



STATE OF NEW JERSEY
Board of Public Utilities
44 S. Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350
www.nj.gov/bpu

ENERGY

IN THE MATTER OF THE PETITION OF PIVOTAL)
UTILITY HOLDINGS, INC. d/b/a ELIZABETHTOWN) DECISION AND ORDER
GAS TO REVIEW ITS PERIODIC BASIC GAS) APPROVING STIPULATION FOR
SUPPLY SERVICE RATE) PROVISIONAL BGSS-P RATES
) DOCKET NO. GR11060330

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
Stefanie A. Brand, Director, Division of Rate Counsel

BY THE BOARD:

BACKGROUND

Per the generic Order of the Board of Public Utilities ("Board" or "BPU") dated January 6, 2003, in Docket No. GX01050304 ("January BGSS Order"), each of New Jersey's four gas distribution companies ("GDCs"), by June 1, submits to the Board its annual Basic Gas Supply Service ("BGSS") gas cost filing for the BGSS year beginning October 1. In addition, the January BGSS Order authorizes each GDC to self-implement up to a 5% BGSS increase effective December 1 and February 1, with one month's advance notice to the Board and the New Jersey Division of Rate Counsel ("Rate Counsel"). Each GDC may implement a decrease in its BGSS rates at any time, without prior Board approval after notice to the Board and Rate Counsel.

In accordance with the January BGSS Order, Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas Company ("Elizabethtown" or "Company"), filed a Petition with the Board on June 1, 2011 seeking to decrease its Periodic Basic Gas Supply Service ("BGSS-P") rate from \$0.8031 per therm to \$0.6924 per therm inclusive of all applicable taxes effective October 1, 2011. The Company's proposal would result in a decrease of \$11.07 from \$124.93 to \$113.86 or 8.9% to the typical residential heating customer using 100 therms monthly. The projected impact of the proposal is a decrease in gas cost revenues to Elizabethtown of approximately \$23 million from current BGSS-P rates in the BGSS year beginning on October 1, 2011 and ending on September 30, 2012.

After publication of notices in newspapers in general circulation in the Company's service territory, public hearings were held in Flemington, New Jersey and Rahway, New Jersey on August 22, 2011, and August 23, 2011 respectively. No one from the public attended the proceedings.

Stipulation for Provisional BGSS Rates¹

The Company, Board Staff and Rate Counsel (collectively, the "Parties"), the only parties to this proceeding at this time, entered into a Stipulation for Provisional BGSS-P rates dated August 25, 2011. The Parties recommend a rate of \$0.6924 per therm including all applicable taxes for approval on a provisional basis, subject to refund with interest on any net over-recovered BGSS balance. This change in Elizabethtown's BGSS-P rate is projected to decrease the Company's revenue by \$23 million in the BGSS year ending September 30, 2012. Any net over-recovery of BGSS costs as of September 30, 2012 will be credited, with appropriate interest, to the Company's Periodic BGSS clause.

The Parties agree that implementation of the agreed upon BGSS-P rate should be effective as close to October 1, 2011 as reasonably possible.

DISCUSSION AND FINDING

The Board has carefully reviewed the record to date in this proceeding and the attached Stipulation for Provisional BGSS-P Rates. The Board FINDS that, subject to the terms and conditions set forth below, the Stipulation is reasonable, in the public interest, and in accordance with the law. Accordingly, the Board HEREBY ADOPTS the Stipulation for Provisional BGSS-P Rates as its own, as if fully set forth herein, and HEREBY APPROVES on a provisional basis, subject to refund with interest on any over-recovered BGSS balance, the Company's implementation of a decrease in its BGSS-P rate to \$0.6924 per therm inclusive of all applicable taxes, effective for service rendered on and after October 1, 2011. Any net over recovered BGSS balance at the end of the BGSS period shall be subject to refund with interest.

The Board HEREBY DIRECTS Elizabethtown to 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). Each of the above reports is to be completed using information available the first Friday of the month, and submitted to Board Staff and Rate Counsel the following Tuesday.

The Company is HEREBY DIRECTED to file the appropriate tariff sheets conforming to the terms and conditions of this Order within five (5) business days from the date of this Order.

¹ Although summarized in this Order, the detailed terms of the stipulation control, subject to the findings and conclusions of this Order.

The Board HEREBY DIRECTS that this matter be transmitted to the Office of Administrative Law for review, and evidentiary hearings, if necessary.

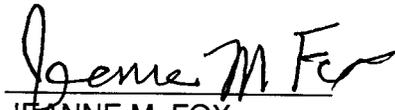
The Company's gas costs will remain subject to audit by the Board. This Decision and Order shall not preclude the Board from taking any actions deemed to be appropriate as a result of any such audit.

DATED: 9/22/11

BOARD OF PUBLIC UTILITIES
BY:



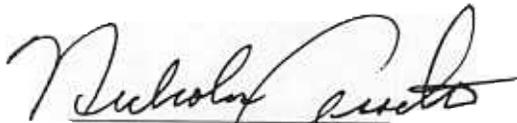
LEE A. SOLOMON
PRESIDENT



JEANNE M. FOX
COMMISSIONER



JOSEPH L. FIORDALISO
COMMISSIONER

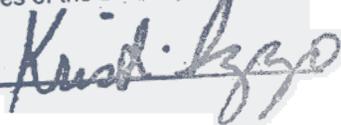


NICHOLAS ASSELTA
COMMISSIONER

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



KRISTI IZZO

In the Matter of the Petition of Pivotal Utility Holdings, Inc., d/b/a Elizabethtown Gas Company
to Review its Periodic Basic Gas Supply Service Rate
Docket No. GR11060330

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

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| -----X | | |
| In The Matter Of The Petition Of Pivotal Utility : | | |
| Holdings, Inc. d/b/a Elizabethtown Gas To : | | |
| Review Its Periodic Basic Gas Supply : | BPU Docket No. GR11060330 | |
| Service Rate : | | |
| -----X | | |
| | STIPULATION FOR | |
| | PROVISIONAL RATES | |

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

Paul Flanagan, Litigation Manager, Division of Rate Counsel, Felicia Thomas-Friel, Managing Attorney – Gas, Division of Rate Counsel, Sarah H. Steindel, Esq. and Maria Novas-Ruiz, Esq., Assistant Deputy Rate Counsels, Division of Rate Counsel (Stefanie A. Brand, Director, Division of Rate Counsel)

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

1. On June 1, 2011, 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") in BPU Docket No. GR11060330 to revise its Periodic Basic Gas Supply Service ("BGSS-P") rates for the period October 1, 2011 through September 30, 2012.

2. In its June 1 Petition, Elizabethtown proposed to decrease its current BGSS-P rate from \$0.8031 per therm inclusive of all applicable taxes to \$0.6924 per therm inclusive of all applicable taxes to become effective October 1, 2011. The rate proposed would decrease the bill of a residential heating customer using 100 therms by \$11.07 from \$124.93 to \$113.86, a decrease of 8.9%. The projected impact of the proposed rate change is a decrease in gas cost recoveries of approximately \$23 million in the year ending September 30, 2012 than would otherwise be

recovered by Elizabethtown under the current BGSS-P rate. Notices setting forth the requested rate change and 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 within the Company's service territory. Public hearings concerning the Company's Petition were held in Flemington, New Jersey on August 22, 2011 and Rahway, New Jersey on August 23, 2011.

3. Elizabethtown, the Board's Staff and the Division of Rate Counsel ("Rate Counsel") are the only parties to this proceeding (collectively "the Parties"). The Parties agree that additional time is needed to complete a comprehensive review of the Company's filing and that provisional BGSS rates, subject to refund with interest on any net-overrecovered BGSS balance, are reasonable to provide customers with the benefit of the rate decrease proposed in the June 1 Petition, while permitting Elizabethtown to timely collect BGSS costs while additional review of the Company's filing takes place.

4. The Parties have determined and hereby **STIPULATE AND AGREE** that, pending the conclusion of any further review and discussions among the Parties and a final determination by the Board, and pursuant to N.J.S.A. 48:2-21.1, it would be both reasonable and in the public interest for the Board to authorize Elizabethtown to decrease its BGSS-P rate to \$0.6924 per therm inclusive of all applicable taxes. This authorization will be implemented on a provisional basis, subject to refund with interest on any net BGSS overrecoveries. A final rate will be implemented after an opportunity for a full review of the Company's filing in this proceeding at the Office of Administrative Law, if necessary, and final Board approval. The stipulated change results in a bill decrease from the BGSS-P rate currently in effect of approximately 8.9%, or \$11.07 per month, for a typical residential heating customer using 100 therms per month. The stipulated decrease is projected to lower the Company's BGSS gas cost recoveries by approximately \$23 million in the

year ending September 30, 2012. The Parties request that the Board issue an order authorizing the provisional rates effective as close to October 1, 2011 as reasonably possible. The Company may seek to implement provisional increases in its BGSS-P rate of up to 5% to be effective December 1, 2011 and February 1, 2012 if the Company determines that such increases are necessary to permit it to avoid a BGSS underrecovery balance at September 1, 2012.

5. The Company will submit tariff sheets in compliance with the provisional rates within seven (7) days of the Board's Order approving these rates.

6. 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.

7. 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.

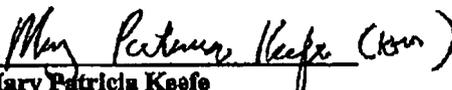
8. It is specifically understood and agreed that this Stipulation represents a negotiated agreement and has been made exclusively for the purpose of this proceeding. Except as expressly provided herein, Elizabethtown, Board Staff, or Rate Counsel shall not be deemed to have approved, agreed to, or consented to any principle or methodology underlying or supposed to underlie any agreement provided herein.

9. The Parties further acknowledge that a Board Order approving this Stipulation will become effective upon the service of said Board Order, or upon such date after the service thereof as the Board may specify, in accordance with N.J.S.A. 48:2-40.

WHEREFORE, the Parties hereto do respectfully submit this Stipulation to the Board of Public Utilities and request 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**

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

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

By: 
Sarah H. Steindel
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: August 25, 2011