



Agenda Date: 10/24/07
Agenda Item: 2E

State of New Jersey
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.nj.gov/bpu/

ENERGY

IN THE MATTER OF THE PETITION OF)	DECISION AND ORDER
PIVOTAL UTILITY HOLDINGS INC., d/b/a)	APPROVING STIPULATION
ELIZABETHTOWN GAS COMPANY TO)	FOR PROVISIONAL RATES
RECONCILE ITS PERIODIC BASIC GAS)	
SUPPLY SERVICE RATE)	DOCKET NO GR07070520

(SERVICE LIST ATTACHED)

BY THE BOARD:

In accordance with an Order of the Board of Public Utilities ("Board" or "BPU") dated January 6, 2003, in Docket No. GX01050304, Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas Company ("Elizabethtown" or "Company"), filed a Petition with the Board on July 13, 2007 seeking to decrease its Periodic Basic Gas Supply Service ("BGSS-P") charge from \$1.1027 per therm to \$1.0339 per therm inclusive of all applicable taxes effective October 1, 2007. The projected impact of the proposed decrease is a decrease in gas cost revenues of approximately \$16.616 million in the BGSS year ending September 30, 2008. The Company's proposal would result in a decrease of 4.47% or \$6.88 per month to the bill of a typical residential customer using 100 therms per month.

The Company's petition was transmitted to the Office of Administrative Law ("OAL") on August 3, 2007, and assigned to Administrative Law Judge ("ALJ") Mumtaz Bari-Brown for an opportunity full review at the OAL and subsequent final Board approval. Two public hearings in this matter, presided over by ALJ Bari-Brown, were held in Flemington and Rahway September 25, and September 27, 2007, respectively. The public hearings were preceded by notices in newspapers of general circulation throughout the Company's service territory. The public notice also advised customers that the Board granted the Company, upon proper notice, the discretion to self-implement an increase in its BGSS rates to be effective December 1st of this year and/or February 1st of next year, with each increase capped at 5 percent of the total Elizabethtown residential bill. The public notice also stated that the Company is permitted to decrease its

BGSS rate at any time upon two weeks' notice to the Board and Rate Counsel. Two members of the public appeared in Rahway to comment on the Company's proposal to decrease its BGSS rates.

Representatives of the Company, BPU Staff, and the Division of Rate Counsel, the only parties to this proceeding (collectively the "Parties"), discussed the matters at issue. As a result of those discussions, on October 12, 2007 the Parties entered into the attached Stipulation for Provisional Rates. The attached Stipulation for Provisional Rates solely addresses establishing new provisional BGSS-P rates for the Company. All other aspects of this docket, including final review of any interim rates that may be approved by the Board, will continue to be heard at the OAL. Among the provisions in the Stipulation is the agreement that additional time is needed by the Parties to allow for a complete review of the Company's 2007 BGSS filing. In addition, the Parties also recommend that pending their review, the issuance of an Initial Decision that addresses final BGSS-P rates for the Company and final determination by the Board in this matter, it would be reasonable for the Board to authorize on a provisional basis, subject to refund and interest on any net over-recovered BGSS balance, the Company's proposed decrease in its BGSS rates. The Parties agree that a price decrease in Elizabethtown's BGSS rates on a provisional basis is reasonable at this time so that Elizabethtown may begin the timely collection of appropriate costs and the Company's customers may receive the benefit of a price decrease in their BGSS-P rates at the beginning of the heating season.

The Parties agree that the Company's above request for provisional implementation of its periodic BGSS rates should be effective as close to October 1, 2007 as reasonably possible. The instant docket is currently at the OAL before ALJ Bari-Brown. Upon being advised that the Parties entered into a stipulation that resulted in a rate decrease, pursuant to N.J.A.C. 1:1-3.3(a) the Board requested the return of the instant docket from the OAL for the sole purpose of consideration of the Stipulation for Provisional Rates at its October 24, 2007 agenda meeting. All other aspects of this docket, including final review of any interim rates that may be approved by the Board, will continue to be heard at the OAL.

DISCUSSION AND FINDINGS

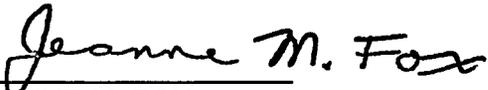
The Board has carefully reviewed the record to date in this proceeding and the attached Stipulation of the parties and FINDS that, subject to the terms and conditions set forth below, the Stipulation is reasonable, in the public interest, and in accordance with the law. Accordingly, the Board HEREBY ADOPTS the Stipulation as its own, as if fully set forth herein and HEREBY APPROVES the Company's implementation of a decrease in its BGSS-P rate to \$1.0339 per therm inclusive of all applicable taxes, on a provisional basis subject to refund with interest on any net overrecoveries. This rate change shall become effective upon the date of the issuance of a written Board Order in this matter. Any net overrecovery at the end of the BGSS period shall be subject to refund with interest.

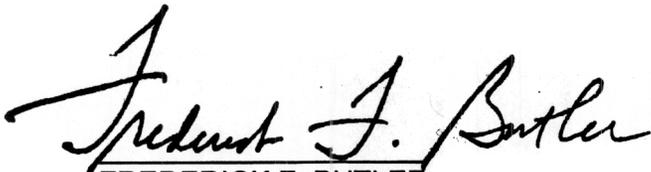
The Company is HEREBY DIRECTED to file tariff sheets that conforming to the terms and conditions of this Order within ten (10) days from the date of this Order.

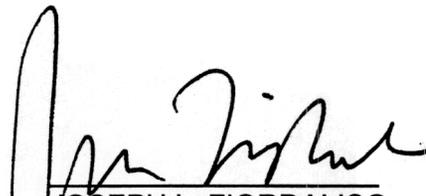
The Company's gas cost will remain subject to audit by the Board. This Decision and Order shall not preclude the Board from taking any such actions deemed to be appropriate as a result of any such audit.

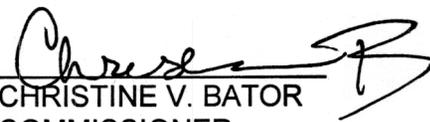
DATED: 10/25/07

BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER

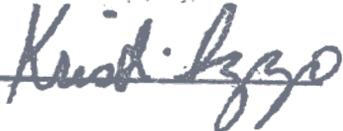

JOSEPH L. FIORDALISO
COMMISSIONER


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 Reconcile its Periodic Basic Gas Supply Service Rate
Docket No. GR07070520**

SERVICE LIST

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Newark, NJ 07102

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

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In The Matter Of The Petition Of Pivotal Utility :	
Holdings, Inc. d/b/a Elizabethtown Gas To :	
Reconcile Its Periodic Basic Gas Supply :	BPU Docket No. GR07070520
Service Rate :	OAL Docket No. PUC 07885-2007N
<hr/>	STIPULATION FOR
	PROVISIONAL RATES

APPEARANCES:

Kenneth T. Maloney, Esq., Pivotal Utility Holdings, Inc., d/b/a Elizabethtown Gas Company

Badrhn Ubushin, Esq., Assistant Deputy Public Advocate, Department of the Public Advocate,
Division of Rate Counsel (Ronald K. Chen, Public Advocate, Stefanie A. Brand, Director)

Geoffrey Gersten, Esq. and Alex Moreau, Esq., Deputy Attorneys General, for the
Staff of the New Jersey Board of Public Utilities (Anne Milgram, Attorney General of
New Jersey)

1. On July 13, 2007, Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas, ("Elizabethtown" or "Company") filed a petition ("July 13 Petition") with the Board of Public Utilities ("Board" or "BPU") in BPU Docket No. GR07070520 to reconcile its Periodic Basic Gas Supply Service ("BGSS-P") rate for the year ending September 30, 2007.

2. In its July 13 Petition, Elizabethtown proposed a decrease in its current BGSS-P rate from \$1.1027 per therm inclusive of all applicable taxes to \$1.0339 per therm inclusive of all applicable taxes to become effective October 1, 2007. The projected impact of the proposed decrease is a decrease in gas cost revenues of approximately \$16.616 million in the year ending September 30, 2008. The Company's filing was transferred to the Office of Administrative Law as a contested case on August 3, 2007. Notices setting forth the requested rate change and the dates of the public hearings were placed in newspapers having circulation within Elizabethtown's service territory and served on the county executives and clerks of all municipalities within the Company's

service territory. Public hearings concerning the Company's Petition were held in Flemington, New Jersey on September 25, 2007 and Rahway, New Jersey on September 27, 2007. Two members of the public appeared in Rahway only.

3. Representatives of Elizabethtown, the Board's Staff and Rate Counsel are the only parties to this proceeding (collectively "the Parties"). The Parties agree that additional time is needed to complete the review of the Company's filing and that provisional rates are reasonable to permit Elizabethtown to timely collect appropriate costs while additional review of the Company's filing takes place.

4. The Parties have determined and hereby **STIPULATE AND AGREE** that, pending the conclusion of any further review and discussions among the Parties and a final determination by the Board, and pursuant to N.J.S.A. 48:2-21.1, it would be both reasonable and in the public interest for the Board to authorize Elizabethtown to decrease its BGSS-P rate to \$1.0339 per therm inclusive of all applicable taxes. This authorization will be implemented on a provisional basis, subject to refund with interest on any net overrecoveries, and after an opportunity for a full review of the Company's filing in this proceeding, subject to final Board approval. The stipulated change results in a bill decrease from the BGSS-P rate currently in effect of approximately 4.47%, or \$6.88 per month, for a typical residential heating customer using 100 therms per month. The Parties request that the Board issue an order authorizing the provisional rates effective as close to October 1, 2007 as reasonably possible.

5. The Company will submit tariff sheets in compliance with the provisional rates within 10 days of the Board's Order approving these rates.

6. 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 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.

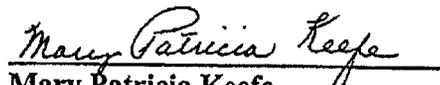
7. It is the intent of the Parties that the provisions hereof be approved by the Board, as appropriate, as being in the public interest. The Parties further agree that they consider the Stipulation to be binding on them for all purposes herein.

8. 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.

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**

**RONALD K. CHEN
PUBLIC ADVOCATE,
STEFANIE A. BRAND,
DIRECTOR, DIVISION OF RATE
COUNSEL**



Mary Patricia Keefe
Director-Regulatory Affairs

By: _____

**ANNE MILGRAM
ATTORNEY GENERAL OF NEW JERSEY
Attorney for the Staff of the New Jersey Board of Public Utilities**



Geoffrey Gersten, DAG 10/12/07
Alex Moreau, DAG

Dated: _____

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

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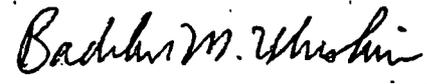
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D/B/A ELIZABETHTOWN GAS

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By: 
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Asst. Deputy Public Advocate

ANNE MILGRAM
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Dated: _____