



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/

CUSTOMER ASSISTANCE

STEPHANIE GRANT,
Petitioner,

V.

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

) ORDER ADOPTING
) INITIAL DECISION
) APPROVING SETTLEMENT
)
)
)
) BPU Dkt. No. GC12020124U
) OAL Dkt. No. PUC 05876-12N

Parties of Record:

Stephanie Grant, appearing pro se
Deborah M. Franco, Esq., appearing on behalf of Respondent, Pivotal Holdings, Inc.

BY THE BOARD:

By Petition for formal hearing dated February 9, 2012, Stephanie Grant (Petitioner) alleged that Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas (Respondent) improperly billed her \$4,290.66 for gas usage during a two-year period.

BACKGROUND

The Petition alleges that Respondent failed to replace her heavily corroded gas meter and improperly estimated her gas usage between November 2005 and November 2007. Once Respondent replaced the meter, Petitioner received a bill for \$4,290.66 (disputed amount) representing usage back charges for the two year period. Petitioner argued that she is not responsible for the disputed amount and requests a decision to that effect.

In its May 1, 2012 answer, Respondent claimed that the disputed amount resulted from Petitioner's failure to provide Respondent access to read her gas meter, despite repeated attempts by Respondent to do so. Respondent further alleged that Petitioner rejected its offer to replace her meter with one that could be read remotely. Respondent maintains that it acted in

conformance with its Board approved Tariff and Board regulations and that it is legally entitled to full payment of the disputed amount.

After the filing of Respondent's answer, the Board transmitted this matter to the Office of Administrative Law (OAL) for hearing and initial disposition as a contested case pursuant to N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq. where it was assigned to Administrative Law Judge Kimberly A. Moss (ALJ Moss).

On October 25, 2012, ALJ Moss conducted an evidentiary hearing in this matter. Petitioner testified that neither she nor her landlord ever refused Respondent access to the meter and that she only received one notice from Respondent on November 20, 2007, requesting access to her meter; Petitioner testified that Respondent never offered to install a remote meter but that it did acknowledge heavy corrosion to her gas meter in November 2007.

Respondent offered the testimony of its employee Aurora Balbuena, who handles Board complaints and is familiar with the facts and circumstances of Petitioner's dispute. Concerning the estimated billing practices of Respondent, Ms. Balbuena explained that Respondent's system automatically generates estimated gas bills when there is no access to the meter. Ms. Balbuena explained that Respondent's technician tried unsuccessfully to access Petitioner's meter in March and May 2006 and again in May 2007 and left Petitioner a voice mail message offering to install a remote meter. Ms. Balbuena notes no evidence of corrosion in its field service reports. When Respondent discovered in November 2007 that it had underestimated Petitioner's gas usage by 2,413 cubic feet during the disputed period, it billed Petitioner \$3,534.96, for that usage. As of the hearing, Ms. Balbuena calculated that Petitioner owed a total of \$4,290.66 representing the under-billed amount and for other payments due.

Prior to the record being closed, the parties executed a Stipulation of Settlement (Settlement) that was submitted to ALJ Moss. By Initial Decision issued on December 14, 2012, and received by the Board on December 18, 2012, to which the Settlement was attached and made part thereof, ALJ Moss found that the Settlement was voluntary, that its terms fully disposed of all issues in controversy and that it satisfied the requirements of N.J.A.C. 1:1-19.1. Pursuant to the terms of the Settlement, and in order to fully resolve this matter, Respondent agreed to adjust Petitioner's account by adjusting the disputed amount to zero, while making no concessions as to the merits of the allegations.

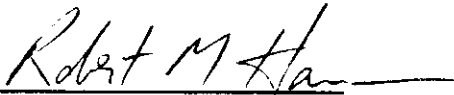
DISCUSSION AND FINDINGS

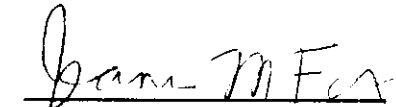
The Board having reviewed ALJ Moss's Initial Decision and the Settlement **FINDS** that the Parties voluntarily agreed to the Settlement as evidenced by their signatures and that the terms of the Settlement fully dispose of all issues in this proceeding and is consistent with the law.

Accordingly, the Board **HEREBY ADOPTS** the Initial Decision and the Settlement executed by the parties in their entirety as if fully set forth herein. The Petition is hereby dismissed with prejudice.

DATED: 4/23/13

BOARD OF PUBLIC UTILITIES
BY:


ROBERT M. HANNA
PRESIDENT


JEANNE M. FOX
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER

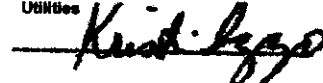

NICHOLAS ASSELTA
COMMISSIONER


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



STEPHANIE GRANT, Petitioner

V.

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

BPU DOCKET NO. GC12020124U
OAL DOCKET NO. PUC 05876-12N

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CASE MANAGEMENT

State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

SETTLEMENT

OAL DKT. NO. PUC 05876-12N

AGENCY DKT. NO. GC12020124U

STEPHANIE GRANT,

Petitioner,

v.

PIVOTAL UTILITY HOLDINGS, INC. d/b/a

ELIZABETHTOWN GAS,

Respondent.

Stephanie Grant, petitioner, pro se

Deborah Franco, Esq. on behalf of respondent (Pivotal Holdings, Inc.)

Record Closed: December 14, 2012

Decided: December 14, 2012

BEFORE KIMBERLY A. MOSS, ALJ:

On May 3, 2012, 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 prehearing was scheduled and conducted on June 5, 2012 during which time a hearing was scheduled for September 5, 2012. The September hearing was converted into a status conference during which time a hearing was rescheduled for October 25, 2012. After the conclusion of the October hearing date, the parties agreed to submit post hearing submissions. On or about November 13, 2012 respondent's counsel submitted a letter agreeing to adjust petitioner's account to eliminate

the disputed amount. On December 13, 2012 the undersigned received a copy of the Settlement Agreement, via fax. On December 14, 2012 the original, fully executed Settlement Agreement was received, which is attached hereto for reference.

I have reviewed the record and terms of the Stipulation of Settlement and **FIND**:

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

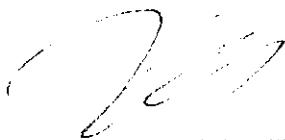
I **CONCLUDE** that the agreement meets the requirements of N.J.A.C. 1:1-19.1 and therefore, it is **ORDERED** that the parties comply with the settlement terms and that these proceedings be and are hereby concluded.

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 (45) 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.

12-14-12

DATE



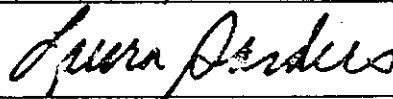
KIMBERLY A. MOSS, ALJ

Date Received at Agency:

12-18-19

Date Mailed to Parties:

DEC 18 2012



ljb

DIRECTOR AND
CHIEF ADMINISTRATIVE LAW JUDGE

STATE OF NEW JERSEY
OFFICE OF ADMINISTRATIVE LAW

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In the Matter of Stephanie Grant

STATE OF NEW JERSEY
OFFICE OF ADMIN LAW
OAL Docket No. PUC 05876-2012N
BPU Docket No. GC12020124U

v.

Pivotal Utility Holdings, Inc.
d/b/a Elizabethtown Gas
-----X

STIPULATION OF SETTLEMENT

To the Honorable Board of Public Utilities:

WHEREAS, Stephanie Grant ("Petitioner") filed a Petition in the above-referenced proceeding wherein she disputed a charge of \$4,290.66 charge ("Disputed Amount") from Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas ("Elizabethtown" or "Company") for natural gas service provided at 445 Walnut Street in Elizabeth, New Jersey during the period November 2005 through November 2007 ("Disputed Period");

WHEREAS, Elizabethtown filed an Answer to Petition on May 1, 2012 disputing the allegations in the Petition and the New Jersey Board of Public Utilities ("NJBP" or "Board") transmitted the matter to the Office of Administrative Law ("OAL") as a contested case for adjudication;

WHEREAS, a hearing concerning this matter was held on October 25, 2012;

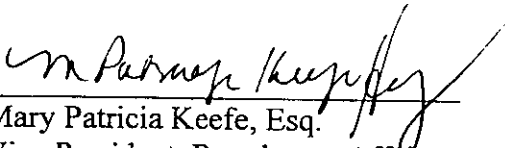
In the interest of resolving this matter, the parties have decided to settle this matter by this Stipulation of Settlement ("Stipulation");

IT IS THEREFORE AGREED AS FOLLOWS:

1. Although not agreeing with the merits of the allegations expressed in the Petition, Elizabethtown agrees to adjust the Disputed Amount owed by Petitioner for the Disputed Period to \$0.
2. This Stipulation provides for a final resolution of this proceeding.
3. The undersigned agree that this Stipulation contains mutually balancing and interdependent provisions and is intended to be accepted and approved in its entirety. In the event any particular aspect of this Stipulation is not accepted and approved by the Board or modified by the Board, the party that is adversely affected by the modification

can either accept the modification or declare this Stipulation to be null and void, and the parties shall be placed in the same position that they were in immediately prior to its execution.

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

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

Dated: November 19, 2012

By: 
Stephanie Grant

Dated: November 19, 2012