



Agenda Date: 3/18/16
Agenda Item: 2D

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

ENERGY

I/M/O OF BLUE STONE HOLDINGS I, LLC REQUEST)
FOR A WAIVER OF B.P.U.N.J. NO 15 GAS, ORIGINAL)
SHEET NO. 22 STANDARD TERMS AND CONDITIONS)
NO. 8.3.2)

DECISION AND ORDER

DOCKET NO. GW15121450

Parties of Record:

George L. Garcia, Genova Burns, representing Blue Stone Holdings I, LLC
Alex Stern, Public Service Electric & Gas Company

BY THE BOARD:

BACKGROUND:

On December 11, 2015, the Board received a petition for waiver of Public Service Electric and Gas Company's ("PSE&G" or the "Company") tariff regarding the provision of master metered service to a newly constructed building in Jersey City. The applicant, Blue Stone Holdings I, LLC ("Blue Stone") is constructing a mixed use residential project (the "Project") at 30 Coles Street in Jersey City, New Jersey, also known as Block 6006 and Lot 1.01 according to the Tax Maps of the City of Jersey City (the "Property"). The Project contains 232 residential units and 17,000 square feet of retail space. The initial project design was for the residential units to be owned as condominiums. With this design, Blue Stone contemplated that gas would be supplied through a single master meter for the condominium units, which was permissible under PSE&G's tariff.

On April 25, 2014, the Project received written approval from PSE&G for utility service and a single gas meter installation.

During construction of the Project, the Project Owner determined the Project should convert from residential condominiums to rental units due to current market analysis. During October or November of 2015, Blue Stone advised PSE&G that the units would not be condominiums, but would instead be residential apartments.

In its petition, Blue Stone asserts that conformance to tariff requirements represents an extreme hardship. Blue Stone requested that because of the extreme hardship, the Board consider

granting a waiver from B.P.U.N.J. No. 15 Gas, Original Sheet No. 22, Standard Terms and Conditions Number 8.3.2.

On December 10, 2015, Blue Stone certified that the landlord "intends to pay 100% of all residential gas consumption." On February 22, 2016, Blue Stone submitted a supplemental certification reaffirming that all sub-metering equipment has been removed from the subject premises. Blue Stone further certified that at the time it requested service from PSE&G and at the time the service plan was approved, it intended to construct a condominium property and did not intend to rent to individuals.

During January 2016, gas service was turned on to the building to prevent any damage to the property from lack of heat.

DISCUSSION AND FINDINGS:

B.P.U.N.J. No. 15 Gas, Original Sheet No. 22, Standard Terms and Conditions Number 8.3.2 prohibits the installation and use of master meters in residential buildings. 8.3.2 further prohibits sub-metering of gas service in residential apartment buildings. Sub-metering of residential service is prohibited by the Board. See I/M/O Boards Investigation Into the Check Metering of Gas Service, Docket No. GX85090901 (September 5, 1986); See also, I/M/O Petition of Marine View Plaza Apartments for a Declaratory Ruling Permitting Check-Metering, Docket No. EO99040252, Order Denying Motion (March 30, 2001)¹ In this case, the applicant is asserting exigent circumstances beyond its control that requires a waiver of the master metering requirements. Specifically, the applicant asserts that the current economic climate has forced it to convert its condominium units to rental units. Without gas service to the building, the units would have no use and damage from weather cycles, including freeze and frost, would damage the property. This would effectively destroy the project.

In this case, but for the waiver, the building could not be used for an economically viable purpose. While the Board is sensitive to these concerns, the Board's rules and, by extension, utility tariff prohibitions, effectuate Board policy to provide for a safe and reliable utility system. The Board also wishes to ensure that no party through subterfuge creates an emergency circumstance which requires the waiver of its rules. As such, through this Order, the Board **HEREBY ADVISES** any person who is constructing or constructs a multi-unit building in New Jersey, that master gas meters are prohibited where the use of the building is residential rental units. You are on notice that if you have to convert a building to a residential rental building, you will be required to comply with the Board's rules and the utilities then applicable tariff.

The circumstances of this case create a unique circumstance that requires Board action. Given the original intended use of this building, the developer appears to have acted in good faith in seeking a master meter for its condominium building.

Having reviewed this matter, the Board **FINDS** that the waiver of the above referenced Tariff is appropriate under the present circumstances. Therefore, the Board **HEREBY APPROVES** Blue Stone's request for waiver with the following conditions:

¹ Although the applicant initially sought permission to sub-meter, such request is no longer part of this application.

The Boards prohibitions on sub-metering remain in full force and are not waived by or through this order;

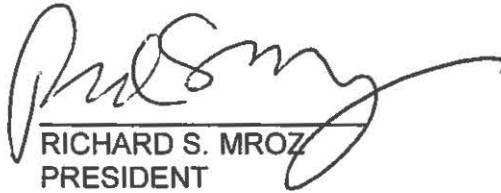
Blue Stone or any subsequent owner is not permitted to install or operate any meter, measuring device or sub-meter designed to measure the gas service used by individual tenants or otherwise allocate gas usage to individual apartments;

This order shall be null and void and of no effect and any gas service permitted hereto shall be terminated if any such sub-metering or alternative measuring device is installed or usage so allocated to tenants;

The effective date of this Order is March 28, 2016.

DATED: 3-18-16

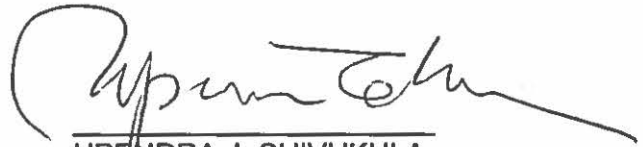
BOARD OF PUBLIC UTILITIES
BY:


RICHARD S. MROZ
PRESIDENT


JOSEPH L. FIORDALISO
COMMISSIONER

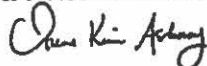

MARY-ANNA HOLDEN
COMMISSIONER


DIANNE SOLOMON
COMMISSIONER


UPENDRA J. CHIVUKULA
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 BLUE STONE HOLDINGS I, LLC REQUEST FOR A WAIVER OF
B.P.U.N.J. NO 15 GAS, ORIGINAL SHEET NO. 22 STANDARD TERMS AND CONDITIONS
NO. 8.3.2 - BPU DOCKET NO. GW15121450

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