



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center**  
**Newark, NJ 07102**  
[www.bpu.state.nj.us](http://www.bpu.state.nj.us)

AUDITS

IN THE MATTER OF THE FOCUSED AUDIT OF )  
ELIZABETHTOWN GAS COMPANY, NUI ) ORDER  
UTILITIES, INC. AND NUI CORPORATION )  
 ) DOCKET NO. GA03030213

(SERVICE LIST ATTACHED)

BY THE BOARD:

By Order dated, January 14, 2004, the Board directed NUI Utilities, Inc. d/b/a Elizabethtown Gas Company ("Elizabethtown" or "Company") to file by January 28, 2004, a procedure for a competitive procurement of gas supply management services for the period commencing April 1, 2004 through March 31, 2005, subject to Board approval. Elizabethtown submitted its proposal on January 28, 2004. By Board Secretary's letter dated February 11, 2004, the Board notified Elizabethtown that it had voted to accept Elizabethtown's proposal at its February 11, 2004 agenda meeting and that Elizabethtown should maintain sufficient documentation so that the Board may evaluate Elizabethtown's selection of the final bidder.

Elizabethtown received requests to participate in the bidding process from ten parties and sent each of these parties a bid package. Elizabethtown received bids from nine of these parties on February 24, 2004. Many of the bidders submitted multiple proposals. Based upon its review of the bids, the Company selected a bid made by Cinergy Marketing and Trading, L.P. ("CMT") because it believes that CMT's bid will provide the greatest level of guaranteed benefits to the Company's customers in New Jersey, Florida and Maryland. The Company began negotiations of a contract with CMT. However, the Company and CMT were unable to agree upon contract terms by the March 12, 2004 deadline for execution of a contract. Further, the Company and CMT were unable to agree upon contract terms for the April 1, 2004 through March 31, 2005 period by April 1, 2004. Therefore, on April 1, 2004, the Company entered into a Gas Supply Asset Assignment and Agency Agreement and a Gas Supply Agreement with CMT for the month of April 2004.

On April 2, 2004, the Company filed these contracts with the Board and requested that the Board take such action as it deems necessary concerning the filed contracts. The Company stated that it would continue negotiations with CMT and expected to finalize the contracts for the term ending March 31, 2005 in the near future. In addition, the Company sought approval of 1) its proposed allocation to its New Jersey, Florida, and Maryland utility divisions of the fixed payment from CMT for the use of the Company's gas supply assets; 2) its plan to include the costs of the Transco Washington Storage Service ("WSS") as costs to be recovered through its Basic Gas Supply Service ("BGSS") Clause, and 3) a waiver of the requirement of the Board's January 14, 2004 Order that Elizabethtown provide monthly reports concerning pipeline utilization, the weighted average cost of gas and its storage plan for the upcoming summer.

The Company continued negotiations with CMT and, on April 8, 2004 the Company entered into a new Gas Supply Asset Assignment and Agency Agreement and a new Gas Supply Agreement with CMT for the period April 1, 2004 through March 31, 2005. The April 8, 2004 contracts superseded and replaced the contracts filed with the Board on April 2, 2004. On April 12, 2004, the Company filed these contracts with the Board and requested that the Board take such action as it deems necessary concerning the filed contracts. In addition, the Company sought to modify the request it had made on April 2, 2004 as follows:

- 1) The Company modified its proposed allocation to its New Jersey, Florida, and Maryland utility divisions of the fixed payment from CMT for the use of the Company's gas supply assets. At the Company's request, CMT had provided a breakdown of the value of its bid among the utility divisions. The Company's modified allocation now matches CMT's breakdown.
- 2) In its April 2, 2004 filing the Company had indicated that it planned to include the costs of WSS service as well as the benefits to be derived from WSS service in its BGSS Clause. The Company had requested confirmation that the rate treatment is reasonable and consistent with the Board's January 11, 2004 Order. Alternatively, the Company now requests that the Board review this matter in the Company's next BGSS filing.
- 3) In its April 2, 2004 filing the Company sought a waiver of certain reporting requirements of the Board's January 14 Order. The Company withdraws its request for a waiver. The Company will include a calculation of its weighted average cost of gas in the BGSS update reports it files each month with the Board. In addition, the Company will submit to the Board its storage plan for the upcoming summer. With respect to pipeline utilization, it is the Company's plan to file its initial report indicating that the utilization rate is effectively 100%, because all capacity has been turned over to CMT to manage in exchange for the fixed benefit payment. The utilization rate of 100% will apply for the duration of the CMT contracts. Upon the termination of its contracts with CMT, the Company will resume monthly reporting of pipeline utilization.

In addition, the Company filed a request, in accordance with the Open Public Records Act ("OPRA"), N.J.S.A. 47:1A-1 et seq. and N.J.A.C. 14:1-12, et seq. for confidential treatment of certain portions of the filing.

## DISCUSSION AND FINDINGS

The Board has reviewed the Company's selection of CMT as its full requirements supplier for the period April 1, 2004 through March 31, 2005. Based upon the bids received by the Company, the Board believes that the Company's selection of CMT is a reasonable means for addressing Elizabethtown's gas supply needs, which will enable it to provide safe, adequate and proper service to customers during the upcoming year. Further, although the Board believes that the portion of the fixed payment from CMT that the Company proposes to allocate to its New Jersey customers is reasonable, its request to include the costs of WSS service in its BGSS Clause should be reviewed further at the time of its next BGSS proceeding. Therefore, the Board **AUTHORIZES** the Company's selection of CMT as its full requirements supplier for the period April 1, 2004 through March 31, 2005 and its proposed allocation of the fixed payment from CMT to its New Jersey customers subject to the following conditions:

1. There is no express or implied BPU approval of any costs incurred under prior, existing, or revised arrangements for managing Elizabethtown's gas portfolio. All gas supply costs incurred, including costs associated with specific details of the contracts with CMT, such as costs resulting from the pricing of gas purchased for injection into storage, shall be subject to such BPU prudence, reasonableness and other reviews and audits in the appropriate proceedings as if these contracts had not been submitted to or reviewed by the BPU.
2. The Company's request to include the costs of WSS service in its BGSS Clause shall be reviewed further at the time of the Company's next BGSS proceeding.
3. The change in the payment arrangement for purchases of gas under the contracts with CMT shall not affect the timing of costs recorded to the BGSS nor negatively affect the Company's New Jersey customers in any way.

The Board reserves the right to take further action in this matter, as may be hereafter determined to be appropriate.

DATED: **4/14/04**

BOARD OF PUBLIC UTILITIES  
BY:

***SIGNED***

\_\_\_\_\_  
JEANNE M. FOX  
PRESIDENT

***SIGNED***

\_\_\_\_\_  
FREDERICK F. BUTLER  
COMMISSIONER

***SIGNED***

\_\_\_\_\_  
CAROL J. MURPHY  
COMMISSIONER

***SIGNED***

\_\_\_\_\_  
CONNIE O. HUGHES  
COMMISSIONER

***SIGNED***

\_\_\_\_\_  
JACK ALTER  
COMMISSIONER

ATTEST:

***SIGNED***

KRISTI IZZO  
SECRETARY