



Agenda Date: 03/18/15  
Agenda Item: 2A

**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/)

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 MECHANISM )  
ORDER DENYING WAIVER  
OF 30 DAY PRE-FILING  
MEETING  
DOCKET NO. GO15020262

**Parties of Record:**

**Mary Patricia Keefe, Esq.**, Pivotal Utility Holdings, Inc.  
**Stefanie A. Brand, Esq.**, Director, New Jersey Division of Rate Counsel

BY THE BOARD<sup>1</sup>:

**BACKGROUND AND PROCEDURAL HISTORY**

On January 13, 2008, L. 2007, c. 340 ("Act") was signed into law by former Governor Corzine based on the New Jersey Legislature's findings that energy efficiency and conservation measures must be essential elements of the State's energy future, and that greater reliance on energy efficiency and conservation will provide significant benefits to the citizens of New Jersey. The Legislature also found that public utility involvement and competition in the conservation and energy efficiency industries are essential to maximize efficiencies. N.J.S.A. 26:2C-45.

Pursuant to Section 13 of the Act, codified as N.J.S.A. 48:3-98.1 (a)(1), an electric or gas public utility may, among other things, provide and invest in energy efficiency and conservation programs in its service territory on a regulated basis. Such investment in energy efficiency and conservation programs may be eligible for rate treatment approved by the New Jersey Board of Public Utilities ("Board"), including a return on equity, or other incentives or rate mechanisms that decouple utility revenue from sales of electricity and gas. N.J.S.A. 48:3-98.1(b). Ratemaking treatment may include placing appropriate technology and program cost investments in the utility's rate base, or recovering the utility's technology and program costs through another ratemaking methodology approved by the Board. An electric or gas public utility seeking cost recovery for any energy efficiency and conservation programs pursuant to N.J.S.A. 48:3-98.1 must file a petition with the Board.

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<sup>1</sup> Commissioner Upendra J. Chivukula recused himself due to a potential conflict of interest and as such took no part in the discussion or deliberation of this matter.

To implement the provisions of this section, by Board Order dated May 8, 2008<sup>2</sup>, the Board ordered, among other things, that:

[a]t least 30 days prior to the filing of a petition pursuant to the Act, the petitioning electric or gas public utility shall meet with Board Staff and Rate Counsel to discuss the nature of the program and program cost recovery mechanism to be proposed in the forthcoming petition and the Appendix A minimum filing requirements to be submitted.

See May 2008 Order at p. 6.

### **February 2015 Filing**

On February 24, 2015, Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas ("ETG" or "Company") filed the instant petition with the Board seeking approval to continue, with modifications, the current energy-efficiency programs over a four-year period commencing September 1, 2015, with annual gross investment of 1.8 million. ETG proposes to recover the costs through an EEP Rider Surcharge rate that will be reconciled as needed in its next proceeding to true-up that rate.

In its petition, ETG asserted that since the inception of its energy efficiency programs, the Company met, on several occasions, with representatives from Board Staff and the New Jersey Division of Rate Counsel ("Rate Counsel") to discuss the Company's energy efficiency programs. ETG further asserted that these prior meetings satisfy the required 30 day pre-filing meeting requirement. To that extent, ETG has requested a waiver of this requirement.

### **DISCUSSION**

In the May 2008 Order, the Board found that it is essential that petitions filed pursuant to the Act be accompanied by adequate information to undertake the review. See May 2008 Order, at 3. The Order outlined an expedited process for developing energy efficiency, conservation and Class I renewable energy programs, with the goal of maximizing the benefits and cost-effectiveness of the programs, and minimizing to the extent possible, for all parties the administrative burden of program development and review, and unnecessary delay in program approval. (*Ibid.*) The Board notes that, according to Board Staff, the pre-filing meetings have, in the past, proven to be valuable in Staff's review of the energy-efficiency petitions. Accordingly, the Board finds no basis on which to waive a meeting that is intended to explore the benefits and problems with a proposed filing that, by statute, must be reviewed within an abbreviated timeframe, and **HEREBY DENIES** ETG's request to waive the 30 day pre-filing meeting requirement.

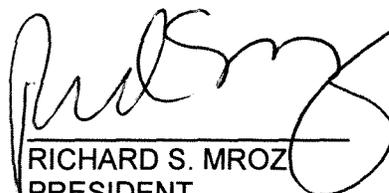
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<sup>2</sup> I/M/O Electric Public Utilities and Gas Public Utilities Offering Energy Efficiency and Conservation Programs, Investing in Class I Renewable Energy Resources, and Offering Class I Renewable Energy Programs in their Respective Service Territories on a Regulated Basis Pursuant to N.J.S.A. 48:3-98.1, Dkt. No. EO08030164 (May 8, 2008). ("May 2008 Order")

The Board was informed that a meeting was held between ETG, Board Staff and Rate Counsel on March 4, 2015 to discuss the Company's plans for extension of its energy efficiency programs with modifications. Therefore, Board shall consider this the pre-filing meeting required by the May 2008 Order. Accordingly, the Board **HEREBY DIRECTS** ETG to re-file its petition no earlier than April 3, 2015.

DATED: 3/18/15

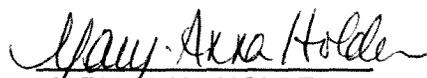
BOARD OF PUBLIC UTILITIES  
BY:



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PRESIDENT



JOSEPH L. FIORDALISO  
COMMISSIONER



MARY-ANNA HOLDEN  
COMMISSIONER



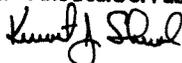
DIANNE SOLOMON  
COMMISSIONER

ATTEST:



KENNETH J. SHEEHAN  
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities



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EFFICIENCY PROGRAMS WITH CERTAIN MODIFICATIONS AND APPROVAL OF  
ASSOCIATED COST RECOVERY MECHANISM  
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