



**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 )  
UTILITY HOLDINGS, INC. d/b/a ELIZABETHTOWN )  
GAS TO REVISE THE REMEDIATION ADJUSTMENT )  
CLAUSE COMPONENT OF ITS SOCIETAL BENEFITS )  
CHARGE RATE )

ORDER APPROVING  
STIPULATION AND ADOPTING  
INITIAL DECISION

DOCKET NO. GR11080485

**Mary Patricia Keefe, Vice President, Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas**  
**Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel**

BY THE BOARD:

BACKGROUND

On August 11, 2011 Elizabethtown Gas ("Elizabethtown" or "Company") filed a petition ("2011 Petition") with the New Jersey Board of Public Utilities ("Board"), seeking to revise its Remediation Adjustment Clause ("RAC") rate<sup>1</sup>. The Company requests an after-tax per therm rate increase from \$0.0012 to \$0.0106, resulting in an increase of \$9.40 in the annual bill for a typical residential heating customer using 1000 therms, from \$1,190.32 to \$1,199.72 (or 0.8%). The proposed rate of \$0.0106 per therm was designed to recover \$4,738,813 in RAC-related costs.

The 2011 Petition was transmitted to the Office of Administration Law ("OAL") for hearing as a contested case on November 26, 2011, and was assigned to Administrative Law Judge ("ALJ") Leland S. McGee.

Public hearings were duly noticed and held in Rahway, New Jersey on October 18, 2011, and in Flemington, New Jersey on October 24, 2011. No members of the public attended the public hearings or submitted written comments on the 2011 Petition.

<sup>1</sup> In addition to the RAC, the Company's Societal Benefits Clause ("SBC") rate is comprised of the Clean Energy Program ("CEP") and Universal Service Fund/Lifeline ("USF") clause rates, which are unaffected by this docket. Approval of the RAC rate requested in this docket will result in a total SBC after tax rate of \$0.0931 per therm.

Elizabethtown, Board Staff and Rate Counsel (collectively "the Parties") conducted discovery and reached a settlement ("Stipulation") on March 6, 2013 in this proceeding.

## **STIPULATION**<sup>2</sup>

The key elements of the Stipulation are as follows:

- The new SBC-RAC per therm after-tax rate should be set at \$0.0106.
- The Company affirms that the labor allocation reflected in the RAC rate proposed did not include recovery of incentive compensation or costs, and the rates agreed to do not reflect recovery of such costs.
- Elizabethtown represents that the RAC filing does not include the recovery of any Natural Resource Damage related costs.
- The Company agrees that it will include with its RAC filings responses to the minimum filing requirements, and that in future RAC filings it shall not request any late fees or late charges that are associated with legal costs recovered through the RAC.
- The current CEP rate of \$0.0641 per therm approved by the Board in BPU Docket No. GR11080470 is not affected by this Stipulation. The current USF rate of \$0.0136 per therm and Lifeline rate of \$0.0048 per therm approved by the Board in BPU Docket No. ER12060565 are also not affected by this Stipulation. Approval of this Stipulation will result in a total SBC rate of \$0.0931 per therm, inclusive of the RAC, CEP, USF and Lifeline rate components of the SBC rate.
- The annual bill impact of the stipulated SBC-RAC rate on a typical residential heating customer using 1,000 therms is an annual increase of \$9.40 from \$1,190.32 to \$1,199.72 or 0.8% as compared to the Company's currently approved rates. The proposed rates will increase Elizabethtown's annual revenues by approximately \$4.132 million based on the Company's forecasted therm sales.
- In the Affiliated Transactions and Management Audit of Elizabethtown Gas ("the Audit") BPU Docket No. EA07100795 filed November 24, 2009, the Board's auditor made several findings and recommendations relating to the Company's Manufactured Gas Plant remediation program. The Company agrees to include within its next RAC filing, subsequent to the Board's approval of this Stipulation, an update on the status of the Audit, and provide a description of all practices and procedures required by the Board or agreed upon by Board Staff and the Company in connection with the Audit.

On March 20, 2013, ALJ McGee issued his Initial Decision approving the Stipulation, finding that the Parties voluntarily agreed to the settlement as evidenced by their agreement or their representatives' agreement, and that the settlement fully disposed of all issues in controversy, and is consistent with the law.

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<sup>2</sup> Although described at some length in this Order, should there be any conflict between this summary and the Stipulation, the terms of Stipulation control, subject to the findings and conclusion in this Order.

**DISCUSSION AND FINDING**

The Board has reviewed the attached Initial Decision and Stipulation in their entirety and is persuaded that the RAC costs that the Company seeks to recover were prudently incurred, and **HEREBY FINDS** that, subject to the terms and conditions set forth below, the attached Stipulation is reasonable, in the public interest, and in accordance with the law. Accordingly, the Board **HEREBY ADOPTS** the Initial Decision and Stipulation as its own, as if fully set forth herein.

The Board **HEREBY ORDERS** that the after-tax per therm RAC rate be set at \$0.0106, and remain in effect until changed by the Board.

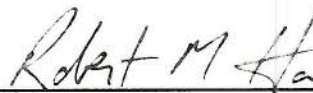
The Company is **HEREBY DIRECTED** to file the appropriate tariff sheets conforming to the terms and conditions of this Order within five (5) business days after the effective date of this Order.

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 be effective on the date on which this Order is served as required by N.J.S.A. 48:2-40.

DATED: 4/29/13

BOARD OF PUBLIC UTILITIES  
BY:



ROBERT M. HANNA  
PRESIDENT



JEANNE M. FOX  
COMMISSIONER



JOSEPH L. FIORDALISO  
COMMISSIONER



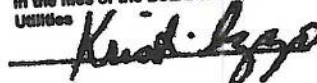
MARY-ANNA HOLDEN  
COMMISSIONER

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 HOLDINGS, INC. d/b/a ELIZABETHTOWN  
GAS TO REVISE THE REMEDIATION ADJUSTMENT CLAUSE COMPONENT OF ITS  
SOCIETAL BENEFITS CHARGE RATE - BPU DOCKET NO. GR11080485

SERVICE LIST

**BOARD OF PUBLIC UTILITIES**

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*State of New Jersey*  
**OFFICE OF ADMINISTRATIVE LAW**  
33 Washington Street  
Newark, NJ 07102  
(973) 648-6008

**A copy of the administrative law  
judge's decision is enclosed.**

**This decision was mailed to the parties  
on           MAR 20 2013**



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**INITIAL DECISION**

**SETTLEMENT**

OAL DKT. NO. PUC 14251-11

AGENCY DKT. NO. GR11080485

**IN THE MATTER OF PIVOTOL UTILITY HOLDINGS,  
INC. D/B/A ELIZABETHTOWN GAS COMPANY TO  
REVISE REMEDIATION ADJUSTMENT CLAUSE  
COMPONENT OF ITS SOCIETAL BENEFITS  
CHARGE RATE.**

---

**Kenneth T. Maloney, Esq., and Deborah M. Franco, Esq., (Cullen and Dykman LLP, attorneys) for petitioner, Pivotol Utility Holdings, Inc. D/B/A Elizabethtown Gas Company**

**Alex Moreau and Marisa Slaten, Deputy Attorneys General, for respondent, Board of Public Utilities (Jeffrey S. Chiesa, Attorney General of New Jersey, attorney)**

**Felicia Thomas-Friel, Deputy Rate Counsel, Henry M. Ogden, Assistant Deputy Rate Counsel, Division of Rate Counsel (Stefanie A. Brand, Director, attorney)**

Record Closed: March 8, 2013

Decided: March 18, 2013

**BEFORE LELAND S. MCGEE, ALJ:**

On November 30, 2011, this matter was transmitted to the Office of Administrative Law (OAL) for hearing as a contested case pursuant to N.J.S.A. 52:14B-1 to-15 and N.J.S.A. 52:14F 1 to- 13. A telephone conference was held on February 11, 2013, and during that time, the parties advised the undersigned that a settlement had been reached between the parties. A Settlement Agreement was prepared and signed by the parties on or about March 5, 2013, indicating the terms of the agreement. A copy of the executed Settlement Agreement is attached hereto and made a part hereof.

I have reviewed the record and the terms of settlement and I FIND:

1. The parties have voluntarily agreed to the settlement as evidenced by their agreement or their representatives' agreement as set forth above.
2. The settlement fully disposes of all issues in controversy and is consistent with the law.

I CONCLUDE that this agreement meets the requirements of N.J.A.C. 1:1-19.1 and that the settlement should be approved. I approve the settlement and therefore ORDER that the parties comply with the settlement terms and that these proceedings be concluded.

I hereby FILE my initial decision with the BOARD OF PUBLIC UTILITIES for consideration.

This recommended decision may be adopted, modified or rejected by the **BOARD OF PUBLIC UTILITIES**, which by law is authorized to make a final decision in this matter. If the Board of Public Utilities does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

3/18/13  
DATE

  
ELAND S. MCGEE, ALJ

Date Received at Agency:

3-20-13

Date Mailed to Parties: **MAR 20 2013**

  
DIRECTOR AND  
CHIEF ADMINISTRATIVE LAW JUDGE

lr  
Attachment



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

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: BPU Docket No. GR11080485  
**In The Matter Of The Petition Of Pivotal Utility :**  
**Holdings, Inc. d/b/a Elizabethtown Gas To :**  
**Revise The Remediation Adjustment Clause : PUC 14251-2011N**  
**Component of its Societal Benefits Charge Rate :**  
: **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**, Deputy Rate Counsel, **Henry M. Ogden, Esq.**, Assistant Deputy Rate Counsel, New Jersey Division of Rate Counsel (Stefanie A. Brand, Director)

**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)

**To: Honorable Leland S. McGee**  
**Administrative Law Judge**

**BACKGROUND**

1. On August 11, 2011, Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas ("Elizabethtown" or "Company") filed a petition ("2011 Petition") with the New Jersey Board of Public Utilities ("BPU" or "Board") in BPU Docket No. GR11080485 to revise the Remediation Adjustment Clause ("RAC") component of its Societal Benefits Charge ("SBC") rate. Certain schedules to the 2011 Petition were modified through a supplemental filing made on March 12, 2012.

2. The 2011 Petition proposed an increase in the Company's then-current SBC-RAC rate of (\$0.0020) per therm to \$0.0106 per therm, inclusive of current sales taxes

The proposed SBC-RAC rate of \$0.0106 per therm was designed to recover \$4,738,813 in RAC-related costs. Elizabethtown's currently effective RAC rate is \$0.0012 per therm including sales and use taxes. By Order dated May 23, 2012 issued in BPU Docket No. GR10070510 ("May 23 Order"), the Board approved a March 29, 2012 Stipulation among Board Staff, New Jersey Division of Rate Counsel ("Rate Counsel") and the Company resolving all issues concerning the petition to reconcile Elizabethtown's SBC, including the SBC-RAC, for the 2009-2010 period and approving the Company's currently effective SBC-RAC rate of \$0.0012 per therm.

3. The RAC-related costs for which recovery was sought in the 2011 Petition were the costs to test, contain and remediate the Company's former manufactured gas plan sites (described below) incurred during the period July 1, 2010 through June 30, 2011. These costs totaled \$9,991,455 which the Company is entitled to recover over a seven-year period. The Company deducted third party recoveries, insurance recoveries and applicable insurance litigation costs of \$106,703 from the amount of \$9,991,455, added back in \$5,865 of deferred expenses relating to the pursuit of insurance and/or third party recoveries, resulting in recoverable net remediation costs of \$9,890,617 that are subject to recovery over the seven-year period.

4. In accordance with the Company's tariff, the Company's proposed SBC-RAC rider rate was determined by calculating the sum of (a) one seventh of its net deferred remediation costs incurred during the twelve months ended June 30<sup>th</sup> for the periods ending 2011, 2010, 2009, 2008, 2007, 2006 and 2005, less the deferred tax benefit, as

shown in the table set out in the footnote below,<sup>1</sup> which equals \$2,825,151, (b) the prior year's RAC underrecovery balance of \$1,571,309, and (c) \$342,533 of interest accrued on RAC-related costs calculated in the manner approved by the Board in its order in BPU Docket No. GX99030121 and GO99030122 dated March 30, 2001. The sum of these amounts total \$4,738,993, which was divided by the projected sales and service volumes to the service classifications subject to the RAC in order to yield the proposed SBC-RAC rider rate of \$0.0106 per therm.

5. The Company has six former manufactured gas plant sites in New Jersey: two that are located in Elizabeth, one on South Street, and one on Erie Street including the Renora Landfill, and one each in Rahway, Perth Amboy, Flemington and Newton. The Erie Street, South Street, Rahway and Perth Amboy sites were owned and/or operated exclusively by Elizabethtown and/or its predecessor companies. Flemington and Newton were also owned by a predecessor of Jersey Central Power & Light, which is now owned by First Energy. The 2011 Petition sought recovery of costs for the Flemington and Newton sites attributable to Elizabethtown.

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<sup>1</sup> The Company's 2011 Petition set forth the net deferred remediation costs for the twelve months ended June 30<sup>th</sup> for the period ending 2011, 2010, 2009, 2008, 2007, 2006 and 2005 less the deferred tax benefit as follows:

<b>YEAR</b>	<b>RECOVERABLE AMOUNT</b>
2011	\$1,311,129
2010	\$424,467
2009	\$443,477
2008	\$351,532
2007	\$ 81,534
2006	\$ 56,639
2005	<u>\$156,373</u>
<b>TOTAL</b>	<b>\$2,825,151</b>

6. The 2011 Petition did not propose to adjust the New Jersey Clean Energy Program ("CEP"), Universal Service Fund ("USF") and Lifeline rate components of the SBC.

7. In Audit No. A-2888, the Board's Audit Staff conducted a review of Elizabethtown's deferral and recovery of costs through the Company's RAC for the period October 1, 1987 through June 30, 2006. After this review, Staff issued a report and representatives of Staff and Elizabethtown entered into a Stipulation ("RAC Audit Stipulation") approved by a Board Order dated November 30, 2011 ("November 30 Order") issued in BPU Docket No. GA10110840. The Board's November 30 Order approving the RAC Audit Stipulation requires the disallowance of approximately \$183,000 plus simple interest through the effective date of the Stipulation, January 14, 2012, which is forty-five (45) days from the date of the November 30 Order. This would result in a RAC credit in the amount of \$214,041, as of January 14, 2012, that will be reflected in the Company's filing with the Board to reconcile its SBC-RAC rider rate, inclusive of interest, for the period 2012-2013 ("2012 RAC Petition"). In addition, an Order dated September 22, 2011 issued in BPU Docket Nos. GR07080645, GR08090836 and GR09080651 ("September 22 Order") requires the Company to include in the Company's 2012 RAC Petition, a credit to the SBC-RAC balance of \$175,000 to reflect the disallowance of certain RAC-related costs agreed to by the parties. This credit will also be reflected in the Company's 2012 RAC Petition.

8. The 2011 Petition was transmitted to the Office of Administrative Law and duly noticed public hearings were held in Rahway, New Jersey on October 18, 2011 and in Flemington, New Jersey on October 24, 2011. No members of the public attended the

public hearings. Elizabethtown, Board Staff and Rate Counsel conducted discovery and discussed discovery-related issues and settlement of this proceeding.

9. Board Staff, Rate Counsel and Elizabethtown (the "Stipulating Parties") have reached this Stipulation which is intended to resolve all issues associated with the 2011 Petition in the manner set forth below.

### **STIPULATED MATTERS**

The Stipulating Parties hereby **STIPULATE AND AGREE** as follows:

#### **Effective Date**

A. The Parties acknowledge that a Board Order approving this Stipulation will become effective upon the service of said Board Order, or upon such date after the service thereof as the Board may specify, in accordance with N.J.S.A. 48:2-40.

#### **Effective Rates**

B. As of the Effective Date, Elizabethtown will implement an SBC-RAC rate of \$0.0106 per therm, inclusive of all applicable taxes, and that rate shall remain in effect until changed by order of the Board.

C. The Company represents that the labor allocation reflected in the SBC-RAC rate proposed in the 2011 Petition did not include recovery of incentive compensation costs and the rates agreed to in this Stipulation do not reflect recovery of such costs.

D. The Company represents that the SBC-RAC filing does not include the recovery of any Natural Resource Damage ("NRD")-related costs. NRD-related costs are defined as compensation to the State of New Jersey for injury to its natural resources, above and beyond costs incurred to investigate, contain or remediate former manufactured gas plant sites. "NRD-related costs" also include any administrative, legal

or consulting costs incurred by the Company associated with NRD claims being investigated by the New Jersey Department of Environmental Protection, as well as any amounts paid by the Company to resolve such claims. The parties accordingly stipulate and agree that the Board should make no determination in this proceeding as to the reasonableness, or the recoverability under the RAC component of the Company's SBC, of NRD-related costs, if any. The Parties expressly reserve their rights to argue their respective position on these and related issues in future proceedings, as appropriate and in a manner consistent with the September 22 Order.

E. The Company agrees that it will include with its RAC filings responses to the minimum filing requirements ("MFR") as set forth in Appendix A to this Stipulation and that in future RAC filings it shall not request any late fees or late charges that are associated with legal costs recovered through the RAC.

F. Upon approval by the Board of the SBC-RAC rate reflected in this Stipulation, the Company will propose and file with the Board revised tariff sheets to reflect the SBC-RAC rate agreed to in this Stipulation. A draft tariff sheet is attached hereto as Appendix B.

G. The current CEP rate of \$0.0641 per therm approved by the Board in BPU Docket No. GR11080470 is not affected by this Stipulation. The current USF rate of \$0.0136 per therm and Lifeline rate of \$0.0048 per therm approved by the Board in BPU Docket No. ER12060565 are also not affected by this Stipulation. Approval of this Stipulation will result in a total SBC rate of \$0.0931 per therm, inclusive of the RAC, CEP, USF and Lifeline rate components of the SBC rate.

**Rate Impact**

H. The annual bill impact of the stipulated SBC-RAC rate on a typical residential heating customer using 1,000 therms is an annual increase of \$9.40 from \$1,190.32 to \$1,199.72 or 0.8% as compared to the Company's currently approved rates. The proposed rates will increase Elizabethtown's annual revenues by approximately \$4,132,492 based on the Company's most recent therm forecast.

**Affiliated Transactions and Management Audit**

I. In the Affiliated Transactions and Management Audit of Elizabethtown Gas ("the Audit") BPU Docket No.: EA07100795 filed November 24, 2009, the Board's auditor made several findings and recommendations relating to the Company's Manufactured Gas Plant remediation program. The Company agrees to include within its next RAC filing, subsequent to the Board's approval of this Stipulation, an update on the status of the Audit and provide a description of all practices and procedures required by the Board or agreed upon by Board Staff and the Company in connection with the Audit.

**All Issues Resolved**

J. Upon the Board's approval of this Stipulation, all issues concerning the SBC-RAC and the costs recovered through this rate are deemed resolved for purposes of this proceeding, but remain subject to audit by the Board.

**Further Provisions**

K. This Stipulation is intended to be accepted and approved in its entirety. In the event any particular aspect of this Stipulation is not accepted and approved in its entirety by the Administrative Law Judge or the Board, then any Stipulating Party aggrieved thereby shall not be bound to proceed with this Stipulation and shall have the right to

litigate all issues addressed herein to a conclusion. In the event this Stipulation is not adopted in its entirety by the Board in its Order in this matter, then any Stipulating Party hereto is free to pursue its then available legal remedies with respect to all issues addressed in this Stipulation, as though this Stipulation had not been signed.

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

M. It is specifically understood and agreed that this Stipulation represents a negotiated agreement and, except as otherwise expressly provided for herein, is intended to be binding only in this proceeding and only as to the matters specifically addressed herein.



WHEREFORE, the Stipulating Parties hereto do respectfully submit this Stipulation to the Presiding Administrative Law Judge and request (1) the Administrative Law Judge to issue an initial decision approving the Stipulation; and (2) the Board to 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: M. Patricia Keefe  
**Mary Patricia Keefe**  
**Vice President, Regulatory Affairs  
and Assistant Corporate Secretary**

By: \_\_\_\_\_  
**Henry M. Ogden**  
**Assistant Deputy Rate Counsel**

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

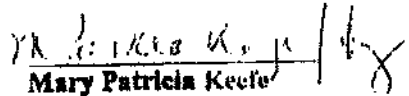
By: \_\_\_\_\_  
**Alex Moreau**  
**Deputy Attorney General**

Dated: March 2, 2013

WHEREFORE, the Stipulating Parties hereto do respectfully submit this Stipulation to the Presiding Administrative Law Judge and request (1) the Administrative Law Judge to issue an initial decision approving the Stipulation; and (2) the Board to issue a Decision and Order approving this Stipulation in its entirety in accordance with the terms hereof.

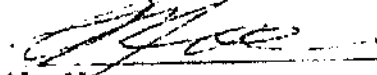
**PIVOTAL UTILITY HOLDINGS, INC.  
D/B/A/ ELIZABETHTOWN GAS**

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

By:   
**Mary Patricia Keele  
Vice President, Regulatory Affairs  
and Assistant Corporate Secretary**

By: \_\_\_\_\_  
**Henry M. Ogden  
Assistant Deputy Rate Counsel**


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

By:   
**Alex Morcau  
Deputy Attorney General**

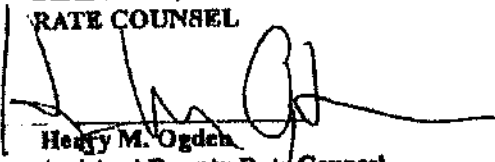
Dated: March 2, 2013

WHEREFORE, the Stipulating Parties hereto do respectfully submit this Stipulation to the Presiding Administrative Law Judge and request (1) the Administrative Law Judge to issue an initial decision approving the Stipulation; and (2) the Board to 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**

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

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

By:   
**Healy M. Ogden  
Assistant Deputy Rate Counsel  
March 6, 2013**

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

By:   
**Alex Moreau  
Deputy Attorney General**

Dated: March 2, 2013

## **APPENDIX A**

**Appendix A**

**PIVOTAL UTILITY HOLDINGS, INC. d/b/a ELIZABETHTOWN GAS  
REMEDATION ADJUSTMENT CLAUSE ("RAC") FILING  
MINIMUM FILING REQUIREMENTS (MFR) INDEX**

<b>Minimum Filing Requirements</b>	<b>Schedule</b>
1. Please provide a vendor listing for the prior RAC period that contains information concerning vendor expenditures by MGP site, also showing a description of the services provided and the amount of each vendor invoice. The vendor list should include the monthly actual expenditures for the twelve month RAC period.	
2. Identify the three MGP sites with the highest level of expenditures during the prior RAC period. For each identified site, provide a copy of the latest work plan, remediation report, or major work product submitted to the NJDEP. The copies should include the narrative portion of the report or work plan but need not include the technical supporting workpapers, charts and tables.	
3. For each of the same three MGP sites, provide all correspondence between the Company and the NJDEP concerning submissions for the site, reply comments, and other major items which have a material impact on remediation activities and associated costs incurred by the Company. The correspondence should span the twelve months of the most recent RAC period.	
4. For each of the same three MGP sites, provide expense documentation for any contractor or supplier whose invoices for the RAC period exceed \$250,000 in aggregate. The expense documentation should include descriptions of services rendered, applicable invoices, and any tracking of invoiced charges vs. budgets. The expense detail need not include expense reports or time sheets, but it should include supporting documentation for any subcontractor and third party expenses totaling \$100,000 or more for the period.	
5. For each of the same three MGP sites, provide a narrative description and organization chart for that site, showing the vendors and project control structure for the remediation effort. The response should show what entities supervise all significant contractors and subcontractors and which Company personnel are involved in site and remediation supervision and control.	
6. Provide a detailed narrative describing Company activities and any reimbursements related to insurance claims or potentially responsible parties' liabilities for all of the Company's MGP sites. The narrative, with supporting documentation, should cover the prior RAC period. In addition, the Company should provide a listing of all insurance reimbursements received from each insurance company through the end of the year covered by the filing, but need not disclose any insurance company's identity.	
7. Provide copies of any RAC audit reports or related materials prepared by the Board's Audit Staff, FERC, or the Company's internal or external auditors during the previous twelve months. To the degree applicable, please also provide any materials prepared in response to the audits or in	

**Appendix A**

**PIVOTAL UTILITY HOLDINGS, INC. d/b/a ELIZABETHTOWN GAS  
REMEDATION ADJUSTMENT CLAUSE ("RAC") FILING  
MINIMUM FILING REQUIREMENTS (MFR) INDEX**

Minimum Filing Requirements	Schedule
compliance with any audit findings.	
8. Provide a narrative concerning all material events, whether related to NJDEP mandates or not, which could have an impact on the Company's ultimate MGP remediation liability, with claimed confidential information provided pursuant to a confidentiality agreement. The narrative should encompass all sites, whether or not active remediation efforts on the site are under way.	
9. Provide schedules and supporting workpapers and documents, which show the reconciliation of the prior period RAC expenditures and recoveries as well as the derivation of the deferred tax credit and the interest accrual on any unamortized balances.	
10. Provide the Company's bid evaluation studies, reports, workpapers or other material related to the two largest MGP remediation contracts awarded during the previous RAC period. The response should include the criteria utilized for bid evaluation and the comparisons between the terms and conditions offered by the competitive bidders.	
11. Provide documentation relating to the two largest supplemental contract amendments authorized by the Company during their previous RAC period. The response should provide the contractor's request for supplemental funding, the reasons cited for the request, and the Company's evaluation and action taken concerning the request.	
12. Provide documentation relating to any instances during the previous RAC period where the Company sought to modify, change, or eliminate the NJDEP site remediation requirements for any of its MGP sites. The response should provide copies of any such Company requests, the NJDEP responses, and the ultimate outcome concerning the requests.	
13. Provide a calculation of the carrying costs that the Company seeks to recover in its filing, including workpapers and supporting documentation.	
14. The Company currently provides a schedule that summarizes the expenditures incurred by major cost category by site on a quarterly basis. These data will be reported with its annual filing.	
15. For each of the Company's MGP sites, provide a schedule showing the status of the remediation effort and estimated dates for the completion of remaining milestones, along with a discussion of major remediation problems. The parties understand that the timeframes to complete the remediation efforts are subject to a great deal of uncertainty due to factors beyond the Company's control.	
16. Provide an update concerning the status of discussions with the NJDEP concerning its NRD initiative as well as any other NRD-related activities, with claimed confidential information provided pursuant to a confidentiality agreement. Such update will include information about NRD-related expenditures during the prior RAC period and related	

Appendix A

**PIVOTAL UTILITY HOLDINGS, INC. d/b/a ELIZABETHTOWN GAS  
REMEDATION ADJUSTMENT CLAUSE ("RAC") FILING  
MINIMUM FILING REQUIREMENTS (MFR) INDEX**

Minimum Filing Requirements	Schedule
documentation, as well as total NRD-related expenses deferred to date.	
17. Provide information about unreasonable delays in remediation efforts caused by the inability to obtain requisite approvals, clearances or other rights from the NJDEP, local authorities or property owners, or other circumstances that are unduly impeding remediation efforts. The Company will address issues that are outside of the ordinary experience for these matters.	
18. Provide details concerning all remediation related charges to the Company from or through AGLR and its affiliates for the past RAC period. The response should show amounts by month, by entity, and should describe the nature of services provided.	

## **APPENDIX B**



RIDER "D"

SOCIETAL BENEFITS CHARGE ("SBC")

Applicable to all tariff Service Classifications except those Customers under special contracts that explicitly do not permit the Company to apply increased charges or assessments as filed and approved by the NJBPU and those customers exempted pursuant to the Long-Term Capacity Agreement Pilot Program ("LCAPP"), P.L. 2011, c.9, codified as N.J.S.A. 48:3-60.1. See the LCAPP Exemption Procedures at the end of this Rider.

The SBC is designed to recover the (1) cost of Comprehensive Resource Analysis Programs that were approved by the Board pursuant to its Comprehensive Resource Analysis regulations prior to April 30, 1997, (2) cost of Manufactured Gas Plant Remediation, and (3) cost of Consumer Education and any other new programs which the Board determines should be recovered through the Societal Benefits Charge.

<u>SBC Rate Components:</u>		<u>Per Therm</u>
i.	New Jersey Clean Energy Program ("CEP")	\$0.0841
ii.	Remediation Adjustment Charge ("RAC")	\$0.0108
iii.	<u>Universal Service Fund and Lifeline:</u>	
	1. Universal Service Fund ("USF")	\$0.0136
	2. Lifeline	<u>\$0.0048</u>
	TOTAL	\$0.0931

In accordance with P.L. 1997, c. 162, the charges applicable under this Rider include provision for the New Jersey Sales and Use Tax, and when billed to customers exempt from this tax shall be reduced by the amount of such tax included therein.

I. New Jersey Clean Energy Program Component ("CEP")

The Comprehensive Resource Analysis ("CRA") name was changed to the Clean Energy Program - CEP per Board Order dated January 22, 2003 in Docket No. EX99050347 *et.al*. The CEP is a mechanism that will (1) establish a rate to recover the costs of the Core and Standard Offer Programs in the Company's CEP Plan which was approved by the Board of Public Utilities ("BPU") in Docket No. GE92020104, and (2) compensate the Company for the revenue erosion resulting from conservation savings created by the Standard Offer Program. The annual recovery period for the CEP is from October 1 through September 30. The CEP recovers program costs and revenue erosion incurred during the previous CEP year ended June 30.

1. CEP program costs include the costs of core programs, standard offer payments and any administrative costs not recovered directly from standard offer providers.

Date of Issue:

Effective: Service Rendered  
on and after

Issued by: Jodi Gidley  
Sr. Vice President, Mid-Atlantic Operations  
300 Connell Drive, Suite 3000  
Berkeley Heights, New Jersey 07922

Filed Pursuant to Order of the Board of Public Utilities  
Dated in Docket No. GR11080485