



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
Two Gateway Center, Suite 801  
Newark, NJ 07102  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

CUSTOMER ASSISTANCE

DAVID H. MARCONI,  
Petitioner,

vs.

PIVOTAL UTILITY HOLDINGS, INC.  
(d/b/a ELIZABETHTOWN GAS),  
Respondent.

- ) ORDER ADOPTING
- ) INITIAL DECISION
- ) AND SETTLEMENT
- )
- )
- ) BPU Docket No. GC10040284U
- ) OAL Docket No. PUC7035-10

David H. Marconi, Flemington, New Jersey, Petitioner *pro se*

Mary Patricia Keefe, Esq., Berkeley Heights, New Jersey, representing Respondent,  
Pivotal Utility Holdings, Inc. (d/b/a Elizabethtown Gas)

BY THE BOARD:

On April 22, 2010, Petitioner *pro se*, David Marconi ("Petitioner"), filed a petition with the Board of Public Utilities ("Board") requesting a formal hearing regarding a billing dispute with Respondent, Pivotal Utility Holdings, Inc. (d/b/a Elizabethtown Gas) ("Respondent"), for utility services rendered by Respondent.

After the filing of Respondent's answer, the Board transmitted this matter to the Office of Administrative Law ("OAL") for hearing and initial disposition as a contested case, pursuant to N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq. This matter was assigned to Administrative Law Judge ("ALJ") Susan M. Scarola.

While this matter was pending at the OAL, the parties engaged in negotiations and thereafter entered into a signed Stipulation of Settlement ("Agreement") that was submitted to the ALJ. By Initial Decision issued on March 17, 2011, to which the Agreement was attached and made a part thereof, ALJ Scarola found that the Agreement was voluntary, that its terms fully disposed of all issues in controversy and that it satisfied the requirements of N.J.A.C. 1:1-19.1.

Pursuant to the terms of the Agreement and in order to fully resolve this matter, Respondent has agreed to credit Petitioner's residential account by waiving its claim to \$919.36 and by adjusting the outstanding balance of \$1,669.36 downward to an adjusted outstanding balance of \$750.00. Petitioner has agreed to send to Respondent \$750.00, as payment in full of the adjusted outstanding balance, within forty-five (45) days of the ALJ's Initial Decision or within ten (10) days of a Board Order approving the Initial Decision, whichever is earlier.

Following a review of the record and terms of the Agreement , the Board HEREBY FINDS that the parties have knowingly, willingly, and voluntarily entered into the Agreement, as evidenced by their signatures, and that all outstanding contested issues in this matter have been fully resolved.

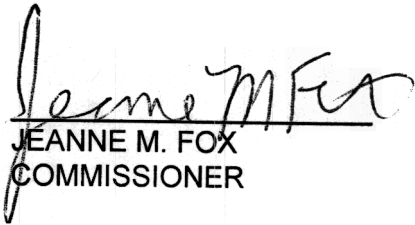
Accordingly, the Board HEREBY ADOPTS the Initial Decision, in its entirety, and the Stipulation of Settlement agreement executed by the parties in its entirety, as if fully set forth herein.

DATED: 4/27/11

BOARD OF PUBLIC UTILITIES  
BY:



LEE A. SOLOMON  
PRESIDENT



JEANNE M. FOX  
COMMISSIONER



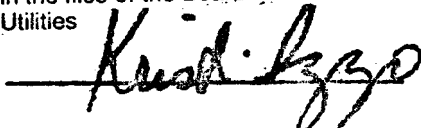
NICHOLAS ASSELTA  
COMMISSIONER

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



DAVID H. MARCONI

vs

PIVOTAL UTILITY HOLDINGS, INC. (d/b/a ELIZABETHTOWN GAS)

BPU DOCKET NO. GC10040284U

OAL DOCKET NO. PUC7035-10

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DAG (2)  
RPA  
~~Lee Thomas~~  
Lambert  
Fred-Williams



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 7035-10

AGENCY DKT. NO. GC10040284U

DAVID MARCONI,

Petitioner,

v.

ELIZABETHTOWN GAS,

Respondent.

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David Marconi, petitioner, pro se

M. Patricia Keefe, Esq., for respondent

Record Closed: March 17, 2011

Decided: March 17, 2011

BEFORE SUSAN M. SCAROLA, ALJ:

This matter was transmitted to the Office of Administrative Law on June 4, 2010, for determination 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.

Hearing was scheduled for January 11, 2011, but adjourned at the request of respondent because the parties were in the process of exchanging settlement proposals and needed additional time to try and resolve the matter. Hearing was

rescheduled for January 11 2011. On the record closed date a faxed executed settlement agreement was received indicating the terms of the settlement.

have reviewed the record and the terms of settlement and **FIND:**

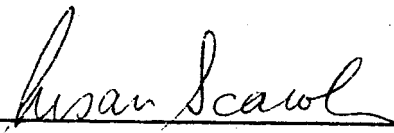
1. The parties have voluntarily agreed to the settlement as evidenced by their agreement or their representatives' agreement as set forth above.
2. The settlement fully disposes of all issues in controversy and is consistent with the law.

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 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.

March 17, 2011  
DATE

  
\_\_\_\_\_  
SUSAN M. SCAROLA, ALJ

Date Received at Agency:

MAR 18 2011

Date Mailed to Parties:

MAR 18 2011

mph

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

_____	X
David Marconi	X
	X
v.	X
	X
Elizabethtown Gas	X
_____	X

BPU Docket No. 100-402841  
OAL Docket No. PUC 07035-2010S

7  
OFFICE OF ADMINISTRATIVE LAW

**STIPULATION OF SETTLEMENT**

To the Honorable Board of Public Utilities:

**WHEREAS**, on April 16, 2010, David Marconi (“Petitioner”) filed a petition (“Petition”) to dispute a \$1,669.36 charge (the “Outstanding Balance”) for natural gas service provided by Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas (“Elizabethtown”);

**WHEREAS**, Elizabethtown’s records indicate that the Outstanding Balance reflects an amount owed for natural gas consumed by Petitioner, but not previously billed to Petitioner by Elizabethtown;

**WHEREAS**, while this matter was pending at the Board and the Office of Administrative Law, the parties engaged in negotiations and entered into this Stipulation of Settlement (“Stipulation”); and

**WHEREAS**, in the interests of resolving this matter without further delay, effort and cost, the parties hereto agree to settle this matter;

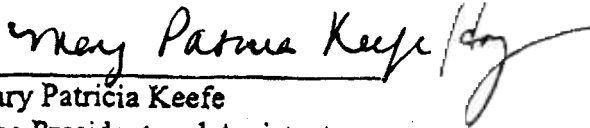
**IT IS THEREFORE AGREED AS FOLLOWS:**

1. Without agreeing with the merits of the allegations expressed in the Petition and in the interest of good customer relations and in recognition of the individual circumstances of this case, Elizabethtown agrees to adjust the Outstanding Balance downward to \$750.00 (“Adjusted Outstanding Balance”).
2. To satisfy Petitioner’s obligation under paragraph 1 to pay the Adjusted Outstanding Balance, within forty-five (45) days of an Administrative Law Judge Initial Decision approving this Stipulation, or within 10 days of

a Board Order approving such Initial Decision, whichever is earlier, Petitioner will send payment to Elizabethtown in the amount of \$750.00

3. This Stipulation provides for a final resolution of this proceeding.
4. The undersigned agree that this Stipulation contains mutually balancing and interdependent provisions and is intended to be accepted and approved in its entirety. In the event any particular aspect of this Stipulation is not accepted and approved by the Board or modified by the Board, the party that is adversely affected by the modification can either accept the modification or declare this Stipulation to be null and void, and the parties shall be placed in the same position that they were in immediately prior to its execution.

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

By:   
Mary Patricia Keefe  
Vice President and Assistant  
Corporate Secretary

Dated: March 14, 2011

By:   
David Marconi

Date: March 14, 2011