



Agenda Date: 10/24/07  
Agenda Item: 2D

**State of New Jersey**  
**Board of Public Utilities**  
**Two Gateway Center**  
**Newark, NJ 07102**  
**[www.nj.gov/bpu/](http://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 (1)	)	AND STIPULATION
RECONCILE ITS PERIODIC BASIC GAS	)	
SUPPLY SERVICE RATE AND (2) REVISE ITS	)	
SEASONAL DELIVERY SERVICE COMMODITY	)	DOCKET NO GR06060419
CHARGE	)	

(SERVICE LIST ATTACHED)

**BY THE BOARD:**

On June 1, 2006, Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas Company ("Elizabethtown" or "Company") filed a petition for approval to decrease its then current Periodic Basic Gas Supply Service ("BGSS-P") rate from \$1.1690 per therm to \$1.1678 per therm inclusive of all applicable taxes, and to revise its Seasonal Delivery Service ("SDS") commodity charge from \$1.0343 per dekatherm to \$3.8273 per dekatherm including all applicable taxes, to be effective October 1, 2006.

Under the revised 7% sales tax rates that took effect July 15, 2006, Elizabethtown's then current BGSS-RSG rate increased to \$1.1788 per therm (including 7% SUT) and its then current SDS commodity rate increased to \$3.8634 per dekatherm inclusive of all applicable taxes. Elizabethtown also reserved the right to implement additional self-implementing increases in the BGSS-P rate on December 1, 2006, and February 1, 2007, 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").

Public hearings in this matter, presided over by a Board appointed Legal Specialist, were held on July 26, 2006 in Flemington, New Jersey and July 28, 2006 in Rahway, New Jersey. The public hearings were preceded by notices in newspapers of general circulation throughout the Company's service territory. No one from the public appeared.

Effective October 5, 2006, Elizabethtown instituted, on a provisional basis, a self-implementing decrease in its BGSS-P rate by reducing the rate from \$1.1788 to \$1.1027 per therm inclusive of all applicable taxes.

On February 7, 2007, the Board approved the Initial Decision and Stipulation in Docket No. GR05060494 which terminated Elizabethtown's SDS service classification tariff because the Company did not have any customers taking service under this rate schedule.

On July 13, 2007, Elizabethtown filed its most recent annual BGSS reconciliation petition in BPU Docket No. GR07070520 ("2007 BGSS Petition"), seeking to decrease its BGSS-P charge from \$1.1027 per therm to \$1.0339 per therm inclusive of all applicable taxes. The Stipulation that was reached by the Parties in Docket No. GR0707520 will be considered separately and is not part of this Order.

The Parties executed the attached stipulation ("Stipulation") in BPU Docket No. GR06060419 that the provisional BGSS-P rate of \$1.1027 per therm inclusive of all applicable taxes and implemented on a provisional basis October 5, 2006, shall become final for the BGSS 2006 period. Said Stipulation remains currently in effect.

On October 16, 2007, an Initial Decision was issued by Administrative Law Judge ("ALJ") Walter Braswell. ALJ Braswell found the Stipulation to be consistent with the law and in the public interest. The Initial Decision adopted the Stipulation of the Parties and recommended Board approval. This Decision and Order will not result in any changes to the Company's BGSS rates currently in effect. Staff recommends approval of the Initial Decision and Stipulation as filed.

## DISCUSSION AND FINDINGS

The Board has carefully reviewed the record to date in this proceeding including the Initial Decision and the Stipulation. The Board HEREBY FINDS the Initial Decision and Stipulation to be reasonable and in the public interest and in accordance with law. Accordingly, the Board HEREBY ADOPTS the Initial Decision and Stipulation in their entirety and HEREBY INCORPORATES the terms of the Stipulation as it fully set forth herein.

The Board HEREBY APPROVES as final the provisional BGSS-P rate of \$1.1027 per therm inclusive of all applicable taxes that was implemented on a provisional basis, effective October 5, 2006. The Board HEREBY FINDS that all issues related to Elizabethtown's recoverable costs for the BGSS Year ending September 30, 2006, are resolved. The BGSS and its cost components will continue to be subject to Board audit. Additionally, the Company will periodically conduct audits of these expenses. This Decision and Order shall not preclude the Board from taking any actions deemed to be appropriate as a result of any such audit.

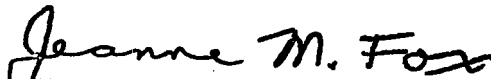
The Effective Date of this Stipulation shall be the date of a final Board order approving this Stipulation.

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 effective date of this Order.

DATED:

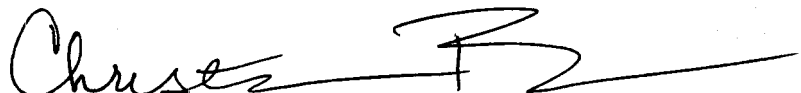
10/25/07

BOARD OF PUBLIC UTILITIES  
BY:

  
JEANNE M. FOX  
PRESIDENT

  
FREDERICK F. BUTLER  
COMMISSIONER

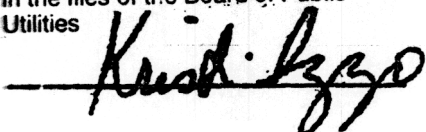
  
JOSEPH L. FIORDALISO  
COMMISSIONER

  
CHRISTINE V. BATOR  
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 (1) Reconcile its Periodic Basic Gas Supply Service Rate; and (2)  
Revise its Seasonal Delivery Service Commodity Charge**

**BPU Docket No. GR06060419**

**SERVICE LIST**

Mary Patricia Keefe, Esq.  
Elizabethtown Gas Company  
One Elizabethtown Plaza  
Union, NJ 07083-1975

Kenneth T. Maloney, Esq.  
Cullen & Dykman  
1101 14<sup>th</sup> Street, NW – Suite 550  
Washington, DC 20005

Nusha Wyner, Director  
Division of Energy  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102

Sheila Iannaccone  
Bureau Chief  
Division of Energy  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102

Althea Curry, Accountant 1  
Division of Energy  
Board of Public Utilities  
Two Gateway Center, 9<sup>th</sup> Floor  
Newark, NJ 07102

Henry Rich, Supervisor  
Division of Energy  
Board of Public Utilities  
Two Gateway Center, 9<sup>th</sup> Floor  
Newark, NJ 07102

Babette Tenzer, DAG  
Department of Law & Public Safety  
124 Halsey Street, 5<sup>th</sup> Floor  
Newark, NJ 07101

Margaret Comes, DAG  
Department of Law & Public Safety  
124 Halsey Street, 5<sup>th</sup> Floor  
Newark, NJ 07101

Judith Appel, Esq.  
Department of the Public Advocate  
Division of Rate Counsel  
31 Clinton Street, 11<sup>th</sup> Floor  
Newark, NJ 07101

Kurt S. Lewandowski, Esq.  
Department of the Public Advocate  
Division of Rate Counsel  
31 Clinton Street, 11<sup>th</sup> Floor  
Newark, NJ 07101

Edward Beslow, Esq  
Legal Specialist  
Counsel's Office  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102

Suzanne Patnaude, Esq.  
Legal Specialist  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102

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

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<b>In The Matter Of The Petition Of Pivotal Utility</b>	:	
<b>Holdings Inc. d/b/a Elizabethtown Gas To</b>	:	<b>BPU Docket No. GR06060419</b>
<b>(1) Reconcile Its Periodic Basic Gas Supply Service</b>	:	<b>OAL Docket No. PUCRA-</b>
<b>Rate; And (2) Revise Its Seasonal Delivery Service</b>	:	<b>11223-2006N</b>
<b>Commodity Charge</b>	:	
<hr style="border-top: 1px dashed black;"/>		-X
		<b>FINAL STIPULATION</b>

**BACKGROUND**

On June 1, 2006, Pivotal Utility Holdings Inc. d/b/a Elizabethtown Gas ("Elizabethtown" or "Company") filed a petition ("June 1, 2006 Petition") with the Board of Public Utilities ("Board" or "BPU") in the above-captioned proceeding to (1) reconcile its Periodic Basic Gas Supply Service ("BGSS-P") rate, and (2) revise its Seasonal Delivery Service ("SDS")<sup>1</sup> commodity charge.

In its June 1, 2006 Petition, Elizabethtown proposed (1) a decrease in its then-current BGSS-P rate from \$1.1690 per therm<sup>2</sup> to \$1.1678 per therm, and (2) an increase in its SDS commodity rate from \$1.0343 per dekatherm to \$3.8273 per dekatherm, all to become effective October 1, 2006. Elizabethtown also reserved the right to implement additional self-implementing increases in the BGSS-P rate on December 1, 2006 and February 1, 2007, respectively. Notice of the public hearings and requested rates was placed in newspapers having circulation within Elizabethtown's service territory, and was served on the county executives and clerks of all municipalities within the Company's service territory. Public hearings, presided over by a Board appointed Legal Specialist, concerning the Company's 2006 BGSS Petition

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<sup>1</sup> SDS service was a seasonal balancing service provided to third-party suppliers. It allowed suppliers to deliver gas to the company in summer for redelivery in the following winter. It has had no customers for several years.

<sup>2</sup> Unless otherwise noted, all rates include any applicable taxes.

were held July 26, 2006 in Flemington, New Jersey and July 28, 2006 in Rahway, New Jersey. Following those hearings, by letter dated September 29, 2006, Elizabethtown filed with the Board a proposed tariff sheet that reduced its BGSS-P rate to \$1.1027, inclusive of all taxes, effective as of October 5, 2006. No party objected to this tariff sheet, and it became effective October 5, 2006.

By Order dated February 7, 2007, the Board approved a stipulation in Elizabethtown's previous BGSS-P reconciliation proceeding in Docket Nos. GR05060494, *et al.* in which Elizabethtown agreed, *inter alia*, to terminate its SDS Rate Schedule. Thus, the SDS commodity rate is no longer at issue in this proceeding.

Elizabethtown's Petition was transferred to the Office of Administrative Law as a contested case. Representatives of Elizabethtown, the Board's Staff and the Department of the Public Advocate, Division of Rate Counsel ("Rate Counsel"), the only parties to this proceeding at this time, have engaged in discovery and met to discuss the 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 \$1.1027 per therm shall become final for the period it remains in effect.
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, 2006 are resolved. However, Elizabethtown's BGSS costs will continue to be subject to Board audit. In

addition, the Company will conduct periodic audits of expenses that it seeks rate recovery for through its BGSS filings.

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.

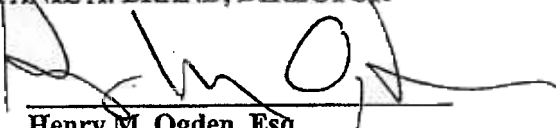
WHEREFORE, the Parties hereto do respectfully submit this Stipulation to the presiding Administrative Law Judge and the Board of Public Utilities and request (i) the presiding Administrative Law Judge to issue an initial decision approving this Stipulation, and (ii) the Board to issue a Decision and Order approving this Stipulation in its entirety in accordance with the terms hereof.

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

  
Mary Patricia Keefe  
Director – Regulatory Affairs

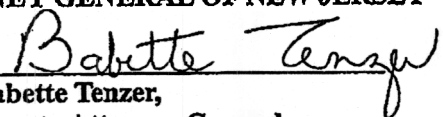
**DEPARTMENT OF THE PUBLIC  
ADVOCATE,  
DIVISION OF RATE COUNSEL  
STEFANIE A. BRAND, DIRECTOR**

By:

  
Henry M. Ogden, Esq.  
Assistant Deputy Ratepayer  
Advocate

**STAFF OF THE BOARD OF PUBLIC  
UTILITIES  
ANNE MILGRAM  
ATTORNEY GENERAL OF NEW JERSEY**

By:

  
Babette Tenzer,  
Deputy Attorney General

Dated: October 12, 2007