



Agenda Date: 1/23/13
Agenda Item: VIIB

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

JAMES DANN,
Petitioner

V.

PIVOTAL UTILITY HOLDINGS, INC, D/B/A
ELIZABETHTOWN GAS,
Respondent

) ORDER ADOPTING
) INITIAL DECISION
) APPROVING SETTLEMENT
)
)
)
) BPU DOCKET NO. GC12010079U
) OAL DOCKET NO. PUC 05875-12

Parties of Record:

James Dann, Petitioner, appearing pro se
Mary Patricia Keefe, Esq. and Deborah M. Franco, Esq., appearing on behalf of Respondent,
Pivotal Utility Holdings, Inc., d/b/a Elizabethtown Gas

BY THE BOARD:

On January 25, 2012, James Dann (Petitioner), filed a petition with the Board of Public Utilities (Board) requesting a formal hearing related to a billing dispute with Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas (Respondent) for gas service rendered by Respondent.

Petitioner contested the magnitude of the bills he received in June and November 2011, for \$1,252.82 and \$1,142.27, respectively. Although Respondent changed his gas meter in or around December 2011, Petitioner subsequently received a December 2011 adjusted bill for \$3,832.89, which he also disputes. Petitioner contested Respondent's claim that it was unable to gain access to read the meter at his two-family home, revealing that Respondent was able to read other tenants' gas meters, two of which are located directly next to Petitioner's meter.

On or about May 1, 2012, Respondent filed an answer with the Board. Respondent explained that the \$3,832.89 contested bill comprises the trued-up estimated bills for the period of November 2005 through October 2011 (disputed time period). Respondent claimed that it was unable to read Petitioner's meter on a regular basis due to lack of access and thus, the resulting high bills were the result of Petitioner's own conduct. Respondent submitted that its actions were consistent with its Tariff and that it was legally entitled to full payment.

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. This matter was assigned to Administrative Law Judge Kimberly A. Moss (ALJ Moss).

While this matter was pending at the OAL, the parties engaged in negotiations and executed a Stipulation of Settlement (Stipulation) that was submitted to ALJ Moss. By Initial Decision issued on December 24, 2012, and submitted to the Board on December 31, 2012, to which the Stipulation was attached and made part thereof, ALJ Moss found that the Stipulation 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 Stipulation and in order to fully resolve this matter, the parties agreed that Respondent would adjust the disputed amount of \$3,832.89 during the disputed time period to zero.

After review of the record and the Stipulation of the parties, the Board **HEREBY FINDS** that the parties have voluntarily agreed to the Stipulation as evidenced by their signatures and that by the terms of the Stipulation fully resolved all outstanding contested issues in this matter.


Accordingly, the Board **HEREBY ADOPTS** the Initial Decision and the Stipulation executed by the parties in their entirety as if fully set forth herein.

DATED: 1/23/13

BOARD OF PUBLIC UTILITIES
BY:


ROBERT M. HANNA
PRESIDENT



JEANNE M. FOX
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER

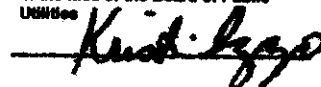

NICHOLAS ASSELTA
COMMISSIONER


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



JAMES DANN

V.

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

BPU DOCKET NO. GC12010079U

OAL DOCKET NO. PUC05875-12

SERVICE LIST

James Dann
426 Spruce Street
Linden, New Jersey 07036

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Berkeley Heights, New Jersey 07922

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P.O. Box 45029
Newark, New Jersey 07101



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

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NO DUJ
MAILROOM

REC'D

2012 DEC 31 PM 3 53

NJ DUJ
CASE MANAGEMENT

INITIAL DECISION

SETTLEMENT

OAL DKT. NO. PUC 05875-12N

AGENCY DKT. NO. GC12010079U

JAMES DANN,

Petitioner,

v.

PIVOTAL UTILITY HOLDINGS, INC. d/b/a

ELIZABETHTOWN GAS,

Respondent.

James Dann, petitioner, pro se

Mary Patricia Keefe, Esq. and Deborah Franco, Esq. on behalf of respondent
(Pivotal Holdings, Inc.)

Record Closed: December 24, 2012

Decided: December 24, 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. Prior to the hearing date respondent's counsel requested that the hearing be converted into a telephone conference due to the parties negotiating settlement. During the pendency of the telephone conference the parties reached a tentative settlement agreement. On December 21, 2012 the

undersigned received a copy of the Settlement Agreement, via fax. On December 24, 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.

12-24-12

DATE



KIMBERLY A. MOSS, ALJ

Date Received at Agency:

Date Mailed to Parties:

ljb



Elizabethtown Gas™

An AGL Resources Company

100 Connet Drive, Suite 3000
Raritan Heights, NJ 07922
908 786 5000 phone
www.elizabethtowngas.com

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2012 DEC 21 A 10:31

STATE OF NEW JERSEY
OFFICE OF ADMIN LAW

December 21, 2012

VIA FEDERAL EXPRESS & FACSIMILE (973-648-6124)

Honorable Kimberly Moss
Administrative Law Judge
Office of Administrative Law
33 Washington Street
Newark, New Jersey 07102

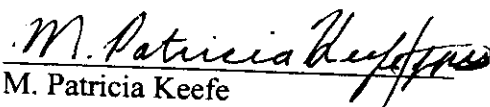
Re James Dann v. Elizabethtown Gas
BPU Docket No. GC12010079U
OAL Docket No. PUC 05875-2012N

Dear Judge Moss:

Enclosed for filing is a fully executed Stipulation of Settlement to resolve the above-referenced proceeding. It is respectfully requested that Your Honor recommend approval of the Stipulation and grant such other relief as may be needed to fully resolve this matter.

Please feel free to contact me at (908) 771-8220 if you have any questions or require additional information. Thank you.

Respectfully submitted,


M. Patricia Keefe
Vice President, Regulatory Affairs
and Assistant Corporate Secretary

cc: James Dann

STATE OF NEW JERSEY
OFFICE OF ADMINISTRATIVE LAW

RECEIVED

-----X
In the Matter of James Dann :
 :
 vs. :
 :
 Elizabethtown Gas :
-----X

2012 DEC 21 A 10: 31

BPU Docket No. GC120100790
OAL Docket No. OAL1205875-ADOTEN
STATE OF NEW JERSEY
OFFICE OF ADMINISTRATIVE LAW

STIPULATION OF SETTLEMENT

To the Honorable Board of Public Utilities:

WHEREAS, on or about January 22, 2012, James Dann ("Petitioner") filed the above-referenced Petition wherein he disputed a \$3,832.89 charge ("Disputed Amount") from Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas ("Elizabethtown" or "Company") for natural gas service provided to Petitioner at 426 Spruce Street, Linden, New Jersey 07036 during the period November 2005 through October 2011 ("Disputed Period");

WHEREAS, Elizabethtown filed an Answer to Petition on May 1, 2012 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, while this matter was pending at the OAL, the parties engaged in negotiations and, in the interest of resolving this matter without further delay and cost, 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 Dann 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: M. Patricia Keefe/MS
Mary Patricia Keefe, Esq.
Vice President, Regulatory Affairs
and Assistant Corporate Secretary

Dated: December 21, 2012

By: James Dann
James Dann

Dated: Dec 18, 2012