



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center**  
**Newark, NJ 07102**  
**[www.nj.gov/bpu](http://www.nj.gov/bpu)**

**DIVISION OF ENERGY**

IN THE MATTER OF THE PETITION OF PIVOTAL )	ORDER ADOPTING
UTILITY HOLDINGS INC. d/b/a/ ELIZABETHTOWN )	SETTLEMENT FOR
GAS COMPANY TO REVISE ITS [1] WEATHER )	FINAL RATES
NORMALIZATION CLAUSE RATE; [2] SOCIETAL )	
BENEFITS CHARGE RATE; [3] TRANSPORTATION )	
INITIATION CLAUSE RATE; AND [4] ON-SYSTEM )	
MARGIN SHARING CREDIT, AND TO MAKE )	
CHANGES IN ITS GAS TARIFFS PURSUANT TO )	DOCKET NOS. GR05080730
<u>N.J.S.A. 48:2-21</u> AND <u>N.J.S.A. 48:2-21.1</u> )	& GR06080621

(SERVICE LIST ATTACHED)

BY THE BOARD:

The procedural history of these matters is as follows.

On August 18, 2004, the Elizabethtown Gas Company ("Company" or "Elizabethtown") filed a petition ("August 18 Petition") with the Board in Docket No. GR04080871 to revise its Weather Normalization Clause ("WNC") rate, Transportation Initiation Clause ("TIC") rate, and On-System Margin Sharing Credit ("OSMC") rate, as well as four of the six components that comprise the Company's Societal Benefits Charge ("SBC") rate, namely: the Clean Energy Program ("CEP") rate; the Remediation Adjustment Clause ("RAC") rate; the Energy Education Clause ("EEC") rate; and the Interim Universal Service Fund ("USF-I") rate<sup>1</sup>.

The WNC normalizes the financial impact of actual weather conditions on both the Company and its weather-sensitive ratepayers. Excess margin is returned to ratepayers, while deficient margin is paid to the Company. As of the WNC period ending May 31, 2004, there was \$1,325,997 excess margin to be returned to ratepayers. This translated to an after-tax per therm credit of \$0.0042. In accordance with the WNC requirements, the Company also proposed to revise the Degree Day Consumption Factors used to calculate WNC margins for the 2004-2005 winter period.

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<sup>1</sup> The two other SBC components, the Permanent Universal Service Fund (USF-P) rate and the Lifeline rate, have charges set under separate board orders on a state-wide basis.

The TIC is designed to recover electronic data interchange (“EDI”) development and operating costs. EDI is the computer-to-computer exchange of business documents in standard, machine-readable formats, allowing participating parties to develop the business processes and automated systems needed to facilitate data exchanges. The Company petitioned to recover \$1,101,218 in costs through approval of an after-tax rate of \$0.0031 per therm.

The OSMC provides for 80% of the margins generated from certain on-system non-firm sales and transportation services to be credited to firm customers via a rate credit. As of June 30, 2004, the Company credited an estimated \$6,824,539 in shared margins through the OSMC however these never fully materialized. To mitigate the impact of recovering the unrecovered margins from firm customers, the Company proposed to return the balances that remained in two unused and expired Board-authorized accounts: the Market Development Fund (“MDF”), totaling (\$2,232,705), and the Customer Account Service Fund (“CAS”), totaling (\$1,546,667). The MDF was established in 2001 to encourage customers to convert to unbundled transportation services, while the CAS, approved in 2002, was to provide credits to third party suppliers for providing consolidated bills to Elizabethtown’s customers. The terms of the Board-approved Stipulations that established these accounts had expired. As a further mitigating measure, the Company proposed to recover the net amount of \$3,045,167 over a three year period, or \$1,015,056 per year. This amount partially offset the margin sharing contribution (per the August 18 Petition) for the twelve months ending June 30, 2005 of \$4,811,552. The proposed credit of (\$3,796,496) translated to an after-tax, per-therm credit rate of \$0.0123.

The CEP was created as a result of the Electric Discount and Energy Competition Act (“EDECA”) in an effort to promote both energy efficiency and renewable energy programs. The Company sought to recover \$9,351,489 in program and carrying costs by increasing its after-tax per-therm rate from \$0.0087 per therm to \$0.0142 per therm.

The RAC allows the Company to adjust its rates to recover environmental remediation costs associated with its six former manufactured gas plant sites. Elizabethtown petitioned to reduce its after-tax factor from \$0.0049 per therm to \$0.0028 per therm, to recover \$1,822,357 in costs.

The EEC authorizes the recovery of the Company’s share of costs for the New Jersey Energy Choice Program and other consumer awareness activities. The Company sought a decrease to its after-tax factor from \$0.0024 per therm to \$0.0008 per therm, enabling the Company to recover \$556,778 in program costs.

The USF-I was designed to provide qualifying applicants a one-time credit to their heating bills, while the details of a permanent fund (“USF-P”) were being developed. Elizabethtown sought recovery of \$545,886 in costs, translating to an after-tax rate of \$0.0008 per therm.

Representatives of the Company, Board’s staff, and the Office of the Ratepayer Advocate, Division of Rate Counsel (“the Parties”) determined that provisional price changes were reasonable in order to permit Elizabethtown to collect appropriate costs on a timely basis, and mitigate under and over-recoveries.

By Order dated October 5, 2004 in Docket No. GR04080871, the Board approved an Interim Settlement For Provisional Rates ("Interim Settlement") executed by the Parties reflecting the August 18, 2004 Petition rates, subject to refund with interest, and the final outcome of these proceedings.

On August 29, 2005, the Parties reached a Stipulation agreeing that the provisional rates established in the October 5, 2004 Board Order and reflected above, should become final, and no longer subject to refund. Prior to seeking Board approval of the August 29, 2005 Stipulation, the Parties continued discussions with respect to the EEC and TIC rate components.

After adjusting the rates to reflect a change in the State sales tax rate in accordance with a Board Order dated July 21, 2006 in Docket No. AT06070502, by Order dated September 14, 2006, in Docket No. GR04080871, the Board adopted the Amended Stipulation as a final resolution in these proceedings, with the following after-tax per-therm rates deemed final:

Approved Rates - GR04080871			
Rate Category	\$ Per Therm	Rate Category	\$ Per Therm
CEP	\$0.0143	WNC	-\$0.0042
RAC	\$0.0028	TIC	\$0.0031
EEC	\$0.0009	OSMC	-\$0.0124
USF-I	\$0.0009		

In addition, the Board ordered the Company to cease charging the EEC component of the SBC, and to provide a reconciliation of its EEC-related costs and recoveries as part of its annual SBC filing to be made in August, 2006; and to cease charging the TIC rate, credit the actual over-recovered amount to the OSMC, and to provide a reconciliation of the Company's TIC related costs and recoveries as part of its annual SBC filing to be made in August, 2006.

Docket No. GR05080730

On August 19, 2005, Elizabethtown filed its annual petition covering the period October 1, 2005 through September 30, 2006, revising the Company's Weather Normalization Clause ("WNC") rate, Transportation Initiation Clause ("TIC") rate, On-System Margin Sharing Credit ("OSMC") rate and Societal Benefits Charge ("SBC") rate in Docket No. GR05080730. On December 23, 2005, the Company filed an amended petition to correct for certain accounting errors in the Docket's petition as follows:

Petitioned Rates - GR05080730			
Rate Category	\$ Per Therm	Rate Category	\$ Per Therm
CEP	\$0.0146	WNC	-\$0.0077
RAC	\$0.0012	TIC	\$0.0006
EEC	\$0.0000	OSMC	-\$0.0098
USF-I	\$0.0000		

The impact of Elizabethtown's proposal on typical residential heating customer using 100 therms per month is a decrease of \$1.05 or 0.66%; and a decrease in annual revenues of \$4,416,489 to the Company.

The change in the CEP rate from \$0.0142 per therm to \$0.0146 per therm was intended to recover \$9,046,680 in program and carrying costs.

The reduction in the RAC rate of \$0.0028 per therm to \$0.0012 per therm was designed to recover \$915,890 in RAC program and carrying costs, and to close out the EEC and USF-I components of the SBC by applying the projected balance at October 31, 2005 of the EEC over-recovery of \$203,348 and the proposed USF-I under-recovery of \$26,784, netting to the recoverable amount of \$739,416.

The proposed change in the WNC rate from \$0.0000 per therm to (\$0.0077) per therm was based on a 2004-2005 winter heating season (October 1, 2004 through May 31, 2005) was 197 degree days (4.1%) colder than normal, and was intended to refund \$2,349,947 to residential, commercial and multi-family service customers.\*

The proposed change in the TIC rate from \$0.0031 per therm to \$0.0006 per therm was designed to recover \$223,518 in EDI related costs incurred by the Company.

The proposed decrease to the OSMC rate from (\$0.0123) per therm to (\$0.0098) reflected in part the migration of customers to other (non-margin-sharing) service classes. The OSMC rate is designed to increase annual revenues by \$793,796.

Docket No. GR06080621

On August 29, 2006, Elizabethtown filed a petition in support of the following rates in Docket No. GR06080621:

Proposed Rates - GR06080621			
Rate Category	\$ Per Therm	Rate Category	\$ Per Therm
CEP	\$0.0158	WNC	\$0.0065
RAC	(\$0.0020)	OSMC	(\$0.0172)
USF-I	\$0.0000		

The Company proposed an SBC rate of \$0.0276 per therm which consists of the above proposed CEP and RAC rates as well as a USF-P rate of \$0.0094 per therm and a Lifeline rate of \$0.0044 per therm.

The WNC, SBC, TIC and OSMC rates proposed in the filing would lower the bill of a typical residential heating customer using 100 therms per month by \$0.65 from \$160.62 to \$159.97 or 0.40%.

The CEP rate of \$0.0158 reflects \$9,204,876 in costs, a combination of \$1,082,838 under-recoveries through June, 2006, and scheduled Board-directed payments for the year ending June, 2007 of \$8,122,038.

According to the Company, the change in the RAC to a credit of (\$0.0020), reflects a return to ratepayers of \$1,160,881 comprised of (i) \$28,798 in over-recovered remediation costs; (ii) the crediting of \$686,340 in over-recovered EEC related costs in accordance with the Order in Docket GR04080871, signed 9/14/06; and (iii) the proposed crediting of \$445,743 representing the over-recovered balance remaining in the USF-I component of the SBC, as the types of costs initially recovered through the USF-I are now recovered through the USF-P component of the SBC.

For the WNC 2005/2006 Winter Period (October 1, 2005 through May 31, 2006) the weather was 8.2% warmer than normal. The cumulative degree day variance is 392 degree days. As of September 30, 2005 the company had a pre-existing margin excess of \$2,349,789. In the absence of a Board-approved rate for the 2005/2006 Winter Period, the Company proposed that this excess be used to offset the WNC revenue deficiency balance at May 31, 2006 of \$4,434,195. The resulting net margin deficiency is \$2,196,162 and a WNC rate per therm of \$0.0065.

Regarding the OSMC, the Order adopting final rates in Docket GR04080871 directed the Company to cease charging the TIC rate and to credit the over-recovered amount of (\$813,160) to the OSMC with the Company's next annual SBC filing. With this adjustment, the net OSMC due to ratepayers is \$5,449,402, which translates to a per therm rate of (\$0.0172).

The above Docket Nos. GR05080730 and GR06080621 were transferred to the Office of Administrative Law ("OAL") for hearing as a contested case and assigned to Administrative Law Judge Walter M. Braswell ("ALJ Braswell"). Public hearings were conducted in Rahway, New Jersey on February 13, 2007 and in Flemington, New Jersey on February 14, 2007. The Parties conducted discovery and reached a Stipulation of Settlement dated May 5, 2008. ALJ Braswell approved the Stipulation and found that it was entered into voluntarily, fully disposed of all issues in controversy and was consistent with law.

## STIPULATION

The key provisions of the Stipulation of Settlement are as follows:<sup>2</sup>

- 1 Elizabethtown will make the following WNC, OSMC, CEP, RAC and USF-I rate changes:

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<sup>2</sup> This is only a summary of the key provisions. The Stipulation of Settlement is the controlling document, subject to the findings and conclusions set forth in this Order.

Component	Current Rate Per Therm	New Rates Per Therm
WNC	--	\$0.0065
OSMC	(\$0.0124)	(\$0.0172)
<b>SBC Rates:</b>		
CEP	\$0.0143	\$0.0158
RAC	0.0028	(\$0.0020)
USF-I	0.0009	0.0000
USF-P	0.0167	0.0167
Lifeline	0.0058	0.0058
<b>SBC Total</b>	<b>0.0405</b>	<b>0.0363</b>
<b>Total</b>	<b>\$0.0281</b>	<b>\$0.0256</b>

The monthly impact of the stipulated WNC, CEP, RAC, USF-I and OSMC rates on a typical residential heating customer using 100 therms is a decrease of \$0.25 or 0.16%. The net annual impact of the Company's proposed filing is a decrease of \$2,020,560 from \$7,041,045 to \$5,020,485.

These rates are anticipated to generate net revenues as follows:

Component	Rev. / (Credit) <sup>3</sup>
SBC/CEP	\$9,821,872
SBC/RAC	(\$1,243,275)
WNC	\$2,196,162
OSMC	(\$5,754,274)
<b>Net Revenue</b>	<b>\$5,020,485</b>

The USF-P and Lifeline components of the SBC are not affected by this Stipulation. Following approval by the Board of the Stipulation, the total current SBC rate of \$0.0405 will be reduced to \$0.0363.

- In addition to reducing the USF-I component of the SBC charge to \$0.000 per therm, the Company will eliminate the USF-I component from its tariff and flow through any existing overrecovery balance to the RAC component of the SBC.

<sup>3</sup> Discrepancies between the GR06080621 Petition and the Stipulation reflect up-dated sales forecasts.

3. The WNC rate has been computed using Degree Day Consumption Factors ("Factors"), that the Company submitted with its 2005 and 2006 petitions, and the Stipulation resolves all issues with respect to these proposed revised Factors.
4. The Company shall be permitted to continue charging the WNC rate of \$0.0065 per therm, commencing October 1, 2008 and beyond May 31, 2009, if necessary, to the extent that such rate is necessary to eliminate a WNC under-recovered balance.
5. Staff and Rate Counsel will have the right in the Company's 2007-2008 WNC/SBC/OSMC proceeding in Docket Nos. GR07080645 to investigate whether the Company has incurred or recovered any Natural Resource Damages ("NRD") related costs during the RAC recovery Years commencing July 1, 2004. The Parties reserve the right to argue whether and/or to what extent NRD related costs are to be recovered through the RAC in Docket GR07080645 or in such other proceeding in which the Board may consider this issue.
6. Rate Counsel has identified certain invoices that reflect costs that it believes may be associated with out-of state activities or other activities that may not be recoverable through the RAC for RAC-recovery years July 1, 2004 through June 30, 2005 and July 1, 2005 through June 30, 2006. Staff and Rate Counsel will have the right in Docket No. GR07080645 to investigate and/or challenge the recovery of the costs set forth on such invoices, and the Parties reserve their rights to argue whether and to what extent such costs should be recovered through the RAC.
7. The Company is currently undergoing an audit by Audit Staff of costs accounted for through the RAC during the period October 1, 1987 through June 30, 2006. To the extent that the audit results in any adjustment to the costs that have been recovered through the RAC for items identified in the above paragraphs 5 and 6, and the any party challenges recovery of such costs, the Parties will work together in good faith to ensure that the Company will not be subject to a double disallowance of the same costs.

DISCUSSION AND FINDINGS

The Board has reviewed the attached Initial Decision and Stipulation of the Parties in their entirety and HEREBY FINDS them to be reasonable and in the public interest. Accordingly, the Board HEREBY ADOPTS the Initial Decision and Stipulation as a final resolution in these proceedings and HEREBY ORDERS that, effective on the date of this Order, the following after-tax, per therm rates are as follows:

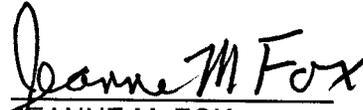
Clause	\$ Per Therm
SBC/CEP	\$0.0158
SBC/RAC	(\$0.0020)
SBC/USF-I	\$0.0000
WNC	\$0.0065
OSMC	(\$0.0172)

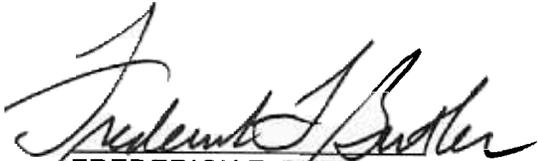
The Board HEREBY ORDERS the Company to file the appropriate revised tariff sheets within ten (10) days of this Order.

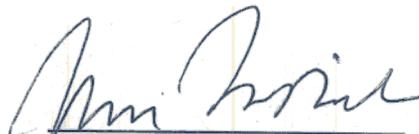
The Board FURTHER ORDERS that the Company's expenditures shall be subject to on-going audit by the Board, and that this Order shall not preclude, nor prohibit, the Board from taking any such actions determined to be appropriate as a result of any such audit.

DATED: 7/30/08

BOARD OF PUBLIC UTILITIES  
BY:

  
JEANNE M. FOX  
PRESIDENT

  
FREDERICK F. BUTLER  
COMMISSIONER

  
JOSEPH L. FIORDALISO  
COMMISSIONER

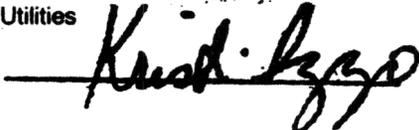
  
NICHOLAS ASSELTA  
COMMISSIONER

  
ELIZABETH RANDALL  
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 Revise its WNC, SBC, TIC, and OSMC Rates  
Docket Nos. GR05080730 and GR06080621

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***PRIVILEGED AND CONFIDENTIAL***

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

-----X  
I/M/O the Petitions of Pivotal Utility  
Holdings, Inc. d/b/a Elizabethtown Gas  
Company To Revise Its (1) Weather  
Normalization Clause; (2) Societal  
Benefits Charge Rate;  
(3) Transportation Initiation Clause;  
and (4) Revise Its On-System Margin  
Sharing Credit

**BPU Docket No. GR05080730  
PUCRA 11222-2006N**

-----X  
I/M/O the Petitions of Pivotal Utility :  
Holdings, Inc. d/b/a Elizabethtown Gas :  
To (1) Revise Its Weather :  
Normalization Clause; (2) Revise Its :  
Societal Benefits Charge Rate; :  
(3) Eliminate Its Transportation :  
Initiation Clause Rate; and (4) Revise :  
Its On-System Margin Sharing Credit :  
-----X

**BPU Docket No. GR06080621  
PUCRA 11221-2006N**

**STIPULATION**

**BACKGROUND**

This Stipulation is intended to resolve the two matters identified above, Docket Nos. GR05080730 and GR06080621. The substantive issues and procedural history associated with these matters are set forth below.

**Docket No. GR05080730**

On August 19, 2005, Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas Company (“Elizabethtown” or “Company”) filed a petition (“2005 Petition”) in BPU Docket No. GR05080730 to revise its: (1) Weather Normalization Clause (“WNC”) rate, (2) Societal Benefits Charge (“SBC”) rate, (3) Transportation Initiation Clause Rate (“TIC”), and (4) On-

System Margin Sharing Credit (“OSMC”). By an Amendment dated December 23, 2005 (“December 23 Amendment”), Elizabethtown proposed further revisions to its SBC and OSMC rates to reflect the correction of certain accounting errors that were discovered by the Company after a review of its records subsequent to the filing of the 2005 Petition. Except for the specific revisions in the December 23 Amendment, all other aspects of Elizabethtown’s 2005 Petition remained unchanged.

### WNC

The 2005 Petition proposed a negative WNC rate of (\$0.0077) per therm during the period October 1, 2005 through May 31, 2006 (“2005-2006 Winter Period”). The proposed WNC rate was based on the fact that the 2004-2005 winter heating season was 197 degree days or 4.1% colder than normal. The proposed WNC rate reflected a carry-over of an excess recovery balance of \$151,545. This excess balance was added to the excess WNC-related margin derived from the operation of the WNC during the 2004-2005 Winter Period to result in a total customer WNC refund amount of \$2,349,947.

### SBC

The 2005 Petition also proposed a decrease in the then-current SBC rate from \$0.0322 per therm to \$0.0295 per therm effective October , 2005. The December 23 Amendment proposed a further decrease in the proposed SBC rate from \$0.0295 per therm to \$0.0294 per therm. Effective June 15, 2006, Elizabethtown’s then-current SBC rate of \$0.0322 per therm was increased to \$0.0327 per therm to reflect a 7% adjustment in the State sales tax rate in accordance with the Board order issued in Docket No. AT0607050.

At the time of the filing of the 2005 Petition, the SBC consisted of six components: (1) the Remediation Adjustment Clause (“RAC”); (2) the New Jersey Clean Energy Program (“CEP”) charge; (3) the Energy Education Clause (“EEC”) charge; (4) the interim USF (“USF-I”) charge; (5) the Permanent USF (“USF-P”) charge; and (6) the Lifeline charge. The 2005 Petition, as modified by the December 23 Amendment, proposed to eliminate the EEC and USF-I charges because the Company did not foresee spending significant amounts in the future for the activities covered by these two components of the SBC. Effective September 20, 2006, the Company ceased charging and eliminated the EEC component of the SBC in accordance with a September 14, 2006 Board Order (“September 14 Order”) issued in Docket Nos. GR03100812 and GR04080871, which resolved the Company’s 2003 and 2004 WNC/SBC filings. The September 14 Order directed the Company to provide a reconciliation of its EEC-related costs and recoveries in its 2006 annual WNC/SBC filing, which, as set forth below, the Company provided. No changes to the USF-P and Lifeline charge were proposed in the 2005 Petition. The proposed SBC rate was designed to enable Elizabethtown to recover during the period October 1, 2005 through September 30, 2006 \$9,761,541 of total SBC-related costs.

### TIC

Elizabethtown’s 2005 Petition also proposed to reduce the Company’s then-current TIC rate of \$0.0031 per therm to \$0.0006 per therm effective October 1, 2005. The proposed TIC rate was designed to recover \$223,518 in Electronic Data Interchange (“EDI”) related costs incurred in accordance with the Board’s policies and orders regarding EDI. The September 14 Order subsequently required the Company to cease charging the TIC rate as of September 14, 2006. The September 14 Order further required the Company to credit the actual over-recovered

amount to the OSMC and to provide a reconciliation of the Company's TIC-related costs and recoveries as part of its annual 2006 WNC/SBC filing, which, as set forth below, the Company provided.

**OSMC**

Finally, the 2005 Petition proposed a decrease in Elizabethtown's OSMC credit rate of (\$0.0123) per therm to (\$0.0051) per therm. By the December 23 Amendment, the Company proposed to reduce the decrease to the OSMC credit rate to (\$0.0098) per therm. The Company's proposed credit decrease would increase its annual OSMC revenues by \$793,796.

**Net Impact**

The proposed changes in the Company's WNC, SBC, TIC and OSMC rates as proposed in the 2005 Petition as amended were as follows:

	<b>Rates In Effect Upon Filing Of 2005 Petition per Therm</b>	<b>Proposed Revision to CEP and OSMC Rates per Therm</b>
WNC	0.0000	(0.0077)
CEP	\$0.0142	\$0.0146**
RAC	0.0028	0.0012
EEC	0.0008	0.0000
USF-I	0.0008	0.0000
USF-P *	0.0093	0.0093
	0.0043	0.0043
<b>Total SBC</b>	<b>\$0.0322</b>	<b>\$0.0294</b>
TIC	0.0031	0.0006
OSMC	(0.0123)	(0.0098)**

\* USF-P and Lifeline Charges are set under a separate Board Order statewide basis.

\*\* Revised by December 23 Amendment

The net impact of the proposed adjustments as set forth in the 2005 Petition, as modified by the December 23 Amendment, on a typical residential heating customer using 100 therms per month was a decrease of \$1.05 or 0.66%; a decrease of \$4,416,489 in annual revenues. Neither

the rates proposed in the 2005 Petition, nor those resulting from the December 23 Amendment were put into effect by the Board. Effective June 15, 2006, the Company increased its OSMC credit rate of (\$0.0123) per therm to (\$0.0124) per therm to reflect the sales tax increases described above.

**Docket No. GR06080621**

On August 29, 2006, Elizabethtown filed a petition (“2006 Petition”) with the Board in BPU Docket No. GR06080621 to revise its WNC, SBC and OSMC rates, and eliminate the TIC

The 2006 Petition proposed a WNC rate of \$0.0065 per therm for the period October 1, 2006 through May 31, 2007. The proposed WNC rate was based on the fact that the 2005-2006 Winter Period was 392 degree days or 8.2% warmer than normal. The proposed WNC rate would increase Elizabethtown’s revenues by \$2,196,162. The proposed rate reflected the carryover of an excess recovery balance of \$2,349,789. The proposed WNC rate was designed to result in an increase of \$6.76 to a typical residential heating customer and \$1.12 to a typical residential non-heating customer using 1,040 and 170 therms, respectively, during the period October 1, 2006 through May 31, 2007. The proposed rate would result in an increase of \$0.65 to a customer using 100 therms over the same period.

The 2006 Petition also proposed a decrease in the Company’s then-current SBC rate from \$0.0327 per therm to \$0.0276 per therm effective October 1, 2006. The then-existing SBC consisted of six components: (1) the RAC; (2) the CEP; (3) the EEC; (4) the USF-I, (5) the USF-

P; and (6) the Lifeline charge. The Company again proposed to eliminate the EEC and USF-I components of the SBC. The Company proposed to credit the EEC projected overrecovery balance of \$686,340 as of October 31, 2006 and the USF-I projected overrecovery balance of \$445,743 as of October 31, 2006 to the RAC component of the SBC. As described above, in September 2006, Elizabethtown ceased charging and eliminated the EEC component of the SBC. No changes to the USF-P and Lifeline rates were proposed in the 2006 Petition. The SBC rate proposed in the 2006 Petition was designed to enable Elizabethtown to recover \$8,043,995 of total SBC-related costs during the twelve months ended September 30, 2007.

### **TIC**

Elizabethtown's 2006 Petition also proposed to eliminate the Company's TIC rate and credit the projected overrecovery balance of \$813,160 through the OSMC effective October 1, 2006. As described above, in accordance with the September 14 Order, Elizabethtown ceased charging the TIC in September 2006.

### **OSMC**

The 2006 Petition also proposed an increase in the Company's then-current OSMC credit rate from (\$0.0124) per therm to (\$0.0172) per therm. This change would reduce Elizabethtown's revenues by \$1,623,349 annually.

### **Net Impact**

The proposed changes in Elizabethtown's WNC, SBC, TIC and OSMC rate, as proposed in the 2006 Petition were as follows:<sup>1</sup>

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<sup>1</sup>The "Rates In Effect" are different that shown on Page 4 because of the change in the sales tax from 6% to 7%.

	<b>Rates In Effect Upon Filing Of 2006 Petition per Therm</b>	<b>Proposed 2006 Petition Rates per Therm</b>
WNC	--	\$0.0065
CEP	\$0.0143	\$0.0158
RAC	0.0028	(\$0.0020)
EEC	0.0009	0.0000
USF-I	0.0009	0.0000
USF-P *	0.0094	0.0094
Lifeline *	0.0044	0.0044
Total SBC	<u>\$0.0327</u>	<u>\$0.0276</u>
TIC	\$0.0031	\$0.0000
OSMC	(\$0.0124)	* (\$0.0172)

\* USF-P and Lifeline Charges are set under a separate Board Order statewide basis.

The net impact of the proposed adjustments as set forth in the 2006 Petition on a residential customer using 100 therms was a decrease of \$0.65 or 0.40%; a decrease of \$3,708,403 in annual revenues. The rates proposed in the 2006 Petition were never put into effect.

### **Public Hearings**

The 2005 and 2006 Petitions were transmitted to the Office of Administrative Law. Duly noticed public hearings concerning the 2005 and 2006 Petitions were held in Rahway, New Jersey on February 13, 2007 and in Flemington, New Jersey on February 14, 2007. The parties to these proceedings, Elizabethtown, Board Staff and the Department of the Public Advocate, Division of Rate Counsel ("Rate Counsel"), have conducted discovery and met to discuss the matters at issue in the 2005 and 2006 Petitions. As a result of these meetings, Board Staff, Rate Counsel and Elizabethtown have reached this Stipulation which is intended to resolve all issues associated with the 2005 and 2006 Petitions in the manner set forth below.

## STIPULATION

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

A. **The Effective Date.** The Effective Date of this Stipulation shall be the date of a Board order approving the Stipulation without material modification.

B. **Effective Rates.** As of the Effective Date, Elizabethtown will make the following WNC, OSMC, CEP, RAC and USF-I rate changes:

<b>Component</b>	<b>Current Rate Per Therm</b>	<b>New Rates Per Therm</b>
WNC	--	<b>\$0.0065</b>
OSMC	(\$0.0124)	<b>(\$0.0172)</b>
<b><u>SBC Rates:</u></b>		
CEP	\$0.0143	<b>\$0.0158</b>
RAC	0.0028	<b>(\$0.0020)</b>
USF-I	0.0009	<b>0.0000</b>
USF-P	0.0167	0.0167
Lifeline	0.0058	0.0058
SBC Total	0.0405	0.0363
<b>Total</b>	<b>\$0.0281</b>	<b>\$0.0256</b>

The rates established herein shall remain in effect until changed by order of the Board. Moreover, while it has been the Company's typical practice to cease charging its WNC rate as of May 31 of each year and to refrain from putting a new WNC rate into effect until a subsequent Board order is issued in a new WNC proceeding, the Company will be permitted to continue to charge its WNC rate of \$0.0065 per therm commencing on October 1, 2008 to the extent that such rate is necessary to eliminate a WNC underrecovery balance at that time.

The WNC rate has been computed using Degree Day Consumption Factors (“Factors”), that were submitted with the Company’s 2005 and 2006 Petitions. This Stipulation resolves all issues with respect to these proposed revised Factors.

The CEP, RAC and USF-I rates are part of the SBC, which also includes the USF-P and Lifeline components. The USF-P and Lifeline components are not affected by this Stipulation. The total current SBC is \$0.0405 per therm.<sup>2</sup> Following approval of this Stipulation, the total current SBC of \$0.0405 per therm will be reduced to \$0.0363 per therm.

The monthly impact of the stipulated WNC, CEP, RAC, USF-I and OSMC rates on a typical residential heating customer using 100 therms is a decrease of \$0.25 or 0.16%. The net annual impact of the Company’s proposed filing is a decrease of \$2,020,560 from \$7,041,045 to \$5,020,485. A breakdown of these revenues is as follows:

Component	Revenue At Current Rate Per Therm	Revenue At Recommended Rate Per Therm <sup>3</sup>
WNC	\$0	\$2,196,162
SBC/CEP	\$8,889,416	\$9,821,872
SBC/RAC	\$1,740,585	(\$1,243,275)
SBC/USF-I	\$559,474	\$0

<sup>2</sup> The USF-P and Lifeline components were last adjusted by the Board by Order dated 10/04/07 in Dkt.No.ER07060503.

<sup>3</sup> These amounts reflect updated sales forecast figures rather than the figures included in the GR06080621 petition.

SBC/USF-P	—	—
SBC/Lifeline	—	—
OSMC	(\$4,148,430)	(\$5,754,274)

**C. Elimination Of The USF-I Component Of SBC Charge.** In addition to reducing the USF-I component of the SBC charge to \$0.000 per therm, Elizabethtown will eliminate the USF-I component from its tariff and flow through any existing overrecovery balance to the RAC component of the SBC, as required by the Company's tariff.

**D. All Issues Resolved.** Subject to the reservations set forth below, this Stipulation resolves all issues in the captioned proceedings including, but not limited to, all issues associated with the determination of the rates identified in Paragraph B above and all issues associated with the costs included for recovery in the Company's 2005 Petition and 2006 Petition, respectively.

**1. Natural Resources Damages.** In the context of the RAC, Natural Resources Damages ("NRDs") are defined as compensation to the State of New Jersey for injury to natural resources, above and beyond costs incurred to investigate, contain or remediate former manufactured gas plant sites. In addition, in the context of the RAC, "NRD-related costs" are defined as any administrative, legal or consulting costs associated with NRD claims being investigated by the New Jersey Department of Environmental Protection, as well as any amounts paid by the Company to resolve such claims. Notwithstanding the general resolution of all issues in this proceeding, Staff and Rate Counsel will have the right in the Company's 2007-2008 WNC/SBC/OSMC proceeding, which has been commenced in Docket No. GR07080645, to investigate whether Elizabethtown has incurred or recovered any NRD-related costs during the RAC recovery years commencing July 1, 2004. To the extent that such costs are identified, the

Parties reserve their rights to argue whether and to what extent such costs should be recovered through the RAC in Docket No. GR07080645 or in such other future proceeding in which the Board may consider this issue.

2. **Expenditures Associated With Activities That May Fall Outside The Scope Of Recoverable RAC Costs.** In reviewing the RAC-recovery years, July 1, 2004 through June 30, 2005 and July 1, 2005 through June 30, 2006, Rate Counsel has identified certain invoices that reflect costs that it believes may be associated with out-of-state activities or other activities that may not be recoverable through the RAC. Notwithstanding the general resolution of all issues in this proceeding, Staff and Rate Counsel will have the right in Docket No. GR07080645 to investigate and/or challenge the recovery of the costs set forth on such invoices. To the extent that recovery of any such costs is challenged, the Parties reserve their rights to argue whether and to what extent such costs should be recovered through the RAC.

3. **RAC Audit A-288.** The Company is currently undergoing an audit by the Board's Audit Staff of costs accounted for through the RAC during the period October 1, 1987 through June 30, 2006. To the extent that the audit results in any adjustment to the costs that have been recovered through the RAC for items identified in paragraphs D.1 and D.2 above and any party challenges recovery of any such costs under paragraphs D.1 and D.2 above, the Parties will work together in good faith to ensure that Elizabethtown will not be subject to a double disallowance of the same costs.

E. **Entirety Of Stipulation.** This Stipulation is intended to be accepted and approved in its entirety. In the event any particular aspect of this Stipulation is not accepted and approved in its entirety by the Administrative Law Judge or the Board, then 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 this Stipulation is not adopted in its entirety by the Board in its Order in this matter, 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.

**F. Binding Effect.** It is the intent of the Parties that the provisions hereof be approved by the Board. The Parties further agree that they consider this Stipulation to be binding on them for all purposes herein.

**G. General Reservation.** It is specifically understood and agreed that this Stipulation represents a negotiated agreement and, except as otherwise expressly provided for herein, is intended to be binding only in this proceeding and only as to the matters specifically addressed herein.

WHEREFORE, the Parties hereto do respectfully submit this Stipulation to the Presiding Administrative Law Judge and request (1) the Administrative Law Judge to issue an initial decision approving the Stipulation; and (2) 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

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

By: Judith Appy  
Judith Appy

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

By: Babette Tenzer  
Babette Tenzer, DAG  
Alex Morcau, DAG

Dated: 5/5/06



*State of New Jersey*  
OFFICE OF ADMINISTRATIVE LAW

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BOARD OF PUBLIC UTILITIES  
NEWARK, N.J.

INITIAL DECISION

**SETTLEMENT**

OAL DKT. NO. PUC 11221-06 &  
OAL DKT. NO. PUC 11222-06  
AGENCY DKT. NO. GR06080621  
AGENCY DKT. NO. GR 05080730

(CONSOLIDATED)

IN THE MATTER OF THE PETITIONS OF PIVOTAL  
UTILITY HOLDINGS, INC. d/b/a ELIZABETHTOWN GAS  
COMPANY TO (1) REVISE ITS WEATHER  
NORMALIZATION CLAUSE; (2) REVISE ITS SOCIETAL  
BENEFITS CHARGE RATE; (3) ELIMINATE ITS  
TRANSPORTATION INITIATION CLAUSE RATE; AND (4)  
REVISE ITS ON-SYSTEM MARGIN SHARING CREDIT,

---

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

Deborah Robinson, Assistant Deputy Ratepayer Advocate

(Seema M. Singh, Ratepayer Advocate)

Alex Moreau, Deputy Attorney General, for respondent

(Anne Milgram, Acting Attorney General of New Jersey, attorney)

Record Closed: May 6, 2008

Decided: May 6, 2008

BEFORE WALTER M. BRASWELL, ALJ:

On November 22, 2006, these matters were 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. The matters were scheduled for an in person

prehearing on December 20, 2006 at which time public hearings were scheduled for February 13 & 14, 2007. During the public hearings the matters were scheduled for hearings on June 19, 2007, November 27, and 28, 2007 which was adjourned due to the parties extensive settlement discussions. The matters were rescheduled for hearings on May 12 & 13, 2008. Prior to the hearing dates, the parties submitted a fully executed settlement. A Stipulation indicating the terms settlement was signed by all parties and submitted to the OAL on May 6, 2008 which is incorporated herein by reference.

have reviewed the record and terms of the Stipulation of Settlement and **FIND:**

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

I **CONCLUDE** that the agreement meets the requirements of N.J.A.C. 1:1-19.1 and therefore, it is **ORDERED** that the parties comply with the settlement terms and that these proceedings be and are hereby 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.

5-7-08  
DATE

Walter M. Braswell  
WALTER M. BRASWELL, ALJ

Date Received at Agency: 5-13-08

Floyd G. Jones  
Mailed to Parties:

\_\_\_\_\_  
DATE  
ljb

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

**Docket Nos. GR05080730 and GR06060621 – In the Matter of the Petition of Pivotal Utility Holdings, Inc., d/b/a/ Elizabethtown Gas Company to Revise its Weather Normalization Clause (“WNC”) Rate, Societal Benefits Charge (“SBC”) Rate, and On-System Margin Sharing Credit (“OSMC”) Rate  
Docket Nos. GR05080730 and GR06080621**

**BACKGROUND:** On August 19, 2005, in Docket No. GR05080730 Elizabethtown filed its annual petition to revise the Company’s Weather Normalization Clause (“WNC”) rate, Transportation Initiation Clause (“TIC”) rate, On-System Margin Sharing Credit (“OSMC”) rate and Societal Benefits Charge (“SBC”) rate. On December 23, 2005, the Company filed an amended petition to correct for accounting errors in the Docket’s petition as follows:

Petitioned Rates - GR05080730			
Rate Category	\$ Per Therm	Rate Category	\$ Per Therm
CEP	\$0.0146	WNC	-\$0.0077
RAC	\$0.0012	TIC	\$0.0006
EEC	\$0.0000	OSMC	-\$0.0098
USF-I	\$0.0000		

Subsequently on August 29, 2006, in Docket No GR06080621 Elizabethtown filed a petition in support of the following rates:

Proposed Rates - GR06080621			
Rate Category	\$ Per Therm	Rate Category	\$ Per Therm
CEP	\$0.0158	WNC	\$0.0065
RAC	(\$0.0020)	OSMC	(\$0.0172)
USF-I	\$0.0000		

The parties entered into a stipulation that adopted the SBC, WNC, and OSMC factors proposed by the Company in its August 29, 2006 filing. The monthly impact of the stipulated WNC, CEP, RAC, USF-I and OSMC rates on a typical residential heating customer using 100 therms is a decrease of \$0.25 or 0.16%. The net annual impact of the Company’s proposed filing is a decrease of \$2,020,560 from \$7,041,045 to \$5,020,485.

ALJ Walter Braswell issued an Initial Decision approving the Settlement in its entirety. The Board approved the Initial Decision and Settlement as filed, to be effective upon the issuance of a written Board Order in this docket. The Board noted that the Company’s RAC costs will remain subject to audit by the Board and this decision would not preclude the Board from taking any actions deemed to be appropriate as a result of any such audit.