

April 24, 2007

VIA HAND DELIVERY

Honorable Kristi Izzo, Secretary
Board of Public Utilities
Two Gateway Center
Newark, New Jersey 07102

**Re: In the Matter of the Petition of Pivotal Utilities Holding, Inc.
d/b/a Elizabethtown Gas for Authority Under N.J.S.A. 48:3-9
To Refinance 1997 Series A Gas Facilities Revenue Bonds
BPU Docket No. GF07020138**

Dear Secretary Izzo:

Please accept for filing an original and ten copies of the Department of the Public Advocate, Division of Rate Counsel's ("Rate Counsel") comments regarding the above captioned matter. We are also enclosing one additional copy of the materials transmitted. Please stamp and date the additional copy as "filed" and return it to our courier. Thank you for your consideration and attention to this matter.

INTRODUCTION

On February 22, 2007, Pivotal Utility Holdings, Inc. (d/b/a Elizabethtown Gas) ("Petitioner" or "Company"), a wholly owned subsidiary of AGL Resources Inc. ("AGLR"), petitioned the Board of Public Utilities ("Board") for authority to refund 1997 Series A Gas Facilities Revenue Bonds in the amount of \$54,600,000, which were originally issued on July 9, 1997. ALGR believes it can refinance the tax-exempt revenue bonds on terms and at costs that are more favorable to the Company. Rate Counsel has reviewed the petition and does not object to the Company's refunding and refinancing proposals.

The Company's February 22, 2007 petition is strikingly similar to the petition which the Company filed in February 2005, in BPU Docket No. GF05020108, wherein the Company proposed to refund and refinance its July 1994 debt series then held by the New Jersey Economic Development Authority ("NJEDA") in the amount of \$46.5 million and its July 1994 debt series then held by Brevard County, Florida in the amount of \$20.0 million. Similar to the instant proceeding, the Company requested authority in 2005 to refund those two series of debt, which contained a fixed interest rate provision, and to refinance them with identical amounts of floating interest rate notes. The Board approved the Company's 2005 petition based on the Company's representation that the refinancing would result in an \$11.07 million net present value savings to the Company¹.

History has, in fact, proven the Company's original estimates made in 2005 conservative. To date, the 2005 refinancing approved by the Board has already resulted in savings of \$3.154 million. Rate Counsel Data Request #2 (RCR-2). The Company now forecasts to save an additional \$10.93 million on a net present value basis over the remaining lives of the 2005 bond series. RCR-3.

With respect to the instant proceeding, in order to accomplish the refinancing, Pivotal will redeem the existing debt at 102% of the series' outstanding principal amount. The call premium in this instance is \$1,092,000. RCR-4. In addition, Pivotal will incur costs associated with the refinancing for auction fees, insurance, legal and other charges, which the Company estimates will total \$964,307. RCR-4. Thus, Pivotal estimates the total cost of refinancing its 1997 debt series will be \$2,056,307. RCR-4.

Pivotal's 1997 debt series carries a fixed interest rate obligation of 5.7% per annum. RCR-4. The new indebtedness will have a floating rate of interest. The interest rate on each series will be re-set every fifth Tuesday (every 35 days). Petition, p. 3. The floating interest rate will be determined by "Dutch" auction procedures as described in the Company's petition. Petition, Exh. A. These are the same auction procedures that, presently, are being used with respect to the debt that was refinanced in 2005. Based on the favorable historic spreads between tax exempt fixed rates and tax exempt floating

¹ See *I/M/O NUI Utilities, Inc. (d/b/a Elizabethtown Gas Company)*, BPU Dkt. No. GF05020108 (Order, 3/29/05).

interest rates, the Company believes it can achieve significant savings in interest payments by adopting a floating interest rate strategy. Pivotal forecasts \$8,148,856 in net present value savings over the remaining lives of the 1997 debt series to arise by adopting a floating interest rate strategy. RCR-4. This net present value amount includes amortization of the \$2,056,307 of refinancing costs. RCR-4.

Based on Rate Counsel's review and analysis of the petition and the supporting documentation provided by Pivotal at the request of the Board Staff and Rate Counsel, Rate Counsel agrees with Pivotal that it is prudent to adopt a floating interest rate strategy and to refinance the Company's 1997 debt issues. While no one can independently verify the accuracy of Pivotal's interest rate forecasts extending well into the future, Rate Counsel believes that adopting a floating rate strategy at this time is reasonable and appropriate. Should future interest rate spreads between fixed and floating interest rates not materialize as expected, the new indebtedness carry provisions allow Pivotal to redeem in whole or in part on the day next succeeding the last day of any auction period at a redemption price of 100% with at least 35 days notice. RCR-6. If floating interest rates set by auction produce savings as anticipated, the result will improve Pivotal's financial standing by increasing its interest coverage ratio. The Company forecasts that its 2008 interest coverage ratio will increase from 3.44 prior to refinance to 3.68 following refinancing. RCR-8. Ultimately, New Jersey ratepayers will benefit from the refinancing once the lower interest rates are reflected in jurisdictional rates.

CONCLUSION AND RECOMMENDATION

Based on Rate Counsel's review and analysis of the Company's petition and the Company's responses to discovery requests made by the Board Staff and Rate Counsel, Rate Counsel does not oppose Pivotal's petition. Indeed, if interest rate differentials remain as forecasted, Pivotal should evaluate whether a similar conversion for its Series 1998 debt would produce savings when they become redeemable next year. Rate Counsel recommends that the Board, as part of its approval process, require annual reporting, with a copy to Rate Counsel, on the refinancing with respect to updated interest rate projections, the re-forecasted net present value of refinancing, the desirability of

conversion to long-term debt and the desirability of subsequent conversion of the Series 1998 debt, as it did in connection with the 2005 refinancing. With such reporting, the parties will be able to monitor on-going savings, evaluate the desirability of any conversion of the refinanced debt and analyze the potential impact of similar conversions for the 1998 debt.

Rate Counsel appreciates the opportunity to comment on this matter.

Respectfully Submitted,

RONALD K. CHEN
PUBLIC ADVOCATE OF NEW JERSEY

By:

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Division of Rate Counsel

KSL:iaa

cc: Hon. Jeanne M. Fox, President (via hand delivery)
Hon. Frederick F. Butler, Commissioner (via hand delivery)
Hon. Connie O. Hughes, Commissioner (via hand delivery)
Hon. Joseph L. Fiordaliso, Commissioner (via hand delivery)
Hon. Christine V. Bator, Commissioner (via hand delivery)
Service List