



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**44 South Clinton Avenue, 9<sup>th</sup> Floor**  
**Post Office Box 350**  
**Trenton, NJ 08625-0350**  
**[www.nj.gov/bpu](http://www.nj.gov/bpu)**

**DIVISION OF ENERGY AND**  
**OFFICE OF CLEAN ENERGY**

IN THE MATTER OF THE PETITION OF PIVOTAL )  
UTILITY HOLDINGS, INC. D/B/A ELIZABETHTOWN )  
GAS FOR AUTHORITY TO EXTEND THE TERM OF )  
ENERGY EFFICIENCY PROGRAMS WITH CERTAIN )  
MODIFICATIONS AND APPROVAL OF ASSOCIATED )  
COST RECOVERY ) BPU DOCKET NO. GO11070399

Parties of Record:

Deborah Franco, Esq., Cullen and Dykman LLP, on behalf of Elizabethtown Gas Company

Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD

**BACKGROUND/PROCEDURAL HISTORY**

By Order dated August 3, 2009 in Docket Nos. EO09010056 and GO09010060 ("August 3 Order"), the New Jersey Board of Public Utilities ("Board") approved a Stipulation of the parties authorizing Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas Company ("ETG" or "Company") to administer six energy efficiency programs ("EE Programs") for a 17-month period ending on December 31, 2010. The total Program expenditures, including operating and maintenance ("O&M") expenses, were \$14,673,100.

By Order dated January 19, 2011 in Docket Nos. GO10070446 and GO10100735 ("January 19 Order"), the Board approved a Stipulation of the parties authorizing ETG to extend its EE Programs for a one year period ending on December 31, 2011.

The EE Programs include the following

1. Whole House Energy Efficiency Program
2. Residential Expanded Gas Heating Ventilation and Air Conditioning (“HVAC”) and Gas Hot Water Heater Incentive Program
3. Small Commercial Customer Energy Efficiency Program
4. Large Commercial Customer Energy Efficiency Program
5. Combined Heat and Power Program
6. Gas Cooling Program.

On July 1, 2011, the Board received ETG’s petition in Docket No. GO11070399 requesting that the Board extend the term of the Company’s currently effective six EE Programs for a three-year period commencing on January 1, 2012 and ending on December 31, 2014 under terms and conditions substantially similar to those approved in the August 3 Order and the January 19 Order with certain limited modifications (“July 1 Petition”). The July 1 Petition requests authority to continue to recover the costs of the EE programs through the Company’s existing EE program surcharge, subject to a change in the name of that surcharge from the Regional Greenhouse Gas Initiative (“RGGI”) Rider rate to the Energy Efficiency Program (“EEP”) Rider rate. The July 1 Petition further requests authority to implement an EEP Rider rate of \$0.0011 per therm, inclusive of applicable taxes. The Company’s existing EE Programs, which are scheduled to expire on December 31, 2011, were approved by the Board with total program expenditures of \$14.67 million. The July 1 Petition proposes an annual EE Program budget of approximately \$5.6 million for each year or a total of \$16.8 million throughout the requested three-year implementation period.

On June 30, 2011, the Company also filed a petition (“2011 EEP True-Up Petition”) in BPU Docket No. GR11070398 to reconcile EE Program costs and cost recoveries for the period commencing July 1, 2010 through June 30, 2011 and to recover the forecast EE Program related revenue requirements for the period July 1, 2011 through December 30, 2011. The 2011 EEP True-Up Petition requested authority to implement a decrease in the RGGI rider rate from \$0.0000 to a credit of \$0.0015 per therm, inclusive of applicable taxes. The 2011 True-Up Petition also requested authority to implement a name change from the RGGI Rider rate to the EEP Rider rate. The \$0.0011 per therm EEP Rider rate sought by the Company in the July 1 Petition was filed as an alternative to the \$0.0015 per therm credit requested in the 2011 EEP True-Up Petition, assuming approval by the Board of an extension of the Company’s EE Programs as requested in the July 1 Petition.

On July 25, 2011, Board Staff issued a letter informing the Company that its July 1 Petition was administratively complete, and indicating that the Board’s 180-day review period would commence as of July 1, 2011. Consequently, the 180 day review period for the requested EE Program extension shall expire on December 28, 2011 (the “RGGI Date”).

Representatives of the Company, Board Staff, and the New Jersey Division of Rate Counsel (“Rate Counsel”), (collectively, the “Parties”), have conducted discovery and engaged in discussions concerning the July 1 Petition.

On November 16, 2011, the Parties entered into the attached Stipulation (“Stipulation”)<sup>1</sup>

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<sup>1</sup> Although described at some length in this Order, should there be any conflict between this summary and the Stipulation, the terms of the Stipulation control, subject to the findings and conclusion of this Order.

## STIPULATION

The Parties have agreed to the following salient terms:

1. In order to allow sufficient time for the administrative processing and review of the July 1 Petition, the current RGGI Date of December 28, 2011 shall be extended and a revised RGGI Date of April 29, 2012 be established. The administrative processing and review of the July 1 Petition shall proceed in accordance with the procedural schedule set forth in Schedule A attached to this Stipulation.
2. ETG is authorized to continue the Company's EE Programs as approved in the August 3 and January 19 Orders through the revised RGGI Date under the same terms and conditions approved in the August 3 and January 19 Orders with no modification except that ETG will not be required to provide the cost cutter kit and programmable thermostat reflected in the Whole House Energy Efficiency Program unless and until otherwise required by the Board. Unless the Board issues a written order by the Revised RGGI Date approving, modifying or denying the requested recovery, the relief requested in the July 1 Petition shall be deemed effective on April 30, 2012, unless a further extension of the review period is ordered by the Board.
3. ETG is authorized to continue to recover, subject to reconciliation and refund, all EE Program costs, including, all program investments, such as rebates and customer financing costs and reasonable and prudent incremental O&M expense in accordance with the same terms and conditions as approved in the August 3 and January 19 Orders. The Company's current RGGI Rider rate of \$0.000 per therm, inclusive of all applicable taxes shall remain in effect until changed by order of the Board.

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DISCUSSION AND FINDINGS

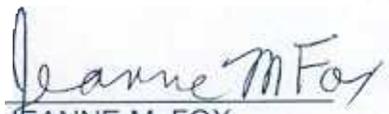
The Board has carefully reviewed the record to date in these matters. The Board is satisfied and HEREBY FINDS that the Stipulation represents a fair and reasonable interim resolution of the issues and is in public interest. Accordingly, the Board HEREBY ADOPTS the attached Stipulation as its own, incorporating by reference its terms and conditions as if fully set forth herein. The Board HEREBY DIRECTS the Parties to comply with the terms and conditions of the Stipulation.

DATED: 11/30/11

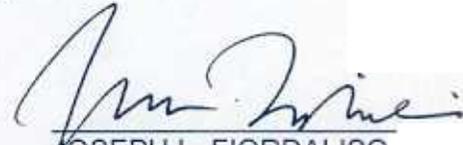
BOARD OF PUBLIC UTILITIES  
BY:



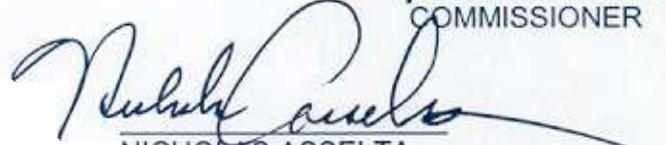
LEE A. SOLOMON  
PRESIDENT



JEANNE M. FOX  
COMMISSIONER

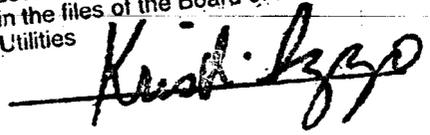


JOSEPH L. FIORDALISO  
COMMISSIONER



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  
FOR AUTHORITY TO EXTEND THE TERM OF ENERGY EFFICIENCY PROGRAMS WITH CERTAIN  
MODIFICATIONS AND APPROVAL OF ASSOCIATED COST RECOVERY  
BPU Docket No. GO11070399

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

-----X  
**In the Matter of the Petition of** .  
**Pivotal Utility Holdings, Inc. d/b/a** : **BPU Docket No. GO11070399**  
**Elizabethtown Gas for Authority to**  
**Extend the Term of Energy Efficiency** : **STIPULATION**  
**Programs with Certain Modifications**  
**And Approval of Associated Cost**  
**Recovery**  
-----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

**Paul Flanagan**, Litigation Manager, Division of Rate Counsel, **Felicia Thomas-Friel**, Managing Attorney – Gas, Division of Rate Counsel, **James W. Glassen, Esq.** and **Kurt S. Lewandowski, Esq.**, Assistant Deputy Rate Counsels, 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)

**BACKGROUND**

1        On July 1, 2011, Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas (“Elizabethtown” or the “Company”) filed a petition (“July 1 Petition”) in BPU Docket No. GO11070399 requesting that the New Jersey Board of Public Utilities (“Board”) extend the term of the Company’s currently effective six Energy Efficiency Programs (“EE Programs”) for a three-year period commencing on January 1, 2012 and ending on December 31, 2014 under terms and conditions substantially similar to those approved in the Board’s August 3, 2009 Order (“August 3 Order”) in Docket Nos. EO09010056 and

GO09010060 *et. al.* and the Board's January 19, 2011 ("January 19 Order") in Docket Nos. GO10100735 and GO10070446, with certain limited modifications. The Company's existing Energy Efficiency Programs scheduled to expire December 31, 2011, were approved by the Board with total program expenditures of \$14.67 million.

2. The EE Programs comprise the following:
  - a. Whole House Energy Efficiency Program;
  - b. Residential Expanded Gas Heating Ventilation and Air Conditioning ("HVAC") and Gas Hot Water Heater Incentive Program;
  - c. Small Commercial Customer Energy Efficiency Program;
  - d. Large Commercial Customer Energy Efficiency Program;
  - e. Combined Heat and Power Program; and
  - f. Gas Cooling Program.

In addition to a range of rebates and related offers, the EE Programs contain various customer education and outreach initiatives, including an on-line customer Dashboard, designed to encourage customers to conserve energy and provide information to them on how to lower their gas bills.

3. The July 1 Petition also requested authority to recover the costs of the EE Programs through the Company's existing EE Program surcharge subject to a change in the name of that charge from the Regional Greenhouse Gas Initiative ("RGGI") Rider rate to the "Energy Efficiency Program" ("EEP") Rider rate. The July 1 Petition further requested authority to implement an EEP Rider rate of \$0.0011 per therm, inclusive of applicable taxes effective October 1, 2011. The July 1 Petition proposes an annual EE

Program budget of approximately \$5.6 million for each year or a total of \$16.8 million throughout the requested three-year implementation period.

4. On June 30, 2011, the Company also filed a Petition (“2011 EEP True-Up Petition”) in BPU Docket No. GR11070398 to reconcile EE Program costs and cost recoveries for the period commencing July 1, 2010 through June 30, 2011 and to recover the forecast EE Program related revenue requirements for the period July 1, 2011 through December 30, 2011. The 2011 EEP True-Up Petition requested authority to implement a decrease in the RGGI rider rate from \$0.0000 to a credit of \$0.0015 per therm, inclusive of applicable taxes, effective October 1, 2011. The True-Up Petition similarly requested authority to implement a name change from the RGGI Rider rate to the EEP Rider rate. The \$0.0011 per therm EEP Rider rate sought by the Company in the July 1 Petition was filed as an alternative to the \$0.0015 per therm credit rate requested in the 2011 EEP True-Up Petition, assuming approval by the Board of an extension of the Company’s EE Programs as requested in the July 1 Petition.

5. By letter dated July 25, 2011, in conformance with the Board’s May 12, 2008 Order in Docket No. EO08030164 implementing the requirements of the Regional Greenhouse Gas Initiative Act (“RGGI Act”), Board Staff advised the Company that the July 1 Petition was deemed “administratively complete” and that the 180-day review period prescribed by the RGGI Act for a final Board determination regarding the July 1 Petition (“180 Day RGGI Period”) would commence as of July 1, 2011. Consequently, the 180 Day RGGI Period shall expire on December 28, 2011 (the “RGGI Date”).

6. Public hearings were held on August 22, 2011 in Flemington, New Jersey and on August 23, 2011 in Rahway, New Jersey. No members of the public appeared at the public hearings.

7. On September 22, 2011, the Board issued an Order in this proceeding designating Commissioner Nicholas Asselta as the presiding officer who is authorized to rule on all motions that arise during the pendency of these proceedings and modify any schedules that may be set as necessary to secure a just and expeditious determination of the issues.

8. Since the filing of the July 1 Petition, representatives from the Company, Board Staff and the Division of Rate Counsel (collectively, the "Parties") have engaged in discovery and participated in certain discussions to discuss the procedural schedule and related issues. In light of the fact that the Parties' discussions in this matter might not be completed by the RGGI Date, the Parties have discussed the need for an extension of the RGGI Date in order to provide the Parties with additional time to complete the administrative processing and review of the July 1 Petition and the Board to issue a final determination in this matter.

#### **STIPULATION**

Based upon and subject to the terms and conditions set forth herein, Board Staff, Rate Counsel, and Elizabethtown (hereinafter, collectively, the "Stipulating Parties") stipulate and agree as follows:

A. **Extension of Maximum 180-Day Review**. In order to allow sufficient time for the administrative processing and review of the July 1 Petition, the current RGGI Date of December 28, 2011 shall be extended and a revised RGGI Date of April 29, 2012

be established and the administrative processing and review of this proceeding shall proceed in accordance with the procedural schedule set forth in Schedule A to this Stipulation. The Stipulating Parties, therefore, pursuant to N.J.S.A. 48:2-21.3, request that the Board issue an Order establishing a revised RGGI date of April 29, 2012 for purposes of extending the 180 Day RGGI Period to April 29, 2012 (“Revised RGGI Date”) and allowing completion of the processing and review of the July 1 Petition in accordance with the procedural schedule reflected in Schedule A.

**B. Extension of EE Programs.** Elizabethtown is authorized to continue the Company’s EE Programs as approved in the August 3 and January 19 Orders through the revised RGGI Date under the same terms and conditions approved in the August 3 and January 19 Orders with no modification except that Elizabethtown will not be required to provide the cost cutter kit and programmable thermostat reflected in the Whole House Energy Efficiency Program unless and until otherwise required by the Board. Unless the Board issues a written order by the Revised RGGI Date approving, modifying or denying the requested recovery, the relief requested in the July 1 Petition shall be deemed effective on April 30, 2012 unless a further extension of the review period is ordered by the Board.

**C. Cost Recovery Mechanism.** Elizabethtown is authorized to continue to recover, subject to reconciliation and refund, all EE Program costs, including, all program investments, such as rebates and customer financing costs and reasonable and prudent incremental O&M expense in accordance with the same terms and conditions as approved in the August 3 and January 19 Orders. The Company’s current RGGI Rider

rate of \$0.000 per therm, inclusive of all applicable taxes shall remain in effect until changed by order of the Board.

**D. Entirety Of Stipulation.** This Stipulation is intended to be accepted and approved in its entirety. In the event any particular aspect of this Stipulation is not accepted and approved in its entirety by the Board, then any Party aggrieved thereby shall not be bound to proceed with this Stipulation and shall have the right to litigate all issues addressed herein to a conclusion. More particularly, in the event this Stipulation is not adopted in its entirety by the Board in its Order in this matter, then any Party hereto is free to pursue its then available legal remedies with respect to all issues addressed in this Stipulation, as though this Stipulation had not been signed.

**E. Binding Effect.** It is the intent of the Stipulating Parties that the provisions hereof be approved by the Board. The Stipulating Parties further agree that they consider this Stipulation to be binding on them for all purposes herein.

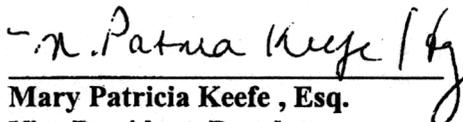
**F. General Reservation.** It is specifically understood and agreed that this Stipulation represents a negotiated agreement and, except as otherwise expressly provided for herein, is intended to be binding only in this proceeding and only as to the matters specifically addressed herein.

**G. Counterpart Originals.** This Stipulation may be executed in any number of counterparts, each of which shall be considered one and the same agreement, and shall be completely executed when one or more counterparts have been signed by each of the Stipulating Parties.

WHEREFORE, the Stipulating Parties hereto do respectfully submit this Stipulation to the Board and request that the Board 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**

  
\_\_\_\_\_  
**Mary Patricia Keefe , Esq.  
Vice President, Regulatory  
Affairs and Assistant Corporate  
Secretary**

By: \_\_\_\_\_  
**Felicia Thomas-Friel  
Managing Attorney**

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

\_\_\_\_\_  
**Alex Moreau, Deputy Attorney General**

Dated: November 16, 2011

Exhibit A

Procedural Schedule

I/M/O the Petition of Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas for Authority to Extend the Term of Energy Efficiency Programs with Certain Modifications and Approval of Associated Cost Recovery  
BPU Docket No. GO11070399

Discovery*	Ongoing
Discovery/Status and/or Settlement Conference and/or Respondent Testimony	December 16, 2011
Discovery on Respondent Testimony	December 23, 2011
Responses to Discovery on Respondent Testimony	January 6, 2012
Status and/or Settlement Conference	Prior to January 20, 2012 (date certain TBD)
Rebuttal Testimony	- January 20, 2012
Discovery on Rebuttal Testimony	February 1, 2012
Responses to Rebuttal Discovery	February 15, 2012
Evidentiary Hearings (live Sur-rebuttal/if necessary)	March 2012**
Position Papers Due	March 2012**
Board Action	April 2012

\* Responses to discovery due within 15 days

\*\*Date subject to availability of Hearing Officer