



Agenda Date: 9/16/10

Agenda Item: VIIB

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center, Suite 801
Newark, NJ 07102
www.nj.gov/bpu/

CUSTOMER ASSISTANCE

RICHARD J. EZBIANSKI,)	ORDER ADOPTING INITIAL
Petitioner)	DECISION SETTLEMENT
)	
V)	
)	
PIVOTAL UTILITY HOLDINGS, INC. D/B/A,)	
ELIZABETHTOWN GAS,)	BPU Dkt. No. GC09030237U
Respondent)	OAL Dkt. No. PUC03598-10

Richard J. Ezbianski, Cranford, New Jersey, appearing *pro se*.
Deborah M. Franco, Esq., Cullen & Dykman, Garden City, New York, on behalf of
Respondent, Pivotal Utility Holdings, Inc., d/b/a Elizabethtown Gas

BY THE BOARD:

On March 27, 2009, Richard J. Ezbianski ("Petitioner") filed a petition with the Board of Public Utilities ("Board") requesting a formal hearing related to a billing dispute with 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") Tahesha L. Way.

While this matter was pending at the OAL, the parties engaged in negotiations and entered into and signed a Stipulation of Settlement ("Stipulation") that was submitted to the ALJ. By Initial Decision issued on August 13, 2010, and submitted to the Board on August 17, 2010, to which the Stipulation was attached and made part thereof, ALJ Way found that the Stipulation 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 Stipulation, Respondent agreed to reduce Petitioner's account by \$24.71 and has reflected that credit on Petitioner's July 2010 bill for gas service. No other adjustments are required and the parties have agreed that the Stipulation provides for a final resolution of all outstanding issues in this proceeding.

After review of the record and the Stipulation of Settlement of the parties, the Board HEREBY FINDS that the parties have voluntarily agreed to the settlement as evidenced by their signatures and that by the terms of the Stipulation of Settlement, have fully resolved all outstanding contested issues in this matter.

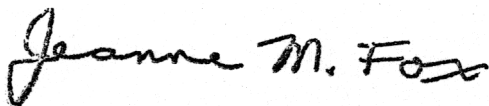
Accordingly, the Board HEREBY ADOPTS the Initial Decision and the Stipulation of Settlement executed by the parties in their entirety as if fully set forth herein.

DATED: 9/16/10

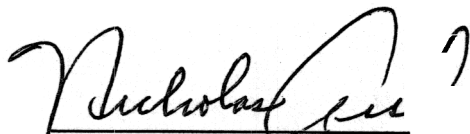
BOARD OF PUBLIC UTILITIES
BY:




LEE A. SOLOMON
PRESIDENT



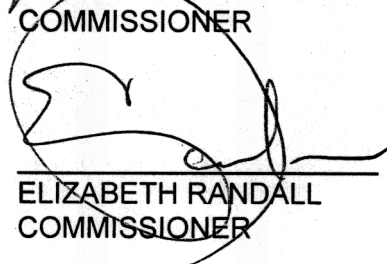
JEANNE M. FOX
COMMISSIONER



NICHOLAS ASSELTA
COMMISSIONER



JOSEPH L. FIORDALISO
COMMISSIONER



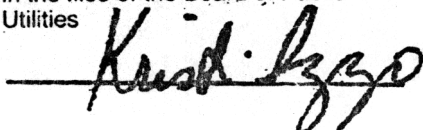
ELIZABETH RANDALL
COMMISSIONER

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



RICHARD J. EZBIANSKI

V.

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

BPU DOCKET NO. GC09030237U
OAL DOCKET NO. PUC03598-10

SERVICE LIST

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Cranford, New Jersey 07016

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Eric Hartsfield, Director
Julie Ford-Williams
Division of Customer Assistance
Board of Public Utilities
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Division of Law
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Newark, New Jersey 07101

CM3
BLSW
RPA
DAG
Ford-Williams
(2)



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BOARD OF PUBLIC UTILITIES
NEWARK, N.J.

INITIAL DECISION

SETTLEMENT

OAL DKT. NO. PUC 03598-10

AGENCY NO. GC09030237U

RICHARD J. EZBIANSKI,

Petitioner,

v.

ELIZABETHTOWN GAS

Respondent



Richard J. Ezbianski, Petitioner pro se

Deborah Franco, Esq., for Respondent (Cullen and Dykman LLP)

Record Closed: July 28, 2010

Decided: August 13, 2010

BEFORE **TAHESHA L. WAY, ALJ:**

This matter concerns a billing dispute by Petitioner, Richard J. Ezbianski, against Respondent, Elizabethtown Gas. The Board of Public Utilities transmitted this matter to the Office of Administrative Law, where it was filed on May 14, 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. The hearing scheduled for July 21, 2010 was adjourned at Respondent's request. A settlement conference was held on July 28, 2010. The parties reached an amicable agreement and submitted the attached Settlement Agreement setting forth the terms of agreement.

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

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


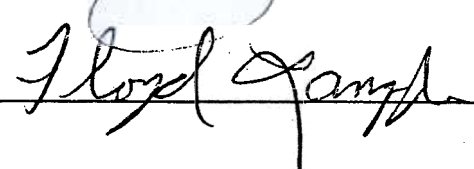
I **CONCLUDE** that this agreement meets the requirements of N.J.A.C. 1:1-19.1 and that the settlement should be approved. I approve the settlement and, therefore, **ORDER** that the parties comply with the settlement terms and that these proceedings be concluded.

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.

August 13, 2010
DATE

Date Received at Agency: 8-17-10


TAHESHA L. WAY, ALJ


Mailed to Parties: _____

**STATE OF NEW JERSEY
OFFICE OF ADMINISTRATIVE LAW**

-----X		
In the Matter of Richard J. Ezbianski	:	
	:	
vs.	:	BPU Docket No. GC10030178U
	:	OAL Docket No. PUCC03598-2010N
	:	
PIVOTAL UTILITY HOLDINGS, INC.	:	
d/b/a ELIZABETHTOWN GAS	:	
-----X		

STIPULATION OF SETTLEMENT

TO: Honorable Tahesha L. Way
Administrative Law Judge

WHEREAS, on or about February 5, 2009, Richard J. Ezbianski ("Petitioner") filed the above-referenced Petition wherein he disputed a \$776.67 charge ("Disputed Amount") from Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas ("Elizabethtown" or "Company") for natural gas service reflected on his December 11, 2008 bill covering the period November 7, 2008 through December 9, 2008;

WHEREAS, the Company conducted an investigation, found the meter was registering fast by 2% and downwardly adjusted the Disputed Amount by \$602.53 in accordance with the formula specified by N.J.A.C. 14:3-4.6;

WHEREAS, Petitioner has paid the balance of the Disputed Amount in full;

WHEREAS, Elizabethtown filed an Answer to Petition on April 29, 2010 and the New Jersey Board of Public Utilities ("NJBP" or "Board") transmitted the matter to the Office of Administrative Law ("OAL") as a contested case for adjudication;

WHEREAS, on July 14, 2010, the Company filed a Motion to Dismiss to the Petition;

WHEREAS, while this matter was pending at the OAL, the parties engaged in negotiations and, in the interest of resolving this matter without further delay and cost, have decided to settle this matter by this Stipulation of Settlement ("Stipulation");

IT IS THEREFORE AGREED AS FOLLOWS:

1. In the interests of good customer relations, Elizabethtown has reduced Petitioner's account by \$24.71 and has reflected that credit on Petitioner's July 2010 bill for gas service; no further adjustments in connection with this matter are required.

2. This Stipulation provides for a final resolution of this proceeding.

3. 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

Mary Patricia Keefe
Vice President and Assistant
Corporate Secretary

August , 2010

By: _____

Richard J. Ezblanski

Dated: August 5, 2010

2. This Stipulation provides for a final resolution of this proceeding.

3. 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
Mary Patricia Keefe
Vice President and Assistant
Corporate Secretary

Dated: August 9, 2010

By: _____
Richard J. Ezbianski

Dated: August , 2010

COPY



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State of New Jersey
OFFICE OF ADMINISTRATIVE LAW
33 Washington Street
Newark, New Jersey 07102
(973) 648-6008
(973-648-6058)

Robert J. Giordano, ALJ &
Manager of Organizational Development

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BOARD OF PUBLIC UTILITIES
NEWARK, N.J.

NORTH

Date AUG 13 2010

Re: Initial Decisions for Receipt

We are hereby forwarding to you the following decisions from the office of Administrative Law. **Receipt is acknowledged as of the next business day of the date indicated below.** Should a listed decision not be included in this batch, please call 973-648-6008.

OAL Docket No. PUC

Case Name

3598-10

Richard J. Ezbianski

Date: 8-17-10

Board of Public Utilities
Two Gateway Center
Newark, New Jersey 07102

Floyd Xing
Board of Public Utilities