



Agenda Date: 7/14/11
Agenda Item: LSA

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

ENERGY

IN THE MATTER OF THE PETITION OF PIVOTAL)	ORDER ADOPTING
UTILITY HOLDINGS, INC. d/b/a ELIZABETHTOWN)	INITIAL DECISION AND
GAS TO REVIEW ITS PERIODIC BASIC SUPPLY)	FINAL STIPULATION
SERVICE RATE)	
)	DOCKET NO. GR10060385

Parties of Record:

Kenneth T. Maloney, Esq., Cullen and Dykman LLP, on behalf of Elizabethtown Gas Company
Stephanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:

Per the generic Order of the New Jersey Board of Public Utilities ("Board" or "BPU") dated January 6, 2003, in Docket No. GX01050304 ("January Order"), each of New Jersey's four gas distribution companies ("GDCs") submits to the Board, by June 1, its annual Basic Gas Supply Service ("BGSS") gas cost filing for the BGSS year beginning October 1.

On June 1, 2009, Elizabethtown Gas Company ("Elizabethtown" or "Company") filed a petition in GR09060431 with the Board requesting authorization to decrease its then current BGSS-P rate from \$1.2801 per therm (including taxes) to \$0.8031 per therm (including taxes) to be effective October 1, 2009 due to projected decreases in the cost of natural gas for the BGSS year October 2009 through September 2010¹. The \$0.8031 per therm rate received provisional and final approval by the Board on September 16, 2009 and November 10, 2010, respectively. The approved rate reduction resulted in a decrease of approximately \$107.2 million (including taxes) or 27.8% in the Company's BGSS-P revenues.

On June 1, 2010 the Company filed its BGSS petition covering the BGSS year October 2010 through September 2011, projecting that its recoverable gas costs would be approximately \$2 million less than the level recoverable through its existing BGSS-P rate of \$0.8031 per therm.

¹ The Company's Periodic BGSS charge ("BGSS-P") is applicable to residential, small commercial and gas light sales service classes.

Given the relatively small differential in projected gas costs and the uncertainty inherent in any projection, the Company proposed to maintain its BGSS-P rate at \$0.8031 per therm.

Publication of notice in newspapers of general circulation in Elizabethtown's service territories advised that public hearings concerning the Company's petition were to be held on July 28, 2010 in Rahway and Flemington, New Jersey. No one from the public appeared. The public notice also advised customers that the Board's January Order granted the Company the discretion to: 1.) self-implement an increase in its BGSS rates to be effective December 1, 2010 and/or February 1, 2011 after prior notice to the Board and Rate Counsel, with each increase capped at 5% of the total residential bill, and 2.) decrease its BGSS rate at any time upon two weeks notice to the Board and Rate Counsel.

On September 10, 2010 the Company's filing was transmitted to the Office of Administrative Law ("OAL") as a contested case, and was assigned to Administrative Law Judge ("ALJ") Richard McGill.

On June 2, 2011, Elizabethtown, Board Staff, and Rate Counsel (collectively, "the Parties") resolved all issues and entered into a stipulation agreeing that²:

1. the Company will maintain its current BGSS-P rate of \$0.8031 per therm inclusive of all applicable taxes for the BGSS year October 1, 2010 through September 30, 2011;
2. all issues relating to the Company's BGSS recoverable costs for the BGSS year ending September 30, 2010 are resolved;
3. the Company will continue to provide the Board on a monthly basis with the reports: BGSS NYMEX Update ("S-ECHART-1") and Cost of Gas per Therm ("S-ECHART-2");
4. the BGSS-P rate of \$0.8031 per therm, inclusive of all taxes, will result in no change to a residential customer's bill.

On July 1, 2011 ALJ McGill issued his Initial Decision adopting the stipulation, finding that the Parties voluntarily agreed to the stipulation, that it fully disposed of all issues, and was consistent with the law.

DISCUSSION AND FINDING

The Board, having carefully reviewed the Initial Decision and the Final Stipulation, **HEREBY FINDS** that subject to the terms and conditions set forth below, the Initial Decision and the stipulation are reasonable, in the public interest and in accordance with the law. Accordingly, the Board **HEREBY ADOPTS** the Initial Decision and the stipulation in their entirety, and **HEREBY INCORPORATES** their terms and conditions as though fully set herein.

² Although summarized in this Order, the terms of the stipulation control, subject to the findings and conclusions of this Order.

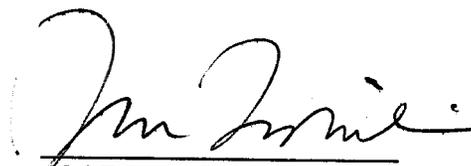
Accordingly, the Board **HEREBY DIRECTS** that the Company's per therm BGSS-P rate of \$0.8031, including all applicable taxes be made final, that the Company's BGSS-P rates remain subject to audit, and that this Order shall not preclude nor prohibit the Board from taking any actions determined to be appropriate as a result of any such audit.

DATED: 7/14/11

BOARD OF PUBLIC UTILITIES
BY:


LEE A. SOLOMON
PRESIDENT


JEANNE M. FOX
COMMISSIONER

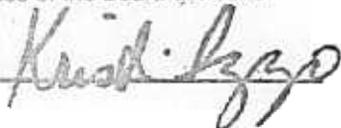

JOSEPH L. FIORDALISO
COMMISSIONER


NICHOLAS ASSELTA
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
TO REVIEW ITS PERIODIC BASIC GAS SUPPLY SERVICE RATE
BPU DOCKET NO. GR10060385
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State of New Jersey
OFFICE OF ADMINISTRATIVE LAW
33 Washington Street
Newark, NJ 07102
(973) 648-6008

**A copy of the administrative law
judge's decision is enclosed.**

This decision was mailed to the parties

on JUL - 1 2011



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

SETTLEMENT

OAL DKT. NO. PUC 09708-10

BPU DKT. NO. GR10060385

**IN THE MATTER OF THE PETITION OF
PIVOTAL UTILITY HOLDINGS, INC. D/B/A
ELIZABETHTOWN GAS TO REVIEW ITS
PERIODIC BASIC GAS SUPPLY SERVICE
RATE.**

Kenneth T. Maloney, Esq., and Deborah M. Franco, Esq., for Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas (Cullen and Dykman, attorneys)

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

Alex Moreau, Deputy Attorney General, and Marisa Slaten, Deputy Attorney General, for the Staff of the Board of Public Utilities (Paula T. Dow, Attorney General of New Jersey, attorney)

Henry M. Ogden, Esq., and Judith B. Appel, Esq., for the Division of Rate Counsel (Stephanie A. Brand, Director of the Division of Rate Counsel, attorney)

Record Closed: June 6, 2011

Decided: June 29, 2011

BEFORE RICHARD McGILL, ALJ

On June 1, 2010, Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas ("Elizabethtown" or "Company") filed a petition with the New Jersey Board of Public Utilities seeking approval pursuant to the Company's Basic Gas Supply Service ("BGSS") clause of its reconciliation for the twelve-month period from October 1, 2009, to September 30, 2010, and its proposed BGSS rate for the period from October 1, 2010, to September 30, 2011. The Company proposes to maintain its BGSS-P rate, which it charges to residential, small commercial and gas light sales service classes, at \$0.8031 per therm inclusive of all applicable taxes.

Notices describing the petition and setting forth 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 in the Company's service territory. Public hearings concerning the Company's petition were held in Rahway, New Jersey, on July 28, 2010, and Flemington, New Jersey, on July 28, 2010. No one from the public attended the hearings.

The matter was transmitted to the Office of Administrative Law on September 10, 2010, for determination as a contested case. Prior to hearing, the parties filed a Stipulation, which resolves all issues in this case. The main provision in the Stipulation is that the Company will maintain its BGSS-P rate of \$0.8031 per therm, inclusive of all applicable taxes, and that the rate shall remain in effect until revised in accordance with applicable laws and regulations. The stipulated rate will result in no change to the bills of residential customers.

Having reviewed the record and the settlement terms, I **FIND** as follows:

The parties have voluntarily agreed to the settlement as evidenced by their signatures or the signatures of their representatives.

2. The settlement fully disposes of all issues in controversy and is consistent with the law.

Therefore, I **CONCLUDE** that the agreement meets the requirements of N.J.A.C. 1:1-19.1 and that the settlement should be approved. Accordingly, it is **ORDERED** that the parties comply with the terms of the settlement, and it is **FURTHER ORDERED** that the proceedings in this matter be concluded.

I 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.

June 29, 2011

DATE

Richard McGill
RICHARD MCGILL, ALJ

Date Received at Agency:

7-1-11
Steven Sanders
DIRECTOR AND
CHIEF ADMINISTRATIVE LAW JUDGE

Date Mailed to Parties:
sej

JUL - 1 2011

**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 Service Rate : **BPU Docket No. GR10060385**
: **OAL Docket No. PUC 09708-2010 N**
: **FINAL STIPULATION**
-----X

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. and Judith B. Appel, Esq., Staff Attorneys, Division of Rate Counsel (Stefanie A. Brand, Director, Division of Rate Counsel)

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

To: Honorable Richard McGill
Administrative Law Judge

BACKGROUND

On June 1, 2010, 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"), which was assigned BPU Docket No. GR10060385, requesting to maintain its then current BGSS-P rate of \$0.8031 per therm inclusive of all applicable taxes for the BGSS period commencing October 1, 2010 through September 30, 2011 ("BGSS Period"). The current BGSS-P rate of \$0.8031 was implemented by the Company in accordance with a Board Order dated September 16, 2009 in BPU Docket No. GR09060431 approving this rate on a provisional basis and a Board Order dated November 10, 2010 in that same docket approving it on a final basis.

In the June Petition, Elizabethtown also reserved the right to implement self-implementing increases in the BGSS-P rate on December 1, 2010 and February 1, 2011, respectively, if the Company

determined that such increases would be necessary to permit Elizabethtown to avoid a BGSS underrecovery balance at September 30, 2011

As indicated in the June 1 Petition, Elizabethtown projected that its recoverable gas costs would be approximately \$2 million less than the level recoverable through its current BGSS-P rate in the BGSS Period. Because of the small difference in projected costs and the uncertainty inherent in any forecast of future gas costs and gas cost recoveries, the Company proposed to maintain its current BGSS-P rate.

Notices describing the June 1 Petition and setting forth 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 in the Company's service territory. Public hearings concerning the Company's Petition were held in Rahway, New Jersey on July 28, 2010 and Flemington, New Jersey on July 28, 2010. No one from the public attended the hearings.

The Company's filing was transmitted to the Office of Administrative Law as a contested case. A pre-hearing conference was held on October 20, 2010 and a status conference was held on January 28, 2011

Elizabethtown, Board Staff, and the Division of Rate Counsel ("Rate Counsel") (collectively, "the Parties") engaged in discovery and discussed certain matters at issue in this docket. 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 Parties stipulate as follows:

1. **Rates.** The Company shall maintain its BGSS-P rate of \$0.8031 per therm, inclusive of all applicable taxes, and that rate shall remain in effect until revised in accordance with applicable laws and regulations.

2. **All Issues Resolved.** This Stipulation provides for a final resolution in this proceeding. All issues related to Elizabethtown's BGSS recoverable costs for the BGSS year ending September 30, 2010 are resolved.

3. **Reports.** The Company shall continue to provide electronically to Board Staff and Rate Counsel on a monthly basis the following updated information: 1) the BGSS NYMEX Update Report (also known as S-ECHART-1); and 2) the Cost of Gas per Therm (also known as S-ECHART-2). As has been the case, each of the above reports is to be completed using information available the first Friday of the month and will be submitted to Board Staff and Rate Counsel the following Tuesday.

4. The Company estimates that the BGSS-P rate of \$0.8031 per therm, inclusive of all applicable taxes will result in no change to a residential customer's bill. The effect of this rate on typical residential gas bills is illustrated below:

<u>Consumption In Therms</u>	<u>Present Bill</u>	<u>Proposed Bill</u>	<u>Percent Change</u>
10	\$19.77	\$19.77	(0.0%)
50	\$66.86	\$66.86	(0.0%)
100	\$125.72	\$125.72	(0.0%)
250	\$302.30	\$302.30	(0.0%)

5. **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.

6. **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.

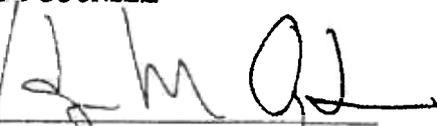
7. **General Reservation.** It is specifically understood and agreed that this Stipulation represents a negotiated agreement and has been made exclusively for the purpose of this proceeding. Except as expressly provided herein, Elizabethtown, Board Staff, or Rate Counsel shall not be deemed to have approved, 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. All rates remain subject to audit by the Board.

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.

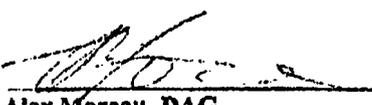
**PIVOTAL UTILITY HOLDINGS, INC.
D/B/A ELIZABETHTOWN GAS**

By: 
Mary Patricia Keefe
Vice President, Regulatory Affairs
and Assistant Corporate Secretary

**STEFANIE A. BRAND
DIRECTOR, DIVISION OF
RATE COUNSEL**

By: 
Henry M. Ogden
Staff Attorney
Assistant Deputy Rate Counsel

**PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY
Attorney for the Staff of the New Jersey Board of Public Utilities**

By: 
Alex Moreau, DAG

Dated: June 2, 2011