



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 3<sup>rd</sup> Floor, Suite 314  
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 THE APPROVAL OF A MUNICIPAL )  
CONSENT RENEWING A FRANCHISE IN THE )  
BOROUGH OF HOPEWELL, MERCER COUNTY )

DECISION AND ORDER

DOCKET NO. GE18040363

**Parties of Record:**

**Mary Patricia Keefe, Esq.**, Elizabethtown Gas Company  
**Stefanie A. Brand, Esq.**, Director, New Jersey Division of Rate Counsel

**BY THE BOARD:**

Pivotal Utility Holdings, Inc.,<sup>1</sup> d/b/a Elizabethtown Gas ("Elizabethtown" or "Company"), a regulated public utility subject to the jurisdiction of the New Jersey Board of Public Utilities ("Board"), is a corporation duly organized under the laws of the State of New Jersey engaged in the business of transmission and distribution of natural gas to approximately 291,000 customers within its service territory.

Elizabethtown currently provides natural gas service within the Borough of Hopewell ("Borough") to approximately 995 residential and 114 commercial customers. The Company's consent to use the streets within the Borough for the provision of gas service expired in November 2009, pursuant to the fifty (50) year statutory limitation set forth in N.J.S.A. 48:3-15.<sup>2</sup> A copy of the original ordinance is attached to this Order as Exhibit "A."

<sup>1</sup>In an Order dated June 22, 2018, in BPU Docket No. GM17121309, the Board approved, *inter alia*, the acquisition of Elizabethtown Gas, then a utility operating division of Pivotal Utility Holdings, Inc., by ETG Acquisition Corp., a wholly owned subsidiary of South Jersey Industries, Inc. The acquisition was consummated on July 1, 2018 and ETG Acquisition Corp. was renamed "Elizabethtown Gas Company."

<sup>2</sup>The Board notes that municipal consents often expire some time prior to their renewal even when the Company initiates the renewal process prior to the expiration of the previous term. This is primarily the result of the time necessary for a municipality to fulfill the legal requirements that attend to all formal actions it must take along with the additional time for hearing and Board approval as required by law. The Board has been assured that pending review of its petition, Elizabethtown has continued to provide service to its customers within the Borough in an uninterrupted manner.

On March 1, 2018, pursuant to Ordinance No. 813 ("Ordinance"), the Borough renewed its consent and granted Elizabethtown continued permission to lay and construct its pipes, mains, and related appurtenances and facilities within the streets, alleys, squares and public places within the Borough for a period of twenty-five (25) years to furnish gas service in the Borough. By letter dated March 5, 2018, the Company accepted and agreed to the terms of the consent. Copies of the Ordinance and the letter of acceptance are attached to this Order as Exhibits "B" and "C", respectively.

On April 3, 2018, pursuant to N.J.S.A. 48:2-14 and N.J.A.C. 14:1-5.5, Elizabethtown filed a petition requesting that the Board approve the consent adopted by the Borough. As required by law and after notice, a hearing in this matter was held on September 27, 2018. Stacy Ho Richardson, Esq., the Board's duly appointed hearing officer, presided over the hearing. A copy of the hearing notice is attached to this Order as Exhibit "D." Appearances were made on behalf of the Company, the New Jersey Division of Rate Counsel ("Rate Counsel") and Board Staff. No other party participated in the hearing or filed any written submission with the Board related to this proceeding.

At the hearing, the Company relied on its petition and exhibits filed with the Board and presented the testimony of Gary Marmo, its Director of New Business Development. According to Mr. Marmo's testimony, Elizabethtown has the capacity to meet the existing and future needs of customers located within the municipality. Mr. Marmo also testified that Elizabethtown has continued to provide uninterrupted service to its customers within the Borough.

On October 25, 2018, Rate Counsel filed written comments in this matter, indicating that it does not object to the Company's petition since the Company represented that it has the capacity necessary to continue to provide natural gas service to the Borough, and since the term of the municipal consent related to the use of streets is less than the statutory maximum term of fifty (50) years. However, Rate Counsel requests that approval of the petition include certain restrictions which are incorporated in this Order.

On November 1, 2018, Elizabethtown filed correspondence with the Board indicating that it did not object to the language recommended by Rate Counsel.

After a full review of the entire record, the Board **HEREBY FINDS** that the municipal consent for use of the streets, which is the subject of this matter, is necessary and proper for the public convenience and properly serves the public interest, and that Elizabethtown has the ability to continue to provide safe, adequate and proper service. The Board **FURTHER FINDS** that the Company has the necessary experience, financial capability, capacity, and facilities in the Borough to continue to provide adequate and appropriate service to its existing customers, as well as expected future customers, and that the twenty-five (25) year duration of the municipal consent to use the streets is consistent with N.J.S.A. 48:3-15. Accordingly, the Board, pursuant to N.J.S.A. 48:2-14, **HEREBY APPROVES** the consent granted to Elizabethtown by the Borough to continue to provide gas service, and for the continued use of its public streets for that purpose for a period of twenty-five (25) years.

The approval granted hereinabove shall be subject to the following provisions:

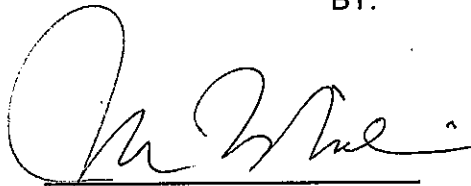
1. As required by N.J.S.A. 48:3-15, and limited by Ordinance No. 813, the municipal consent to construct, maintain and operate gas lines in the streets and other public places in the Borough is limited to a term not exceeding twenty-five (25) years.

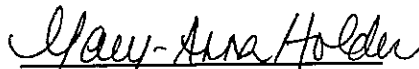
2. This Order shall not be construed as directly or indirectly fixing for any purposes whatsoever any value of any tangible or intangible assets now owned or hereafter to be owned by Elizabethtown.
3. This Order shall not affect, nor in any way limit, the exercise of the authority of this Board or of this State, in any future petition or in any proceedings with respect to rates, franchises, service, financing, accounting, capitalization, depreciation, or in any other matter affecting Elizabethtown.

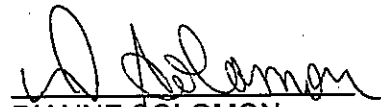
This Order shall be effective as of December 28, 2018.

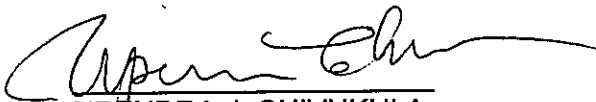
DATED: 12/18/18.

BOARD OF PUBLIC UTILITIES  
BY:

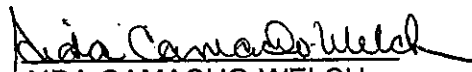
  
\_\_\_\_\_  
JOSEPH L. FIORDALISO  
PRESIDENT

  
\_\_\_\_\_  
MARY-ANNA HOLDEN  
COMMISSIONER

  
\_\_\_\_\_  
DIANNE SOLOMON  
COMMISSIONER

  
\_\_\_\_\_  
UPENDRA J. CHIVUKULA  
COMMISSIONER

  
\_\_\_\_\_  
ROBERT M. GORDON  
COMMISSIONER

ATTEST:   
\_\_\_\_\_  
AIDA CAMACHO-WELCH  
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 THE APPROVAL OF A MUNICIPAL CONSENT RENEWING A  
FRANCHISE IN THE BOROUGH OF HOPEWELL, MERCER COUNTY  
DOCKET NO. GE18040363

SERVICE LIST

**Board of Public Utilities**

Post Office Box 350  
Trenton, NJ 08625-0350

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[board.secretary@bpu.nj.gov](mailto:board.secretary@bpu.nj.gov)

Counsel's Office

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David Brown  
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**Rate Counsel**

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[smassey@rpa.nj.gov](mailto:smassey@rpa.nj.gov)

**Division of Law**

Post Office Box 45029  
Newark, NJ 07101-45029

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Caroline Vachier, DAG  
[caroline.vachier@law.njoag.gov](mailto:caroline.vachier@law.njoag.gov)

**Elizabethtown Gas Company**

520 Green Lane  
Union, NJ 07083

Mary Patricia Keefe, Esq.  
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Deborah M. Franco, Esq.  
Cullen and Dykman, LLP  
One Riverfront Plaza  
Newark, NJ 07102  
[dfranco@cullenanddykman.com](mailto:dfranco@cullenanddykman.com)

**Borough of Hopewell**

Michele Hovan, Borough Administrator/Clerk  
88 East Broad Street  
Hopewell, NJ 08525

Brian M. Hughes, County Executive  
McDade Administration Building  
640 South Broad Street, P.O. Box 8068  
Trenton, NJ 08650

Jerlene H. Worthy, Clerk  
Board of Chosen Freeholders  
McDade Administration Building  
640 South Broad Street, P.O. Box 8068  
Trenton, NJ 08650

# Exhibit A

AGENDA DATE: 11/8/84



State of New Jersey  
BOARD OF PUBLIC UTILITIES  
1100 RAYMOND BLVD.  
NEWARK, NEW JERSEY 07102

LEGAL

IN THE MATTER OF THE PETITION OF )  
ELIZABETHTOWN GAS COMPANY FOR )  
APPROVAL OF A FRANCHISE )  
RENEWAL IN THE BOROUGH OF )  
HOPEWELL, COUNTY OF MERCER )

DECISION AND ORDER

DOCKET NO. 845-515

Mary Patricia Keefe, Esq., for Petitioner

Juanito Cruz, Senior Engineer, for the Board of Public Utilities

BY THE BOARD:

(Before Regulatory Officer Eugene J. Byrne, Esq.)

On June 7, 1984, in accordance with N.J.S.A. 48:2-14 and 48:9-17 and N.J.A.C. 14:1-6.6, Elizabethtown Gas Company (petitioner) filed a Petition with the Board for approval of Ordinance No. 353, passed April 9, 1984, by the Mayor and Council of the Borough of Hopewell for the renewal of a franchise consent authorizing petitioner to use streets in the Borough to supply and distribute natural and mixed gas for a period of twenty-five years.

The ordinance renews a franchise heretofore granted to City Gas Company, a predecessor in interest of Petitioner, by a municipal ordinance passed October 7, 1963. Said Ordinance was approved by the Board in Docket No. 643-198 and assigned to Northwest Jersey Natural Gas Company with approval of the Board in Docket No. 637-502. All franchise consents of Northwest Jersey Natural Gas Company were transferred to petitioner with approval of the Board in Docket No. 6810-608.

No opposition to the petition was received and the matter was determined to be uncontested. Hearing on the petition was held on August 29, 1984, before Regulatory Officer Eugene J. Byrne, Esq. No one appeared at the hearing in opposition to the petition, a copy of which had been sent by Staff to the Department of Energy. Preparation of the report and recommendations was waived and the matter was certified to the Board for Decision and Order.

Proofs of publication of newspaper notice to the public of the petition and hearing in the Hopewell Valley News, Inc., and of notice to the clerk of the Borough of Hopewell of the hearing were received in evidence and a certified copy of the Ordinance of said municipality granting said consent was also received in evidence. Further, proof of petitioner's acceptance of the Ordinance, as required by N.J.S.A. 48:3-16, was likewise received in evidence.

Petitioner presented the testimony of Kenneth G. Ward, Corporate Secretary of petitioner, who testified that petitioner currently serves the Borough with gas service and no other gas utility provides service thereto. Further, he testified that petitioner had adequate facilities and contract supplies to continue to service the area and that petitioner renders safe, adequate and proper service in said area and is prepared to continue in said manner. His testimony was supplemented by letter of October 23, 1984.

All requirements contained in N.J.S.A. 48:3-11, et seq., appear to have been met by petitioner.

The Board, having reviewed the record in the matter, HEREBY FINDS:

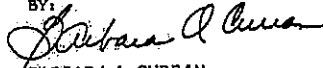
- (1) Petitioner is a public utility corporation subject to the jurisdiction of the Board;
- (2) Petitioner currently serves approximately 539 residential and approximately 40 commercial customers in the Borough of Hopewell;
- (3) The Borough of Hopewell, County of Mercer, has renewed by Ordinance No. 353 the franchise of petitioner to distribute gas within the Borough;
- (4) The petitioner has accepted the terms and conditions of said renewal in Ordinance No. 353 subject to approval of this Board; and
- (5) The renewal of the franchise consent is necessary and proper for the public convenience and properly conserves the public interests.

Therefore, based upon the foregoing, the Board HEREBY APPROVES the franchise granted by the Borough of Hopewell, County of Mercer, as provided for in Ordinance No. 364, dated April 9, 1984.

DATED: November 13, 1984

BOARD OF PUBLIC UTILITIES

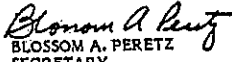
BY:

  
BARBARA A. CURRAN  
PRESIDENT

  
GEORGE H. BARBOUR  
COMMISSIONER

ATTEST:

  
EDWARD H. HYNES  
COMMISSIONER

  
BLOSSOM A. PERETZ  
SECRETARY

ORDINANCE NO. 353

LEGAL NOTICE

BOROUGH OF HOPEWELL

AN ORDINANCE AUTHORIZING ELIZABETHTOWN GAS COMPANY OF NEW JERSEY, ITS SUCCESSORS AND ASSIGNS, TO CONSTRUCT, LAY, MAINTAIN, AND OPERATE FOR A PERIOD OF 25 YEARS, THE NECESSARY MAINS, CONDUCTORS, PIPES AND CONCOMITANT APPURTENANCES FOR THE PURPOSE OF CONVEYING, STORING, SUPPLYING AND DISTRIBUTING GAS FOR LIGHT, HEAT, POWER AND OTHER PURPOSES FOR PUBLIC AND PRIVATE USE AND CONSUMPTION ALONG AND UNDER ALL THE STREETS, AVENUES, PARKS, PARKWAYS, HIGHWAYS OR OTHER PUBLIC PLACES WITHIN THE BOROUGH OF HOPEWELL IN THE COUNTY OF MERCER AND STATE OF NEW JERSEY.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE BOROUGH OF HOPEWELL IN THE COUNTY OF MERCER AND THE STATE OF NEW JERSEY, that:

Section 1. Elizabethtown Gas Company of New Jersey, a public utility corporation of the State of New Jersey, with principal office at One Elizabethtown Plaza, Elizabeth, New Jersey 07207, its successors and assigns, be, and it hereby is, authorized to construct, lay, maintain and operate, for a period of 25 years, the necessary mains, conductors, pipes and concomitant appurtenances for the purpose of conveying, storing, supplying and distributing natural and mixed gas for light, heat, power and other purposes for public and private use and consumption along and under all the streets, avenues, parks, parkways, highways, or other public places within the Borough of Hopewell in the County of Mercer and State of New Jersey, as they now exist or may be hereinafter laid out by the municipal authorities or the said Borough or dedicated to said municipality by private persons or public agencies. Said company, its successors and assigns, shall have the further right, privilege and franchise of using any of its mains and pipes in this Borough for the transmission, transportation and delivery of gas to any other municipality in the streets or public places of which it may also have lawful authority to lay or maintain its mains or pipes for the distribution of gas.

Section 2. In all cases in which openings or excavations are made for the purposes aforesaid, Elizabethtown Gas Company of New Jersey, shall restore at its own expense all such streets, avenues, parks, parkways, highways, sidewalks, grass plots, curbs or other public places to their pre-existing condition at the commencement of the work; said work to be done in a careful, prudent and workmanlike manner and within such time as shall be determined for the proper restoration thereof. If said company shall refuse or neglect, after five (5) days notice in writing by the Borough Clerk, to restore to its pre-existing condition any such street, avenue, park, parkway, highway, sidewalk, grass plot, curb or other public place after having made such opening, excavation or restoration, the necessary work may be done by the Borough and the Company shall be liable for the actual and necessary cost thereof and upon receiving notice of the cost thereof, shall forthwith pay the same to the Borough.

Section 3. The said Elizabethtown Gas Company of New Jersey shall give ten (10) days written notice to the Borough Council, or to its duly authorized officials, of its intention to open or excavate a street or other public place as aforesaid, except said notice requirement shall be waived in the event of emergent circumstances, and shall abide by any Ordinance now existing or hereafter passed, and not inconsistent with the provisions of this Ordinance, by said Borough regulating the excavation and opening of streets, roads, or highways.

Section 4. The work of laying or repairing gas mains and/or distribution lines and laterals shall be done by the Company in a careful, prudent and workmanlike manner at its own expense.

Section 5. Elizabethtown Gas Company of New Jersey shall at all times protect and save harmless the Borough of Hopewell from any and all damages or injury to person or property and from any and all actions, damages, costs or charges which may be caused by, grow out of, relate to, or result from the Company's negligence in the construction, laying, repairing, inspecting, altering or maintaining of mains, conductors and pipes and the appurtenances thereof.

Section 6. The said Elizabethtown Gas Company of New Jersey shall execute and file with the Clerk of the Borough its bond in the penal sum of Ten Thousand (\$10,000) Dollars in satisfactory form, guaranteeing its performance of the conditions of Section 2 of this Ordinance and shall execute and file with the Clerk of the Borough its bond in the penal sum of One Hundred Thousand (\$100,000) Dollars guaranteeing its performance of the conditions of Section 3 of this Ordinance, which bonds shall be enlarged or renewed from time to time as the Borough Council may require.

Section 7. Elizabethtown Gas Company of New Jersey shall file with the Clerk of the Borough of Hopewell its written acceptance of the terms and conditions of this Ordinance within thirty (30) days after the date of its final passage; further, said Company shall seek the approval of the franchise consent and the terms and conditions of this Ordinance from the Board of Public Utilities of the State of New Jersey pursuant to law.

Section 8. This Ordinance is a renewal of a franchise consent heretofore granted to City Gas Company, a predecessor in interest of Elizabethtown Gas Company, by Ordinance Number One-hundred Ninety-seven of the Borough of Hopewell on October 7, 1963, except as may be changed herein.

Section 9. This Ordinance shall take effect, subject to the provisions aforesaid, immediately upon its adoption and publication according to law.

WILLIAM H. WALKER,  
Mayor

NOTICE

Notice is hereby given that at a regular meeting of the Mayor and Council of the Borough of Hopewell in the County of Mercer, State of New Jersey, held on the 12th day of March, 1984, at the Municipal Building, 4 Columbia Avenue, Hopewell, New Jersey at 8:00 p.m., the above Ordinance was introduced, read, passed and ordered published according to law, and will be read, given public hearings, and considered for final passage at a meeting of the said Mayor and Council of the Borough of Hopewell to be held on the 5th day of April, 1984, at 8 p.m., at the Municipal Building, 4 Columbia Avenue, Hopewell, New Jersey.

DOUGLAS S. TERHUNE  
Borough Clerk

HVN 3/22/84

I hereby certify this to be a true copy of an Ordinance adopted on Final Reading by the Governing Body of Hopewell Borough at a meeting held on April 9, 1984.

*Douglas S. Terhune*  
Douglas S. Terhune, Clerk



SCHEDULE B

PROPOSED ORDINANCE

AN ORDINANCE AUTHORIZING ELIZABETHTOWN GAS COMPANY OF NEW JERSEY, ITS SUCCESSORS AND ASSIGNS, TO CONSTRUCT, LAY, MAINTAIN, AND OPERATE FOR A PERIOD OF 25 YEARS, THE NECESSARY MAINS, CONDUCTORS, PIPES AND CONCOMITANT APPURTENANCES FOR THE PURPOSE OF CONVEYING, STORING, SUPPLYING AND DISTRIBUTING GAS FOR LIGHT, HEAT, POWER AND OTHER PURPOSES FOR PUBLIC AND PRIVATE USE AND CONSUMPTION ALONG AND UNDER ALL THE STREETS, AVENUES, PARKS, PARKWAYS, HIGHWAYS OR OTHER PUBLIC PLACES WITHIN THE BOROUGH OF HOPEWELL IN THE COUNTY OF MERCER AND STATE OF NEW JERSEY.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE BOROUGH OF HOPEWELL IN THE COUNTY OF MERCER AND THE STATE OF NEW JERSEY, that:

Section 1. Elizabethtown Gas Company of New Jersey, a public utility corporation of the State of New Jersey, with principal offices at One Elizabethtown Plaza, Elizabeth, New Jersey 07207, its successors and assigns, be, and it hereby is, authorized to construct, lay, maintain and operate, for a period of 25 years, the necessary mains, conductors, pipes and concomitant appurtenances for the purpose of conveying, storing, supplying and distributing natural and mixed gas for light, heat, power and other purposes for public and private use and consumption along and under all the streets, avenues, parks, parkways, highways, or other public places within the Borough of Hopewell in the County of Mercer and State of New Jersey, as they now exist or may be hereinafter laid out by the municipal authorities or the said Borough or dedicated to said municipality by private persons or public agencies. Said company, its successors and assigns, shall have the further right, privilege and franchise of using any of its mains and pipes in this Borough for the transmission, transportation and delivery of gas to any other municipality in the streets or public places of which it may already have lawful authority to lay or maintain its mains and pipes for the distribution of gas.

Section 2. In all cases in which openings or excavations are made for the purposes aforesaid, Elizabethtown

Gas Company of New Jersey, shall restore at its own expense all such streets, avenues, parks, parkways, highways, sidewalks, grass plots, curbs or other public places to their pre-existing condition at the commencement of the said work; said work to be done in a careful, prudent and workmanlike manner and within such time as shall be best for the proper restoration thereof. If said Company shall refuse or neglect, after five (5) days notice in writing by the Borough Clerk, to restore to its pre-existing condition any such street, avenue, park, parkway, highway, sidewalk, grass plot, curb or other public place after having made such opening, excavation or restoration, the necessary work may be done by the Borough and the Company shall be liable for the actual and necessary cost thereof and upon receiving notice of the cost thereof, shall forthwith pay the same to the Borough.

Section 3. The said Elizabethtown Gas Company of New Jersey shall give ten (10) days written notice to the Borough Council, or to its duly authorized officials, of its intention to open or excavate a street or other public place as aforesaid, except said notice requirement shall be waived in the event of emergent circumstances, and shall abide by any Ordinance now existing or hereafter passed, and not inconsistent with the provisions of this Ordinance, by said Borough regulating the excavation and opening of streets, roads, or highways.

Section 4. The work of laying or repairing gas mains and/or distribution lines and laterals shall be done by the Company in a careful, prudent and workmanlike manner at its own expense.

Section 5. Elizabethtown Gas Company of New Jersey shall at all times protect and save harmless the Borough of Hopewell from any and all damages or injury to person or property and from any and all actions, damages, costs or

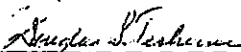
charges which may be caused by, grow out of, relate to, or result from the Company's negligence in the construction, laying, repairing, inspecting, altering or maintaining of mains, conductors and pipes and the appurtenances thereto.

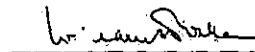
Section 6. The said Elizabethtown Gas Company of New Jersey shall execute and file with the Clerk of the Borough its bond in the penal sum of Ten Thousand (\$10,000) Dollars in satisfactory form, guaranteeing its performance of the conditions of Section 2 of this Ordinance and shall execute and file with the Clerk of the Borough its bond in the penal sum of One Hundred Thousand (\$100,000) Dollars guaranteeing its performance of the conditions of Section 5 of this Ordinance, which bonds shall be enlarged or renewed from time to time as the Borough Council may require.

Section 7. Elizabethtown Gas Company of New Jersey shall file with the Clerk of the Borough of Hopewell its written acceptance of the terms and conditions of this Ordinance within thirty (30) days after the date of its final passage; further, said Company shall seek the approval of the franchise consent and the terms and conditions of this Ordinance from the Board of Public Utilities of the State of New Jersey pursuant to law.

Section 8. This Ordinance is a renewal of a franchise consent heretofore granted to City Gas Company, a predecessor in interest of Elizabethtown Gas Company, by Ordinance Number One-hundred Ninety-seven of the Borough of Hopewell on October 7, 1963, except as may be changed herein.

Section 9. This Ordinance shall take effect, subject to the provisions aforesaid, immediately upon its adoption and publication according to law.

  
Douglas S. Terhune, Clerk

  
William H. Walker, Mayor

# Exhibit B



## BOROUGH OF HOPEWELL

88 East Broad Street  
Hopewell, NJ 08525  
Tel: 609-466-2636 Fax: 609-466-8511  
www.hopewellboro-nj.us

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March 2, 2018

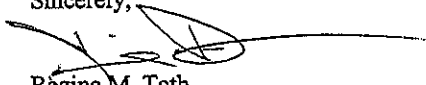
M. Richard Valenti, Esq.  
Morris, Downing & Sherred, LLP  
One Main Street  
PO Box 67  
Newton, NJ 07860

Re: Elizabethtown Gas – Franchise in Hopewell Borough

Dear Mr. Valenti,

During their meeting last night, Hopewell Borough Council adopted Ordinance No. 813.  
A certified copy of the ordinance, along with a copy of the adopting resolution, are  
enclosed for your records.

Sincerely,



Regina M. Toth  
Deputy Clerk

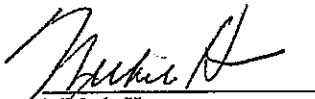
RESOLUTION

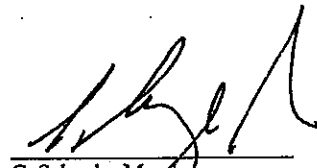
NO. 2018-38

ADOPTED: March 1, 2018

BE IT RESOLVED that Ordinance No. 813 entitled AN ORDINANCE AUTHORIZING PIVOTAL UTILITY HOLDINGS, INC. D/B/A ELIZABETHTOWN GAS COMPANY, ITS SUCCESSORS AND ASSIGNS, TO CONSTRUCT, LAY, MAINTAIN AND OPERATE FOR A PERIOD OF 25 YEARS, THE NECESSARY MAINS, CONDUCTORS, PIPES AND CONCOMITANT APPURTENANCES FOR THE PURPOSE OF CONVEYING, STORING, SUPPLYING, AND DISTRIBUTING GAS FOR LIGHT, HEAT, POWER AND OTHER PURPOSES FOR PUBLIC AND PRIVATE USE AND CONSUMPTION ALONG AND UNDER ALL THE STREETS, AVENUES, PARKS, PARKWAYS, HIGHWAYS OR OTHER PUBLIC PLACES WITHIN THE BOROUGH OF HOPEWELL IN THE COUNTY OF MERCER AND THE STATE OF NEW JERSEY be adopted.

ATTEST:

  
\_\_\_\_\_  
Michele Hovan  
Borough Administrator/Clerk

  
\_\_\_\_\_  
C. Schuyler Morehouse  
Council President

ORDINANCE 813

AN ORDINANCE AUTHORIZING PIVOTAL UTILITY HOLDINGS, INC. D/B/A ELIZABETHTOWN GAS COMPANY, ITS SUCCESSORS AND ASSIGNS, TO CONSTRUCT, LAY, MAINTAIN, AND OPERATE FOR A PERIOD OF 25 YEARS, THE NECESSARY MAINS, CONDUCTORS, PIPES AND CONCOMITANT APPURTENANCES FOR THE PURPOSE OF CONVEYING, STORING, SUPPLYING, AND DISTRIBUTING GAS FOR LIGHT, HEAT, POWER, AND OTHER PURPOSES FOR PUBLIC AND PRIVATE USE AND CONSUMPTION ALONG AND UNDER ALL THE STREETS, AVENUES, PARKS, PARKWAYS, HIGHWAYS, OR OTHER PUBLIC PLACES WITHIN THE BOROUGH OF HOPEWELL IN THE COUNTY OF MERCER AND STATE OF NEW JERSEY.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE BOROUGH OF HOPEWELL IN THE COUNTY OF MERCER AND THE STATE OF NEW JERSEY, THAT:

Section 1. Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas Company, a public utility corporation of the State of New Jersey, (the "Company") with principal offices at 520 Green Lane, Union, New Jersey 07083, its successors and assigns, be, and it hereby is, authorized to construct, lay, maintain, and operate, for a period of 25 years, the necessary mains, conductors, pipes, and concomitant appurtenances for the purpose of furnishing, conveying, storing, supplying, and distributing natural and mixed gas for light, heat, power, and other purposes for public and private use and consumption along and under all the streets, avenues, parks, parkways, highway, or other public places within the Borough of Hopewell in the County of Mercer and State of New Jersey, as they now exist or may be hereinafter laid out by the municipal authorities or the said Borough or dedicated to said municipality by private persons or public agencies. Said Company, its successors and assigns, shall have the further rights, privilege, and franchise of using any of its mains and pipes through this Borough for the transmission, transportation, and delivery of gas to any other municipality in the streets or public places of which it may also have lawful authority to lay or maintain its mains and pipes for the distribution of gas.

Section 2. In all places in which openings or excavations are made for the purposes aforesaid, Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas Company, shall restore at its own expense all such streets, avenues, parks, parkways, highways, sidewalks, grass plots, curbs or other public places to the pre-existing condition at the commencement of the said work; said work to be done in a careful, prudent, and workmanlike manner and within such time as shall be best for the proper restoration thereof. If said Company shall refuse or neglect, after five (5) days notice in writing by the Borough Clerk, to restore to its pre-existing condition any such street, avenue, park, parkway, highway, sidewalk, grass plot, curb, or other public place after having made such opening, excavation, or restoration, the necessary work ay be done by the Borough and the Company shall be liable for the actual and necessary cost thereof and upon receiving notice of the cost thereof, shall forthwith pay the same to the Borough.

Section 3. The said Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas Company shall give ten (10) days written notice to the Borough Council, or to its duly authorized officials, of its intention to open or excavate a street or other public place as aforesaid, except said notice requirement shall be waived in the event of emergent circumstances, and shall abide by any Hopewell Borough Ordinance now existing or hereafter passed and not inconsistent with the provisions of this Ordinance, regulating the excavation and opening of streets, roads, or highways.

Section 4. The work of laying or repairing gas mains and/or distribution lines and laterals shall be done by the Company in a careful, prudent, and workmanlike manner at its own expense.

Section 5. Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas Company shall at all times protect and save harmless the Borough of Hopewell from any and all damages or injury to



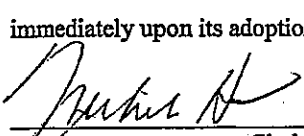
person or property and from any and all actions, damages, costs or charges which may be caused by, grow out of, relate to, or result from the Company's negligence in the construction, laying, repairing, inspection, altering, or maintaining of mains, conductors, and pipes and the appurtenances thereto.

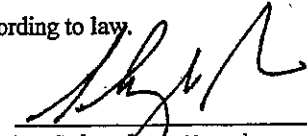
Section 6. The said Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas Company shall execute and file with the Clerk of the Borough its bond in the penal sum of Ten Thousand (\$10,000.00) Dollars in satisfactory form, guaranteeing its performance of the conditions of Section 2 of this Ordinance and shall execute and file with the clerk of the Borough its bond in the penal sum of One Hundred Thousand (\$100,000.00) Dollars guaranteeing its performance of the conditions of Section 5 of this Ordinance, which bonds shall be enlarged or renewed from time to time as the Borough Council may require.

Section 7. Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas Company shall file with the Clerk of the Borough of Hopewell its written acceptance of the terms and conditions of this Ordinance within thirty (30) days after the date of its final passage; further, said Company shall seek the approval of the franchise consent and the terms and conditions of this Ordinance from the Board of Public Utilities of the State of New Jersey pursuant to law.

Section 8. This Ordinance is a renewal of a franchise consent heretofore granted to Elizabethtown Gas Company of New Jersey, by an Ordinance adopted by the Borough of Hopewell on April 9, 1984, except as may be changed herein.

Section 9. This Ordinance shall take effect, subject to the provisions aforesaid, immediately upon its adoption and publication according to law.

  
MICHELLE HOVAN, Clerk

  
C. Schuyler Morehouse  
Council President

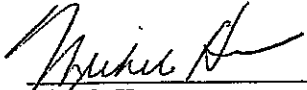
PASSED: February 1, 2018

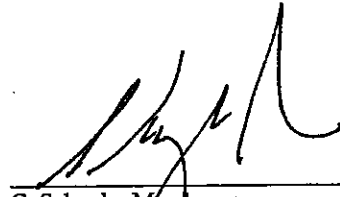
PUBLISHED: February 9, 2018

ADOPTED: March 1, 2018

INTRODUCED BY: Mr. Mackie

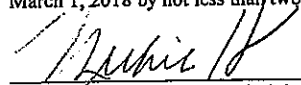
ATTEST:

  
Michele Hovan  
Borough Administrator/Clerk

  
C. Schuyler Morehouse  
Council President

ROLL CALL VOTE				
COUNCIL MEMBER	YES	NO	ABSTAIN	ABSENT
FOSEL	✓			
KENNEDY	✓			
LEHMAN	✓			
MACKIE	✓			
MOREHOUSE	✓			
TEWELL				✓

I, Michele Hovan, Borough Clerk of the Borough of Hopewell do hereby certify this to be a true copy of an Ordinance introduced on February 1, 2018 and adopted by the Borough Council of the Borough of Hopewell on March 1, 2018 by not less than two-thirds vote of the members of the governing body.

  
Michele Hovan, Borough Administrator/Clerk

# Exhibit C



Mary Patricia Keefe  
Vice President, Executive  
Admin and Business Director

500 Green Lane  
Orlery, NJ 07083  
908-682-8900 fax  
908-246-5877 ext  
mkeefe@gas.townofeb.com

March 5, 2018

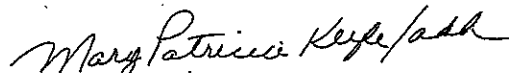
Michele Hovan, Clerk  
BOROUGH OF HOPEWELL  
88 East Broad Street  
Hopewell, NJ 08525

**Re: Elizabethtown Gas – Franchise in Hopewell Borough**

Dear Ms. Hovan:

On behalf of Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas (“Elizabethtown Gas”), please allow this letter to confirm that Elizabethtown Gas accepts the terms of the Ordinance granting to Elizabethtown Gas the municipal consent to provide natural gas service to the Borough of Hopewell, which Ordinance was passed on second reading by the Council at the March 1, 2018 Council Meeting. Please file this acceptance letter in your records. Thank you for your courtesies throughout this matter.

Very truly yours,

  
Mary Patricia Keefe

MPK/adh

# Exhibit D



Mary Patricia Keefe  
Vice President, Regulatory Affairs and Business Support

By Certified Mail, R.R.R.

August 28, 2018

Michele Hovan, Borough Administrator/Clerk  
Borough of Hopewell  
88 East Broad Street  
Hopewell, NJ 08525

Brian M. Hughes, County Executive  
Mercer County  
McDade Administration Building  
640 South Broad Street, P.O. Box 8068  
Trenton, NJ 08650

Jerlene H. Worthy, Clerk  
Board of Chosen Freeholders  
McDade Administration Building  
640 South Broad Street, P.O. Box 8068  
Trenton, NJ 08650

Re: **I/M/O The Petition of Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas for the Approval of a Municipal Consent Renewing a Franchise in the Borough of Hopewell, Mercer County BPU Docket No. GE18040363**

Dear Ms. Hovan, Mr. Hughes, and Ms. Worthy:

Pursuant to the provisions of N.J.S.A. 48:2-14, Elizabethtown Gas Company ("Elizabethtown") has applied to the New Jersey Board of Public Utilities ("the Board") for approval of the Borough of Hopewell's Ordinance, which renews Elizabethtown's franchise in the Borough of Hopewell as provided in said Ordinance. Please also note that the Elizabethtown's name has changed from "Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas" to "Elizabethtown Gas Company" as a result of the acquisition of the Company by South Jersey Industries, Inc. on July 1, 2018.

Please be advised that the Board has set Thursday, September 27, 2018 at 10:00 a.m. in Room 2W in the Board's offices located at 44 South Clinton Avenue, Trenton, New Jersey 07102 as the time and place for the hearing on this matter. You are welcome to attend and place your views on the record if you desire.

Respectfully submitted,

*/s/ Mary Patricia Keefe*  
Mary Patricia Keefe, Esq.

cc: Service List via Federal Express ✓

CMS

RECEIVED  
CASE MANAGEMENT

AUG 29 2018

BOARD OF PUBLIC UTILITIES  
TRENTON, NJ

RECEIVED  
MAIL ROOM

AUG 29 2018

BOARD OF PUBLIC UTILITIES  
TRENTON, NJ

520 Green Lane  
Union, NJ 07083  
T: 908.662.8452  
F: 908.662.8496

MKeefe@sjindustries.com