



Agenda Date: 9/16/09
Agenda Item: 2G

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 PIVOTAL)	DECISION AND ORDER
UTILITY HOLDINGS INC., d/b/a ELIZABETHTOWN)	APPROVING STIPULATION
GAS TO REVISE ITS PERIODIC BASIC GAS SUPPLY)	FOR PROVISIONAL
SERVICE RATE)	BGSS RATES
)	
)	DOCKET NO GR09060431

(SERVICE LIST ATTACHED)

BY THE BOARD:

Per the generic Order of the Board of Public Utilities ("Board" or "BPU") dated January 6, 2003, in Docket No. GX01050304 ("January BGSS Order"), each of New Jersey's four gas distribution companies ("GDC's), by June 1, submits to the Board its annual Basic Gas Supply Service ("BGSS") gas cost filing for the BGSS year beginning October 1. In addition, the January BGSS Order authorizes, with one month's advance notice to the Board and the Department of the Public Advocate, Division of Rate Counsel ("Rate Counsel"), each GDC to self-implement up to a 5% BGSS increase effective December 1 and February 1.

In accordance with the January BGSS Order, Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas Company ("Elizabethtown" or "Company"), filed a Petition with the Board on June 1, 2009 seeking to decrease its Periodic Basic Gas Supply Service ("BGSS-P") rate from \$1.2801 per therm to \$0.8031 per therm inclusive of all applicable taxes effective October 1, 2009. The Company's proposal would result in a decrease of 27.8% to the typical residential customer using 100 therms monthly. The projected impact of the proposal is a decrease in gas cost revenues to Elizabethtown of approximately \$100 million in the year ending September 30, 2010. The BGSS year is from October 1, 2009 through September 30, 2010.

The two public hearings in this matter presided over by a Board appointed hearing officer were held in Rahway, New Jersey and Flemington, New Jersey on August 19, 2009, and August 27, 2009 respectively. No one from the public attended the proceedings. The public hearings were preceded by notices in newspapers of general circulation throughout the Company's gas service territory.

STIPULATION FOR PROVISIONAL RATES

The Company, Board Staff and the Department of the Public Advocate, Division of Rate Counsel (collectively, the "Parties"), the only parties to this proceeding at this time, entered into a Stipulation for Provisional BGSS-P Rates. The Parties recommend a rate of \$0.8031 per therm (including Sales and Use Tax "SUT") for approval on a provisional basis, subject to refund with interest on any net over-recovered BGSS balance. This decrease in Elizabethtown's BGSS-P rate is projected to decrease the Company's revenue by \$100 million in the year ending September 30, 2010. Any net over-recovery of BGSS costs as of September 30, 2010 will be credited, with appropriate interest, to the Company's Periodic BGSS clause.

The Parties agree that implementation of the agreed upon BGSS-P rate should be effective as close to October 1, 2009 as reasonably possible.

DISCUSSION AND FINDING

The Board has carefully reviewed the record to date in this proceeding and the attached Stipulation for Provisional BGSS-P Rates. The Board 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 for Provisional BGSS-P Rates as its own, as if fully set forth herein and HEREBY APPROVES on a provisional basis, subject to refund with interest on any over-recovered BGSS balance, the Company's implementation of a decrease in its BGSS-P rate to \$0.8031 per therm inclusive of all applicable taxes. This change shall become effective upon the issuance of a Board Order in this docket. Any net over recovered BGSS balance at the end of the BGSS period shall be subject to refund with interest.

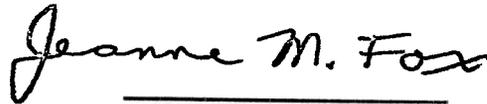
The Board HEREBY ACCEPTS the revised tariff sheets as conforming to the agreement of the Parties to be effective for service rendered on and after the date of this Order.

The Board HEREBY DIRECTS that this matter be transmitted to the Office of Administrative Law for review, and evidentiary hearings if necessary.

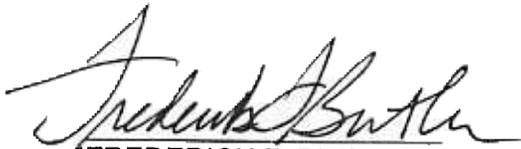
The Company's gas costs will remain subject to audit by the Board. This Decision and Order shall not preclude the Board from taking any such actions deemed to be appropriate as a result of any such audit.

DATED: 9/16/09

BOARD OF PUBLIC UTILITIES
BY:



JEANNE M. FOX
PRESIDENT



FREDERICK F. BUTLER
COMMISSIONER



JOSEPH L. FIORDALISO
COMMISSIONER

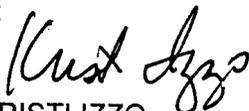


NICHOLAS ASSELTA
COMMISSIONER



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
Reconcile its Periodic Basic Gas Supply Service Rate
Docket No. GR09060431

SERVICE LIST

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September 8, 2009

Honorable Kristi Izzo, Secretary
State of New Jersey
Board of Public Utilities
Two Gateway Center
Newark, New Jersey 07102

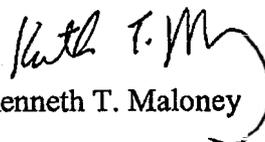
**Re: In The Matter Of The Petition Of Pivotal Utility Holdings, Inc. d/b/a
Elizabethtown Gas To Revise Its Periodic Basic Gas Supply Service Rate
BPU Docket No. GR09060431**

Dear Secretary Izzo:

Enclosed in the above proceeding please find an original and ten copies of a Stipulation For Provisional Rates ("Stipulation") executed on behalf of Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas ("Elizabethtown" or "Company"), the Department of the Public Advocate, Division of Rate Counsel and the Staff of the Board of Public Utilities; the only parties to the above proceeding. The Stipulation would, if approved by the Board of Public Utilities, permit the Company's proposed Basic Gas Supply Service – Periodic Rate to take effect on a provisional basis in the above matter.

If you have any questions concerning the Stipulation, please contact me.

Yours truly,



Kenneth T. Maloney

Of Counsel

Pivotal Utility Holdings, Inc.
d/b/a Elizabethtown Gas

cc: Attached Service List

Founded 1850

BROOKLYN

LONG ISLAND

MANHATTAN

WASHINGTON, D.C.

NEW JERSEY

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

SERVICE LIST

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Susan Potanovich Elizabethtown Gas 300 Connell Drive, Suite 3000 Berkeley Heights, NJ 07922	Diane Rojek Elizabethtown Gas 300 Connell Drive, Suite 3000 Berkeley Heights, NJ 07922	Scott Carter AGL Resources Ten Peachtree Place Atlanta, GA 30309
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Althea Curry Board of Public Utilities Two Gateway Center Newark, NJ 07102	Jacqueline Galka Board of Public Utilities Two Gateway Center Newark, NJ 07102	Sheila Iannaccone Board of Public Utilities Two Gateway Center Newark, NJ 07102
Kristi Izzo, Secretary Board of Public Utilities Two Gateway Center Newark, NJ 07102	Jerome May Board of Public Utilities Two Gateway Center Newark, NJ 07102	Dennis Moran Board of Public Utilities Two Gateway Center Newark, NJ 07102
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Kurt Lewandowski, Esq. Division of Rate Counsel 31 Clinton Street, 11th Floor P.O. Box 46005 Newark, NJ 07101	Henry M. Ogden, Esq. Division of Rate Counsel 31 Clinton Street, 11th Floor P.O. Box 46005 Newark, NJ 07101	Felicia Thomas-Friel, Esq. Division of Rate Counsel 31 Clinton Street, 11th Floor P.O. Box 46005 Newark, NJ 07101
Geoffrey Gersten, DAG Department of Law & Public Safety Division of Law 124 Halsey Street, 5th Floor P.O. Box 45029 Newark, NJ 07101	Alex Moreau, DAG Department of Law & Public Safety Division of Law 124 Halsey Street, 5th Floor P.O. Box 45029 Newark, NJ 07101	Cristina N. Patel, DAG Department of Law & Public Safety Division of Law 124 Halsey Street, 5th Floor P.O. Box 45029 Newark, NJ 07101
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Richard W. LeLash Financial & Regulatory Consultant 18 Seventy Acre Road Redding, CT 06896		

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

-----X
In The Matter Of The Petition Of Pivotal Utility :
Holdings, Inc. d/b/a Elizabethtown Gas To :
Revise Its Periodic Basic Gas Supply : **BPU Docket No. GR09060431**
Service Rate :
-----X **STIPULATION FOR**
PROVISIONAL RATES

APPEARANCES:

Kenneth T. Maloney and Deborah M. Franco (Cullen and Dykman LLP), Attorneys for the
Petitioner, Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas
Mary Patricia Keefe, Vice President for Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas

Henry M. Ogden, Esq., Sarah H. Steindel, Esq., Assistant Deputy Public Advocate,
Department of the Public Advocate, Division of Rate Counsel (Ronald K. Chen, Public
Advocate, Stefanie A. Brand, Director)

Alex Moreau, Deputy Attorney General, for the Staff of the New Jersey Board of Public Utilities
(Anne Milgram, Attorney General of New Jersey)

1. On June 1, 2009, Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas, ("Elizabethtown" or "Company") filed a Petition ("June 1 Petition") with the New Jersey Board of Public Utilities ("Board" or "BPU") in BPU Docket No. GR09060431 to revise its Periodic Basic Gas Supply Service ("BGSS-P") rates for the period October 1, 2009 through September 30, 2010.

2. In its June 1 Petition, Elizabethtown proposed to decrease its current BGSS-P rate from \$1.2801 per therm inclusive of all applicable taxes to \$0.8031 per therm inclusive of all applicable taxes to become effective October 1, 2009. The rate proposed would decrease the bill of a residential heating customer using 100 therms by \$47.70 from \$171.73 to \$124.03, a decrease of 27.8%. The projected impact of the proposal is a decrease in gas cost revenues to Elizabethtown of approximately \$100 million in the year ending September 30, 2010. 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 Rahway, New Jersey on August 19, 2009 and Flemington, New Jersey on August 27, 2009. No members of the public appeared at these hearings.

3. Elizabethtown, the Board's Staff and the Department of the Public Advocate – Division of Rate Counsel ("Rate Counsel") are the only parties to this proceeding (collectively "the Parties"). The Parties agree that additional time is needed to complete a comprehensive review of the Company's filing and that provisional BGSS rates, subject to refund with interest on any net-overrecovered BGSS balance, are reasonable to permit Elizabethtown to timely collect BGSS 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 \$0.8031 per therm inclusive of all applicable taxes. This authorization will be implemented on a provisional basis, subject to refund with interest on any net BGSS overrecoveries. A final rate will be implemented after an opportunity for a full review of the Company's filing in this proceeding at the Office of Administrative Law, if necessary, and final Board approval. The stipulated change results in a bill decrease from the BGSS-P rate currently in effect of approximately 27.8%, or \$47.70 per month, for a typical residential heating customer using 100 therms per month. The stipulated decrease is projected to decrease the Company's BGSS gas cost revenues by approximately \$100 million in the year ending September 30, 2010. The Parties request that the Board issue an order authorizing the

provisional rates effective as close to October 1, 2009 as reasonably possible. The Company may seek to implement provisional increases in its BGSS-P rate of up to 5% to be effective December 1, 2009 and February 1, 2010 if the Company determines that such increases are necessary to permit it to avoid a BGSS underrecovery balance at September 1, 2010.

5. Attached to this Stipulation are tariff sheets implementing the terms of this Stipulation.

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 Board of Public Utilities and request 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 (KRM)
Mary Patricia Keefe
Vice President, Regulatory Affairs

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

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

By: Alex Moreau
Alex Moreau, DAG

Dated: September 4, 2009

FAETOWN\BGSS\2009\093109_Provisional Stipulation_FINAL.doc

ELIZABETHTOWN GAS
 B. P. U. NO. 13 – GAS
 CANCELING
 B. P. U. NO. 12 – GAS

SECTION II
 EIGHTY-SIXTH REVISED SHEET NO. 84
 SUPERSEDING
 EIGHTY-FIFTH REVISED SHEET NO. 84

RIDER "A"

BASIC GAS SUPPLY SERVICE CHARGE ("BGSS")

This Rider sets forth the method of determining the BGSS which shall be calculated to four (4) decimal places on a per therm basis established in accordance with the Board Order in Docket No. GX01050304 dated January 6, 2003. The BGSS charge is either BGSS-Monthly ("BGSS-M") or BGSS-Periodic ("BGSS-P") and will be applied to a Customer's Service Classification as follows:

- 1 The BGSS-M shall be applicable to all GDS, MFS-Special Provision #1 May 1 through October 31, LVD, and EGF customers receiving gas supply from the Company effective on the first of each month commencing June 1, 2003 as determined below. Prior to this date the BGSS-P shall apply.
- 2 The BGSS-P shall be applicable to all RDS, SGS, MFS (except Special Provision #1 May 1 through October 31) and GLS customers receiving gas supply from the Company.

The BGSS Charge, as defined herein, is designed to recover the cost to the Company of purchased gas or fuel used as a substitute for or supplemental to purchased gas including the cost of storing or transporting said gases or fuel, the cost of financial instruments employed to stabilize gas costs, other charges or credits as may result from the operation of other tariff provisions, and taxes and assessments in connection with the purchase and sale of gas.

BGSS per therm rates:

<u>Effective Date</u>	<u>BGSS-M per therm</u>	<u>BGSS-P per therm</u>
September 1, 2008	\$1.1095	\$1.0339
October 1, 2008	\$1.0063	\$1.0339
October 3, 2008	\$1.0063	\$1.2801
November 1, 2008	\$0.8952	\$1.2801
December 1, 2008	\$0.9421	\$1.2801
January 1, 2009	\$0.8579	\$1.2801
February 1, 2009	\$0.6722	\$1.2801
March 1, 2009	\$0.6252	\$1.2801
April 1, 2009	\$0.5777	\$1.2801
May 1, 2009	\$0.5430	\$1.2801
June 1, 2009	\$0.5729	\$1.2801
July 1, 2009	\$0.6190	\$1.2801
August 1, 2009	\$0.5551	\$1.2801
September 1, 2009	\$0.4951	\$1.2801
September 16, 2009	\$0.4951	\$0.8031

Date of Issue: September 16, 2009

Effective: Service Rendered
 on and after September 16, 2009

Issued by: Jodi Gidley
 Sr. Vice President, Mid-Atlantic Operations
 300 Connell Drive, Suite 3000
 Berkeley Heights, New Jersey 07922

Filed Pursuant to Order of the Board of Public Utilities
 Dated September 16, 2009 in Docket No. GR09060431