



Agenda Date: 04/29/13
Agenda Item: 2C

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/

DIVISION OF ENERGY AND
OFFICE OF CLEAN ENERGY

IN THE MATTER OF THE PETITION OF PIVOTAL
UTILITY HOLDINGS, INC. D/B/A ELIZABETHTOWN
GAS FOR AUTHORITY TO EXTEND THE TERM OF
ENERGY EFFICIENCY PROGRAMS WITH CERTAIN
MODIFICATIONS AND APPROVAL OF ASSOCIATED
COST RECOVERY MECHANISM

) ORDER ADOPTING
) STIPULATION
)
)
)
) DOCKET NO. GO12100946

Parties of Record:

Deborah Franco, Esq., Attorney for Petitioner, Elizabethtown Gas Company
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:

BACKGROUND AND PROCEDURAL HISTORY

On January 13, 2008, L. 2007, c. 340 ("Act") was signed into law by former Governor Corzine based on the New Jersey Legislature's findings that energy efficiency and conservation measures must be essential elements of the State's energy future, and that greater reliance on energy efficiency and conservation will provide significant benefits to the citizens of New Jersey. The Legislature also found that public utility involvement and competition in the conservation and energy efficiency industries are essential to maximize efficiencies. N.J.S.A. 26:2C-45.

Pursuant to Section 13 of the Act, codified as N.J.S.A. 48:3-98.1 (a)(1), an electric or gas public utility may, among other things, provide and invest in energy efficiency and conservation programs in its service territory on a regulated basis. Such investment in energy efficiency and conservation programs may be eligible for rate treatment approved by the New Jersey Board of Public Utilities ("Board"), including a return on equity, or other incentives or rate mechanisms that decouple utility revenue from sales of electricity and gas. N.J.S.A. 48:3-98.1(b). Ratemaking treatment may include placing appropriate technology and program cost investments in the utility's rate base, or recovering the utility's technology and program costs through another ratemaking methodology approved by the Board. An electric or gas public utility seeking cost recovery for any energy efficiency and conservation programs pursuant to N.J.S.A. 48:3-98.1 must file a petition with the Board.

By Order dated August 3, 2009, the Board authorized Elizabethtown Gas Company (“Elizabethtown” or “Company”) to implement the Energy Efficiency (“EE”) Programs and recover the costs associated with its EE Programs.¹ The EE Programs were designed to enhance or supplement New Jersey’s Clean Energy Program (“NJCEP”) over the 17-month period commencing August 3, 2009 through December 31, 2010. In an Order dated January 29, 2011, the Board authorized the Company to extend the term of its EE Programs for a one-year period ending on December 31, 2011.² By Order dated April 11, 2012 (“April 11 Order”), the Company was authorized to continue its existing EE Programs.³ The existing EE Programs approved by the April 11 Order are: 1) Residential Gas Heating Ventilation and Air Conditioning (“HVAC”) and Gas Hot Water Heater Incentive Program; 2) Small Commercial Customer Energy Efficiency Program; and 3) Large Commercial Customer Energy Efficiency Program.

On October 22, 2012, Elizabethtown Gas Company (“Elizabethtown” or “Company”) filed a petition with the Board requesting approval to extend the term of the Company’s current EE Programs with certain modifications for a four-year period, effective April 20, 2013. According to the Company, the proposed annual amount budgeted for the EE Programs for the April 2013 through December 31, 2017 period is approximately \$12 million, with \$3 million budgeted for programs on an annual basis. The petition also requested that the costs of the EE Programs continue to be recovered through the Company’s existing EE Program surcharge, the Energy Efficiency Program (“EEP”) Rider. The Company did not request a change to its EEP Rider rate. The Company stated that it will seek any necessary rate adjustments in its next filing to reconcile that rate which it expects to submit in July 2013. Below is a summary of the requested programs and their associated requested annual budgets:

1.	Gas Hot Water Heater Incentive Program	\$1,402,417
2.	Oil Tank Removal Grant Program	\$1,100,764
3.	Small Commercial Customer Energy Efficiency Program	\$ 138,721
4.	Large Commercial Customer Energy Efficiency Program	\$ 126,869
5.	Elementary School Energy Efficiency Education Program	\$ 110,000

¹ In re Energy Efficiency Programs and Associated Cost Recovery Mechanisms; and In re the Petition of Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas for Approval of Energy Efficiency Programs and a Regional Greenhouse Gas Initiative Cost Recovery Rider, BPU Docket Nos. EO09010056 and GO09010060, Order dated August 3, 2009.

² In re the Petition of Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas to Revise Its Regional Greenhouse Gas Initiative Rider Rate; and In re the Petition of Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas for Authority to Extend the Term of Energy Efficiency Programs with Certain Modifications and Approval of Associated Cost Recovery Mechanism and Deferral Accounting Treatment, BPU Docket Nos. GO10070446 and GO10100735, Order dated January 19, 2011.

³ In re the Petition of Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas Company for Authority to Extend the Term of Energy Efficiency Programs with Certain Modifications and Approval of Associated Cost Recovery, BPU Docket No. GO11070399.

On November 9, 2012, Elizabethtown submitted a supplemental filing. On December 10, 2012, Board Staff ("Staff") notified the Company that with the information submitted in the November 9 supplemental filing, the filing was administratively complete.⁴ Accordingly, the 180-day review period ("Review Period") for a Board determination on cost recovery commenced on November 9, 2012. The Review Period currently expires on May 8, 2013.

By Order dated January 23, 2013, the Board determined that this matter should be retained by the Board for review and hearing, and, as authorized by N.J.S.A. 48:2-32, designated Commissioner Fox as the presiding officer with authority to rule on all motions that arise during the proceeding, and modify any schedule that may be set as necessary to secure just and expeditious determination of the issues.

STIPULATION

Elizabethtown, Board Staff, and the Division of Rate Counsel ("Rate Counsel") (collectively referred to as "the Parties") have entered into the attached Stipulation agreeing to an extension of the Review Period and of the EE Programs.

The Parties have agreed to the following salient terms:

- A. The Parties, pursuant to N.J.S.A. 48:2-21.3, request that either Commissioner Fox or the Board issue an Order extending the Expiration Date of May 8, 2013 and establishing a revised Expiration Date for purposes of extending the 180-day period until September 1, 2013. It is the intention of the parties that this case proceed in accordance with the procedural schedule attached to the Stipulation as Exhibit A.
- B. The Parties request that the Company have authority to continue to operate its existing Energy Efficiency Programs through September 1, 2013 in the manner approved by the Board in its April 11, 2012 Board Order in BPU Docket No. GO11070399. All Energy Efficiency Programs related costs shall continue to be recoverable through Elizabethtown's EEP Rider rate and be reflected in the Company's next petition to reconcile its EEP Rider rate.

DISCUSSION AND FINDING

The Board has carefully reviewed the record to date in this matter. The Board is satisfied and **HEREBY FINDS** that the Stipulation is reasonable and is in the public interest. It will provide additional time for a thorough review of the proposed extension and modification of the EE Program, and allow for the development of a full and complete record for review by the Board while continuing to provide the current EE Programs for the benefit of the Company's customers.

⁴ N.J.S.A. 48:3-98.1 requires the Board to decide cost recovery issues within 180 days. Pursuant to the Board Order issued in response to a further statutory directive within that section, Board Staff must review a petition for completeness within 30 days and, when a petition is determined to be complete, set the beginning of the 180-day period. In re Electric Public Utilities and Gas Public Utilities Offering Energy Efficiency and Conservation Programs, Investing in Class I Renewable Energy Resources, and Offering Class I Renewable Energy Programs in their Respective Service Territories on a Regulated Basis Pursuant to N.J.S.A. 48:3-98.1, Dkt. No. EO08030164 (May 8, 2008).

Accordingly, the Board **HEREBY ADOPTS** the attached Stipulation as its own, incorporating by reference its terms and conditions as if fully set forth herein. Therefore, the Board **HEREBY EXTENDS** the Review Period to September 1, 2013, and also **HEREBY AUTHORIZES** Elizabethtown to continue to offer the EE Programs to that same date, in a manner consistent with the April 11, 2012 Order.

DATED: 4/29/13

BOARD OF PUBLIC UTILITIES
BY:


ROBERT M. HANNA
PRESIDENT

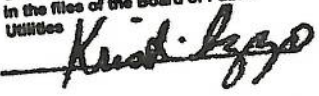

JEANNE M. FOX
COMMISSIONER


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 for Authority
to Extend the Term of Energy Efficiency Programs with Certain Modifications and Approval of
Associated Cost Recovery Mechanism
DOCKET NO. GO12100946

NOTIFICATION LIST

BOARD OF PUBLIC UTILITIES		
Jerome May Board of Public Utilities 44 S. Clinton Avenue, 9 th Floor P.O. Box 350 Trenton, NJ 08625-0350	Alice Bator Board of Public Utilities 44 S. Clinton Avenue, 9 th Floor P.O. Box 350 Trenton, NJ 08625-0350	Eleana Lihan Board of Public Utilities 44 S. Clinton Avenue, 9 th Floor P.O. Box 350 Trenton, NJ 08625-0350
Mona Mosser Board of Public Utilities 44 S. Clinton Avenue, 9 th Floor P.O. Box 350 Trenton, NJ 08625-0350	Elizabeth Teng Board of Public Utilities 44 S. Clinton Street, 9 th Floor P.O. Box 350 Trenton, NJ 08625-0350	Andrea Reid Board of Public Utilities 44 S. Clinton Avenue, 9 th Floor P.O. Box 350 Trenton, NJ 08625-0350
Kristi Izzo, Secretary Board of Public Utilities 44 S. Clinton Avenue, 9 th Floor P.O. Box 350 Trenton, NJ 08625-0350	Michael Ryan Board of Public Utilities 44 S. Clinton Avenue, 9 th Floor P.O. Box 350 Trenton, NJ 08625-0350	
DIVISION OF RATE COUNSEL		
Stefanie A. Brand, Esq. Division of Rate Counsel 140 East Front Street, 4 th Floor Post Office Box 0003 Trenton, NJ 08625	Sarah Steindel, Esq. Division of Rate Counsel 140 East Front Street, 4 th Floor Post Office Box 0003 Trenton, NJ 08625	Maria Novas-Ruiz, Esq. Division of Rate Counsel 140 East Front Street, 4 th Floor Post Office Box 0003 Trenton, NJ 08625
Felicia Thomas-Friel, Esq. Division of Rate Counsel 140 East Front Street, 4 th Floor Post Office Box 0003 Trenton, NJ 08625		
DEPARTMENT OF LAW & PUBLIC SAFETY		
Marisa Slaten, DAG Division of Law 124 Halsey Street P.O. Box 45029 Newark, NJ 07101	Babette Tenzer, DAG Division of Law 124 Halsey Street P.O. Box 45029 Newark, NJ 07101	Alex Moreau, DAG Division of Law 124 Halsey Street P.O. Box 45029 Newark, NJ 07101

ELIZABETHTOWN GAS

Deborah Franco, Esq. Cullen and Dykman Garden City Center 100 Quentin Roosevelt Blvd. Garden City, NY 11530	Kenneth T. Maloney, Esq. Cullen and Dykman 1101 14 th Street NW, Suite 550 Washington, DC 20005
Kevin Kirby AGL Resources 1844 Ferry Road Naperville, IL 60563	Dan Nikolich AGL Resources Ten Peachtree Place Atlanta, GA 30309
Mike Vogel Elizabethtown Gas 300 Connell Drive, Suite 3000 Berkeley Heights, NJ 07922	



Elizabethtown Gas™

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www.elizabethtowngas.com

April 11, 2013

Kristi Izzo, Secretary
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, NJ 08625-0350

**Re: In The Matter Of The Petition Of Pivotal Utility Holdings, Inc. d/b/a
Elizabethtown Gas For Authority To Extend The Term Of Energy Efficiency
Programs With Certain Modifications And Approval Of Associated Cost
Recovery Mechanism
BPU Docket No. GO12100946**

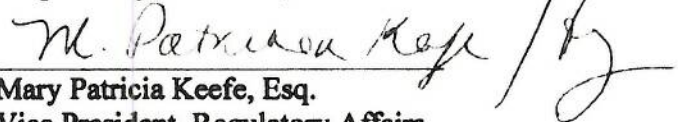
Dear Secretary Izzo:

Enclosed is a Stipulation by which the parties to this proceeding, Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas ("Elizabethtown"), New Jersey Board of Public Utilities Staff and the Division of Rate Counsel, request that a Decision and Order be issued extending the 180-day review period applicable to this proceeding from May 8, 2013 to September 1, 2013. By this Stipulation, the parties further request that Elizabethtown have authority to continue to operate its existing Energy Efficiency Programs through September 1, 2013 in the manner approved by the Board in its April 11, 2012 Order issued in BPU Docket No. GO11070399. It is respectfully requested that a Decision and Order be issued approving this Stipulation in its entirety in accordance with its terms.

Kristi Izzo, Secretary
April 11, 2013
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Please contact the undersigned with any questions or if additional information is required.

Respectfully submitted,


Mary Patricia Keefe, Esq.
Vice President, Regulatory Affairs

cc: Robert M. Hanna, President
Joseph L. Fiordaliso, Commissioner
Jeanne M. Fox, Commissioner
Mary-Anna Holden, Commissioner
Service List (*Electronically*)

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

-----X
In The Matter Of The Petition Of Pivotal Utility : BPU Docket No. GO12100946
Holdings, Inc. d/b/a Elizabethtown Gas To : :
Extend the Term of Energy Efficiency : :
Programs With Certain Modification and : STIPULATION TO EXTEND
Approval of Associated Cost : 180-DAY PERIOD
Recovery Mechanism : :
-----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

Paul Flanagan, Litigation Manager, Division of Rate Counsel, **Felicia Thomas-Friel**, **Managing Attorney Gas**, Division of Rate Counsel, **Sarah H. Steindel, Esq. and Maria Novas-Ruiz, Esq.** Assistant Deputy Rate Counsels, 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 (Jeffrey S. Chiesa, Attorney General of New Jersey)

BACKGROUND

1. Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas (“Company” or “Elizabethtown”) filed a petition on October 22, 2012 as supplemented on November 9, 2012 (“Petition”) requesting that the New Jersey Board of Public Utilities (“Board” or “BPU”) extend the term of the Company’s Energy Efficiency Programs (“EEP”) with certain modifications for a four-year period commencing April 20, 2013. As set forth in the Petition, in addition to a range of rebates and related offers, the Energy Efficiency Programs include various customer education and outreach initiatives, including an on-line customer Dashboard designed to encourage customers to conserve energy and provide information to them on how to lower their gas bills. The entire proposed scope of the Energy Efficiency Programs is discussed in detail in the

Petition and supporting testimony and schedules.

2. The Petition also requested authority to continue to recover all Energy Efficiency Program costs through Elizabethtown's existing Energy Efficiency Program surcharge entitled the EEP Rider rate. The Petition did not request a change to the Company's EEP Rider rate, proposing to seek any necessary rate adjustments in Elizabethtown's next filing to reconcile the EEP Rider rate.

3. By letter dated December 10, 2012 ("December 10 Letter"), Board Staff informed the Company that Board Staff had determined that the Petition was administratively complete. *N.J.S.A. § 48:3-98.1(b)* provides the Board with 180 days to approve, modify or deny Elizabethtown's Petition. As indicated in the December 10 Letter, the 180-day review period commenced on November 9, 2012 and will expire on May 8, 2013 ("Expiration Date").

4. By Order dated January 23, 2013 ("January 23 Order"), the Board retained the Petition for review and designated Commissioner Jeanne Fox as the presiding officer who is authorized to rule on all motions that arise during the pendency of this case and modify any schedules that may be set as necessary to secure a just and expeditious determination of the issues. The January 23 Order also authorized Commissioner Fox to render a decision on a stipulation pursuant to *N.J.S.A. § 48:2-21.3*, extending the 180-day review period. This authority was limited to a single extension of the 180-day period, with any further requests for extensions to be submitted to the Board.

5. The undersigned parties (collectively referred to herein as the "Parties") have commenced discovery and discussions concerning these matters. In light of the fact that the Parties' discussions may not be completed and a settlement may not be ready for submission to the Board by the Expiration Date, the Parties have agreed to request an extension of the

Expiration Date to September 1, 2013 in order to provide the Board with additional time to complete the processing of the Petition and issue a final determination in this matter.

STIPULATION

Accordingly, the Parties hereby **STIPULATE AND AGREE** as follows:

A. The Parties, pursuant to *N.J.S.A.* § 48:2-21.3, request that either Commissioner Fox or the Board issue an Order extending the Expiration Date of May 8, 2013 and establishing a revised Expiration Date for purposes of extending the 180-day period until September 1, 2013. It is the intention of the Parties that this case proceed in accordance with the procedural schedule attached as Exhibit A.

B. The Parties request that the Company have authority to continue to operate its existing Energy Efficiency Programs through September 1, 2013 in the manner approved by the Board in its April 11, 2012 Board Order in BPU Docket No. GO11070399. All EEP related costs shall continue to be recoverable through Elizabethtown's EEP Rider rate and be reflected in the Company's next petition to reconcile its EEP Rider rate.

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 this Stipulation is not adopted in its entirety, 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.

WHEREFORE, the Parties hereto do respectfully submit this Stipulation and request the issuance of 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**

By: Mary Patricia Keefe / KB
Mary Patricia Keefe
Vice President, Regulatory Affairs
and Assistant Corporate Secretary

**JEFFREY S. CHIESA
ATTORNEY GENERAL OF NEW JERSEY
Attorney for the Staff of the New Jersey Board of Public Utilities**

By: _____
Marisa Slaten
Deputy Attorney General

Dated: April 11, 2013

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

By: _____
Sarah H. Steindel
Assistant Deputy Rate Counsel

Exhibit A

Procedural Schedule

I/M/O the Petition of Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas for Authority to Extend the Term of Energy Efficiency Programs with Certain Modifications and Approval of Associated Cost Recovery Mechanism

BPU Docket No. GO12100946

Public Hearings	TBD
Board designates a Presiding Commissioner	January 23, 2013
Discovery Requests on Initial Testimony+	February 22, 2013
Motions to Intervene/Participate Due	February 22, 2013
Responses to Discovery on Initial Testimony	March 8, 2013
Opposition to Intervention/Participation Motions Due	March 8, 2013
Second Round of Discovery Due	March 15, 2013
Responses to Second Round of Discovery	March 28, 2013
Discovery/Settlement Conference	Week of May 1, 2013
Intervener/Respondent Testimony Due	May 17, 2013
Discovery on Intervener/Respondent Testimony	May 31, 2013
Responses to Discovery on Intervener/Respondent Testimony	June 14, 2013
Rebuttal Testimony	June 21, 2013
Discovery on Intervener/Respondent Rebuttal Testimony	June 28, 2013
Responses to Discovery on Rebuttal Testimony	July 5, 2013
Evidentiary Hearings*	Week of July 8, 2013
Position Papers Due	July 31, 2013
Anticipated Board Action	August 21, 2013

+ - Discovery will proceed on a rolling basis subject to the scheduled end date.

* - Oral surrebuttal may be presented at the evidentiary hearing.