



Agenda Date: 9/12/08
Agenda Item: 2C

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)	ORDER ADOPTING
PIVOTAL UTILITY HOLDINGS INC., d/b/a)	INITIAL DECISION
ELIZABETHTOWN GAS COMPANY TO)	AND STIPULATION
RECONCILE ITS PERIODIC BASIC GAS)	
SUPPLY SERVICE RATE)	DOCKET NO GR07070520

(SERVICE LIST ATTACHED)

BY THE BOARD:

On July 13, 2007, Pivotal Utility Holdings, Inc. d/b/a Elizabeth Gas Company ("Elizabethtown" or "Company") filed a petition with the Board requesting authorization to reconcile its Periodic Basic Gas Supply Service rate ("BGSS-P") from \$1.1027 per therm to \$1.0339 per therm, inclusive of all applicable taxes. Elizabethtown proposed an effective date of October 1, 2007. Elizabethtown also reserved the right to implement additional self-implementing increases in the BGSS-P rate on December 1, 2007 and February 1, 2008, 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").

On August 3, 2007, The Company's filing was transmitted to the Office of Administrative Law as a contested case.

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 the Parties entered into a Stipulation for Provisional Rates dated October 12, 2007. The Stipulation for Provisional Rates solely addressed 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, were to be heard at the OAL. ALJ Mumtaz Bari-Brown issued an Initial Decision approving the Stipulation for Provisional BGSS Rates. On October 25, 2007, a Board Order was signed that adopted the Initial Decision and Stipulation, and approved 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.

Public hearings on the matter were held in Flemington, New Jersey and Rahway, New Jersey on September 25, 2007 and September 27, 2007, respectively. The public hearings were preceded by notices in newspapers of general circulation throughout the Company's service territory.

On July 11, 2008, the Parties executed a second stipulation that the provisional BGSS-P rate of \$1.0339 per therm inclusive of all applicable taxes that was approved by the Board on a provisional basis on October 25, 2007, shall become final.

On July 31, 2008, an Initial Decision was issued by Administrative Law Judge ("ALJ") Mumtaz Bari-Brown approving the July 11, 2008 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 July 11, 2008 Stipulation. The Board HEREBY FINDS the Initial Decision and July 11, 2008 Stipulation to be reasonable and in the public interest and in accordance with the law. Accordingly, the Board HEREBY ADOPTS the Initial Decision in its entirety and HEREBY INCORPORATES the terms of the July 11, 2008 Stipulation as it fully set forth herein.

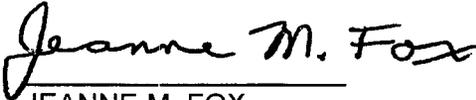
The Board HEREBY FINDS: a) the provisional BGSS-P rate of \$1.0339 per therm inclusive of all applicable taxes that was implemented on a provisional basis, effective October 25, 2007; shall become final, b) that all issues related to Elizabethtown's recoverable costs for the BGSS Year ending September 30, 2007 are resolved.

The BGSS costs will continue to be subject to audits similar to the Company's other costs. 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. These changes shall become effective upon the date of the issuance of a written Board Order in this matter.

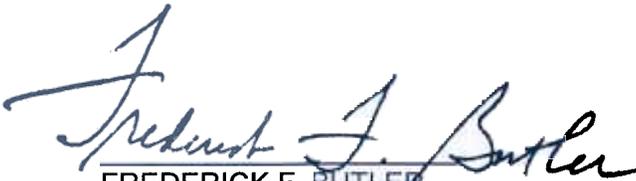
The Company is HEREBY DIRECTED to file tariff sheets that conform to the terms and conditions of this Order within ten (10) days from the date of this Order.

DATED: 9/22/08

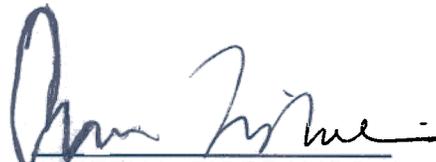
BOARD OF PUBLIC UTILITIES
BY:



JEANNE M. FOX
PRESIDENT



FREDERICK F. BUTLER
COMMISSIONER



JOSEPH L. FIORDALISO
COMMISSIONER



NICHOLAS ASSELTA
COMMISSIONER



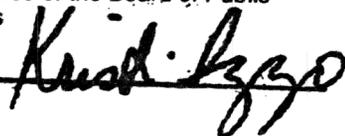
ELIZABETH RANDALL
COMMISSIONER

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



KRISTI IZZO

**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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State of New Jersey
OFFICE OF ADMINISTRATIVE LAW
33 Washington Street
Newark, NJ 07102
(973) 648-6008

**A copy of the administrative law
judge's decision is enclosed.**

**This decision was mailed to the parties
on AUG 5 2008**



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

SETTLEMENT

OAL DKT. NO. PUC 07885-07

AGENCY DKT. NO. GR07070520

**IN THE MATTER OF PETITION OF PIVOTAL
UTILITY HOLDINGS, INC. d/b/a ELIZABETHTOWN
GAS TO RECONCILE ITS PERIODIC BASIC GAS
SUPPLY SERVICE RATE.**

Mary Patricia Keefe, Esq., for petitioner, Pivotal Utility Holdings, Inc.

Henry M. Ogden, 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 Attorney General, for the staff of the New Jersey Board of Public Utilities (Anne Milgram, Attorney General of the State of New Jersey, attorney)

Record Closed: July 14, 2008

Decided: July 31, 2008

BEFORE MUMTAZ BARI-BROWN, ALJ:

This matter was transmitted to the Office of Administrative Law (OAL) on August 9, 2007, 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.

The hearing was scheduled for April 24, April 28 and May 1, 2008. Prior to the date of hearing the parties settled the matter. The attached Final Stipulation was submitted on July 14, 2008, 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.

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.

July 30, 2008
DATE

DATE

AUG 5 2008
DATE
da

Mumtaz Bari-Brown

MUMTAZ BARI-BROWN, ALJ
Receipt Acknowledged:

8-5-08

BOARD OF PUBLIC UTILITIES

Mailed to Parties:
Alana Sanders
**DIRECTOR AND
CHIEF ADMINISTRATIVE LAW JUDGE**

OFFICE OF ADMINISTRATIVE LAW

STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES

In The Matter Of The Petition Of Pivotal Utility Holdings Inc. d/b/a Elizabethtown Gas To Reconcile Its Periodic Basic Gas Supply Service Rate	:	BPU Docket No. GR07070520 OAL Docket No. PUCRA-07885-2007 FINAL STIPULATION
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APPEARANCES:

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

Henry M. Ogden, 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 and Alex Moreau, Deputy Attorneys General, for the Staff of the New Jersey Board of Public Utilities (Anne Mulgram, Attorney General of New Jersey)

BACKGROUND

On July 13, 2007, Pivotal Utility Holdings Inc. d/b/a Elizabethtown Gas ("Elizabethtown" or "Company") filed a petition ("July 13, 2007 Petition") with the Board of Public Utilities ("Board" or "BPU") in the above-captioned proceeding to reconcile its Periodic Basic Gas Supply Service ("BGSS-P") rate. In its July 13, 2007 Petition, Elizabethtown proposed (1) a decrease in its BGSS-P rate from \$1.1027 per therm¹ to \$1.0339 per therm to become effective October 1, 2007. Elizabethtown also reserved the right to implement additional self-implementing increases in the BGSS-P rate on December 1, 2007 and February 1, 2008, respectively.

The Company's filing was transmitted to the Office of Administration Law as a contested case on August 3, 2007. Notice of the public hearings and requested rates was placed in newspapers having circulation within Elizabethtown's service territory, and was served on the

¹ Unless otherwise noted, all rates include any applicable taxes.

county executives and clerks of all municipalities within the Company's service territory. Public hearings concerning the Company's Petition were held September 25, 2007 in Flemington, New Jersey and September 27, 2007 in Rahway, New Jersey. Following the hearings, Elizabethtown, the Board's Staff and the Department of the Public Advocate, Division of Rate Counsel ("Rate Counsel") executed a "Stipulation for Provisional Rates" that was approved by the Board by Order dated October 25, 2007. In accordance with that Order, Elizabethtown implemented its reduced BGSS-P rate of \$1.0339 per therm, inclusive of all taxes, as of October 25, 2007.

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 remaining matters at issue in this 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.

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:

1. **Rates.** The Company's BGSS-P rate of \$1.0339 per therm shall become final and shall remain in effect until revised in accordance with applicable laws and regulations.
2. **All Issues Resolved.** This stipulation provides for a final resolution of this proceeding. All issues related to Elizabethtown's BGSS recoverable costs for the BGSS year ending September 30, 2007 are resolved. The Company's BGSS revenues and costs will remain subject to audit by the Board.
3. **Effective Date.** The Effective Date of this Stipulation shall be the date of a final Board order approving this Stipulation without modifications.

4. 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 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.

5. 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.

6. 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, Board Staff, nor Rate Counsel 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

DEPARTMENT OF THE PUBLIC
ADVOCATE,
DIVISION OF RATE COUNSEL
STEFANIE A. BRAND, DIRECTOR

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

By: _____
Henry M. Ogden
Assistant Deputy Public Advocate,
Department of the Public Advocate,
Division of Rate Counsel

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

By: _____
Geoffrey Gersten, Deputy Attorney General
Alex Moreau, Deputy Attorney General

Dated: July 11, 2008

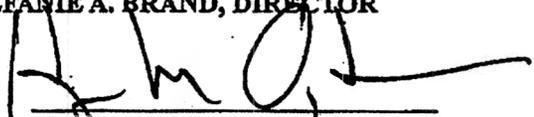
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WHEREFORE, the Parties hereto do respectfully submit this Stipulation to the Presiding Administrative Law Judge and the Board of Public Utilities and request (i) the Presiding Administrative Law Judge to issue an initial decision approving this Stipulation, 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
Director – Regulatory Affairs

**DEPARTMENT OF THE PUBLIC
ADVOCATE,
DIVISION OF RATE COUNSEL
STEFANIE A. BRAND, DIRECTOR**

By: 
Henry M. Ogden
Assistant Deputy Public Advocate,
Department of the Public Advocate,
Division of Rate Counsel

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

By: 
Geoffrey Gersten, Deputy Attorney General
Alex Moreau, Deputy Attorney General

Dated: July 11, 2008

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Docket No. GR07070520 – 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 Rates

Nusha Wyner, Director, Division of Energy, presented this matter.

BACKGROUND AND DISCUSSION: The Pivotal Utility Holdings, Inc. d/b/a Elizabeth Gas Company (“Elizabethtown” or “Company”) filed a petition with the Board on July 13, 2007, requesting authorization to reconcile its Periodic Basic Gas Supply Service rate (“BGSS-P”) from \$1.1027 per therm to \$1.0339 per therm, inclusive of all applicable taxes.

On July 11, 2008, the Company, Rate Counsel and the Board Staff executed a Stipulation that would make the Company’s BGSS-P rate of \$1.0339 per therm inclusive of all applicable taxes that was previously approved by the Board on a provisional basis, final. The ALJ issued an Initial Decision approving the July 11, 2008 Stipulation. Approval of this stipulation does not result in any changes to the Company’s BGSS rates that are currently in effect.

The Board approved the Initial Decision and Stipulation in their entirety.