the referenced provision of its November 17, 2004 Order is in effect, and Elizabethtown is required to comply therewith. By approving the Stipulation, the Board is not approving of the parties' interpretation of the AMA but approves of what appears to be the intent of the parties to the Stipulation and Letter Agreement that there be compliance with the Board's Order.

The Company is **HEREBY DIRECTED** to file the appropriate tariff pages that conform to the terms and conditions of this order within ten (10) business days from the date of this Order.


The Company's gas cost will remain subject to audit by the Board. This Decision and Order shall not preclude the Board from taking any such actions deemed to be appropriate as a result of any such audit.


DATED: 2/7/07

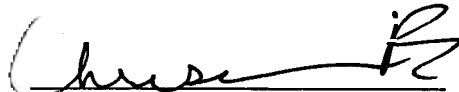
BOARD OF PUBLIC UTILITIES  
BY:

  
JEANNE M. FOX  
PRESIDENT

  
FREDERICK F. BUTLER  
COMMISSIONER

  
CONNIE O. HUGHES  
COMMISSIONER

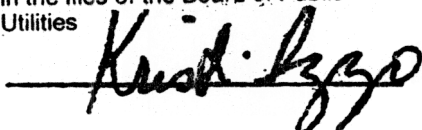
  
JOSEPH L. FIORDALISO  
COMMISSIONER

  
CHRISTINE V. BATOR  
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 Pivotal Utility Holdings Inc., d/b/a Elizabethtown Gas Company to (1) Reconcile its Periodic Basic Gas Supply Service Rates, and (2) Revise its Commodity Rates for Commercial and Industrial Air Conditioning and Distributed Generation Uses and Seasonal Delivery Service.**

**BPU Docket No. GR05060494**

**SERVICE LIST**

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COPY



COPY

State of New Jersey  
OFFICE OF ADMINISTRATIVE LAW

CMS  
BISLOW  
RPA  
LENCAR  
TENZOR  
PATEL  
CURTO, A  
JANNA CONE  
BUL

INITIAL DECISION

SETTLEMENT

OAL DKT. NO. PUC 11902-05

AGENCY DKT. NO. GR05060494

IN THE MATTER OF PETITION OF PIVOTAL  
UTILITY HOLDINGS INC., d/b/a ELIZABETHTOWN  
GAS COMPANY TO (1) RECONCILE ITS PERIODIC  
BASIC GAS SUPPLY SERVICES RATE AND (2) REVISE  
ITS COMMODITY RATES FOR COMMERCIAL AND  
INDUSTRIAL AIR CONDITIONING AND DISTRIBUTED  
GENERATION USES AND SEASONAL DELIVERY SERVICE

RECEIVED  
CASE MANAGER  
2007 JAN 11 PM 3:09  
BOARD OF PUBLIC UTILITIES  
NEWARK, N.J.

Kenneth T. Maloney, Esq., for petitioner, Pivotal Utility Holdings, Inc. (Cullen & Dykman, L.L.P., attorneys)

Christina N. Patel, Deputy Attorney General, for Board of Public Utilities (Stuart Rabner, Attorney General for the State of New Jersey, attorney)

Judith Appel, Esq., and Kurt S. Lewandowski, Esq., for Division of the Ratepayer Advocate (Seema M. Singh, Esq., Ratepayer Advocate, attorney)

Record Closed: December 26, 2006

Decided: January 4, 2007

BEFORE MUMTAZ BARI-BROWN, ALJ:

This matter was transmitted to the Office of Administrative Law (OAL) on October 24, 2005, for resolution as a contested case pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F1 to -13.

A hearing was scheduled for January 30, 2007. Prior to the date of hearing the parties settled the matter. The attached Final Stipulation was submitted on December 26, 2006, indicating the terms of agreement which are incorporated herein by reference.

Having reviewed the record and the settlement terms, I **FIND**:

1. The parties have voluntarily agreed to the settlement as evidenced by their signatures and/or the signatures of their representatives.
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 (45) 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.

January 4, 2007  
DATE

1-11-07  
DATE

\_\_\_\_\_  
DATE  
da

Mumtaz Bari Brown  
MUMTAZ BARI-BROWN, ALJ  
Receipt Acknowledged:

Floyd Young Jr.  
BOARD OF PUBLIC UTILITIES

Mailed to Parties:

\_\_\_\_\_  
OFFICE OF ADMINISTRATIVE LAW



STATE OF NEW JERSEY  
BOARD OF PUBLIC UTILITIES

RECEIVED  
STATE OF N.J.  
OFFICE OF ADMIN. LAW

2005 DEC 26 P 12:05

In The Matter Of The Petition Of NUI Utilities Inc. :  
d/b/a Elizabethtown Gas Company To (1) Revise Its :  
Periodic Basic Gas Supply Service Rate; and (2) Revise :  
Its Commodity Rates For Commercial and Industrial :  
Air Conditioning and Distributed Generation Uses :  
and Seasonal Delivery Service :  
: X

BPU Docket No. GR05060494  
OAL Docket No. PUC-11902-2005-N

FINAL STIPULATION

Background

On June 1, 2005 NUI Utilities, Inc. d/b/a Elizabethtown Gas Company,<sup>1</sup> ("Elizabethtown" or "Company") filed a petition ("June 1, 2005 Petition") with the Board of Public Utilities ("Board" or "BPU") in the above-captioned proceeding to (1) revise its Periodic Basic Gas Supply Service ("BGSS-P") rate; and (2) revise its commodity rates for Commercial and Industrial Air Conditioning ("CIAC") and Distributed Generation ("DG") Uses ("CIAC rates") and Seasonal Delivery Service ("SDS").

In its June 1, 2005 Petition, Elizabethtown proposed (1) an increase in its then-current BGSS-P rate from \$0.8369 per therm<sup>2</sup> to \$0.8724 per therm, (2) to revise its commodity rates for CIAC service so that the applicable monthly BGSS rate -- "BGSS-M" -- would apply to those uses, and (3) an increase in its SDS commodity rate from \$0.5438 per dekatherm to \$1.0343 per dekatherm, all to become effective October 1, 2005. Elizabethtown also reserved the right to implement additional self-implementing increases in the BGSS-P rate on December 1, 2005 and February 1, 2006, respectively. Notice of the public hearings and requested rates was placed in newspapers having circulation within Elizabethtown's service territory, and was served on the county executives and clerks of all municipalities within the Company's service territory. Public hearings concerning the Company's 2005 BGSS Petition were held August 9, 2005 in Flemington, New Jersey and August 10, 2005 in Rahway, New Jersey. Following these hearings, by Order dated August 19, 2005, the Board approved a stipulation executed by the

<sup>1</sup> NUI Utilities Inc. d/b/a Elizabethtown Gas Company is now known as Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas.

<sup>2</sup> Unless otherwise noted, all rates include any applicable taxes.

Company, the Division of The Ratepayer Advocate ("Ratepayer Advocate")<sup>3</sup> and the Board's Staff that permitted Elizabethtown to increase its BGSS-P rate to \$0.8724 per therm, assess the applicable BGSS-M rate as the CIAC rates and increase the SDS commodity rate to \$1.0343 per dekatherm effective September 1, 2005 on a provisional basis. The Stipulation provided that any net overrecovery at the end of the BGSS period would be subject to refund with interest.

Subsequently on November 10, 2005, Elizabethtown filed an emergent motion in Docket No. GR05060494 seeking authority to further increase its BGSS-P rate from \$0.8724 per therm to \$1.1690 per therm. Notice of this rate increase and a public hearing was also placed in newspapers having circulation in Elizabethtown's service territory and was served on County Executives and Clerks in all municipalities within the service territory. A public hearing concerning the Company's emergent increase was held on December 6, 2005 in Flemington, New Jersey. By Order issued December 15, 2005 ("December 15 Order"), the Board approved a stipulation executed by the Company, the Ratepayer Advocate and the Board's Staff that permitted the Company to implement the \$1.1690 per therm BGSS-P rate effective December 15, 2005 on a provisional basis, subject to refund. The December 15 Order provided that this provisional BGSS-P rate of \$1.1690 per therm would be in lieu of the self-implementing price increases of up to 5% otherwise available to the Company on December 1, 2005 and February 1, 2006. After notice to the Board and all parties dated March 8, 2006, Elizabethtown provided a bill credit to all customers subject to the BGSS-P rate effective April 1, 2006 in order to refund a \$16.5 million overrecovery of purchased gas costs.

On September 29, 2006, Elizabethtown filed with the Board a proposed tariff sheet that reduced its BGSS-P rate to \$1.1027, inclusive of all taxes, effective as of October 5, 2006. No party objected to this tariff sheet, and it became effective October 5, 2006.

Following the issuance of the December 15 Order, Elizabethtown's Petition was transferred to the Office of Administrative Law as a contested case. Representatives of Elizabethtown, the Board's Staff and Rate Counsel, the only parties to this proceeding at this time, have engaged in discovery and met to discuss the matters at issue in this

<sup>3</sup> The Division of the Ratepayer Advocate is now the Department of the Public Advocate, Division of Rate Counsel ("Rate Counsel").

proceeding. As a result of those discussions, the parties have resolved all remaining issues in this proceeding in accordance with the Stipulation set forth below.

In addition, Elizabethtown is a party to an asset management agreement ("AMA") with its affiliate, Sequent Energy Management, L.P. ("Sequent"). Elizabethtown was authorized to enter into the AMA by Order dated November 17, 2004 in Docket No. GM04070721. This Stipulation clarifies and modifies certain terms of the AMA. Sequent agrees to these changes, as documented in the letter attached hereto as Appendix A.

### Stipulation

Based upon and subject to the terms and conditions set forth herein, the Board Staff, Rate Counsel and Elizabethtown (hereinafter "the Parties") stipulate as follows:

Rates. The Company's (i) BGSS-P rate of \$1.1690 per therm, (ii) application of the BGSS-M rate as the commodity rates for CIAC uses, and (iii) SDS commodity rate of \$1.0343 per dekatherm shall become final for the period they were and/or will remain in effect.

#### **2. Specific Issues:**

(a) Gas Cost Underrecovery Adjustment ("GCUA"). Within ten days of the Effective Date of this Stipulation as defined in paragraph 4 below, Elizabethtown shall credit its BGSS clause \$11,103, which represents interest calculated at 5.75% on the GCUA overrecovery balance that existed in the GCUA in February and March of 2005. The 5.75% interest rate is the same rate that applied to GCUA underrecovery balances prior to the full recovery of that balance. The GCUA was terminated in February 2005 and the overrecovery balance of \$3,382,892 was credited to the BGSS clause on February 28, 2005.

(b) AMA Modifications/Clarifications. The AMA between Elizabethtown and Sequent shall be clarified and/or modified as follows:

(i) for the year commencing April 1, 2007, the schedule under which the fee of \$4 million is paid by Sequent to Elizabethtown shall be modified so that the fee will be paid in quarterly installments of \$1 million each at the end of June 2007, September 2007, December 2007 and March 2008;

(ii) Sequent will no longer have the right to match any offers obtained by Elizabethtown for incremental peaking supplies; and

(iii) as modified pursuant to the letter agreement between Elizabethtown and Sequent attached to this Stipulation as Appendix A, no provision in the AMA prevents Elizabethtown from fully complying with the portion of the Board's November 17, 2004 Order in Docket No. GM04070721 that states:

Prior to the end of the three year term of the Sequent agreement, ETG shall competitively bid its asset management unless the Board has previously authorized an alternative asset management procedure for ETG, which may include performing asset management in AGL Services Company on behalf of ETG, or other options the Board deems in the public interest. ETG shall file an asset management plan with the Board at least six months prior to the expiration of the Sequent Asset Management Agreement ("AMA").

(c) Seasonal Delivery Service. Because there are no current customers under this schedule, within ten days of the Effective Date of the Stipulation, the Company shall file revised tariff sheets terminating its Seasonal Delivery Service service classification tariff.

(d) Pipeline Penalty Avoidance. Elizabethtown shall investigate whether there are cost-effective ways to avoid incurring pipeline penalty charges in the future and shall report the results of its investigation as part of its 2007 BGSS annual filing.

3. All Issues Resolved. All issues related to Elizabethtown's recoverable costs for the BGSS Year ending September 30, 2005 are resolved.<sup>4</sup> In addition, this Stipulation resolves all other matters at issue in the captioned proceedings.

4. Effective Date. The Effective Date of this Stipulation shall be the date of a final Board order approving this Stipulation without modifications.

5. Entirety of Stipulation. This Stipulation represents a mutual balancing of interests and, therefore, is intended to be accepted and approved in its entirety. In the event that the Board does not adopt this Stipulation in its

<sup>4</sup> All issues regarding the treatment of interest on Elizabethtown's 2004-2005 BGSS overrecovery balance have been resolved by the Final Stipulation entered into by the Company, Rate Counsel and the Board's Staff in BPU Docket No. GR04060396 and OAL Docket No. PUC-11587-2004.

entirety in an Order, then any Party hereto is free to pursue its then available legal remedies with respect to all issues in this Stipulation as though this Stipulation had not been signed.

6. **Binding Effect.** It is the intent of the Parties that the provisions hereof be approved by the Board, as appropriate, as being in the public interest. The Parties further agree that they consider the Stipulation to be binding on them for all purposes herein.

7. **General Reservation.** It is specifically understood and agreed that this Stipulation represents a negotiated agreement and has been made exclusively for the purpose of this proceeding. Except as expressly provided herein, neither Elizabethtown, the Board, its Staff, Rate Counsel nor any other party shall be deemed to have approved, agreed to, or consented to any principle or methodology underlying or supposed to underlie any agreement provided herein. This Stipulation shall not be cited as precedent except for the purpose of enforcing its terms.

WHEREFORE, the Parties hereto do respectfully submit this Stipulation to the Presiding Administrative Law Judge and the Board of Public Utilities and request (i) the Presiding Administrative Law Judge to issue an initial decision approving this Stipulation, and (ii) the Board to issue a Decision and Order approving this Stipulation in its entirety in accordance with the terms hereof.

PIVOTAL UTILITY HOLDINGS, INC.  
D/B/A ELIZABETHTOWN GAS

By: Mary Patricia Keefe  
Mary Patricia Keefe  
Director - Regulatory Affairs

DEPARTMENT OF THE PUBLIC  
ADVOCATE,  
DIVISION OF RATE COUNSEL  
SEEMA SINGH, RATE COUNSEL

By: Judith Appel  
Judith Appel  
12/19/06

STAFF OF THE BOARD OF PUBLIC  
UTILITIES  
STUART RABNER  
ATTORNEY GENERAL OF NEW JERSEY

By: Babette Tenzer  
Babette Tenzer

Dated: 12/19/06



# Elizabethtown Gas

## APPENDIX A

One Elizabethtown Plaza  
PO Box 3175  
Union, New Jersey 07083  
  
908 288 5000 phone  
www.elizabethtowngas.com

December 15, 2006

Sequent Energy Management L.P.  
1200 Smith Street  
Houston, TX 77002  
Attention: Mr. Patrick Strange

**Re: Gas Supply Asset Agency Agreement Between Sequent Energy Management, L.P. and Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas**

Dear Mr. Strange:

Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas ("Elizabethtown") and Sequent Energy Management, L.P. ("Sequent") are parties to the above referenced agreement (hereinafter "AMA"). Elizabethtown was authorized to enter into the AMA by the New Jersey Board of Public Utilities ("NJBP") by Order dated November 17, 2004 in BPU Docket No. GM04070721.

In its 2005 annual Basic Gas Supply Service ("BGSS") review proceeding before the NJBP, which is being conducted in BPU Docket No. GR05060494, Elizabethtown is proposing to agree to the following modifications/clarifications to the AMA.

(1) For the year commencing April 1, 2007, the schedule under which the fee of \$4 million is paid by Sequent to Elizabethtown shall be modified so that the fee will be paid in quarterly installments of \$1 million each at the end of June 2007, September 2007, December 2007 and March 2008;

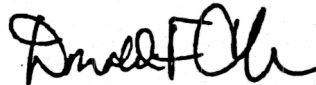
(2) Sequent will no longer have the right to match any offers obtained by Elizabethtown for incremental peaking supplies; and

(3) As clarified and modified there is nothing in the AMA that would in any way prevent Elizabethtown from fully complying with the portion of the Board's November 17, 2004 Order in Docket No. GM04070721 that states:

Prior to the end of the three year term of the Sequent agreement, ETG shall competitively bid its asset management unless the Board has previously authorized an alternative asset management procedure for ETG, which may include performing asset management in AGL Services Company on behalf of ETG, or other options the Board deems in the public interest. ETG shall file an asset management plan with the Board at least six months prior to the expiration of the Sequent Asset Management Agreement ("AMA").


By executing this letter in the space executed below, Sequent will signify its agreement, to the extent necessary, to the foregoing clarifications/modifications to the AMA. These clarifications/modifications shall become effective when and if the NJBPU approves the Stipulation in BPU Docket No. GR05060494.

Yours truly,



Donald Carter  
V. P. & General Mgr, Elizabethtown Gas

Accepted and Agreed

<sup>DTT/mjb</sup>  
  
On behalf of Sequent Energy  
Management, L.P.

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Thomas Kaufmann  
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Susan Potanovich  
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Diane Rojek  
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Leonard J. Willey  
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NORTH

Date: JAN 5 2007

Re: Initial Decisions for Receipt

Receipt of the following decisions from the Office of Administrative Law (as well as a copy of this form) is acknowledged as of the date indicated below:

OAL Docket No. PUC

Case Name

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Board of Public Utilities  
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Newark, New Jersey 07102

Date:

1-11-07

  
Board of Public Utilities