



**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 AND OFFICE**  
**OF CLEAN ENERGY**

IN THE MATTER OF THE PETITION OF  
PIVOTAL HOLDINGS, INC. d/b/a  
ELIZABETHTOWN GAS FOR APPROVAL OF  
ENERGY EFFICIENCY PROGRAMS AND A  
REGIONAL GREENHOUSE GAS INITIATIVE

)  
) ORDER GRANTING INTERVENTION  
) AND ADMISSION PRO HAC VICE

)  
)  
) DOCKET NO. EO09010060  
)

(SERVICE LIST ATTACHED)

BY PRESIDENT JEANNE M. FOX:

On February 6, 2009, pursuant to N.J.S.A. 48:3-98.1, Pivotal Holdings, Inc. d/b/a Elizabethtown Gas Company ("ETG" or "Company") filed a petition requesting approval to implement six (6) initial Energy Efficiency ("EE") Programs for a two year period and two Base Energy Efficiency Programs that will be implemented on a longer term basis. According to the petition, ETG's Energy Efficiency Programs are designed to complement or supplement the offers contained in the existing New Jersey Clean Energy Program ("NJCEP"). offers and include a Whole House EE Program, a Residential Expanded Gas Heating Ventilation and Air Conditioning ("HVAC") and Gas Hot Water Heater Incentive Program, a Small Commercial Customer Energy Efficiency Program, a Large Commercial Customer Energy Efficiency Program, a Combined Heat and Power Program and a Gas Cooling Program. These programs are intended to increase customer awareness, enhance participation, and support utilization of the NJCEP, while creating additional jobs in the energy efficiency market.

The estimated cost for the two year period is approximately \$10,506,000 for initial Energy Efficiency Programs and \$4,168,000 for Base Energy Efficiency Programs. ETG proposes recovering these costs through the implementation of a new N.J.S.A. 48:3-98.1(b) Rider, to be effective as of April 1, 2009. Specifically, ETG proposes to amortize the regulatory assets from

the EE programs over five years utilizing the after tax return on capital, grossed up for the revenue expansion factor most recently established by the Board, unless the Board establishes a new pre-tax return on capital in the Company's expected March 1, 2009 base rate case filing. According to the Company, ETG expects to hire some internal personnel, such as a project manager. The Company anticipates that this program will generate additional jobs for auditors, contractors, and contractor employees and will provide more detailed information when available.

By Order dated February 19, 2009, the Board determined that this matter should be retained by the Board for review and hearing, and, as authorized by N.J.S.A. 48:2-32, designated me as the presiding officer who is authorized to rule on all motions that arise during the proceeding and modify any schedule that may be set as necessary to secure just and expeditious determination of the issues

By letter dated February 24, 2009, Steven S. Goldenberg, Esq. filed a motion to intervene in this proceeding on behalf of the New Jersey Large Energy Users Coalition ("NJLEUC"). According to the motion, NJLEUC is an association of large volume customers which, among other things, monitors regulatory proceedings on behalf of its members, including those serviced by ETG. According to the motion, NJLEUC's members, as large end-use customers on the Company's system, will be directly and immediately affected by the EE investments and associated rate relief requested by the petition. NJLEUC maintains that it has a unique perspective not otherwise represented, and its participation in this matter will constructively and measurably advance this proceeding as required by N.J.A.C. 1:1-16.3(a). NJLEUC also commits to working cooperatively with the other parties to this proceeding, to the extent possible.

Mr. Goldenberg has also moved pursuant to N.J.A.C. 1:1-5.2 and 1:21-2 for the admission *pro hac vice* of Paul F. Forshay, Esq. a member in good standing of the bar of the District of Columbia. Mr. Forshay filed an affidavit with the motion asserting that there is good cause for his admission since he has considerable experience representing marketers and large end users in proceedings before the Board and the Federal Energy Regulatory Commission, he has been requested by NJLEUC to appear in these proceedings, and that he is associated in this matter with Mr. Goldenberg who is New Jersey counsel of record. The affidavit also indicates that Mr. Forshay has satisfied all of the conditions for admission as set forth in R. 1:21-2(a), and that the fees required by R. 1:20-1(b) and 1:28-2 have been paid to the Disciplinary Oversight Committee and the New Jersey Lawyers' Fund for Client Protection.

No objections to the motions were received

#### FINDINGS and DISCUSSION

Pursuant to N.J.A.C. 1:1-16.3(a), to determine if a motion to intervene should be granted, the Board considers the nature and extent of the party's interest in the outcome of the investigation, and whether the party's interest is sufficiently different from that of other parties, whether inclusion will add constructively to the case; and whether intervention will confuse or delay the matter. Based on my review of the NJLEUC's motion to intervene and having received no objections after due notice to the parties, I HEREBY GRANT the motion provided that NJLEUC complies with the schedule previously adopted for this proceeding.

Based on review of the motion for admission *pro hac vice* of Mr. Forshay and the supporting affidavit, and no objections having been received, I FIND that Mr. Forshay has satisfied the

conditions for admission, and therefore, HEREBY GRANT the motion for admission to practice before the Board for this proceeding only, provided that Mr. Forshay shall:

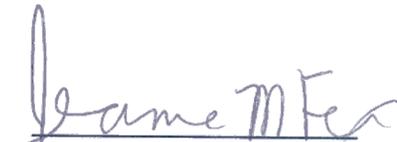
- 1) abide by the Board's rules and all applicable New Jersey court rules, including all disciplinary rules;
- 2) submit proof of payment of the fees required by R.1:20-1(b) and 1:28-2;
- 3) consent to the appointment of the Clerk of the Supreme Court as agent upon whom service of process may be made for all actions against him that may arise out of his participation in this matter;
- 4) notify the Board immediately of any matter affecting his standing at the bar of any other jurisdiction; and
- 5) have all pleadings, briefs and other papers filed with the Board signed by the attorney of record authorized to practice in this State, who shall be held responsible for them and for the conduct of this cause and the attorney admitted by this Order.

This provisional ruling is subject to ratification or other alteration by the Board as it deems appropriate during the proceeding in this matter.

DATED:

3/27/09

BY:

  
JEANNE M. FOX  
PRESIDENT

I/M/O ENERGY EFFICIENCY PROGRAMS AND ASSOCIATED COST  
RECOVERY MECHANISM PROCEEDINGS  
BPU DOCKET NO. EO09010056

and

I/M/O THE PETITION OF PIVOTAL HOLDINGS, INC. d/b/a ELIZABETHTOWN GAS  
FOR APPROVAL OF ENERGY EFFICIENCY PROGRAMS AND A REGIONAL GREENHOUSE  
GAS INITIATIVE COST RECOVERY RIDER  
BPU DOCKET NO. GO09010060

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