



STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu

ENERGY

IN THE MATTER OF COGEN TECHNOLOGIES) ORDER APPROVING AMENDMENT TO
LINDEN VENTURE, L.P., PUBLIC SERVICE) INTERIM OPERATING AGREEMENT
ELECTRIC AND GAS COMPANY, AND)
ELIZABETHTOWN GAS COMPANY FOR: (1))
MOTION FOR PROTECTIVE ORDER AND)
EXEMPTION FROM PUBLIC DISCLOSURE OF)
CONFIDENTIAL INFORMATION; AND (2))
APPROVAL OF GAS SERVICE AGREEMENT)
BETWEEN COGEN TECHNOLOGIES LINDEN)
VENTURE, L.P. AND PUBLIC SERVICE)
ELECTRIC AND GAS COMPANY AND)
ELIZABETHTOWN GAS COMPANY) BPU DOCKET NO. GM12100970

NOTIFICATION LIST ATTACHED

APPEARANCES:

Matthew M. Weissman, Esq., Attorney for Petitioner, Public Service Electric and Gas Company
Mary Patricia Keefe, Esq., Attorney for Petitioner, Elizabethtown Gas
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:¹

BACKGROUND:

By Order dated March 27, 1991, the New Jersey Board of Public Utilities ("Board") approved a Gas Service Agreement ("GSA") between Cogen Technologies, Linden Venture, L.P. ("Linden Cogen" or "Buyer") and Public Service Electric and Gas Company ("PSE&G") and Elizabethtown Gas ("ETG") (ETG and PSE&G, collectively, "Sellers"). Under the terms of the GSA, Linden Cogen constructed a 614 MW combined cycle gas fired cogeneration facility at the Conoco Phillips Refinery in Linden, New Jersey. The cogeneration facility commenced operation in or about May 1992, and produces both

¹ Commissioner Upendra J. Chivukula recused himself due to a potential conflict of interest and as such took no part in the discussion or deliberation of this matter.

electricity and steam. Linden Cogen has a power sales contract with Consolidated Edison Company ("Con Ed").

The original GSA, dated July 13, 1990 between PSE&G, ETG, and Linden Cogen, set the service arrangements under which the Sellers have supplied natural gas to the facility for the past twenty (20) years. The natural gas is supplied under two (2) separate but interrelated services described in the GSA as a Sales Service and a Resale Service. The GSA terminates twenty five (25) years from commencement of commercial operation of the cogeneration facility, meaning that it will terminate in May 2017. All costs and obligations on the part of the Sellers are shared by PSE&G and ETG on an agreed upon eighty percent (80%)/ twenty percent (20%) basis.

Under the Sales Service, the Sellers sell gas to Linden Cogen from Sellers' systems' supplies. The Sales Service price includes a service charge which is adjusted whenever there is a change to Sellers' base rates. Under the Resale Service, PSE&G and ETG purchase gas from the Buyer at various gas production locations, transport that gas through Sellers' interstate pipeline transportation contracts, and deliver and resell that gas to Linden Cogen. In addition to the service charge described above for Sales Service, the Resale Service also includes a charge equal to Sellers' weighted average interstate pipeline transportation costs. The GSA provides that during peak periods (i.e. on cold winter days, when the forecasted average temperature is less than twenty-two (22) degrees Fahrenheit), both the Sales and Resale Services may be interrupted, and the gas retained by PSE&G and ETG for system use to meet the requirements of their firm Basic Gas Supply Service ("BGSS") customers.

Under its power purchase contract with Con Ed, Linden Cogen is required to continue to generate and deliver power on cold winter days, even when Sales and/or Resale Service may be interrupted under the GSA. So that it could continue to satisfy its obligations under the agreement with Con Ed on those days, Linden Cogen agreed in the GSA that it would (1) acquire a butane storage facility in the area; (2) fill that facility prior to the beginning of each winter; and (3) refill that facility twice more during each winter on a schedule dictated by the Sellers prior to November 1 of each year. Under these terms, Linden Cogen has obtained storage for 100,000 barrels of butane at Conoco Phillips' Linden Plant, which is located in proximity to the Linden Cogen facility.

By Order dated November 20, 2012, the Board approved a joint petition of PSE&G, ETG and Linden Cogen ("the Petitioners") modifying the GSA under an Interim Operating Agreement ("IOA") ("November 2012 Order"). The IOA modified Linden Cogen's obligation to utilize butane service during an gas service interruption under the GSA. The IOA included the following provisions:

- a. The requirement for two additional re-fillings of butane would not apply during the 2012-2013 winter season.
- b. Instead of purchasing and storing one-hundred thousand (100,000) barrels of butane prior to the winter season, Buyer would be permitted to acquire the butane supply from Conoco Phillips on an as-needed basis.

- c. During interruptions, Sellers could elect to require the Buyer to use butane (up to one-hundred thousand (100,000) barrels during the winter season) or direct Buyer to deliver natural gas to PSE&G's city gate and use "Transportation Service" provided by Sellers to deliver the gas to the Linden Cogen facility.
- d. Transportation service would be provided at the rate for Transmission Service Gas Non-Firm service set forth in PSE&G's tariff with the resulting revenues to be shared by PSE&G and ETG on an eighty percent (80%)/ twenty percent (20%) basis.

The Board's November 2012 Order found that approval of the modification of the GSA could produce benefits, not only to the Petitioners but to the public by potentially reducing pollutants and increasing the contribution to PSE&G's and ETG's systems for the benefit of their BGSS customers. The November 2012 Order specified that the IOA would be effective through March 31, 2013, and required the Petitioners to file notice with the Secretary of the Board by March 1, 2013 if they wished to extend the IOA beyond March 31, 2013.

In a subsequent Order dated October 16, 2013, the Board approved the extension of the IOA for a term ending on March 31, 2014, and further extended the IOA through March 31, 2015, by Order dated October 22, 2014 ("October 2014 Order"). The October 2014 Order further directed the Petitioners to file notice with the Secretary of the Board by March 1, 2015 if they intended to extend the IOA, with any future modification requests to be filed no later than June 1, immediately preceding the relevant winter season. October 2014 Order at 3. The Petitioners provided that notification by letter dated March 13, 2015.

June 1, 2015 Filing

On June 1, 2015, PSE&G filed a letter petition on behalf of the Petitioners requesting approval of an Amendment to the IOA ("Amendment") extending the term of the IOA for an additional winter season, through March 31, 2016.

By letter dated July 8, 2015, the New Jersey Division of Rate Counsel ("Rate Counsel") submitted its comments in this matter. Rate Counsel stated that it does not object to IOA.

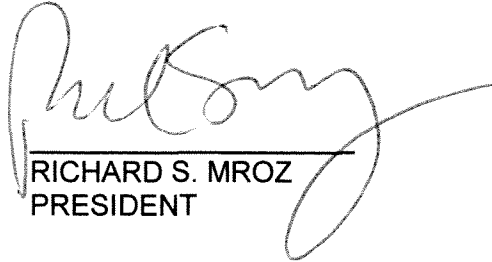
DISCUSSION AND FINDINGS

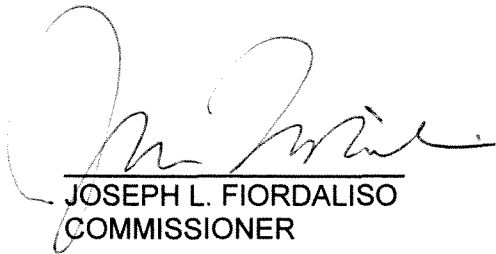
Having reviewed Petitioners' filing and remaining persuaded of the potential benefits of the IOA as determined in the November 2012 Order, the Board **HEREBY FINDS** that the Amendment is in accordance with law and is not contrary to the public interest, and **HEREBY FINDS** the terms and conditions contained in the IOA and Amendment to be reasonable. Accordingly, the Board **HEREBY APPROVES** the Amendment to the IOA, thereby extending the IOA for Butane Service between Linden Cogen, PSE&G and ETG effective as of November 27, 2015 for a term ending on March 31, 2016. Should the Petitioners determine that they wish to extend the IOA beyond that date, the Parties are **HEREBY DIRECTED** to file notice of intent to extend with the Secretary of the Board by March 1, 2016, with any future modification requests to be filed no later than June 1, immediately preceding the relevant winter season.

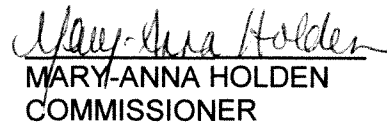
This Order shall be effective as of November 27, 2015.

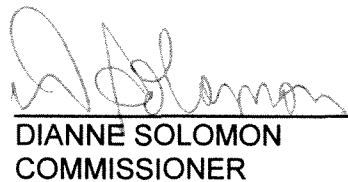
DATED: 11/16/15

BOARD OF PUBLIC UTILITIES
BY:

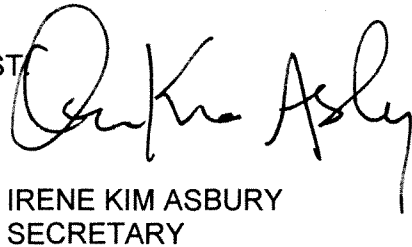

RICHARD S. MROZ
PRESIDENT


JOSEPH L. FIORDALISO
COMMISSIONER

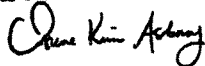

MARY-ANNA HOLDEN
COMMISSIONER


DIANNE SOLOMON
COMMISSIONER

ATTEST


IRENE KIM ASBURY
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 Cogen Technologies Linden Venture, L.P., Public Service Electric And Gas Company, And Elizabethtown Gas Company (1) Motion For Protective Order And Exemption From Public Disclosure Of Confidential Information (2) Approval Of Gas Service Agreement Between Cogen Technologies Linden Venture, L.P. ("Buyer") And Public Service Electric And Gas Company And Elizabethtown Gas Company ("Seller")

DOCKET NO. GM12100970

NOTIFICATION LIST

BOARD OF PUBLIC UTILITIES		
Jerome May Board of Public Utilities 44 S. Clinton Avenue, 9 th Fl. P.O. Box 350 Trenton, NJ 08625-0350	Irene Kim Asbury, Secretary Board of Public Utilities 44 S. Clinton Avenue, 9 th Fl. P.O. Box 350 Trenton, NJ 08625-0350	Megan Lupo, Legal Specialist Board of Public Utilities 44 S. Clinton Avenue, 9 th Fl. P.O. Box 350 Trenton, NJ 08625-0350
DIVISION OF RATE COUNSEL		
Stefanie A. Brand, Esq. Division of Rate Counsel 140 East Front Street P.O. Box 003 Trenton, NJ 08625-0003	Felicia Thomas-Friel, Esq. Division of Rate Counsel 140 East Front Street P.O. Box 003 Trenton, NJ 08625-0003	Sarah H. Steindel, Esq. Division of Rate Counsel 140 East Front Street P.O. Box 003 Trenton, NJ 08625-0003
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Caroline Vachier, DAG Division of Law 124 Halsey Street, 5 th Floor P.O. Box 45029 Newark, NJ 07101	Babette Tenzer, DAG Division of Law 124 Halsey Street, 5 th Floor P.O. Box 45029 Newark, NJ 07101	Alex Moreau, DAG Division of Law 124 Halsey Street, 5 th Floor P.O.Box 45029 Newark, NJ 07101
PSE&G and ETG		
Matthew M. Weissman, Esq. General Regulatory Counsel- Rates PSEG Services Corporation 80 Park Plaza- T5 Newark, NJ 07102	Mary Patricia Keefe Vice President, Regulatory Affairs and Business Support Elizabethtown Gas 520 Green Lane Union, NJ 07083	

THIRD AMENDMENT TO

INTERIM OPERATING AGREEMENT

FOR BUTANE SERVICE

BETWEEN

COGEN TECHNOLOGIES LINDEN VENTURE, L.P.

(BUYER)

AND

PUBLIC SERVICE ELECTRIC AND GAS COMPANY

AND

PIVOTAL UTILITY HOLDINGS, INC. d/b/a ELIZABETHTOWN GAS

(SELLERS)

This Third Amendment (the "Amendment") modifies the INTERIM OPERATING AGREEMENT FOR BUTANE SERVICE ("Agreement") dated October 22, 2012 and amended on or about July 12, 2013 and June 19, 2014 between COGEN TECHNOLOGIES LINDEN VENTURE, L.P., hereinafter referred to as "Buyer", and PUBLIC SERVICE ELECTRIC AND GAS COMPANY ("PSE&G") and PIVOTAL UTILITY HOLDINGS, INC. d/b/a ELIZABETHTOWN GAS ("Elizabethtown"), hereinafter jointly referred to as "Sellers", and Buyer and Sellers hereinafter jointly referred to as the "Parties".

The effective date of this Amendment is June _____, 2015 (the "Effective Date").

WITNESSETH:

WHEREAS, pursuant to and in accordance with the terms of the Agreement, the Parties wish to amend the above-referenced Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties, intending to be legally bound, agree that the following changes to the Agreement are made as of, and only apply on and after, the Effective Date of this Amendment:

1. **Amendment of Section 1.** Section 1 of the Agreement is hereby amended to provide as follows:

1. **Suspension and Modification of Certain Butane-Related Obligations.** Buyer and Sellers mutually agree to suspend the requirement for the additional two (2) butane refillings for the upcoming winter season of 2012-2013, for the following winter season of 2013-2014, for the following winter season of 2014-2015, and for the following Winter season of 2015-2016, pursuant to paragraph 3.4 of the GSA. During the term of this Operating Agreement, the provisions of paragraphs 2.1(d) and 4.4 of the GSA relating to Buyer's acquisition of and payment for the additional two (2) refillings of butane supplies shall not apply. Buyer, in its sole discretion, may elect to purchase some or all of the initial 100,000 barrel butane supply from Conoco Phillips on an as-needed basis instead of purchasing and storing such supplies prior to November 15, 2012 for the winter season of 2012-2013, prior to November 15, 2013 for the winter season of 2013-2014, and prior to November 15, 2014 for the winter season of 2014-2015, and prior to November 15, 2015 for the winter season of 2015-2016; provided, however, that such election shall not alter Buyer's obligation to utilize up to 100,000 barrels of Butane Service if requested by Sellers in accordance with paragraphs 3.4 and 3.13 of the GSA and paragraph 3 of this Operating Agreement. Other than as specifically stated herein, all other GSA provisions relating to the Butane Service remain applicable. .

2. **Amendment of Section 5.** Section 5 of the Agreement is hereby amended to provide as follows:

5. **Term.** This Operating Agreement will be effective from the date of execution through March 31, 2016, subject to the approval of the New Jersey Board of Public Utilities ("NJBPBU"). In the event that the NJBPBU has not issued a signed order approving this Operating Agreement by December 1, 2012, this Operating Agreement will not take effect and shall be deemed null and void. In the event that the NJBPBU has not issued a signed order approving the extension of this Operating Agreement through March 31, 2014 by November 1, 2013, this Operating Agreement shall not take effect and

shall be deemed null and void with respect to the winter season of 2013-2014. In the event that the NJBPU has not issued a signed order approving the extension of this Operating Agreement through March 31, 2015 by November 1, 2014, this Operating Agreement shall not take effect and shall be deemed null and void with respect to the winter season of 2014-2015. In the event that the NJBPU has not issued a signed order approving the extension of this Operating Agreement through March 31, 2016 by November 1, 2015, this Operating Agreement shall not take effect and shall be deemed null and void with respect to the winter season of 2015-2016.

3. **Entire Agreement.** Except as provided in this Amendment, all other provisions of the Agreement remain unchanged. This Amendment constitutes the full, complete and only agreement between the Parties with respect to the subject matter of this Amendment. This Amendment supersedes any course of performance, course of dealing, usage of trade, previous agreements, representations or understandings, either oral or written, between the Parties. No terms, conditions, agreements, representations, understandings, course of performance, course of dealing, or usage of trade purporting to modify, vary, supplement, explain, or amend any provisions of this Amendment shall be effective unless in writing.
4. **Authority to Sign.** The signatories hereto represent that they are authorized to enter into this Amendment on behalf of the Party for which they sign.
5. **Counterparts.** This Amendment may be executed in counterparts, which, when taken together, shall be deemed to be one and the same instrument.

IN WITNESS WHEREOF, the Parties have caused this Amendment to be executed as of the Effective Date set forth above.

SELLERS:

**PUBLIC SERVICE ELECTRIC AND
GAS COMPANY**

WITNESS:

By: _____

Title:

WITNESS:

**PIVOTAL UTILITY HOLDINGS, INC.,
d/b/a/ ELIZABETHTOWN GAS**

By: _____

Title:

BUYER:

COGEN TECHNOLOGIES LINDEN VENTURE, L.P.

By: Cogen Technologies Linden, Ltd.
Its: General Partner

WITNESS:

By: East Coast Power Linden GP, L.L.C.
Its: General Partner

_____ By: _____
Title:

STATE OF NEW JERSEY, COUNTY OF ESSEX, ss.

On this the ____ day of June, 2015, before me, _____, the undersigned officer, personally appeared _____, known to me to be the person whose name is subscribed to the within instrument, and acknowledged that Public Service Electric and Gas Company, executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

Notary

Notary Public in and for the State of New Jersey.

STATE OF NEW JERSEY, COUNTY OF UNION, ss.

On this the ___ day of June, 2015, before me, _____, the undersigned officer, personally appeared _____, known to me to be the person whose name is subscribed to the within instrument, and acknowledged that Pivotal Utility Holdings, Inc., d/b/a/ Elizabethtown Gas, executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

Notary

Notary Public in and for the State of New Jersey.

STATE OF CONNECTICUT, COUNTY OF FAIRFIELD, ss.

On this the ____ day of June, 2015, before me, _____, the undersigned officer, personally appeared _____, known to me to be the person whose name is subscribed to the within instrument, and acknowledged that East Coast Power Linden GP, L.L.C., as General Partner of Cogen Technologies Linden, Ltd., in turn acting as General Partner of Cogen Technologies Linden Venture, L.P., executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

Notary

Notary Public in and for the State of Connecticut.