



Agenda Date: 2/19/14  
Agenda Item: VIIC

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

CUSTOMER ASSISTANCE

IVY PARK MANAGEMENT,	)	ORDER ADOPTING INITIAL
Petitioner	)	DECISION SETTLEMENT
	)	
V.	)	
	)	
PIVOTAL UTILITY HOLDINGS, INC., d/b/a	)	BPU DOCKET NO. GC13040347U
ELIZABETHTOWN GAS,	)	OAL DOCKET NO. PUC 11540-13N
Respondent	)	

**Parties of Record:**

**Dinah E. Hendon, Esq.**, Lasser Hochman, LLC, on behalf of Petitioner, Ivy Park Management  
**Deborah M. Franco, Esq.**, Cullen & Dykman, LLP, on behalf of Respondent, Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas

**BY THE BOARD:**

On April 23, 2013, Ivy Park Management ("Petitioner") filed with the Board of Public Utilities ("Board") a Petition requesting a formal hearing related to a billing dispute with Elizabethtown Gas ("Respondent") for utility services provided 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") Kimberly A. Moss.

While this matter was pending at the OAL, the parties engaged in negotiations and entered into and signed a Stipulation of Settlement ("Settlement") that was submitted to the ALJ. By Initial Decision issued on January 24, 2014, and submitted to the Board on January 29, 2014, to which the Settlement was attached and made part thereof, ALJ Moss found that the Settlement 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 Settlement, the parties have agreed that: (1) Respondent will reduce the disputed amount by \$17,495.14, which includes the interest and penalties associated with the non-payment of the disputed amount, resulting in an adjusted balance of \$22,000; (2) Petitioner will pay the

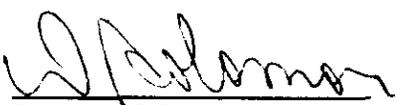
adjusted balance in full within forty-five days of the ALJ's Initial Decision approving the Stipulation or within 10 days of a Board Order approving such Initial Decision, whichever is earlier; and (3) the Stipulation resolves charges for natural gas service from May 2010 to April 2012 and Petitioner continues to be under an obligation to pay for gas service that it receives from Respondent after April 2012.

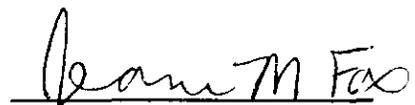
Following a review of the record and the Settlement, the Board **HEREBY FINDS** that the parties have voluntarily agreed to the Settlement as evidenced by their signatures and that, by the terms of the Settlement, have fully resolved all outstanding contested issues in this matter.

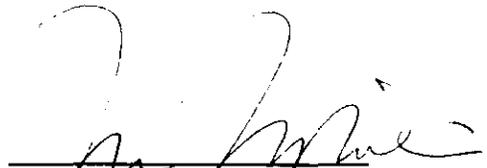
Accordingly, the Board **HEREBY ADOPTS** the Initial Decision and the Settlement executed by the parties in their entirety as if fully set forth herein.

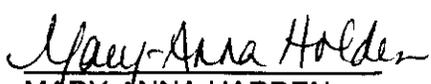
DATED: 2/19/14

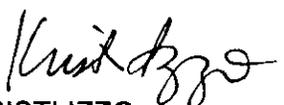
BOARD OF PUBLIC UTILITIES  
BY:

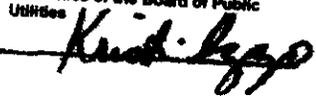
  
DIANNE SOLOMON  
PRESIDENT

  
JEANNE M. FOX  
COMMISSIONER

  
JOSEPH L. FIORDALISO  
COMMISSIONER

  
MARY-ANNA HARDEN  
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  


IVY PARK MANAGEMENT, Petitioner

V.

PIVOTAL UTILITY HOLDINGS, INC. d/b/a ELIZABETHTOWN GAS, Respondent

BPU DOCKET NO. GC13040347U  
OAL DOCKET NO. PUC11540-13N

SERVICE LIST

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Julie Ford Williams, Chief  
Division of Customer Assistance  
Board of Public Utilities  
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Flwd  
1/30/14



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**INITIAL DECISION**

**SETTLEMENT**

OAL DKT. NO. PUC 11540-13N

AGENCY DKT. NO. GC13040347U

RECEIVED  
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**IVY PARK MANAGEMENT,**

Petitioner,

v.

**PIVOTAL UTILITY HOLDINGS, INC. d/b/a**

**ELIZABETHTOWN GAS,**

Respondent.

**Dinah E. Hendon, Esq.** appearing on behalf of petitioner (Lasser Hochman, LLC)

**Deborah Franco, Esq.** on behalf of respondent (Pivotal Holdings, Inc.)

Record Closed: January 24, 2014

Decided: January 24, 2014

BEFORE **KIMBERLY A. MOSS, ALJ:**

On August 15, 2013, this matter was transmitted to the Office of Administrative Law (OAL) for hearing 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. Several telephone status conferences were conducted wherein the parties engaged in settlement discussions. On January 23, 2014 petitioner's counsel submitted a settlement resolving all issues in dispute, via electronic mail. The original fully executed Stipulation of Settlement was received on January 24, 2014, which is attached hereto for reference.

I have reviewed the record and terms of the Stipulation of Settlement and **FIND**:

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

I **CONCLUDE** that the agreement meets the requirements of N.J.A.C. 1:1-19.1 and therefore, it is **ORDERED** that the parties comply with the settlement terms and that these proceedings be and are hereby 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 (45) 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.

1-24-13

\_\_\_\_\_  
DATE



\_\_\_\_\_  
KIMBERLY A. MOSS, ALJ

Date Received at Agency: \_\_\_\_\_

Date Mailed to Parties: \_\_\_\_\_

ljb

STATE OF NEW JERSEY  
OFFICE OF ADMINISTRATIVE LAW

-----X  
Ivy Park Management :  
: vs. :  
: Elizabethtown Gas :  
-----X

BPU Docket No. GC0347U  
OAL Docket No. PU15482013

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STATE OF NEW JERSEY  
OFFICE OF ADMINISTRATIVE LAW

STIPULATION OF SETTLEMENT

WHEREAS, on or about April 16, 2013, Ivy Park Management (“Petitioner”) filed a Petition with the New Jersey Board of Public Utilities (“Board”) disputing a \$39,495.14 charge (“Disputed Amount”) from Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas (“Elizabethtown” or “Company”) for natural gas service provided to 196 Gibson Boulevard in Clark, New Jersey.

WHEREAS, Elizabethtown filed an Answer to the Petition on or about June 21, 2013 asserting that the Disputed Amount reflected a “true-up” for an amount of gas consumed by Petitioner but not billed for the period May 2010 through April 2012; charges for gas consumed by Petitioner but not billed for the period September 2006 through April 2010 were waived by Elizabethtown.

WHEREAS, the Board transmitted the matter to the Office of Administrative Law (“OAL”) as a contested case for adjudication; and

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 interest of resolving this matter without the need for future litigation and without agreeing with the merits of the allegations expressed in the Petition, Elizabethtown agrees to reduce the Disputed Amount by \$17,495.14 inclusive of interest and penalties associated with the non-payment of the Disputed Amount, resulting in an adjusted balance of \$22,000.00 (“Adjusted Balance”).
2. In the interest of resolving this matter without the need for future litigation and without agreeing with the merits of the allegations expressed in the Answer, Petitioner agrees to pay the Adjusted Balance in full within forty-five (45) days of an Administrative Law Judge Initial Decision approving this Stipulation or within 10 days of a Board order approving such Initial Decision, whichever is earlier. In

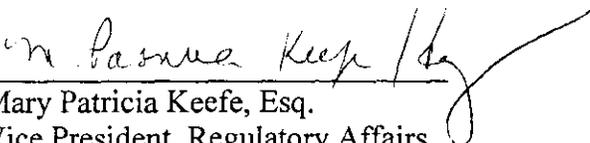
either case, Petitioner's obligation to pay the Adjusted Balance shall not be sooner than 30 days from the execution of this Stipulation.

3. The Adjusted Balance reflects charges (inclusive of interest and penalties in connection with the non-payment of the Disputed Amount) associated with the period May 2010 through April 2012. This Stipulation does not relieve Petitioner's obligation to pay charges associated with the provision of natural gas service by the Company to Petitioner after April 2012. Elizabethtown waives all charges related to the period September 2006 through April 2010.

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

5. 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, Esq.  
Vice President, Regulatory Affairs  
and Assistant Corporate Secretary

Dated: 1/6/14

By:   
George Rieder  
Partner/Manager  
Ivy Park Management

Dated: 1/10/14