



Agenda Date: 5/21/14

Agenda Item: 2D

**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	)	DECISION AND ORDER
UTILITY HOLDINGS, INC. d/b/a ELIZABETHTOWN	)	APPROVING STIPULATION
GAS TO REVIEW ITS PERIODIC BASIC GAS SUPPLY	)	FOR FINAL BGSS-P RATES
SERVICE RATE	)	
	)	DOCKET NO. GR13050433

**Parties of Record:**

**Deborah M. Franco, Esq.**, for Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas  
**Stefanie A. Brand, Esq.**, Director, New Jersey Division of Rate Counsel

BY THE BOARD:

**BACKGROUND**

Pursuant to the generic Order of the New Jersey Board of Public Utilities ("Board") dated January 6, 2003, in Docket No. GX01050304 ("January BGSS Order"), each of New Jersey's four gas distribution companies ("GDCs"), by June 1, submits to the Board its annual Basic Gas Supply Service ("BGSS") gas cost filing for the BGSS year beginning October 1. In addition, the January BGSS Order authorizes each GDC to self-implement up to a 5% BGSS increase effective December 1 of the current year and February 1 of the following year with one month's advance notice to the Board and the Division of Rate Counsel (Rate Counsel").

On May 30, 2013, Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas ("Elizabethtown" or "Company") filed its annual Basic Gas Supply Service ("BGSS-P") petition ("2013 BGSS Filing"), requesting a decrease in its BGSS-P after-tax per therm rate for residential and small commercial customers from \$0.6663 to \$.6241 for the BGSS year October 1, 2013 through September 30, 2014. This rate change translated into a proposed monthly bill reduction of \$4.22 (3.5%) for a typical residential heating customer using 100 therms per month.

Public hearings were held in Flemington and Rahway on August 26 and 28, 2013, respectively. No members of the public attended the hearings or submitted comments on the 2013 BGSS Filing.

By letter dated September 26, 2013, the Company notified the Board and the New Jersey Division of Rate Counsel ("Rate Counsel") of its intent to self-implement the decrease in the after-tax per therm BGSS rate from \$0.6663 to \$0.6241 on a provisional basis, effective October 1, 2013, as proposed in the 2013 BGSS Filing. Recognizing that additional time was needed to allow for a complete review of the 2013 BGSS Filing, representatives of the Company, Rate Counsel, and Board Staff, (collectively, "the Parties"), entered into a stipulation in support of provisionally authorizing a reduction in the after-tax per therm BGSS-P rate to \$0.6241 as proposed by the Company. On October 16, 2013, the Board approved the Stipulation for Provisional BGSS-P rates.

Following discovery and discussions, the Parties entered into a Stipulation, dated April 25, 2014 ("Stipulation") agreeing to finalize the provisional rate.

The Parties agree that:

The after-tax per therm BGSS-P rate of \$0.6241 previously approved by the Board on a provisional basis should be made final.

All issues related to Elizabethtown's BGSS recoverable costs for the BGSS year ending September 30, 2014 are resolved.

#### **DISCUSSION AND FINDING:**

The Board, having reviewed the Stipulation for the BGSS-P rate in this proceeding and being persuaded that the 2013 BGSS Filing has been thoroughly reviewed, **HEREBY FINDS** that, subject to the terms and conditions set forth below, the Stipulation is reasonable, in the public interest and in accordance with the law. Accordingly, the Board **HEREBY ADOPTS** its terms and conditions as though fully set forth herein.

The Board **HEREBY DIRECTS** that the Company's after-tax per therm BGSS-P rate of \$0.6241 per therm made final and remain in effect until changed by Order of the Board.

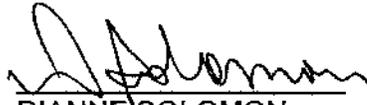
The Company is **HEREBY DIRECTED** to continue to electronically provide Rate Counsel and Board Staff, on a monthly basis, the following updated information: 1) the BGSS NYMEX Update Report (also known as S-ECHART-1), in the form attached hereto as Exhibit A; and 2) the calculation of net gas per therm (also known as S-EChart-2) in the form attached hereto as Exhibit B, which is to be submitted in the middle of the following month.

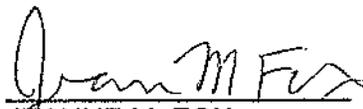
The Company's gas costs will remain subject to audit by the Board. This Decision and Order shall not preclude the Board from taking any such actions deemed to be appropriate as a result of any such audit.

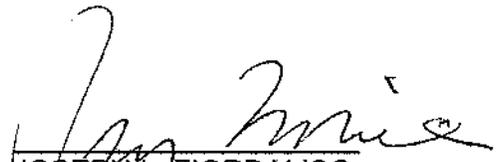
This Order shall become effective June 1, 2014.

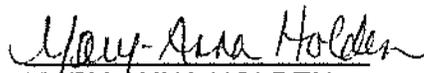
DATED: 5/21/14

BOARD OF PUBLIC UTILITIES  
BY:

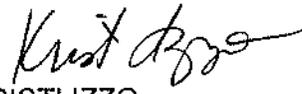
  
DIANNE SOLOMON  
PRESIDENT

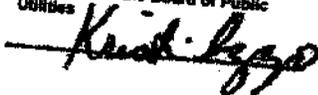
  
JEANNE M. FOX  
COMMISSIONER

  
JOSEPH L. FIORDALISO  
COMMISSIONER

  
MARY-ANNA HOLDEN  
COMMISSIONER

ATTEST:

  
KRISTI IZZO  
SECRETARY

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


**IN THE MATTER OF THE PETITION OF PIVOTAL UTILITY HOLDINGS, INC.  
D/B/A ELIZABETHTOWN GAS COMPANY TO REVIEW ITS  
PERIODIC BASIC GAS SUPPLY SERVICE RATE**

**DOCKET NO. GR13050433**

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May 1, 2014

## VIA ELECTRONIC MAIL AND FEDERAL EXPRESS

Honorable Kristi Izzo, Secretary  
State of New Jersey  
Board of Public Utilities  
44 South Clinton Avenue  
P.O. Box 350  
Trenton, New Jersey 08625-0350

**Re: In the Matter of the Petition of Pivotal Utility Holdings, Inc.  
d/b/a Elizabethtown Gas To Review Its Periodic Basic Gas  
Supply Service Rate  
BPU Docket No. GR13050433**

Dear Secretary Izzo:

Enclosed for filing in the above proceeding are an original and ten copies of a Stipulation executed by representatives of Pivotal Utility Holdings Inc. d/b/a Elizabethtown Gas ("Elizabethtown"), the Staff of the Board of Public Utilities and the Department of the Public Advocate, Division of Rate Counsel. Elizabethtown requests that the Board consider and adopt the Stipulation as expeditiously as possible.

Please contact the undersigned if you have questions or require further information.  
Thank you.

Respectfully submitted,

*/s/ Deborah M. Franco*  
Deborah M. Franco

Of Counsel to  
Pivotal Utility Holdings, Inc.  
d/b/a Elizabethtown Gas

cc: Service List

**IN THE MATTER OF THE PETITION OF  
PIVOTAL UTILITY HOLDINGS, INC. d/b/a ELIZABETHTOWN GAS  
TO REVIEW ITS PERIODIC BASIC GAS SUPPLY SERVICE RATE  
BPU DOCKET NO. GR13050433**

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**IN THE MATTER OF THE PETITION OF  
PIVOTAL UTILITY HOLDINGS, INC. d/b/a ELIZABETHTOWN GAS  
TO REVIEW ITS PERIODIC BASIC GAS SUPPLY SERVICE RATE  
BPU DOCKET NO. GR13050433**

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**STATE OF NEW JERSEY  
BOARD OF PUBLIC UTILITIES**

-----X  
**In The Matter Of The Petition Of Pivotal Utility** : **BPU Docket No. GR13050433**  
**Holdings, Inc. d/b/a Elizabethtown Gas To** :  
**Revise Its Periodic Basic Gas Supply** :  
**Service Rate** : **FINAL STIPULATION**  
-----X

**APPEARANCES:**

**Kenneth T. Maloney and Deborah M. Franco** (Cullen and Dykman LLP), Attorneys for the Petitioner, Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas

**Mary Patricia Keefe**, Vice President for Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas

**Felicia Thomas-Friel, Managing Attorney Gas**, Division of Rate Counsel, **Kurt S. Lewandowski**, Assistant Deputy Rate Counsel, Division of Rate Counsel (Stefanie A. Brand, Director, Division of Rate Counsel)

**Alex Moreau and Marisa Slaten**, Deputy Attorneys General, for the Staff of the New Jersey Board of Public Utilities (John Jay Hoffman, Acting Attorney General of New Jersey)

**BACKGROUND**

In accordance with a generic Order of the New Jersey Board of Public Utilities ("Board" or "BPU") dated January 6, 2003, in Docket No GX01050304 ("Generic BGSS Order"), each of New Jersey's four gas distribution companies ("GDCs"), by June 1, submits to the Board its annual Basic Gas Supply Service ("BGSS") gas cost filing for the BGSS year beginning October 1. In addition, the Generic BGSS Order authorizes each GDC to self-implement up to a 5% BGSS increase effective December 1 and February 1 upon 30 days advance written notice to the Board and the New Jersey Division of Rate Counsel ("Rate Counsel"). Each GDC may implement a decrease in its BGSS rates at any time, without prior Board approval after notice to the Board and Rate Counsel.

On May 30, 2013, Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas ("Elizabethtown" or "Company") filed a Petition ("May 30 Petition") with the Board, which was assigned BPU Docket No. GR13050433, requesting to decrease its then current after-tax per therm BGSS rate of \$0.6663 to \$0.6241

for the BGSS period commencing October 1, 2013 through September 30, 2014 ("BGSS Period"). As indicated in the May 30 Petition, the proposed decrease was based upon the Company's projection that the Company would be over-recovered by approximately \$9.0 million by the end of the BGSS year, September 30, 2014, if the then-current BGSS rate were to remain at \$0.6663 per therm.

Notices describing the May 30 Petition and setting forth the dates of the public hearings were placed in newspapers having circulation within Elizabethtown's service territory and served on the county executives and clerks of all municipalities in the Company's service territory. Public hearings concerning the Company's May 30 Petition were held in Flemington, New Jersey on August 26, 2013 and Rahway, New Jersey on August 28, 2013. No one from the public attended the hearings.

In accordance with the Generic BGSS Order, by letter dated September 26, 2013 ("September 26 Letter"), Elizabethtown notified the Board and Rate Counsel of its intent to provisionally decrease the after-tax per therm BGSS rate from \$0.6663 to \$0.6241 effective October 1, 2013 in a manner consistent with the terms reflected in the Company's May 30, 2013 Petition. This rate reduction resulted in a monthly bill decrease for a residential heating customer using 100 therms. from \$119.75 to \$115.53 of \$4.22 or 3.5%.

By Order dated October 16, 2013 issued in this proceeding, the Board approved a Stipulation authorizing the Company to maintain the self-implemented BGSS rate of \$0.6241 per therm on a provisional basis subject to refund with interest on any net over-recovered BGSS balance.

Elizabethtown, Board Staff, and the Division of Rate Counsel ("Rate Counsel") (collectively, "the Parties") engaged in discovery and discussed certain matters at issue in this docket. As a result of those discussions, the Parties have resolved all remaining issues in this proceeding in accordance with the Stipulation set forth below.

### STIPULATION

Based upon and subject to the terms and conditions set forth herein, the Parties stipulate and agree as follows:

A. The Company shall maintain its BGSS-P rate of \$0.6241 per therm, inclusive of all applicable taxes, and that rate shall remain in effect on a final basis until revised in accordance with applicable laws and regulations.

B. This Stipulation provides for a final resolution in this proceeding. All issues related to Elizabethtown's BGSS recoverable costs for the BGSS year ending September 30, 2013 are resolved.

C. This Stipulation represents a mutual balancing of interests and, therefore, is intended to be accepted and approved in its entirety. In the event that the Board does not adopt this Stipulation in its entirety in an Order, then any Party hereto is free to pursue its then-available legal remedies with respect to all issues in this Stipulation as though this Stipulation had not been signed.

D. It is the intent of the Parties that the provisions hereof be approved by the Board, as appropriate, as being in the public interest. The Parties further agree that they consider the Stipulation to be binding on them for all purposes herein.

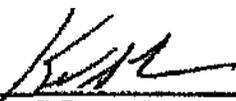
E. It is specifically understood and agreed that this Stipulation represents a negotiated agreement and has been made exclusively for the purpose of this proceeding. Except as expressly provided herein, Elizabethtown, Board Staff, or Rate Counsel shall not be deemed to have approved, agreed to, or consented to any principle or methodology underlying or supposed to underlie any agreement provided herein. This Stipulation shall not be cited as precedent except for the purpose of enforcing its terms. All rates remain subject to audit by the Board.

WHEREFORE, the Parties hereto do respectfully submit this Stipulation to the Board of Public Utilities and request that the Board issue a Decision and Order approving this Stipulation in its entirety in accordance with the terms hereof.

**PIVOTAL UTILITY HOLDINGS, INC.  
D/B/A ELIZABETHTOWN GAS**

**STEFANIE A. BRAND  
DIRECTOR, DIVISION OF  
RATE COUNSEL**

By:   
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Attorney for the Staff of the New Jersey Board of Public Utilities**

By:   
**Alex Moreau, DAG**

**Dated: April 25, 2014**