

**BEFORE THE STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES
DOCKET NO. GR05040371**

**IN THE MATTER OF THE PETITION OF
PIVOTAL UTILITY HOLDINGS
D/B/A/ELIZABETHTOWN GAS COMPANY
TO ESTABLISH A PIPELINE REPLACEMENT
COST RECOVERY RIDER**

**DIRECT TESTIMONY OF
RICHARD W. LELASH
ON BEHALF OF THE DIVISION
OF THE RATEPAYER ADVOCATE**

FEBRUARY 28, 2006

PIVOTAL UTILITY HOLDINGS
PIPELINE REPLACEMENT RIDER
DOCKET NO. GR05040371
TESTIMONY OF RICHARD W. LELASH

TABLE OF CONTENTS

	<u>PAGE</u>
I. STATEMENT OF QUALIFICATIONS	1
II. SCOPE AND PURPOSE OF TESTIMONY	4
III. OVERVIEW OF THE PRP PROPOSAL	5
IV. LACK OF MAIN REPLACEMENT JUSTIFICATION	9
- Replacement is Not Safety Driven	10
- Federal Pipeline Integrity Management	12
V. MERGER RELATED CONSIDERATIONS	15
- Terms of the Merger Stipulation	16
- Analysis of Elizabethtown’s Post Merger Economics	18
VI. PRP COST RECOVERY THROUGH A RIDER	21
- Single Issue Ratemaking	21
- PRP Rider Considerations	23
VII. CONCLUSIONS AND RECOMMENDATIONS	25
VIII. APPENDIX: PRIOR R.W. LELASH TESTIMONIES	

1 I. STATEMENT OF QUALIFICATIONS

2 Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS FOR THE RECORD.

3 A. My name is Richard W. LeLash and my business address is 18 Seventy Acre Road,
4 Redding, Connecticut.

5 Q. WHAT IS YOUR CURRENT BUSINESS AFFILIATION?

6 A. I am an independent financial and regulatory consultant working on behalf of several
7 state public utility commissions and consumer advocates.

8 Q. PRIOR TO YOUR WORK AS AN INDEPENDENT CONSULTANT, WHAT WAS
9 YOUR BUSINESS AFFILIATION, AND WHAT WAS YOUR REGULATORY
10 EXPERIENCE?

11 A. I was a principal with the Georgetown Consulting Group for twenty years. During my
12 affiliation with Georgetown, and continuing to date, I have testified on cost of service,
13 rate of return, and regulatory policy issues in about 280 regulatory proceedings.
14 These testimonies were presented before the Philadelphia Gas Commission, the
15 Federal Energy Regulatory Commission and in the following jurisdictions: Alabama,
16 Arizona, Colorado, Delaware, District of Columbia, Georgia, Illinois, Kansas, Maine,

1 Maryland, Minnesota, Missouri, New Jersey, New Mexico, New York, Ohio,
2 Oklahoma, Pennsylvania, Rhode Island, U.S. Virgin Islands, and Vermont.

3 Q. MR. LELASH, WHAT IS YOUR EDUCATIONAL BACKGROUND?

4 A. I graduated in 1967 from the Wharton School with a BS in Economics and in 1969
5 from the Wharton Graduate School with an MBA.

6 Q. DURING THE COURSE OF YOUR REGULATORY WORK, WHAT HAS BEEN
7 YOUR EXPERIENCE WITH GAS POLICY?

8 A. Since 1980, I have worked extensively on gas policy issues. In my Appendix there
9 is a listing of the recent cases in which I have sponsored testimony. In addition to
10 these cases, I have reviewed and analyzed many other gas policy filings which were
11 resolved through stipulation. Among other issues, my testimonies have involved gas
12 service unbundling, physical and economic bypass, gas supply incentives, gas plant
13 remediation costs, gas price hedging, demand and capacity planning, capacity
14 management agreements, gas price forecasting, and least cost gas standards. In
15 addressing these issues, I have analyzed gas regulatory filings involving about 30
16 different local distribution companies.

1 Q. WHAT HAS BEEN YOUR PRIOR EXPERIENCE WITH THE ELIZABETHTOWN
2 GAS OPERATIONS?

3 A. I have participated in many Elizabethtown proceedings during the past several years
4 involving its operation and recovery of costs. In the recent past, I was involved in the
5 Company's merger proceeding with AGL Resources Inc. ("AGLR") which resulted
6 in the formation of the Pivotal Utility Holdings entity.

1 II. SCOPE AND PURPOSE OF TESTIMONY

2 Q. WOULD YOU PLEASE STATE THE SCOPE AND PURPOSE OF YOUR
3 TESTIMONY IN THIS PROCEEDING?

4 A. I was hired by the New Jersey Division of the Ratepayer Advocate (“RPA”) to review
5 the Petition of Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas Company
6 (“Elizabethtown” or “Company”) concerning the authorization of a Pipeline
7 Replacement Program (“PRP”) Rider. The purpose of my testimony is to present
8 findings and recommendations to the New Jersey Board of Public Utilities (“Board”)
9 concerning issues raised by the filing.

10 Q. IN PERFORMING YOUR REVIEW AND ANALYSIS, WHAT DATA SOURCES
11 DID YOU UTILIZE?

12 A. My review and analysis encompassed Elizabethtown’s filing, responses to discovery
13 requests, and information provided during discovery meetings. I also utilized
14 information provided in previous Elizabethtown proceedings before the Board.

15 Q. WAS THIS TESTIMONY PREPARED BY YOU OR UNDER YOUR DIRECT
16 SUPERVISION AND CONTROL?

17 A. Yes, I prepared this testimony.

1 III. OVERVIEW OF PRP PROPOSAL

2 Q. BASED ON ITS PETITION, WHAT IS THE COMPANY’S RATIONALE AND
3 JUSTIFICATION FOR COST RECOVERY THROUGH A PROPOSED PRP
4 RIDER?

5 A. The Company is seeking to initiate accelerated replacement of its 8 to 12 inch
6 elevated pressure cast-iron mains (“large mains”) over the next three years in order
7 to “enhance the reliability of Elizabethtown’s distribution system and promote
8 economic development” (Petition at 2). The replacement would involve 88 miles of
9 large mains that would require an estimated \$42 million of incremental capital
10 expenditures over the three year period.

11 The Company’s Petition also notes that by acquiring Elizabethtown, AGLR
12 believed its “experience in operating gas distribution facilities in other jurisdictions
13 would permit it to enhance the reliability” of Elizabethtown’s gas distribution system
14 (Petition at 2). In this regard, the Petition also states that it would most likely be
15 necessary to replace Elizabethtown’s large mains (Petition at 3). However, the
16 Company also states that it is not anticipated that the replacement of large mains “will
17 rise to the same level of urgency as other replacement projects” (Petition at 6).

18 As for the recovery of any large main expenditures for replacement, the
19 Company claims that without a PRP Rider, it “will have no meaningful way of

1 offsetting those costs”, thereby preventing it from earning “reasonable returns for its
2 shareholders” (Petition at 7).

3 Q. BASED ON THE COMPANY’S PETITION, WHAT ISSUES SHOULD BE
4 ADDRESSED IN ORDER TO FULLY EVALUATE THE COMPANY’S
5 PROPOSAL?

6 A. Summarized below are the major issues related to the Company’s proposal. Each of
7 these issue areas will be discussed in detail in subsequent sections of this testimony.

8 First, it will be necessary to determine if the Company’s three year replacement
9 of large mains is both necessary and reasonable. For example, do safety concerns
10 such as the number of main breaks and other related indicators show a need for the
11 Company’s proposal?

12 Second, if safety and system reliability are not the primary basis for
13 replacement, why does the program need to be accelerated during a three year period
14 rather than over a longer time horizon? As the Company completes its replacement
15 of small mains, which began in 1998 and is scheduled for completion in 2008, why
16 can’t the Company then phase in a replacement program for large mains once the
17 present program phases down?

1 Third, to what degree will the proposed replacement program be affected by
2 new federal mandates concerning pipeline integrity, and why shouldn't the proposal
3 be deferred until the federal requirements are finalized?

4 Fourth, representations were made by AGLR in the merger proceeding and in
5 the resultant stipulation concerning a rate freeze and future system enhancements.
6 Accordingly, is the proposed PRP Rider compatible with merger related provisions?

7 Fifth, non-base rate recovery mechanisms are exceptions to traditional base
8 rate setting procedures, and therefore does the proposed program warrant recovery
9 through a rider?

10 Sixth, the proposed PRP Rider represents single issue ratemaking. As such,
11 should it be authorized solely on the basis that the Company believes the underlying
12 activities would be useful? As a corollary, in the aftermath of the merger and prior
13 to the scheduled base rate case in 2009, are there other revenue requirement changes
14 that will mitigate or eliminate the need for the PRP Rider?

15 Seventh, are there any factors that would differentiate Elizabethtown from
16 other New Jersey gas utilities, and if not, would this proposal establish an
17 unreasonable precedent concerning cost recovery in the jurisdiction?.

1 Q. BASED ON YOUR REVIEW OF THE FILING AND YOUR UNDERSTANDING
2 OF THE RELATED ISSUES, WHAT IS YOUR OVERALL ASSESSMENT OF
3 THE ACCELERATED PIPELINE REPLACEMENT AND ITS PRP RIDER?

4 A. As will be discussed, the Company has not shown that the accelerated large main
5 replacement is necessary or in conformity with the merger stipulation and therefore
6 the PRP Rider should not be authorized.

1 IV. LACK OF MAIN REPLACEMENT JUSTIFICATION

2 Q. COULD YOU BEGIN BY GIVING A BRIEF OVERVIEW OF THE COMPANY'S
3 CAST IRON DISTRIBUTION SYSTEM AND THE FACTORS THAT ARE
4 CONSIDERED IN THE PROCESS OF REPLACING MAINS?

5 A. According to the Company's Annual Report to the U.S. Department of Transportation
6 ("DOT"), at the end of 2004 the Company had a total of 2,990 miles of distribution
7 mains, of which 810 miles were cast iron with the remaining mains principally being
8 either cathodically protected coated steel or plastic. Of the cast iron mains, 736 miles
9 had diameters of 8 inches or less and 44 miles had diameters of over 8 inches. During
10 2004, these mains had 185 leaks of which 177 were caused by corrosion, natural
11 forces, and material or welds.

12 In the Company's Petition and discovery responses it stated that it was near the
13 end of an eleven year replacement of 4 and 6 inch cast iron mains. When completed
14 in 2008, about 100 miles of these mains will have been replaced. By comparison, the
15 Company's accelerated proposal for large mains would replace about 88 miles during
16 a three year period (Response S-EPRP-71 revised). This is in contrast to the
17 Company's replacement of large mains during the past 8 years when it replaced less
18 than 3 miles of such mains.

1 In terms of reasons for cast iron main replacement, the major factors are
2 graphitic corrosion and pressure “give points” as described in the Company’s
3 testimony (Scacifero at 5-6). These two factors are related directly to the condition
4 of the main and can be assessed, in part, by the number of leaks that are experienced.
5 For the past 10 years, the Company has averaged 5 main breaks per year with less
6 than 30% of these breaks occurring in business districts (Response RAR-2).

7 - Replacement is Not Safety Driven

8 Q. DURING ITS MERGER DUE DILIGENCE REVIEW, DID AGLR PERFORM
9 ANY STUDIES TO EVALUATE THE CONDITION OF ELIZABETHTOWN’S
10 LARGE MAINS?

11 A. Surprisingly, it did not. But AGLR did note that during its due diligence, it learned
12 about ETG’s on-going 4 and 6 inch replacement and felt it necessary to continue with
13 replacement at an accelerated rate (Response RAR-1). However, as noted previously,
14 Elizabethtown’s historical replacement chiefly involved the replacement of mains of
15 less than 8 inches and involved about 73 miles during the past seven year period.

16 Q. IN ITS DISCOVERY RESPONSE RAR-3, THE COMPANY ACKNOWLEDGED
17 THAT LARGE DIAMETER CAST IRON MAINS DO NOT BREAK AS

1 FREQUENTLY AS THE SMALLER DIAMETER MAINS PRIMARILY
2 BECAUSE OF THEIR GREATER WALL THICKNESS. WOULDN'T THIS BE
3 A FACTOR THAT INDICATES THAT SAFETY IS NOT A RISK WITHOUT THE
4 REPLACEMENT PROGRAM?

5 A. Yes, it would. In addition, the Company has made several statements that would
6 indicate that the proposed replacement is not mandated by safety concerns:

7 – The Company “has not to date experienced an unusual level of cracking and
8 leakage in its 8-12 inch elevated pressure cast iron mains . . .” (Petition at 5)

9 – “In 2005, it was determined that two sections of 8 inch elevated pressure cast
10 iron main totaling a little over a mile must be replaced due to break
11 history No other sections of 8-12 inch elevated pressure cast iron have been
12 deemed necessary for immediate replacement due to safety considerations.”
13 (Response RAR-21).

14 – “In arriving at its annual capital budget, the Company’s management is
15 required to meet two goals: (1) ensure that the Company continues to provide
16 safe and adequate utility service, and (2) fulfill its fiduciary obligations to its
17 shareholders. The Company believes that its current level of capital spending
18 for replacement projects fulfills these goals” (Scacifero at 14).

1 Based on these statements, it is clear that even the Company itself is not
2 claiming that it needs to replace its large mains in order to maintain safety and
3 reliability. This is particularly true in the case of the proposed accelerated
4 replacement which seems to have no justification beyond the fact that the Company
5 might like to have a recovery rider which could create precedent for other investment
6 and cost recovery proposals in the future. For example, during the merger proceeding
7 it was stated that, “AGLR anticipates that, shortly after the acquisition is approved,
8 ETG would make a filing with the Board to propose a similar mechanism to recover
9 costs associated with upgrading ETG’s IT infrastructure” (Madden Direct Testimony,
10 Docket No. GM04070721, at 10).

11 - Federal Pipeline Integrity Management

12 Q. ARE THERE OTHER ISSUES THAT WOULD INDICATE THAT
13 ACCELERATED REPLACEMENT IS NOT REASONABLE AT THIS TIME?

14 A. One significant issue involves the fact that the Company has not done its homework
15 on the replacement issue. As mentioned earlier, AGLR did not assess the need for
16 pipeline replacement as part of its due diligence review of the merger. In addition,
17 when Elizabethtown was asked to provide any evaluations, studies, or other
18 workproduct developed by or for Elizabethtown concerning the condition of its

1 pipelines, its replacement program, and any required remedial replacement
2 requirements during the past five years, it stated that it had not conducted, nor did it
3 have any studies conducted on its cast iron pipelines within the past five years
4 (Response RAR-20).

5 Q. IS IT YOUR OPINION THAT SUCH A LACK OF STUDIES FURTHER
6 INDICATES THAT THE PROPOSED ACCELERATED REPLACEMENT IS NOT
7 JUSTIFIED?

8 A. Yes, it does. At the very least, the Company's proposal is premature absent a clear
9 necessity for an accelerated replacement program. In addition, the Company, as well
10 as all other gas utilities, will be required to implement additional federally mandated
11 operating requirements, which are aimed toward the enhancement of public safety and
12 reliability. These regulations for Pipeline Integrity Management ("PIM") were
13 adopted by the DOT for transmission lines, but the gas utilities in New Jersey have
14 stated that "in the near future" integrity management principles will be also applied
15 to the distribution systems of gas utilities (Petition Letter dated October 11, 2005,
16 Pipeline Integrity Management Filing by New Jersey Gas Utilities, Docket No.
17 GO05100879).

1 Q. WHAT TYPES OF PIPELINE RELATED ACTIVITIES ARE EXPECTED TO BE
2 INCORPORATED INTO THE REGULATIONS FOR DISTRIBUTION SYSTEMS?

3 A. The regulations are expected to require surveys and analyses that will determine the
4 condition of a gas utility's pipelines and also mandate remedial actions as required.
5 Accordingly, given the PIM initiative, it is logical that, absent safety concerns, gas
6 utilities such as Elizabethtown should defer major replacement projects until the new
7 standards are determined.

1 V. MERGER RELATED CONSIDERATIONS

2 Q. HOW DOES AGLR'S ACQUISITION OF ELIZABETHTOWN IN 2005 AFFECT
3 THE EVALUATION OF THE COMPANY'S CURRENT PRP PROPOSAL?

4 A. AGLR, like most entities seeking to make an acquisition, made various commitments
5 to the Board and to the Company's ratepayers and employees. These commitments
6 were made in direct testimony, during the proceedings, and also within the resultant
7 stipulation that was adopted by the Board in its Merger Order in Docket No.
8 GA04070721 ("Merger Order"). For example, in the Merger Petition in that
9 proceeding it stated that, "Petitioners are proposing to maintain retail gas distribution
10 rates at their current tariff levels for a period of at least three years following the
11 closing of the acquisition" (Merger Petition at 9). It was also stated by Petitioners
12 that, "Notwithstanding the rate conditions of the acquisition, AGLR fully intends to
13 invest appropriate levels of capital to improve service on ETG" (Madden Direct
14 Testimony, Docket No. GM04070721, at 5).

15 Based on these and other matters associated with the merger proceeding, it is
16 useful to place the current replacement proposal within the proper context.
17 Specifically, what was the intent of the rate freeze and what post merger investments
18 and costs did AGLR and Elizabethtown commit to with or without rate recovery?

1 - Terms of the Merger Stipulation

2 Q. WOULD YOU PLEASE DISCUSS THE PORTIONS OF THE STIPULATION
3 RELATED TO PIPELINE REPLACEMENT AND ANY PRP RIDER?

4 A. As in any merger proceeding, there were numerous provisions and conditions that
5 were contested by the various parties. As such, the resultant Merger Stipulation
6 (“Stipulation”) contains interrelated provisions, some of which relate to a base rate
7 stay out. As initially proposed, a merger condition specified that ETG would not be
8 required to operate at less than its current authorized tariffs for at least three years.

9 As stated in my direct testimony in the merger proceeding, “It also should be
10 noted that this condition is somewhat ambiguous concerning what constitutes “current
11 authorized tariffs.” Various non-base rate charges such as the Societal Benefits
12 Charge (“SBC”) and the Weather Normalization Clause (“WNC”) are tariffed rates
13 but are not covered by the three year reduction condition. Indeed, even the Basic Gas
14 Service Supply (“BGSS”) rate falls under the condition’s “current authorized tariff
15 language.” (LeLash Direct Testimony, Docket No. GM04070721, at 8). This
16 clarification was ultimately incorporated in the Stipulation when it states that, “The
17 base rate stay-out will not affect modifications to non-base rate tariff provisions,
18 including but not limited to, the SBC, WNC, and BGSS rates (Stipulation, Docket No.
19 GM04070721, at 1).

1 This Stipulation language is being used by the Company to justify the
2 implementation of its PRP Rider. However, it should be noted that the limitation
3 relates to modifications of existing non-base rate tariff provisions and not to any
4 future new tariff provisions. Any interpretation of the Stipulation to the effect that it
5 allows the creation of additional or new tariff provisions is incorrect. As the Board
6 noted, “Petitioners point to their proposed rate freeze and accelerated payment of the
7 ETG refund and penalty . . . as being among the several benefits resulting from the
8 merger” (Board Order, Docket No. GM04070721 at 7). To interpret the Board’s
9 Order to permit incremental tariff rates would effectively negate the referenced rate
10 freeze benefit. In the end analysis, the Board’s language does not provide any
11 approval or authorization of tariffs such as the proposed PRP Rider.

12 Q. AT PAGES 4 AND 5 OF MR. CHILTON’S TESTIMONY ON BEHALF OF
13 ELIZABETHTOWN, HE ADDRESSES THIS STIPULATION ISSUE. WOULD
14 YOU COMMENT ON HIS TESTIMONY?

15 A. Mr. Chilton states that, “Based upon AGL’s stated intention and the language of the
16 Stipulation and Acquisition Order, it appears that the Board intended that it would
17 consider a filing by Elizabethtown to establish a non-base rate tariff clause such as the
18 proposed PRP.” Mr. Chilton’s interpretation of AGL’s “stated intention” and the

1 Board's "intent" is not sufficient basis to negate the rate freeze benefit upon which
2 the merger approval was premised.

3 - Analysis of Elizabethtown's Post Merger Economics

4 Q. IN THE COMPANY'S PETITION, IT STATES THAT WITHOUT THE PRP
5 RIDER IT WILL HAVE NO MEANINGFUL WAY TO OFFSET THE LARGE
6 MAIN REPLACEMENT COSTS (PETITION AT 7). WOULD YOU DISCUSS
7 WHETHER THIS CONTENTION IS CORRECT?

8 A. It should be understood that AGLR expects to make money on its acquisition of
9 Elizabethtown. Whether its profits will come from employee reductions, lower
10 interest costs, profit sharing by Sequent Energy Management ("Sequent"), or synergy
11 savings, it expects at least a fair return on equity. If this was not its expectation, it
12 would not have purchased the Company.

13 While it appears that the Company's return on equity was below its authorized
14 level during 2005, it is not unusual for financial results to be weak in the first year
15 after an entity is acquired. However, over subsequent years the entity typically can
16 realize expense savings and thereby improve its return levels. This appears to be the
17 case for the Company since it expects its return on equity to reach an adequate level
18 for 2006 (Response RAR-32).

1 In order to put the issue in perspective, the Company estimates that it would
2 need savings of about \$4.0 million per year in order to offset forecasted PRP costs
3 (Response RAR-22). In order to assess the prospects for prospective cost savings, the
4 Company was requested to provide comparisons of annual calendar year profit and
5 loss statements. The Company's response was that it had not completed its 2006
6 budget but will submit it as soon as it is complete (Response RAR-28). This lack of
7 a budget precludes any real ability to assess the prospective equity returns or the
8 realization of any cost savings. It also highlights a surprising deficiency in the
9 management of Elizabethtown's operation. It is very rare to find a business entity of
10 Elizabethtown's size that does not have a budget in place prior to the start of the
11 calendar year.

12 Q. BASED ON YOUR EXPERIENCE WITH THE OPERATIONS OF
13 ELIZABETHTOWN, WHAT TYPES OF SAVINGS WOULD BE ABLE TO
14 OFFSET FORECASTED PRP COSTS?

15 A. Without agreeing that the PRP costs should be incurred, it would appear that
16 Elizabethtown will have several areas that will yield cost savings. For example, NUI
17 had about \$425 million of debt as of the merger closing (Response S-OCE-17).
18 Based on NUI's old credit rating and AGLR's, it would seem reasonable to assume
19 at least a 2% reduction in debt costs. Such a reduction would yield about \$8.5 million

1 per year in savings. Another area of savings will arise from the centralized provision
2 of support services and from personnel reductions. AGLR, in addition, will receive
3 profits from Sequent's management of Elizabethtown's gas supply portfolio. Sequent
4 itself stated that it could manage and optimize the Elizabethtown portfolio with very
5 little incremental cost to its operation (Transcript of Analysts' Teleconference Call,
6 July 15, 2004, at 14). On that basis, I would estimate that Sequent could earn about
7 \$4.0 million per year from Elizabethtown's portfolio. In total, such savings would
8 more than offset any incremental expenses incurred for the PRP.

1 VI. PRP COST RECOVERY THROUGH A RIDER

2 Q. IS THE USE OF RIDERS BY UTILITIES A COMMON PRACTICE, AND TO
3 WHAT DEGREE DO RIDERS, SUCH AS THE ONE PROPOSED FOR THE PRP,
4 REPRESENT A DEVIATION FROM REGULATORY PRACTICE?

5 A. Riders have become more prevalent during the past several years principally because
6 of the increase in mandated programs. In order to fund mandated programs in an
7 administratively simple way, regulators have turned to riders, trackers, and clauses.
8 However, their use reduces a major incentive for utilities to provide the associated
9 program for the lowest possible cost. In effect, riders become automatic cost pass
10 throughs, and utilities bear little or no risk of expense disallowance.

11 As a result, such riders are generally not used where the underlying costs are
12 controllable or when the program is not mandated by state or federal agencies. While
13 riders are looked upon with favor by utility stockholders, they often may be
14 detrimental to ratepayers.

15

16 - Single Issue Ratemaking

17 Q. WHEN RIDERS ARE SOUGHT BY UTILITIES, THERE ARE OFTEN
18 STATEMENTS MADE THAT THE USE OF A RIDER REPRESENTS SINGLE

1 ISSUE RATEMAKING. WOULD YOU PLEASE DISCUSS THIS ISSUE AS IT
2 RELATES TO THE PROPOSED PRP RIDER?

3 A. The regulatory rate setting process uses base rate cases to make a determination of just
4 and reasonable rates. Such rate cases are comprehensive reviews of a utility's
5 revenues, expenses, investment, and return requirement. In such reviews, all
6 components of ratemaking are evaluated and the regulators balance the various
7 components when deriving authorized rates for service.

8 When a rider is proposed, it in effect is seeking a change in the effective level
9 of rates based typically on just one element of the rate setting formula. In this case,
10 the Company is claiming the need for a rider based solely on a forecasted increase in
11 pipeline replacement costs. Unfortunately, Elizabethtown's filing provides no
12 information concerning possible mitigating factors such as higher revenues, lower
13 capital costs, or reductions in other expense categories. As discussed earlier, for
14 Elizabethtown, there appear to be a number of mitigating factors that might show a
15 need for lower rather than higher rates. While the Company may claim that large
16 main replacements will create a revenue requirement, it has not presented any
17 significant evidence concerning known merger related mitigating factors. This is
18 precisely the reason why regulatory agencies do not typically authorize riders outside
19 of a base rate investigation.

1 - PRP Rider Considerations

2 Q. ARE THERE OTHER FACTORS THAT SHOULD BE CONSIDERED WITH
3 RESPECT TO THE PROPOSED PRP RIDER?

4 A. Yes, there are. The authorization of the proposed rider would represent an improper
5 precedent for New Jersey. If Elizabethtown were to have its rider authorized based
6 on the facts presented in this case, there is a high probability that other New Jersey
7 utilities will also pursue authorization for single issue riders to address a multitude of
8 claimed revenue requirements. It is vital that the Board apply rigorous standards
9 when evaluating riders that have the effect of eroding regulatory oversight, incentives,
10 and control. The greater the use of riders, the closer regulation moves toward
11 guaranteeing a utility's return level.

12 Q. IF IT WERE TO BE DETERMINED THAT ELIZABETHTOWN SHOULD
13 COMMENCE A LARGE MAIN REPLACEMENT PROGRAM PRIOR TO THE
14 BASE RATE CASE SCHEDULED IN 2009, SHOULD THE PRP RIDER BE
15 INSTITUTED?

16 A. No, it should not. As discussed above, the Company has several opportunities to
17 achieve material cost savings between now and 2009. Accordingly, it should
18 reasonably be able to take any action that is required to maintain the safety and

1 reliability of its system. The maintenance of adequate safety and reliability levels was
2 an integral part of AGLR's justification for approval of the merger. As such, the
3 position that in all likelihood the Company would not proceed with the accelerated
4 replacement program without the PRP Rider is in direct conflict with the Company's
5 safety and reliability requirements (Scacifero at 14).

6 The Company's position on this matter only emphasizes the fact that
7 accelerated replacement of large mains is not currently required. Indeed, the
8 Company goes so far as to refer to the accelerated replacement as a "new service."
9 Specifically, it states, "The Company's characterization of its accelerated replacement
10 program as a "new service" is based on the fact that regulatory requirements and
11 Company standards would not require the Company to replace completely its elevated
12 pressure 8-12 inch line over a three year period. Instead, this is a new service that the
13 Company proposes to provide" (Response RAR-41).

1 VII. CONCLUSIONS AND RECOMMENDATIONS

2 Q. WHAT ARE YOUR CONCLUSIONS AND RECOMMENDATIONS?

3 A. In summary, the Company's PRP proposal lacks justification and will unnecessarily
4 increase ratepayers' cost of service at a time when gas commodity costs are already
5 burdening them with extraordinarily high rates for their essential gas service. Without
6 any underlying safety or reliability objectives and despite the US DOT's pending
7 distribution system regulations that will directly address the Company's pipeline and
8 replacement requirements, the Company is seeking an accelerated replacement
9 initiative.

10 The Company's proposal also includes a rider recovery mechanism which is
11 at odds with established regulatory practice and the Merger Stipulation that provided
12 for a rate freeze. The proposal also runs counter to the merger filing in which the
13 third merger condition required that AGLR retain all benefits from operational
14 changes until the conclusion of Elizabethtown's next base rate case. This condition
15 also had a corollary that operations, safety, and customer service would be maintained
16 or improved. However, now the Company seeks to retain all benefits and have
17 ratepayers pay incremental costs. Such a modification to the effective terms and
18 conditions of the recent merger should not be authorized. Accordingly, it is
19 recommended that the proposed PRP rider not be approved.

1 Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY IN THIS MATTER?

2 A. Yes, it does.

VIII. APPENDIX: PRIOR R.W. LELASH TESTIMONIES

R. W. LELASH'S REGULATORY TESTIMONIES
(2001 to Present)

232. Rhode Island, Providence and Valley Gas Companies (Docket Nos. 1673 and 1736) Gas Price Mitigation Testimony for the Rhode Island Division of Public Utilities (January, 2001).
233. Delaware, Delmarva Power & Light Company (Docket No. 00-463F) Gas Price Hedging Testimony for the Delaware Public Service Commission (February, 2001).
234. Pennsylvania, Philadelphia Gas Works (Docket No. R-00006042) Base Rate and Policy Testimony for the Pennsylvania Office of Consumer Advocate (April, 2001).
235. Pennsylvania, Philadelphia Gas Works (Docket No. R-00006042) Base Rate and Policy Surrebuttal Testimony for the Pennsylvania Office of Consumer Advocate (May, 2001).
236. New Jersey, Public Service Electric & Gas Company (Docket No. GM00080564) Capacity Contract Transfer Testimony for the New Jersey Division of the Ratepayer Advocate (June, 2001).
237. Vermont, Vermont Gas Systems (Docket No. 6495) Rate Stabilization Plan Testimony for the Vermont Department of Public Service (June, 2001).
238. Pennsylvania, Philadelphia Gas Works (Docket No. R-00016378) Gas Cost Rate Testimony for the Pennsylvania Office of Consumer Advocate (July, 2001).
239. Pennsylvania, PECO Energy Company (Docket No. R-00016366) Gas Cost Rate Testimony for the Pennsylvania Office of Consumer Advocate (July, 2001).
240. Pennsylvania, Philadelphia Gas Works (Docket No. R-00016378) Gas Cost Rate Surrebuttal Testimony for the Pennsylvania Office of Consumer Advocate (August, 2001).
241. Vermont, Vermont Gas Systems (Docket No. 6495) Rate Stabilization Plan Rebuttal Testimony for the Vermont Department of Public Service (August, 2001)
242. Georgia, Atlanta Gas Light Company (Docket No. 14060-U) Procurement and Capacity Plan Testimony for the Georgia Public Service Commission (August, 2001).
243. Rhode Island, New England Gas Company (Docket No. 3401) Earnings Sharing and Gas Policy Testimony for the Rhode Island Division of Public Utilities (March, 2002).
244. Pennsylvania, Philadelphia Gas Works (Docket No. R00017034F002) Extraordinary Rate Relief Testimony for the Pennsylvania Office of Consumer Advocate (March, 2002).
245. New Jersey, Public Service Electric & Gas Company (Docket No. GR01110773) Remediation Adjustment Clause Testimony for the New Jersey Division of the Ratepayer Advocate (April, 2002).
246. Rhode Island, New England Gas Company (Docket No. 3401) Earnings Sharing and Gas Policy Surrebuttal Testimony for the Rhode Island Division of Public Utilities (April, 2002).
247. Pennsylvania, Philadelphia Gas Works (Docket No. R-00027133) Gas Cost Rate Testimony for the Pennsylvania Office of Consumer Advocate (April, 2002).

248. Pennsylvania, Philadelphia Gas Works (Docket No. R-00017034) Base Rate Testimony for the Pennsylvania Office of Consumer Advocate (May, 2002).
249. Georgia, Atlanta Gas Light Company (Docket No. 15527-U) Lost and Unaccounted For Gas Testimony for the Georgia Public Service Commission (July, 2002).
250. Pennsylvania, PECO Energy Company (Docket No. R-00027391) Gas Procurement and Policy Testimony for the Pennsylvania Office of Consumer Advocate (July, 2002).
251. Georgia, Atlanta Gas Light Company (Docket No. 15527-U) Lost and Unaccounted For Gas Rebuttal Testimony for the Georgia Public Service Commission (August, 2002).
252. Pennsylvania, Philadelphia Gas Works (Docket No. M-00021612) Gas Restructuring Testimony for the Pennsylvania Office of Consumer Advocate (September, 2002).
253. Georgia, EDC Generic Rulemaking (Docket No. 15295-U) Service Quality Standards Testimony for the Georgia Public Service Commission (October, 2002).
254. Georgia, Marketer Generic Rulemaking (Docket No. 15296-U) Service Quality Standards Testimony for the Georgia Public Service Commission (October, 2002).
255. Pennsylvania, Philadelphia Gas Works (Docket No. M-00021612) Gas Restructuring Rebuttal Testimony for the Pennsylvania Office of Consumer Advocate (October, 2002).
256. Pennsylvania, Philadelphia Gas Works (Docket No. M-00021612) Gas Restructuring Surrebuttal Testimony for the Pennsylvania Office of Consumer Advocate (November, 2002).
257. Georgia, EDC Generic Rulemaking (Docket No. 15295-U) Service Quality Standards Rebuttal Testimony for the Georgia Public Service Commission (November, 2002).
258. Georgia, Marketer Generic Rulemaking (Docket No. 15296-U) Service Quality Standards Rebuttal Testimony for the Georgia Public Service Commission (November, 2002).
259. Rhode Island, New England Gas Company (Docket No. 3476) Service Quality Testimony for the Division of Public Utilities (November, 2002).
260. New Jersey, Jersey Central Power and Light Company (Docket No. ER02030173) Recovery of Deferred Remediation Cost Testimony for the New Jersey Division of the Ratepayer Advocate (December, 2002).
261. Rhode Island, New England Gas Company (Docket No. 3476) Service Quality Surrebuttal Testimony for the Division of Public Utilities (February, 2003).
262. Pennsylvania, Philadelphia Gas Works (Docket No. R-00038173) Gas Procurement and Policy Testimony for the Pennsylvania Office of Consumer Advocate (April, 2003).
263. New Jersey, Elizabethtown Gas Company (Docket No. GA02020099) Comments Concerning Affiliate Audit for the New Jersey Division of the Ratepayer Advocate (June, 2003).
264. Maine, Northern Utilities (Docket No. 2002-140) Management Audit and Service Quality Report for the Maine Public Utilities Commission (June, 2003).

265. New Jersey, Public Service Electric & Gas Company (Docket No. GR03050400) Pipeline Refund Allocation Testimony for the New Jersey Division of the Ratepayer Advocate (August, 2003).
266. Ohio, Vectren Energy Delivery of Ohio (Case No. 02-220-GA-GCR) Gas Procurement and Policy Testimony for the Ohio Consumers' Counsel (November, 2003).
267. Delaware, Delmarva Power & Light Company (Docket No. 03-378F) Evaluation of Gas Procurement and Price Hedging Testimony for the Delaware Public Service Commission (February, 2004).
268. Pennsylvania, Philadelphia Gas Works (Docket Nos. R-00049157 and P-00042090) Purchased Gas Cost Testimony for the Pennsylvania Office of Consumer Advocate (May, 2004)
269. Pennsylvania, Philadelphia Gas Works (Docket Nos. R-00049157 and P-00042090) Purchased Gas Cost Rebuttal Testimony for the Pennsylvania Office of Consumer Advocate (May, 2004)
270. Delaware, Chesapeake Utilities Corporation (Docket No. 02-287F) Gas Supply Plan Review for Chesapeake Utilities and the Delaware Public Service Commission (July, 2004).
271. Georgia, Atmos Energy Corporation (Docket No. 18509-U) Procurement and Capacity Plan Testimony for the Georgia Public Service Commission (August, 2004).
272. Georgia, Atlanta Gas Light Company (Docket Nos. 18437-U and 8516-U) Procurement and Capacity Plan Testimony for the Georgia Public Service Commission (August, 2004).
273. New Jersey, NUI Utilities and AGL Resources (Docket No. GM04070721) Terms and Conditions of Merger Testimony for the New Jersey Ratepayer Advocate (September, 2004).
274. Georgia, Atlanta Gas Light Company (Docket No. 18638-U) Business Risk Testimony for the Georgia Public Service Commission (February, 2005).
275. Pennsylvania, Philadelphia Gas Works (Docket No. R-00050264) Purchase Gas Cost Testimony for the Pennsylvania Office of Consumer Advocate (April, 2005).
276. Federal Energy Regulatory Commission, Exelon and Public Service Enterprise Group (Docket No. EC05-43-000) Market Power Testimony by Affidavits for the New Jersey Division of the Ratepayer Advocate (April and May, 2005).
277. Pennsylvania, PECO Energy Company (Docket No. R-00050537) Gas Procurement and Policy Testimony for the Pennsylvania Office of Consumer Advocate (July, 2005).
278. Georgia, Atmos Energy Corporation (Docket No. 20528-U) Gas Supply Plan Testimony for the Georgia Public Service Commission (August, 2005).
279. New Jersey, Exelon and Public Service Enterprise Group (Docket No. EM05020106) Terms and Conditions of Merger Testimony for the New Jersey Ratepayer Advocate (November, 2005).
280. New Jersey, Exelon and Public Service Enterprise Group (Docket No. EM05020106) Terms and Conditions of Merger Surrebuttal Testimony for the New Jersey Ratepayer Advocate (December, 2005).