



Agenda Date: 4/28/10

Agenda Item: 2A

## 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 PIVOTAL  
UTILITY HOLDINGS, INC. d/b/a ELIZABETHTOWN  
GAS CONCERNING ITS PROPOSED CAPACITY  
MANAGEMENT PLAN

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ORDER

DOCKET NO. GM07100752

**Kenneth T. Maloney** and **Deborah M. Franco** (Cullen and Dykman LLP), Attorneys for the  
Petitioner, Pivotal Holdings, Inc. d/b/a Elizabethtown Gas

**Mary Patricia Keefe**, Esq. for Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas

**Felicia Thomas-Friel**, Esq., Deputy Public Advocate; **Henry M. Ogden**, **Judith B. Appel**,  
**Sarah H. Steindel**, **Kurt Lewandowski** and **Maria Novas-Ruiz**, Assistant Deputy Public  
Advocates, Division of Rate Counsel (**Stefanie A. Brand**, Acting Public Advocate)

**Alex Moreau** and **Cynthia Holland**, Deputy Attorneys General, for the Staff of the New Jersey  
Board of Public Utilities (**Paula T. Dow**, Attorney General of New Jersey)

#### BY THE BOARD:

On March 19, 2008 in BPU Docket GM07100752, the New Jersey Board of Public Utilities ("Board") authorized Pivotal Utility Holdings Inc., d/b/a Elizabethtown Gas ("Elizabethtown", or "Company") to extend its gas supply and capacity asset management agreement with its affiliate, Sequent Energy Management L.P. ("Sequent") for a three-year term ending March 31, 2010. As a condition of the contract extension, Elizabethtown was required to make a filing with the Board either to competitively bid its asset management and gas supply arrangements or to propose some alternative asset management / gas supply arrangement by no later than March 31, 2010. By Order dated March 19, 2010, the Board approved a thirty day extension of the March 31, 2010 deadline for that filing.

On April 16, 2010, Elizabethtown filed a letter with the Board requesting an additional thirty-one (31) day extension of the previously approved April 30, 2010 deadline for Elizabethtown to make a filing proposing either to competitively bid its asset management and gas supply arrangements or to make other arrangements. The proposed new deadline for the Company's filing is May 31, 2010.

By Order dated December 17, 2009 in BPU Docket GR09030195<sup>1</sup>, the Board approved a stipulation that resolved most of the issues in Elizabethtown's base rate proceedings, and established a Phase II to consider certain remaining issues, including the Company's proposal

<sup>1</sup> In the Matter of the Petition of Pivotal Utility Holdings, Inc. d/b/a/ Elizabethtown Gas for Approval of Increased Base Tariff Rates and Charges for Gas Services and Other Tariff Revisions, Dkt No. GR09030195.



to establish an Efficiency and Usage Adjustment ("EUA") tariff that would replace the Company's existing Weather Normalization Clause. Representatives of the Company, Board's Staff and the Department of the Public Advocate, Division of Rate Counsel ("Rate Counsel"), the only active parties to the base rate case (collectively, "Parties"), are continuing to discuss ways to resolve issues associated with the proposed EUA. According to the Parties, there is a relationship between the EUA and the Company's asset management and gas supply arrangements.

Therefore, Elizabethtown is now requesting an extension of the deadline by which the Company must submit proposals for its future asset management and gas supply activities in order to continue discussions about how those activities may be affected by, and may affect, the Company's EUA proposals.

By letter dated April 19, 2010, Rate Counsel stated that it does not oppose this extension.


### DISCUSSION AND FINDING

Based on the Company's representation that a short delay in the filing of the asset management proposal will facilitate discussions of the proposed EUA, the recommendation of Board Staff, and no opposition from Rate Counsel, the Board FINDS that the 31 day extension is reasonable. The Parties will not be prejudiced by this extension because Elizabethtown's current agreement with Sequent does not expire until March 31, 2011, and a 31-day extension of the filing deadline at this time will not adversely affect the ability of the Board or any party to fully consider any alternative asset management and gas supply proposals before the expiration of the current agreement.

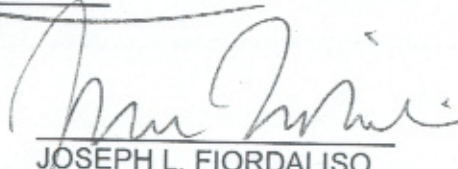
Accordingly, the Board HEREBY AUTHORIZES an extension of the deadline by which Elizabethtown must submit proposals for its future asset management and gas supply activities until May 31, 2010.

DATED: 4/28/10

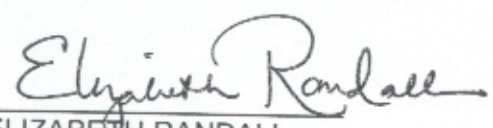
BOARD OF PUBLIC UTILITIES  
BY:

  
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PRESIDENT

  
JEANNE M. FOX  
COMMISSIONER

  
JOSEPH L. FIORDALISO  
COMMISSIONER

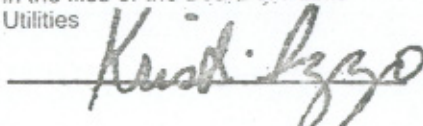
  
NICHOLAS ASSELTA  
COMMISSIONER

  
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 CONCERNING ITS PROPOSED CAPACITY  
MANAGEMENT PLAN  
Docket No. GR10010035

Kristi Izzo, Secretary  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102

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CHRIS CHRISTIE  
*Governor*

KIM GUADAGNO  
*Lt. Governor*

STEFANIE A. BRAND  
*Acting Public Advocate  
Director - Rate Counsel*

April 19, 2010

**Via Hand Delivery**

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

**Re: I/M/O the Petition of Pivotal Utility Holdings Inc. d/b/a  
Elizabethtown Gas Company Concerning Its Proposed  
Capacity Management Plan  
BPU Docket No.GM07100752**

Dear Secretary Izzo:

Please accept this letter and (10) copies in response to the correspondence submitted by Pivotal Utility Holdings d/b/a Elizabethtown Gas Company ("E'Town Gas") dated April 16, 2010 in the above- mentioned matter. Kindly date-stamp one copy and return with the messenger.

On behalf of the Department of the Public Advocate, Division of Rate Counsel ("Rate Counsel"), please be advised that our office does not oppose the request by E'Town Gas to further extend the deadline from April 30, 2010 to May 31, 2010 to file a proposal concerning competitive bidding of the Company's assets.

It is also Rate Counsel's understanding that the May 31<sup>st</sup> filing will contain a proposal to address the Phase II issues outlined in the Stipulation of the base rate case adopted by the Board in its December 17, 2009 Order, Docket No.GR09030195.

Very truly yours,

STEFANIE A. BRAND  
Acting Public Advocate &  
Director, Division of Rate Counsel

By: Felicia Thomas-Friel, Esq.  
Felicia Thomas-Friel  
Deputy Public Advocate

FTF/be  
cc: Service list (via electronic mail)