



# Elizabethtown Gas™

An **AGL Resources** Company

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September 19, 2011

***Via Federal Express and Electronic Email***

Kristi Izzo, Secretary  
New Jersey Board of Public Utilities  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
P.O. Box 350  
Trenton, New Jersey 08625-0350

**Re: I/M/O A Generic Proceeding To Consider Prospective Standards For Gas  
Distribution Utility Rate Discounts And Associated Contract Terms And  
Conditions - Docket No. GR10100761**

Dear Secretary Izzo:

Enclosed for filing are eleven copies of the revised tariff sheets listed below to Pivotal Utility Holdings Inc. d/b/a Elizabethtown Gas's ("Elizabethtown" or "the Company") Tariff – BPU No. 14 – Gas on file with the New Jersey Board of Public Utilities ("Board" or "BPU").

First Revised Sheet No. 35  
Original Sheet No. 35A

The enclosed tariff sheets are being submitted in compliance with the Board's August 18, 2011 Order ("August 18 Order") in the above-captioned proceeding.

In its August 18 Order, the Board:

(i) affirmed that it has the legal authority to approve individually negotiated service agreements between individual gas distribution companies ("GDCs") and their customers where there is a threat of physical bypass or because other factors warrant such treatment provided that the resulting rates are just and reasonable,<sup>1</sup>

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<sup>1</sup> August 18 Order at 23.

(ii) found that generally applicable criteria cannot be applied in discount rate cases because of the specific nature of discount rates and the unique circumstances surrounding each customer seeking negotiated rates,<sup>2</sup>

(iii) directed the State's GDCs to file revised tariff sheets setting forth the minimum information that a customer must submit to the GDC when requesting a negotiated rate due to the possibility that the customer will physically bypass the GDC's distribution system,<sup>3</sup>

(iv) directed to GDCs to file revised tariff sheets delineating how they will evaluate negotiated rates and describing the process for applying for those special rates,<sup>4</sup> and

(v) affirmed that it has the authority to approve discounted Societal Benefits Charge ("SBC") and Regional Greenhouse Gas Initiative ("RGGI") surcharges in particular instances.<sup>5</sup>

In compliance with the August 18 Order, the Company is submitting revised tariff sheets setting forth a new Section 20 to its General Terms and Conditions. Proposed Section 20 delineates the information that must be provided by customers seeking negotiated rates, terms and/or conditions in a special contract<sup>6</sup> that would be presented to the Board for approval. Under the proposed tariff provision, a customer would be permitted to apply for negotiated rates, terms and conditions in writing to the Company. A customer that believed that it was in a position to physically bypass the Company would be required to submit the information identified in the Board's August 18 Order, as well as a description of any other benefits that the customer would provide the Company under a proposed service agreement and any other information that either the customer deems relevant or the Company may require.

Elizabethtown proposes to offer negotiated rates, terms and conditions where the Company determines in its reasonable judgment that they are necessary to prevent (i) physical bypass, (ii) economic bypass, or (iii) the loss of load that could otherwise be served at rates that exceed marginal costs. In determining whether to offer negotiated rates, terms and conditions, Elizabethtown would consider all relevant information provided by the customer and make a judgment as to whether negotiated rates, terms or conditions are necessary to prevent physical or economic bypass or the loss of load that could otherwise be served at rates that exceed marginal costs. The Company will respond to requests for negotiated rates, terms and conditions within 60 days of receiving such requests, and all necessary information in writing.

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<sup>2</sup> *Id.* at 24.

<sup>3</sup> *Id.*


<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> Elizabethtown presently has authority under its Service Classifications Interruptible Transportation Service and Contract Service to adjust and/or negotiate rates, terms and conditions of service within certain limited parameters. These tariff provisions are not affected by this filing.

Elizabethtown requests the Board to approve the enclosed tariff sheets at its earliest convenience. Please contact the undersigned if you have question or require further information.

Yours truly,

/s/ Mary Patricia Keefe   
Mary Patricia Keefe, Esq.  
Vice President, Regulatory Affairs  
And Assistant Corporate Secretary

cc: Jerome May  
Victoria Fischer  
Rosalie Serapiglia  
Andrea Sarmentero  
Stefanie Brand  
Felicia Thomas-Friel  
Sarah Steindel  
Babette Tenzer  
Alex Moreau

# CLEAN TARIFF SHEETS

- b. That collectively employ at least 250 people within an enterprise zone, at least 50% of whom are directly employed in a manufacturing process;
  - c. Are each engaged in a vertically integrated business, evidenced by the manufacture and distribution of a product or family of products that, when taken together, are primarily used, packaged and sold as a single product; and
  - d. Collectively use the energy and utility service for the exclusive use or consumption of each of the persons that comprise a group within an enterprise zone.
3. A business facility located within a county that is designated for the 50% tax exemption under Section 1 of P.L.1993, c.373 (C.54:32B-8.45) provided that the business certifies that it employs at least 50 people at that facility, at least 50% of whom are directly employed in a manufacturing process, and provided that the energy and utility services are consumed exclusively at that facility.

A business that meets the requirements in (1), (2) or (3) above shall not be provided the exemption described in this section until it has complied with such requirements for obtaining the exemption as may be provided pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.) and P.L.1966, c.30 (C.54:32B-1 et seq.) and the Company has received a sales tax exemption letter issued by the New Jersey Department of Treasury, Division of Taxation.

19. ASSESSMENTS

All assessments, exclusive of Sales and Use Tax noted under Section 19.00 levied by the State of New Jersey or its Agencies will be passed on to those service classifications and/or customers to which it applies. If the levy is on a percentage basis it will be passed on using a similar percentage, if it is a gross dollar amount it will be assessed to all applicable customers on an equal per therm basis.

20. NEGOTIATED RATES, TERMS AND CONDITIONS

In accordance with the New Jersey Board of Public Utilities' Order dated August 18, 2011 in BPU Docket No. GR10100761 ("Order") the Company has developed the following criteria for determining whether it will, in individual circumstances, negotiate rates, terms and conditions of service with customers that otherwise would not take service under the terms of the service classifications set forth in this tariff. Any individually negotiated rates, terms or conditions agreed to pursuant to this tariff provision are subject to prior approval by the New Jersey Board of Public Utilities. Negotiated rates, terms and conditions that may be made available are intended to address unique circumstances applicable at the time that the negotiated rates, terms and conditions are agreed to with individual customers.

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Date of Issue: Effective: Service Rendered on and after

Issued by: Jodi Gidley, Sr. Vice President  
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. GR10100761

Negotiated rates, terms and conditions will be offered by the Company in circumstances in which it determines in its sole reasonable judgment, that such individual rates, terms and conditions are necessary to prevent (i) physical bypass of the Company's distribution system, (ii) economic bypass of the Company's distribution system or, (iii) the loss of load that could otherwise be served at rates that would exceed marginal costs.

Customers seeking negotiated rates, terms and conditions, and claiming that such rates, terms and conditions are necessary to prevent the customer from physically bypassing the Company's distribution system, must provide the Company with the following:

- (i) a statement from an interstate pipeline involved in such bypass that the proposed interconnection between customer and the pipeline is operationally viable, that sufficient capacity is available to serve such customer, and that the pipeline would serve the customer if requested;
- (ii) maps or flow diagrams that identify the proposed route of the pipeline needed to serve the customer from the interconnection with the pipeline and the customer's site, the size of the connecting pipeline and any other appurtenant facilities required;
- (iii) engineering studies related to the estimated costs to complete construction of facilities interconnecting the pipeline and the customer;
- (iv) information concerning the status of all reliability and environmental or other permits and approvals from local, state and federal agencies;
- (v) a description of any other benefits that the customer proposes to provide the Company under a service agreement between the Company and customer; and
- (vi) such other information as the Company may require.

Customers seeking negotiated rates, terms and conditions for reasons other than to avoid physical bypass must provide the Company (i) such information as the customer deems relevant to its request, and (ii) such information as the Company may require given the particular circumstances.

In determining whether to offer individually negotiated rates, terms and conditions to a particular customer, the Company will consider all relevant information provided by the customer and make a judgment as to whether negotiated rates, terms and conditions are necessary to prevent physical or economic bypass or the loss of load that could otherwise be served at rates that exceed marginal costs. Customers may apply for negotiated rates, terms and conditions by contacting the Company in writing. The Company will respond to any request for negotiated rates, terms and conditions within sixty (60) days of receiving a customer's written request and all required information.

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## REDLINE TARIFF SHEETS

- b. That collectively employ at least 250 people within an enterprise zone, at least 50% of whom are directly employed in a manufacturing process;
  - c. Are each engaged in a vertically integrated business, evidenced by the manufacture and distribution of a product or family of products that, when taken together, are primarily used, packaged and sold as a single product; and
  - d. Collectively use the energy and utility service for the exclusive use or consumption of each of the persons that comprise a group within an enterprise zone.
3. A business facility located within a county that is designated for the 50% tax exemption under Section 1 of P.L.1993, c.373 (C.54:32B-8.45) provided that the business certifies that it employs at least 50 people at that facility, at least 50% of whom are directly employed in a manufacturing process, and provided that the energy and utility services are consumed exclusively at that facility.

A business that meets the requirements in (1), (2) or (3) above shall not be provided the exemption described in this section until it has complied with such requirements for obtaining the exemption as may be provided pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.) and P.L.1966, c.30 (C.54:32B-1 et seq.) and the Company has received a sales tax exemption letter issued by the New Jersey Department of Treasury, Division of Taxation.

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In accordance with the New Jersey Board of Public Utilities' Order dated August 18, 2011 in BPU Docket No. GR10100761 ("Order") the Company has developed the following criteria for determining whether it will, in individual circumstances, negotiate rates, terms and conditions of service with customers that otherwise would not take service under the terms of the service classifications set forth in this tariff. Any individually negotiated rates, terms or conditions agreed to pursuant to this tariff provision are subject to prior approval by the New Jersey Board of Public Utilities. Negotiated rates, terms and conditions that may be made available are intended to address unique circumstances applicable at the time that the negotiated rates, terms and conditions are agreed to with individual customers.

Negotiated rates, terms and conditions will be offered by the Company in circumstances in which it determines in its sole reasonable judgment, that such individual rates, terms and conditions are necessary to prevent (i) physical bypass of the Company's distribution system, (ii) economic bypass of the Company's distribution system or, (iii) the loss of load that could otherwise be served at rates that would exceed marginal costs.



Customers seeking negotiated rates, terms and conditions, and claiming that such rates, terms and conditions are necessary to prevent the customer from physically bypassing the Company's distribution system, must provide the Company with the following:

(i) a statement from an interstate pipeline involved in such bypass that the proposed interconnection between customer and the pipeline is operationally viable, that sufficient capacity is available to serve such customer, and that the pipeline would serve the customer if requested;

(ii) maps or flow diagrams that identify the proposed route of the pipeline needed to serve the customer from the interconnection with the pipeline and the customer's site, the size of the connecting pipeline and any other appurtenant facilities required;

(iii) engineering studies related to the estimated costs to complete construction of facilities interconnecting the pipeline and the customer;

(iv) information concerning the status of all reliability and environmental or other permits and approvals from local, state and federal agencies;

(v) a description of any other benefits that the customer proposes to provide the Company under a service agreement between the Company and customer; and

(vi) such other information as the Company may require.

Customers seeking negotiated rates, terms and conditions for reasons other than to avoid physical bypass must provide the Company (i) such information as the customer deems relevant to its request, and (ii) such information as the Company may require given the particular circumstances.

In determining whether to offer individually negotiated rates, terms and conditions to a particular customer, the Company will consider all relevant information provided by the customer and make a judgment as to whether negotiated rates, terms and conditions are necessary to prevent physical or economic bypass or the loss of load that could otherwise be served at rates that exceed marginal costs. Customers may apply for negotiated rates, terms and conditions by contacting the Company in writing. The Company will respond to any request for negotiated rates, terms and conditions within sixty (60) days of receiving a customer's written request and all required information.

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Date of Issue: ~~December 17, 2009~~

Effective: Service Rendered  
on and after ~~December 17, 2009~~

Issued by: Jodi Gidley, Sr. Vice President  
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 ~~December 17, 2009~~ in Docket No.  
GR09030495GR10100761