



State of New Jersey  
DIVISION OF RATE COUNSEL  
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Director

March 4, 2015

RECEIVED

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BOARD OF PUBLIC UTILITIES  
MAIL ROOM

**Via Regular and Electronic Mail**

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

**Re: In the Matter of the Petition of Pivotal Utility Holdings, Inc.  
d/b/a Elizabethtown Gas for Approval of a Municipal Franchise  
in the Borough of Andover, Sussex County  
BPU Docket No.: GE14101230**

Dear Secretary Sheehan:

Please accept for filing an original and ten copies of these revised comments submitted on behalf of the New Jersey Division of Rate Counsel ("Rate Counsel") concerning the above-referenced Verified Petition ("Petition") of Elizabethtown Gas Company ("ETG" or "Company") for approval of a municipal consent in the Borough of Andover, Sussex County ("Borough"). Enclosed is one additional copy. Please date stamp the copy as "filed" and return to us in the enclosed self-addressed, stamped envelope. Thank you for your consideration and attention to this matter.

**Background**

On November 28, 2014, ETG filed a petition seeking approval, pursuant to N.J.S.A. 48:2-14 and N.J.A.C. 14:1-5.5, of an ordinance ("Ordinance") granting the Company consent to use the streets of the Borough of Andover pursuant to N.J.S.A. 48:3-15, and to construct and

*Case Mgmt*  
*service list copied*

maintain pipes and related facilities in streets and other public areas within the Borough. As permitted by N.J.S.A. 48:3-15, the nonexclusive municipal consent granted by the Ordinance is limited to a term of twenty-five years.

The Company does not currently provide natural gas service to the Borough of Andover, but according to a December 17, 2014 letter sent to the NJ BPU, there are potentially 241 residential customers and 15 commercial customers within the Borough. At a public hearing held on this Petition on December 16, 2014, Kim T. Verran, ETG Industrial Account Executive, testified that the Company has the capacity to meet the existing and future needs of the municipality. 9T:L23 to 10T:L4 (12/16/14). No member of the public appeared at the hearing and no one has contacted our office regarding this matter.

#### **Rate Counsel Position**

The Company represents that it has the capacity necessary to begin providing gas service to the customers of the Borough. Petition, par. 6. For this reason, and the fact that the Ordinance contains less than the required fifty year term limit, Rate Counsel does not object to approval of the Company's petition. Rate Counsel recommends that the Board's Order specifically provide that its approval does not include authorization to include in rate base any specific assets that may be constructed as a result of approval of this Petition. The determination of any assets to be included in rate base and any ratemaking impacts as a result of the municipal consent should be addressed in a future base rate or other appropriate proceeding.

Accordingly, Rate Counsel recommends that any Board Order approving the Company's Petition contain the following language:

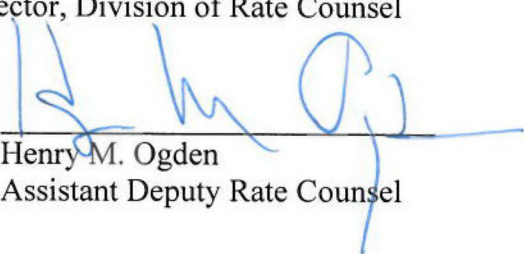
1. As required by N.J.S.A. 48:3-15, the municipal consent for the use of streets and other public places is limited to a term not exceeding fifty years, more specifically twenty-five years.

2. This Order shall not be construed as directly or indirectly fixing for any purposes whatsoever any value of any tangible or intangible assets now owned or hereafter to be owned by the Petitioner.
3. This Order shall not affect, nor in any way limit, the exercise of the authority of this Board or of this State, in any future Petition or in any proceedings with respect to rates, franchises, service, financing, accounting, capitalization, depreciation, or in any other matter affecting the Petitioner.

These provisions will satisfy the concerns of Rate Counsel that the Company is in compliance with the proper statutory framework, that BPU approval is limited to the municipal consent, and that there is no authorization to include any specific assets or amounts in rate base, nor authorization for any other ratemaking treatment. If the Board adopts these conditions, Rate Counsel is not opposed to approval of the above-referenced Petition.

Respectfully submitted,

STEFANIE A. BRAND  
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Utility Holdings, Inc. d/b/a Elizabethtown  
Gas For Approval of a Municipal  
Franchise in the Borough of Andover,  
Sussex County  
BPU Docket No.: GE14101230

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