



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/

ENERGY

IN THE MATTER OF THE BOARD'S ESTABLISHMENT)
OF A GENERIC PROCEEDING TO REVIEW THE)
COSTS, BENEFITS AND RELIABILITY IMPACTS OF)
MAJOR STORM EVENT MITIGATION EFFORTS)
)
)

PREHEARING ORDER

DOCKET NO. AX13030197

DOCKET NO. GO13090826

IN THE MATTER OF THE PETITION OF PIVOTAL)
UTILITY HOLDINGS, INC. d/b/a ELIZABETHTOWN)
GAS FOR APPROVAL OF THE ELIZABETHTOWN)
NATURAL GAS DISTRIBUTION UTILITY)
REINFORCEMENT EFFORT PROGRAM AND)
DEFERRED ACCOUNTING TREATMENT)

Parties of Record:

Mary Patricia Keefe, Vice President, Regulatory Affairs, Pivotal Utility Holdings, Inc.
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel
Steven S. Goldenberg, Esq., NJLEUC

BY COMMISSIONER MARY-ANNA HOLDEN:

By Order dated November 22, 2013 ("November 22 Order"), in response to a petition filed with the New Jersey Board of Public Utilities ("Board") by Pivotal Utility Holdings, Inc., d/b/a Elizabethtown Gas ("Elizabethtown") for approval of its Elizabethtown Natural Gas Distribution Utility Reinforcement Effort ("ENDURE") Program to "harden and protect the Company's infrastructure against damage from future major storm events" and to assist the Company "in developing a more robust capability to effectively communicate with customers and public officials during and after weather-related emergencies," the Board retained the matter for hearing, and designated me as the presiding Commissioner with authority to rule on all motions that arise during the proceeding, and to set a schedule that will secure a just and expeditious determination of the issues.

To aid in the setting of an appropriate schedule, a proposed preliminary procedural schedule was issued on January 6, 2014 ("January 6 Order") and posted to the Board's website. The January 6 Order required all parties to file comments with the Board on the proposed schedule by January 16, 2014. After reviewing the proposals exchanged regarding the proposed schedule, and after giving due consideration to the positions of the parties, I **HEREBY ISSUE** the attached as the prehearing order for this matter, and **HEREBY DIRECT** the parties to comply with its terms.

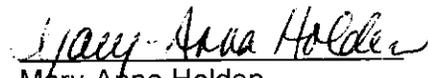
Consistent with the Board's November 22 Order, I **HEREBY DIRECT** that all documents be served by electronic mail, while still providing hard copies to the Board for those documents which must be filed with the Board, with hard copies to each party upon request.

I **HEREBY DIRECT** that this Order be posted on the Board's website.

This provisional ruling is subject to ratification or other alteration by the Board as it deems appropriate during the proceedings in this matter.

DATED: February 6, 2014

BY:


Mary-Anna Holden
COMMISSIONER

IN THE MATTER OF THE PETITION OF PIVOTAL UTILITY HOLDINGS, INC. d/b/a
ELIZABETHTOWN GAS FOR APPROVAL OF THE ELIZABETHTOWN NATURAL GAS
DISTRIBUTION UTILITY REINFORCEMENT EFFORT PROGRAM AND DEFERRED
ACCOUNTING TREATMENT

Docket Nos. AX13030197 & GO13090826

SERVICE LIST

<p>Elizabethtown:</p> <p>Mary Patricia Keefe Vice President, Regulatory Affairs Debbie Bailey Brian MacLean Tom Kaufman Michael Scacifero Diane Rojek Elizabethtown Gas 300 Connell Drive, Suite 3000 Berkeley Heights, NJ 07922 pkeefe@aglresources.com dbailey@aglresources.com bmaclean@aglresources.com Tom.Kaufmann@aglresources.com mscacife@aglresources.com drojek@aglresources.com ewade@aglresources.com</p> <p>Erica McGill, Esq. Scott Carter Michael Morley Elizabeth Wade, Esq. AGL Resources Ten Peachtree Place Atlanta, GA 30309 emcgill@aglresources.com scarter@aglresources.com mmorley@aglresources.com</p> <p>Jodi Gidley AGL Resources 544 S. Independence Blvd. Virginia Beach, VA 23452 jgidley@aglresources.com</p>	<p>Rate Counsel:</p> <p>Division of Rate Counsel 140 East Front Street, 4th Floor Post Office Box 003 Trenton, NJ 08625-0350</p> <p>Stefanie Brand, Esq., Director sbrand@rpa.state.nj.us</p> <p>Shelly Massey smassey@rpa.state.nj.us</p> <p>Brian Lipman, Litigation Manager blipman@rpa.state.nj.us</p> <p>Felicia Thomas-Friel, Esq. ftthomas@rpa.state.nj.us</p> <p>Christina Juarez, Esq. cjuarez@rpa.state.nj.us</p> <p>Henry M. Ogden, Esq. hogden@rpa.state.nj.us</p> <p>David Dismukes, Ph.D Kimberly Dismukes Alex Aguila Acadian Consulting Group 5800 One Perkins Place Drive Building 5, Suite F Baton Rouge, LA 70808 daviddismukes@acadianconsulting.com kimdismukes@acadianconsulting.com alexaguila@acadianconsulting.com</p>
---	--

Kenneth T. Maloney, Esq.
Cullen and Dykman
1101 14th Street, NW, Suite 550
Washington, DC 20005
kmaloney@cullenanddykman.com

Deborah Franco, Esq.
Cullen and Dykman
Garden City Center
100 Quentin Roosevelt Blvd.
Garden City, NY 11530
DFranco@cullenanddykman.com

Board of Public Utilities:

44 South Clinton Avenue, 9th floor
Post Office Box 350
Trenton, NJ 08625-0350

Executive Director

Paul Flanagan, Esq.

Division of Energy

Jerry May, Director
Alice Bator, Chief
Tom Walker, Chief
Rosalie Serapiglia, Manager
Robert Schultheis, Chief
Nanik Aswani
David Ballengee
Rene Demuynck
Henry Rich
Ricky John

Reliability & Security

Michael Stonack
Eric Weaver

Counsel's Office

Tricia Caliguire, Esq., Chief Counsel
Bethany Rocque-Romaine, Esq.
Megan Lupo, Esq.

Economist Office

Mark Beyer
Christine Lin
Dr. Son Lin Lai
Jackie O'Grady

David E. Peterson
Chesapeake Regulatory Consultants, Inc.
10351 Southern Maryland Boulevard
Suite 202
Dunkirk, MD 20754-9500
davep@chesapeake.net

Deputies Attorney General:

Division of Law
124 Halsey Street
Post Office Box 45029
Newark, New Jersey 07101-45029

Alex Moreau, DAG
alex.moreau@dol.lps.state.nj.us

Babette Tenzer, DAG
babette.tenzer@dol.lps.state.nj.us

Marisa Slaten, DAG
marisa.slaten@dol.lps.state.nj.us

NJLEUC:

Steven S. Goldenberg, Esq.
Fox Rothschild, LLP
997 Lenox Drive, Building 3
Lawrenceville, NJ 08548
sgoldenberg@foxrothschild.com

Paul F. Forshay, Esq.
Sutherland, Asbill & Brennan, LLP
700 Sixth Street, N.W., Suite 700
Washington, D.C. 20001-3980
paul.forshay@sutherland.com

PREHEARING ORDER

1. NATURE OF PROCEEDINGS AND ISSUES TO BE RESOLVED:

In this proceeding, Elizabethtown (or "Company") seeks to obtain a Board order approving and finding reasonable its program known as ENDURE, which involves an investment of approximately \$15 million in infrastructure upgrades and associated facilities and communication planning, as well as the associated proposed cost recovery mechanism.

Issues to be Resolved

- 1) The prudence, cost effectiveness and cost efficiency of the activities and programs proposed by the ENDURE program;
- 2) The reasonableness and lawfulness of the proposed cost recovery mechanism; and
- 3) The reasonableness of the proposed rates.

2. PARTIES AND THEIR DESIGNATED ATTORNEYS OR REPRESENTATIVES:

Counsel for Elizabethtown:

Mary Patricia Keefe, Vice President, Regulatory Affairs
Elizabethtown Gas
300 Connell Drive, Suite 3000
Berkeley Heights, NJ 07922
pkeefe@aglresources.com

Counsel for the Staff of the NJ Board of Public Utilities:

Alex Moreau, DAG
Marisa Slaten, DAG
Department of Law & Public Safety
124 Halsey Street
P.O. Box 45029
Newark, N.J. 07102
(973)648-3762 (phone)
(973) 648-3555 (fax)
alex.moreau@dol.lps.state.nj.us
veronica.beke@dol.lps.state.nj.us

Counsel for Division of Rate Counsel

Stefanie Brand, Esq., Director, Division of Rate Counsel
Felicia Thomas-Friel, Esq.
Christine Juarez, Esq.
Brian Lipman, Esq., Litigation Manager
Henry M. Ogden, Esq.
Division of Rate Counsel
140 East Front Street, 4th Floor
P.O. Box 003
Trenton, N.J. 08625
(609) 984-1460 (phone)
(609) 292-2923 (fax)
sbrand@rpa.state.nj.us
fthomas@rpa.state.nj.us
cjuarez@rpa.state.nj.us
blipman@rpa.state.nj.us
hogden@rpa.state.nj.us

Counsel for Participants:

NJLEUC:

Steven S. Goldenberg, Esq.
Fox Rothschild, LLP
997 Lenox Drive, Building 3
Lawrenceville, NJ 08548
sgoldenberg@foxrothschild.com

Paul F. Forshay, Esq.
Sutherland, Asbill & Brennan, LLP
700 Sixth Street, N.W., Suite 700
Washington, D.C. 20001-3980
paul.forshay@sutherland.com

No change in designated trial counsel shall be made without leave if such change will interfere with the date for hearing. If no specific counsel is set forth in this Order, any partner or associate may be expected to proceed with evidentiary hearings on the agreed dates.

3. **SPECIAL LEGAL REQUIREMENTS AS TO NOTICE OF HEARING:**

Pursuant to N.J.S.A. 48:2-32.6, public hearings were held in the Company's service territory after publication of notice in newspapers of general circulation in the Company's service territory. Two public hearings were conducted on October 16, 2013 and

October 22, 2013 in Rahway, New Jersey and Flemington, New Jersey, with sessions at 4:30 p.m. and 5:30 p.m. The dates and locations of the hearings were determined by the parties.

4. **SCHEDULE OF HEARING DATES, TIME AND PLACE:**

Evidentiary hearings will be conducted the week of June 9, 2014, subject to my availability, starting at 9:00 a.m. on each day at the Office of Administrative Law, 33 Washington Street, Newark, New Jersey. Specific dates will be determined based on the availability of the parties and myself.

5. **STIPULATIONS:**

None at this time.

6. **SETTLEMENT:**

Parties are encouraged to engage in settlement discussion. Notice should be provided to all parties of any settlement discussions for the preparation of an agreement to resolve the issues in the case.

7. **AMENDMENTS TO PLEADINGS:**

None at this time.

8. **DISCOVERY AND DATE FOR COMPLETION:**

The time limits for discovery shall be in accordance with N.J.A.C. 1:1-10.4 or as provided in Exhibit A. Unless I otherwise provide, all discovery shall be completed in accordance with the schedule in Exhibit A.

9. **ORDER OF PROOFS:**

Elizabethtown bears the burden of proof. The parties will propose an order of witnesses no later than 1 week prior to the hearings. Witnesses will be presented in the following order unless otherwise agreed by the parties prior to the hearings:

First – Elizabethtown

Second – Rate Counsel

Third – BPU Staff

10. **EXHIBITS MARKED FOR IDENTIFICATION:**

None at this time.

11. **EXHIBITS MARKED IN EVIDENCE:**

None at this time.

12. **ESTIMATED NUMBER OF FACTS AND EXPERT WITNESSES:**

Elizabethtown will present the following witnesses: Brian MacLean and Michael Scacifero. Additional witnesses may be identified by Elizabethtown as necessary for purposes of testimony.

Rate Counsel will present the following witnesses: David Dismukes, Kimberly Dismukes, Alex Aguila and David E. Peterson. Additional witnesses may be identified by Rate Counsel as necessary for purposes of testimony.

Any party substituting witnesses shall identify such witnesses within 5 days of determining to replace a witness, and in no event later than 5 days before filing of testimony of a substitute witness. All direct testimony will be pre-filed, and all witnesses submitting pre-filed direct testimony will be subject to cross examination at evidentiary hearings, which will be conducted by topic (e.g., program elements, revenue requirements, and so forth).

13. **MOTIONS:**

All motions to intervene or participate in this proceeding were required to be filed on or before January 16, 2014, pursuant to the January 6 Order. The New Jersey Large Energy Users Coalition has filed a motion to participate in this proceeding, as well as a motion for admission *pro hac vice* of Paul F. Forshay, Esq. There are no other motions pending at this time.

14. **SPECIAL MATTERS:**

None at this time.

Exhibit A

**IN THE MATTER OF THE PETITION OF PIVOTAL UTILITY HOLDINGS, INC. d/b/a
ELIZABETHTOWN GAS FOR APPROVAL OF THE ELIZABETHTOWN NATURAL GAS
DISTRIBUTION UTILITY REINFORCEMENT EFFORT PROGRAM AND DEFFERED
ACCOUNTING TREATMENT**

Docket Nos. AX13030197 & GO13090826

PROCEDURAL SCHEDULE

January 16, 2014: Deadline for filing requests for intervention/participation

January 31, 2014: Deadline for first round of discovery

February 7, 2014: Deadline for responses to first round of discovery

February 19, 2014: Deadline for second round of discovery

March 5, 2014: Deadline for responses to second round of discovery

Date to be determined: Settlement discussions/discovery conference

March 21, 2014: Deadline for Rate Counsel to file direct testimony

April 4, 2014: Deadline for discovery on Rate Counsel testimony

April 22, 2014: Deadline for responses to discovery on Rate Counsel testimony

April 30, 2014: Deadline for rebuttal testimony by Company

May 9, 2014: Deadline for discovery on rebuttal testimony

May 23, 2014: Deadline for responses to discovery on rebuttal testimony

Week of June 9, 2014: Evidentiary hearings with live sur-rebuttal (subject to Commissioner's
availability)

Dates to be determined: Deadlines for filing initial and reply briefs

August 2014: Anticipated Board action