

Ira
June 25, 2018

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JUN 22 2018

BOARD OF PUBLIC UTILITIES
TRENTON, NJ



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June 21, 2018

Via Hand Delivery

Records Custodian
NJ Board of Public Utilities
44 S. Clinton Ave., 3rd Floor
Suite 314
Trenton, NJ 08625

RECEIVED
CASE MANAGEMENT

JUN 22 2018

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

**Re: In the Matter of the Acquisition of Elizabethtown Gas, a Division of Pivotal Utility Holdings, Inc., by ETG Acquisition Corp., a Subsidiary of South Jersey Industries, Inc., and Related Transactions
BPU Docket No. GM17121309**

Dear Records Custodian,

Under a cover letter dated June 20, 2018, a public version of a Stipulation of Settlement ("Stipulation") was filed with the New Jersey Board of Public Utilities ("Board") that was executed by South Jersey Industries, Inc. ("SJI"), ETG Acquisition Corp., South Jersey Resources Group, LLC ("SJRG"),¹ Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas ("Elizabethtown"), Board Staff, the New Jersey Division of Rate Counsel ("Rate Counsel"), and the New Jersey Large Energy Users Coalition in the above referenced proceeding. The Stipulation would, if approved by the Board, *inter alia*, approve the acquisition of Elizabethtown by ETG Acquisition Corp. and permit SJRG to serve as Elizabethtown's capacity manager and gas supplier for a three year term beginning April 1, 2019.

The purpose of this letter is to file with the Board's designated Custodian of Records to request confidential treatment of Appendices A and B to the Stipulation in accordance with the Open Public Records Act ("OPRA") (*N.J.S.A. 47:1A-1, et seq.*) and Section 14:1-12, *et seq.* of the Board's regulations on behalf of Elizabethtown.² Consistent with those regulations, submitted herewith are (a) both a preliminary public copy and a confidential copy of the Stipulation and its appendices, and (b) a substantiation of claim as required under *N.J.A.C.*

Case mgmt
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¹ ETG Acquisition Corp. and SJRG are wholly owned subsidiaries of SJI.

² *N.J.A.C. 14:1-12.1 et seq.*

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14:1-12.8. The confidential copy of the referenced information has been sealed within a separate envelope as required by *N.J.A.C. 14:1-12.3(d)*.³

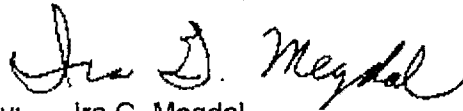
In accordance with *N.J.A.C. 14:1-12.8*, substantiation of Elizabethtown's request for confidential treatment is attached hereto and contains the affidavit of Mary Patricia Keefe, Vice President, External Affairs and Business Support of Elizabethtown. As set forth below and in the attached substantiation, certain information in the appendices to the Stipulation should be afforded confidential treatment as such information is not normally disclosed to the public and is proprietary and competitively sensitive.

Consistent with the provisions of *N.J.A.C. 14:1-12.10*, Elizabethtown requests that the information submitted herein be treated as confidential pending a final determination that the request for confidential treatment has been substantiated. A copy of the confidential information has been provided to representatives of Board Staff and Rate Counsel pursuant to fully executed confidentiality agreements.

Kindly acknowledge receipt and filing of the enclosures by date stamping the enclosed copy of this letter and returning it to us in the enclosed self-addressed and stamped envelope. Should you have any questions, please contact the undersigned.

Cordially,

COZEN O'CONNOR, PC



By: Ira G. Megdal

IGM:lvk

Enclosures: Confidentiality Claim, Preliminary Public Copy and Confidential Copy

cc: Secretary Camacho w/ Confidentiality Claim and Preliminary Public Copy
Paul Flanagan, Executive Director, Board Staff*
Stacy Peterson, Director, Division of Energy Board Staff*
Stefanie A. Brand, Director, Division of Rate Counsel*
Felicia Thomas-Friel, Managing Attorney-Gas*

*In addition to the Confidentiality Claim and Public Copy, the Confidential Copy is being provided to these parties in accordance with the Non-Disclosure Agreement established in BPU Docket No. GM17121309.

³ In accordance with Section 14:1-12.3 of the Board's rules, the unredacted version of the filing is labeled "CONFIDENTIAL COPY" and is sealed in an envelope displaying the word "CONFIDENTIAL" which is enclosed in another envelope bearing no markings indicating the confidential nature of the contents. The redacted version of the filing is labeled "PRELIMINARY PUBLIC COPY" with the confidential information identified.

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JUN 22 2018

STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES
TRENTON, NJ

RECEIVED
CASE MANAGEMENT

JUN 22 2018

IN THE MATTER OF THE :
ACQUISITION OF ELIZABETHTOWN :
GAS, A DIVISION OF PIVOTAL : DOCKET NO.: GM17121309
UTILITY HOLDINGS, INC. BY ETG :
ACQUISITION CORP., A SUBSIDIARY : STIPULATION OF SETTLEMENT
OF SOUTH JERSEY INDUSTRIES, INC. :
AND RELATED TRANSACTIONS :

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

APPEARANCES:

Ira G. Megdal, Esq. and **Christine Soares, Esq.**, **Cozen O'Connor**, on behalf of South Jersey Industries, Inc., ETG Acquisition Corp., and South Jersey Resources Group, LLC

Mary Patricia Keefe, Esq., Vice President on behalf of Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas

Kenneth T. Maloney, Esq. and **Deborah M. Franco, Esq.**, Cullen and Dykman LLP, on behalf of Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas

Alex Moreau, Deputy Attorney General (Gurbir S. Grewal, Attorney General of New Jersey), on behalf of the Staff of the Board of Public Utilities

Stefanie A. Brand, Esq., Director, **Brian Lipman, Esq.**, Litigation Manager, **Felicia Thomas-Friel**, Managing Attorney – Gas, **Henry M. Ogden, Esq.**, Assistant Deputy Rate Counsel, and **Maura Caroselli, Esq.**, Assistant Deputy Rate Counsel, on behalf of the Division of Rate Counsel

Steven Goldenberg, Esq., Fox Rothschild and **Paul Forshay, Esq.**, Eversheds Sutherland, on behalf of Intervenor, the New Jersey Large Energy Users Coalition

Joseph F. Accardo Jr., Esq. and **Danielle Lopez, Esq.** on behalf of Intervenor, Public Service Electric and Gas Company

TO THE HONORABLE BOARD OF PUBLIC UTILITIES:

The parties to this proceeding are as follows: South Jersey Industries, Inc. (“SJI”), ETG Acquisition Corp., and South Jersey Resources Group LLC (“SJRGL”),¹ together with Pivotal Utility Holdings, Inc. (“Pivotal”), (collectively, the “Joint Petitioners”); the New Jersey Division

¹ ETG Acquisition Corp. and SJRG are wholly owned subsidiaries of SJI.

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of Rate Counsel (“Rate Counsel”); the Staff of the New Jersey Board of Public Utilities (“Board Staff” or “Staff”); and Intervenors, New Jersey Large Energy Users Coalition (“NJLEUC”) and Public Service Electric and Gas Company (“PSE&G”). The New Jersey Board of Public Utilities shall be referred to in this Stipulation of Settlement (the “Stipulation”) as the “Board” or “BPU.”

PROCEDURAL HISTORY

On December 21, 2017, the Joint Petitioners initiated this proceeding with the filing of a Verified Joint Petition (“Joint Petition”) with the Board seeking approval of the acquisition of control by ETG Acquisition Corp. of Pivotal’s New Jersey utility operating division, Elizabethtown Gas (“Elizabethtown”), including the sale of substantially all of Elizabethtown’s assets, including Elizabethtown’s property, franchises, privileges, rights and municipal consents (“Acquisition”) pursuant to N.J.S.A. 48:2-51.1, N.J.S.A. 48:3-7, N.J.A.C. 14:1-5.14, and N.J.A.C. 14:1-5.6. As stated in the Joint Petition, ETG Acquisition Corp. would be renamed as “Elizabethtown Gas Company” after closing (“Closing”) of the Acquisition. Subsequent references in this Stipulation to the post-Closing entity ETG Acquisition Corp. will be referred to as “Elizabethtown Gas Company”. Subsequent references in this Stipulation to the pre-Closing entity Elizabethtown will be referred to as “Elizabethtown.”

The Joint Petitioners also sought approval of certain affiliate service agreements for the provision of administrative, support and management services pursuant to N.J.S.A. 48:3-7.1 and N.J.A.C. 14:4-4.5. These agreements, to be entered into post-Closing, included (i) a Master Services Agreement (“MSA”) between SJI and Elizabethtown Gas Company and (ii) two Shared Services Agreements (“SSAs”), one between SJI Utilities, Inc., (“SJI Utilities”) and Elizabethtown Gas Company and the other between SJI Utilities and South Jersey Gas Company (“South Jersey Gas”) and (iii) certain agreements, discussed further herein, to enable the

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provision of capacity management and gas supply services to Elizabethtown Gas Company by SJRG after the Closing of the Acquisition.

The Joint Petition also sought the following additional approvals: (a) authority to transfer the stock of South Jersey Gas from SJI to SJI Utilities pursuant to N.J.S.A. 48:3-10 and N.J.A.C. 14:1-5.10 to enable South Jersey Gas to become a wholly owned subsidiary of SJI Utilities; (b) the discontinuance by Pivotal of the provision of utility service pursuant to N.J.S.A. 48:2-24, including relief from all obligations under the “Elizabethtown Gas Tariff for Gas Service B.P.U. No. 15” on file with the Board (“Elizabethtown Tariff”) and applicable Board Orders, (c) the adoption of the Elizabethtown Tariff by Elizabethtown Gas Company, and (d) authority for Elizabethtown Gas Company to record certain regulatory assets and liabilities and to continue to employ deferred accounting for the costs recorded as regulatory assets and liabilities.

Finally, it was further requested that the Board disclaim potential jurisdiction over the sale by Pivotal to SJI of the assets of Elkton Gas (“Elkton”), Pivotal’s Maryland utility operating division, or in the alternative, to approve the sale of Elkton. As reflected in the Joint Petition, none of the assets of Elkton are located in New Jersey, and none of Elkton’s assets have been used to provide service to customers in New Jersey or reflected in rates paid by New Jersey customers.

By Order dated January 31, 2018, the Board retained this matter for hearing, designated President Joseph L. Fiordaliso as the presiding officer, and required that motions to intervene or participate be filed by February 23, 2018. Motions to intervene were filed by NJLEUC on February 9, 2018, and by PSE&G on February 22, 2018. NJLEUC also made a Motion for Admission *Pro Hac Vice* on behalf of Paul Forshay. By correspondence dated March 5, 2018, Joint Petitioners advised they would not oppose NJLEUC’s Motion to Intervene or for the

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admission *pro hac vice* to the extent NJLEUC disclosed its members who are customers of Elizabethtown. By correspondence dated March 8, 2018, the Joint Petitioners indicated they had no objection to the Motion to Intervene filed by PSE&G. By order dated May 18, 2018, President Fiordaliso issued a Pre-Hearing Order setting a procedural schedule for this matter and granting the motions to intervene of NJLEUC and PSE&G.

After proper public notice, two public hearings were held in Elizabethtown's service territory in Flemington, New Jersey on April 17, 2018 with sessions at 4:30 P.M. and 5:30 P.M. and in Union, New Jersey on April 19, 2018 with sessions at 4:30 P.M. and 5:30 P.M. No members of the public appeared at the public hearings. The Board received one letter in opposition of the Acquisition.

The Joint Petition was supported by the Direct Testimony of five witnesses: Michael J. Renna, David Robbins Jr. and Ann T. Anthony of SJI; Gregory M. Nuzzo of SJRG; and Brian MacLean of Elizabethtown. For the purpose of providing the Board with a record supporting the Stipulation, the Signatory Parties stipulate into the record and rely upon the veracity of these Direct Testimonies, supporting documents and all of the discovery and informal responses provided during the course of this proceeding.

Extensive discovery was conducted and a number of settlement discussions were held. Joint Petitioners, Board Staff, Rate Counsel and NJLEUC (collectively, the "Signatory Parties") have come to an agreement on all of the factual and legal issues arising in this matter.

STIPULATED MATTERS

Based upon the foregoing, the Signatory Parties hereto agree and stipulate as follows:

A. Acquisition and Related Approvals.

(i) **Standard of Review.** The statutory and regulatory criteria for approval of petitions involving acquisitions of control of a New Jersey public utility, including the sale of substantially all of the New Jersey public utility's assets, as set forth in N.J.S.A. 48:2-51.1, N.J.S.A. 48:3-7, N.J.A.C. 14:1-5.14(c) and N.J.A.C. 14:1-5.6 and any related statutes and regulations have been satisfied. More particularly, the agreement and conditions set forth herein support findings and conclusions by the Board that: (a) the Acquisition will not have an adverse impact on competition, on the rates of affected ratepayers, on the employees of Elizabethtown, or on the provision of safe and adequate utility service at just and reasonable rates; and (b) that consummation of the Acquisition, consistent with the conditions set forth in this Stipulation, is in the public interest, and will result in positive benefits to customers and the State of New Jersey.

(ii) **Consummation of the Acquisition and Related Transfers.** The Joint Petitioners may undertake all those actions necessary for the Acquisition to be lawfully consummated in the manner set forth in the Asset Purchase Agreement ("APA") entered into by and between Pivotal and SJI. Specifically, SJI, through its assignee Elizabethtown Gas Company, will purchase substantially all of the assets of Elizabethtown, including Elizabethtown's property, franchises, privileges and rights, including all municipal consents, permits, licenses, easements and other authorizations and agreements. The Acquisition will also include the sale of certain regulatory assets and liabilities that are currently reflected on Elizabethtown's balance sheet and represent certain deferred costs and/or revenues associated with various items including, but not limited to, pension and other post-employment benefit

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costs, gas costs and environmental costs and, in connection therewith, ETG Acquisition Corp. is authorized to record certain regulatory assets and liabilities and to continue to employ deferred accounting for the costs recorded as regulatory assets and liabilities as of the date of the Closing.

(iii) **Corporate Reorganization.** SJI is authorized to undertake a corporate reorganization in connection with the Acquisition whereby South Jersey Gas will be acquired by SJI Utilities through a contribution of stock from SJI and result in South Jersey Gas becoming a wholly owned subsidiary of SJI Utilities. SJI Utilities will also wholly own two additional subsidiaries, ETG Acquisition Corp. and Elkton Acquisition Corp., the SJI entity that, in a separate transaction, will acquire substantially all of the assets of Elkton, Pivotal's Maryland utility operating company, subject to final approval by the Maryland Public Service Commission ("MDPSC") in Case No. 9475. Immediately post-Closing, ETG Acquisition Corp. will be renamed Elizabethtown Gas Company.

(iv) **Sale of Elkton Assets.** The Signatory Parties further agree that it is in the public interest for the Board to disclaim jurisdiction over the sale of the assets of Elkton to SJI or, in the alternative approve the sale, on the basis that Elkton is subject to the jurisdiction of the MDPSC, none of the assets of Elkton that are proposed to be transferred are located in New Jersey and none of Elkton's assets have been used to provide service to customers in New Jersey or reflected in rates paid by New Jersey customers. It is acknowledged that this disclaimer/approval is only required if and to the extent the sale of the Elkton assets precede the Closing of the Acquisition.

(v) **Impact on Rates.**

a. After consummation of the Closing, SJI will enable Elizabethtown Gas Company to provide a one-time credit to all its customers totaling \$15 million to be

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provided in the form of a bill credit. The Signatory Parties request that the Board determine that these credits be distributed as per customer bill credits to all of Elizabethtown Gas Company's then current customers served under Service Classifications RDS, SGS, GDS, LVD, EGF, GLS, CSI, IS, CS, FTS, NGV and ITS within ninety (90) days of the Closing of the Acquisition. The Signatory Parties agree that the bill credits should be allocated among Elizabethtown Gas Company's customer classes based on the base rate revenues reflected in the rates that were approved by the Board in Elizabethtown's most recent base rate proceeding in BPU Docket No. GR16090826, as updated to reflect federal income tax changes. At least ten (10) days prior to issuing the bill credits, Elizabethtown Gas Company will submit to Board Staff and Rate Counsel backup documents and calculations in support of the bill credits.

b. Post-Closing, Elizabethtown Gas Company will adopt the Elizabethtown Tariff. Within 10 days of Closing, Elizabethtown Gas Company will submit to the Board a filing to reflect a name change from Elizabethtown to Elizabethtown Gas Company effective simultaneously with the Closing. Upon the Closing, Pivotal, including its division Elizabethtown, is authorized to discontinue the provision of utility service pursuant to N.J.S.A. 48:2-24 and be relieved of its obligations under the Elizabethtown Tariff and associated Board Orders. Elizabethtown Gas Company will assume all of these obligations under the Elizabethtown Tariff and associated Board Orders;

c. Elizabethtown Gas Company will file its next base rate case no later than June 2020 ("Next Base Rate Case") consistent with the Board Order ("2016 Rate Case Order") dated June 30, 2017 in BPU Docket Number GR16090826.²

² *In re the Petition of Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas for Approval of Increase Base Tariff Rates and Charges for Gas Service and Other Tariff Revisions*, BPU Docket No. GR16090826, OAL Docket No. PUC 15870-16, Order dated June 30, 2017.

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d. Any net savings realized by Elizabethtown Gas Company through the Acquisition integration process will be flowed through to Elizabethtown Gas Company's customers through the normal base rate case process;

e. In future rate proceedings, to ensure that Elizabethtown Gas Company's customers will only pay costs to achieve to the extent that there are offsetting synergy savings, Elizabethtown Gas Company will net the total costs incurred to achieve synergy savings against the resulting total synergy savings, and may recover those costs to achieve only up to the amount of the total synergy savings generated. Commencing in January 2020, Elizabethtown Gas Company will file biannual reports identifying the Acquisition costs incurred by Elizabethtown Gas Company and any Acquisition savings realized by Elizabethtown Gas Company as a result of the Acquisition;

f. Elizabethtown Gas Company will not seek recovery in rates of (a) any acquisition premium associated with the Acquisition or any previous acquisition, (b) any costs associated with goodwill arising from the Acquisition or any previous acquisition, or (c) any Transaction Costs incurred in connection with the Acquisition. For purposes of this Stipulation, Transaction Costs are defined as (i) consultant, investment banker, legal and regulatory support fees (internal as well as external), and printing and similar expenses, (ii) change in control payments or (iii) any severance or retention costs. Such Transaction Costs also would include SJI flotation expense (such as Underwriters fees) associated with common stock issuances undertaken to finance the Acquisition;

g. Following the Closing, Elizabethtown Gas Company will maintain a capital structure that consists of no less than 46% common equity (calculated excluding goodwill). In its Next Base Rate Case, Elizabethtown Gas Company will file rates based on a

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capital structure that contains no more than 52.5% common equity (calculated excluding goodwill). Elizabethtown Gas Company will also submit with its Next Base Rate Case such information as it has available at the time of that filing concerning Southern Company Gas' capital structure. Nothing in this Stipulation shall prejudice the right of any party to challenge the reasonableness of the use of any capital structure submitted by Elizabethtown Gas Company for ratemaking purposes in any future proceedings and to propose alternatives to any capital structure submitted by Elizabethtown Gas Company. The capital structure requirements contained in this Section A.(v)g. apply only to the Next Base Rate Case and are not applicable to any subsequent Elizabethtown Gas Company rate case;

h. Elizabethtown Gas Company will not include any common equity associated with goodwill (including Acquisition-related goodwill on SJI's or Elizabethtown Gas Company's balance sheet or good will arising from prior transactions) in Elizabethtown Gas Company's ratemaking capital structure;

i. Joint Petitioners shall ensure that consummation of the Acquisition will not adversely affect customers because of accounting and ratemaking treatments of any of Elizabethtown's deferred balances of any kind that are due to or due from customers and would typically be a component in the determination of the cost of service and that exist prior to Closing on the Acquisition. Therefore, post-Closing, SJI agrees to indemnify and Hold Harmless all Elizabethtown ratepayers against any harm resulting from the loss of ratepayer benefits associated with any and all deferred credits or debits, and any and all deferred balances and regulatory liabilities of any kind and for any reason as a consequence of the Acquisition and this Hold Harmless is absolute and unconditional; and

j. For a period of five (5) years following this proceeding, the amount of costs assessed to Elizabethtown Gas Company for services provided by an affiliate shall be no greater than they would have been had the Acquisition not occurred, regardless of whether such services are provided directly or indirectly by SJI, SJI Utilities, or any other SJI affiliate. An annual level of allocated SJI costs of \$19.7 million will serve as the baseline for this commitment for the next five (5) years. In any rate proceeding commenced during the five (5)-year commitment period, Elizabethtown Gas Company will have the burden to demonstrate that its service company costs are no higher than they would have been in the absence of the Acquisition for the services for which Elizabethtown Gas Company may seek cost recovery in such future rate proceedings. The baseline level of allocated SJI costs will not be treated as a hard cap on Elizabethtown Gas Company's recoverable service company costs but will be reviewed as evidence of whether Elizabethtown Gas Company has met the burden established herein. The parties to such future rate proceedings shall have full rights to challenge the prudence of any service company costs allocated to Elizabethtown Gas Company.

(vi) **Impact on Employees.**

a. Prior to Closing, SJI will extend offers of employment to all then current Elizabethtown employees on terms and conditions and at compensation and benefit levels comparable to their then-existing terms and compensation and benefit levels;

b. For the first five (5) years following the closing of the Acquisition, SJI or an affiliate, together will maintain a minimum of three-hundred and thirty (330) employees in New Jersey to support Elizabethtown Gas Company's operations. Within twelve (12) months of the Closing, SJI will add a minimum of thirty (30) new employees to New Jersey to perform services currently provided to Elizabethtown by Southern Company Gas ("SCG"),

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Elizabethtown's parent company, in other states. Subject to operational needs, SJI expects these new employees to be employed in the following departments: Customer Experience, Dispatch, Engineering, Compliance and Construction Operations. SJI will not be required to add or maintain any such new employees to the extent SJI determines that such employees are not needed to support Elizabethtown Gas Company's operations;

c. For five (5) years after Closing, Elizabethtown Gas Company will submit an annual report to Board Staff and Rate Counsel setting forth the number of employees by position and function with a baseline report to be filed within ninety (90) days of the Closing of the Acquisition and updates on the annual anniversary of that date;

d. SJI will honor all of Elizabethtown's existing collective bargaining agreements in effect at the time of the Closing of the Acquisition;

e. SJI will assume all of Elizabethtown's obligations and cause Elizabethtown to continue to meet its obligations to Elizabethtown's employees and retirees with respect to pension benefits; and

f. SJI shall maintain an Elizabethtown Gas Company core management team for five (5) years following the completion of the Acquisition. Subject to operational needs, the core management team will consist of an Elizabethtown President, Chief Operating Officer and department heads responsible for the following areas (a) Rates and Regulatory, (b) Union Field Operations, (c) Northwest Field Operations, (d) Sales, (e) Engineering, (f) Construction Operations, (g) System Integrity, (h) Call Center, and (i) Gas Supply.

(vii) **Impact on Service.**

a. Elizabethtown Gas Company will maintain the existing Elizabethtown field service centers, call center, walk-in payment centers and Union, New Jersey headquarters for a period of at least five (5) years following the Closing. Any relocation of these facilities prior to the five-year period will require advance notification to the Board and any relocation outside of Elizabethtown Gas Company's service territory will require Board approval. All future relocations thereafter shall be made in accordance with the Board's regulations;

b. SJI will provide Elizabethtown Gas Company with the resources necessary to invest in capital and infrastructure projects to help ensure that Elizabethtown Gas Company may continue to provide safe, reliable and adequate utility service; post-acquisition Elizabethtown Gas shall, within six (6) months after discussion with Board Staff and Rate Counsel, develop a plan to address the following:

1. Leak Management
2. Replacement of Cast Iron Mains
3. Replacement of Bare Steel Mains
4. Replacement of Ductile Iron and Copper Mains
5. Elimination of Master Meter Systems

c. Elizabethtown Gas Company will maintain the current level of community support contributions of \$190,000 per year for a period of five (5) years following the Closing. Community support projects could include charitable, workforce development and economic development efforts;

d. Elizabethtown Gas Company and South Jersey Gas will have access to each other's resources in emergencies and critical times; and post-acquisition

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Elizabethtown Gas shall implement Emergency Response Simulation Drills involving call center, dispatch, and operations personnel. Local emergency response personnel, such as police, fire and EMS, should be included in the emergency response drills whenever possible. Within the twelve (12) months following the execution of the Order, one of the two Elizabethtown Gas divisions shall perform an emergency drill simulating an event where the Elizabethtown Gas distribution system is compromised resulting in a simulated explosion or fire. After the conclusion of the twelve month period, each Elizabethtown Gas division shall perform an emergency drill, on an alternating calendar-year basis. The emergency drill shall be a site specific emergency drill at a training center facility or field site and not a tabletop drill. A tabletop drill, subject to the Bureau of Pipeline Safety approval, may be an additional option after each division has conducted its initial emergency drill. Elizabethtown Gas shall notify the Bureau of Pipeline Safety at least five business days prior to performing any emergency drill in order to allow Bureau of Pipeline Safety staff to schedule an inspection of the drill. A final audit report of each emergency drill shall be submitted to the Bureau of Pipeline Safety online reports database for review within two months after the emergency drill is performed.

e. Elizabethtown Gas Company will continue to adhere to the requirement to submit to Rate Counsel and the Director of Customer Assistance quarterly reports concerning Elizabethtown Gas Company's performance in relation to certain service measures established in Elizabethtown's 2009 Base Rate Case in BPU Docket No. GR09030195, as supplemented in Elizabethtown's 2016 Base Rate Case in BPU Docket No. GR16090826. In addition, Elizabethtown Gas Company will adhere to the requirements contained in the 2009 and 2016 Base Rate cases to conduct ongoing surveys of customer satisfaction using its telephone and field personnel and provide the results to Rate Counsel and Board Staff.

f. The newly-formed Elizabethtown Gas Company shall meet regulations contained in the New Jersey Administrative Code and in the Pipeline Safety Regulations of the United States Department of Transportation, Pipeline and Hazardous Materials Safety Administration.

(viii) **Impact on Competition.**

a. Elizabethtown Gas Company will remain financially indifferent as to whether customers purchase gas from Elizabethtown Gas Company or a third-party supplier; and

b. Elizabethtown Gas Company and its affiliates, including, but not limited to SJI, SJI Utilities, SJRG and South Jersey Gas, will comply with all New Jersey and federal statutes and regulations and Board orders applicable to Elizabethtown Gas Company regarding competition, including those relating to retail access and customer choice.

B. Shared Services Agreements/Affiliate Relationships

(i) Post-Closing, SJI and Elizabethtown Gas Company may enter into the MSA pursuant to which SJI will provide certain services to Elizabethtown Gas Company including, but not limited to administrative, corporate communications, government and community relations, human resources, insurance, information technology, legal, accounting and auditing services;

(ii) Post-Closing, the following SSA's may be entered into: (a) an SSA between SJI Utilities and Elizabethtown Gas Company and (b) an SSA between SJI Utilities and South Jersey Gas Company. Pursuant to the SSAs, SJI Utilities will provide services to Elizabethtown Gas Company and South Jersey Gas that involve utility operations, including but not limited to strategic oversight of customer service, rates and regulatory and gas supply

management;

(iii) Within ninety (90) days of Closing, Elizabethtown Gas Company will file an updated Cost Allocation Manual pursuant to N.J.A.C. 14:4-4.5; and

(iv) Within ninety (90) days of Closing, Elizabethtown Gas Company will file its Affiliate Standards Compliance Plan pursuant to N.J.A.C. 14:4-3.7.

C. Ring Fencing and Financial Protections

(i) Post-Closing, SJI will continue to be in full compliance with BPU regulations related to ring fencing and will comply with all such provisions as they relate to Elizabethtown Gas Company. This shall be comparable to the ring-fencing measures maintained for South Jersey Gas Company. At a minimum, this shall include Elizabethtown Gas Company being a wholly-owned corporate subsidiary of SJI Utilities, Inc., issuing its own long-term debt, maintaining its own credit ratings, and refraining from pledging any of its assets for the benefit or support of any corporate affiliates.

(ii) Elizabethtown Gas Company will not issue equity in connection with the Acquisition.

(iii) Elizabethtown Gas Company is currently seeking BPU approval for and will then issue a mortgage indenture enabling the issuance of first mortgage bonds. It will maintain that capability.

(iv) ETG Acquisition Corp. in its name or the name of Elizabethtown Gas Company will enter into a three-hundred and sixty-four (364) day syndicated term facility with a group of banks. Within ninety (90) days of Closing, Elizabethtown Gas Company will:

- a. Record a mortgage indenture;
- b. Obtain a rating from a nationally recognized rating agency

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(Standard & Poor's, Moody's, Fitch);

c. Circle (lock-in) a long-term debt cost rate for its permanent (i.e. long term) financing of the planned \$530 million three-hundred and sixty-four (364) day syndicated term facility, approval of which is currently pending before the BPU; and

d. Complete this permanent financing at circled rate within one-hundred and eighty (180) days of Closing via the private placement process, potentially with hedging to mitigate the interest rate risk within one-hundred and eighty (180) days of Closing.

(v) SJI and/or SJI Utilities will establish a utility-specific commercial paper program within six (6) months of Closing;

(vi) To the extent SJI has money pools, SJI will maintain separate money pools for regulated and unregulated operations. SJI may lend money to the regulated money pool but may not borrow from it. SJI's unregulated subsidiaries may neither lend money to, nor borrow money from, the regulated money pool. Within six months of Closing, SJI Utilities, Elizabethtown Gas Company and South Jersey Gas Company shall submit a plan to Board Staff and Rate Counsel pertaining to the potential establishment of such a utility-only money pool;

(vii) In the event that the unsecured debt rating of SJI or Elizabethtown Gas Company falls below investment grade by any major rating agency, Elizabethtown will provide the Board, Staff and Rate Counsel with notice within ten (10) days of the downgrade and supply a mitigation plan within five (5) business days of the required notice; and

(viii) If SJI's or Elizabethtown Gas Company's senior unsecured debt rating falls below investment grade by any major rating agency, Elizabethtown Gas Company shall cease paying dividends to SJI until such time as an investment grade rating is restored.

D. Asset Management Agreement.

(i) Post-Closing, the asset management agreement between Sequent Energy Management L.P. and Elizabethtown pursuant to which Sequent provides upstream pipeline capacity management services as well as gas supply to Elizabethtown (“SEM AMA”), as approved in BPU Docket No. GO13040272, will be assigned to SJRG. In accordance with this assignment, SJRG will replace SEM as the provider of these services to Elizabethtown Gas Company for a term commencing at Closing for the duration of the remaining term of the SEM AMA through March 31, 2019.

(ii) SJRG and Elizabethtown will enter into a new asset management agreement (“AMA Replacement Agreement”) for the term April 1, 2019 through March 31, 2022. The AMA Replacement Agreement, attached hereto as confidential Appendix A, is subject to the requirements contained in paragraph (iii) immediately below. At the time of expiration of the AMA Replacement Agreement on March 31, 2022, the Elizabethtown Gas Company Gas Supply function will be brought in-house unless otherwise ordered by the Board.

(iii) Within 90 (ninety) days of the Closing, Elizabethtown Gas Company will file the AMA Replacement Agreement with the Board, Board Staff and Rate Counsel. Within 10 (ten) days of the Closing, Elizabethtown Gas Company will withdraw the Petition filed by Elizabethtown on October 2, 2017 in BPU Docket No. GO17101033. The AMA Replacement Agreement will reflect the following consideration:

a. SJRG will pay Elizabethtown Gas Company an annual fee for the right to act as its gas supplier and capacity management agent. Elizabethtown Gas Company will credit the entire fee to its Basic Gas Supply Service – Periodic (“BGSS-P”) clause. The fee will consist of a minimum fixed annual payment and a sharing of the capacity release credits, off-

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system sales margins, physical dispatch optimization and storage arbitrage margins that SJRG is able to obtain for Elizabethtown Gas Company as follows:

1. The minimum fixed payment will be \$4.25 million annually;
2. Capacity release credits, off-system sales margins, physical dispatch optimization and storage arbitrage margins obtained by SJRG for Elizabethtown Gas Company will be shared as follows:
 - (a) One hundred percent (100%) of the first \$4.25 million of such margins/credits will be retained by SJRG because SJRG will have already made the minimum payment of \$4.25 million described above;
 - (b) Seventy percent (70%) of annual margins/credits in excess of \$4.25 million and up to \$7.452 million will be retained by SJRG with the remaining thirty percent (30%) credited to Elizabethtown Gas Company's BGSS-P clause;
 - (c) Twenty-nine percent (29%) of annual margins/credits in excess of \$7.452 million up to \$13.717 million will be retained by SJRG with the remaining seventy-one percent (71%) credited to Elizabethtown Gas Company's BGSS-P clause;
 - (d) Fifty percent (50%) of annual margins/credits in excess of \$13.717 million up to \$18.667 million will be retained by

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SJRG with the remaining fifty percent (50%) credited to Elizabethtown Gas Company's BGSS-P clause; and

- (e) All margins in excess of \$18,667,000.00 will be shared eighty-five percent (85%) to Elizabethtown Gas Company's BGSS-P clause and fifteen percent (15%) to SJRG.

b. The margin sharing mechanism described above is illustrated on confidential Appendix B which is attached hereto. The margin sharing formula results in an overall sharing of approximately thirty percent (30%) of margins/credits to SJRG and seventy percent (70%) of such margins/credits to Elizabethtown Gas Company's BGSS-P clause if total margins/credits for any annual period are between \$8.0 million and \$14.0 million.

(iv) Information contained in the Elizabethtown Gas Company "books" maintained by SJRG will be made available to Staff and Rate Counsel on reasonable notice at Elizabethtown's Gas Company's headquarters. In addition, following the completion of the first year of the term of the AMA Replacement Agreement, and each year thereafter, SJI, the parent company of Elizabethtown Gas Company and SJRG, will conduct an internal audit of the SJRG/Elizabethtown Gas Company agreements. The audit will be conducted at SJI's cost and expense using either internal or external resources as determined by SJI. The auditor will be responsible for determining (i) whether margins were properly credited to Elizabethtown Gas Company's BGSS-P clause in the manner required by this Stipulation and the AMA Replacement Agreement, and (ii) whether SJRG was treating Elizabethtown Gas Company in a non-discriminatory manner in relation to other SJRG asset management arrangements. The audit shall be completed within nine (9) months of the applicable year. A copy of the results of this

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internal audit will be provided to the Director of the Division of Energy of the Board and the Director of Rate Counsel within ten (10) days of completion. All supporting documents will be provided at Elizabethtown Gas Company's offices in New Jersey on reasonable notice. All of the information described herein will be provided under a mutually agreeable confidentiality agreement.

(v) Elizabethtown Gas Company will submit the following reports to the Board, the Director of the Division of Energy of the Board and Rate Counsel:

a. Quarterly reports detailing margin sharing activities and related information in a form similar to that currently filed by Elizabethtown; such reports shall be filed no later than forty-five (45) days after the end of the applicable quarter;

b. Quarterly reports detailing any costs incurred by Elizabethtown Gas Company as a result of SJRG having to liquidate supply contracts or obtain replacement supplies as a result of its inability to purchase supplies at certain secondary points to be identified in the AMA Replacement Agreement for subsequent delivery to Elizabethtown Gas Company; such reports shall be filed no later than forty-five (45) days after the end of the applicable quarter if and to the extent any costs are incurred by Elizabethtown Gas Company;

c. Annual reports detailing activities that occurred in accordance with Section 2.5 of the Gas Purchase and Sale Agreement; such reports will include SJRG's initial price quote, any price quotes obtained from others and whether SJRG exercised its right to manage the lowest quote or Elizabethtown purchased quantities from third parties, and shall be filed no later than 45 days after the end of the year in which the applicable activities occurred; and

d. An analysis prepared by a third party of the expected asset optimization margin that could have been extracted from Elizabethtown Gas Company's natural gas capacity and supply portfolio during the years ended March 31, 2020 and March 31, 2021 shall be filed no later than September 30, 2021.

(vi) The \$4.25 million minimum annual fee will be credited to Elizabethtown Gas Company's BGSS-P clause in equal quarterly installments on the last day of each quarter – June 30, September 30, December 31, and March 31. Shared margins/credits, if any, in any annual period will be credited to Elizabethtown Gas Company's BGSS-P clause twice a year no later than September 30 and March 31. Each year in Elizabethtown Gas Company's Annual BGSS-P filing with the Board, Elizabethtown Gas Company will advise Staff and Rate Counsel of the results obtained by SJRG during the previous BGSS-P annual period.

E. Miscellaneous

(i) Each Signatory Party shall use its best efforts to ensure that this Stipulation be presented to the Board for approval at its June 22, 2018 public agenda meeting in order to facilitate the Closing of the Acquisition by July 1, 2018;

(ii) This Stipulation represents the entirety of the agreement among the Signatory Parties. This Stipulation includes proposals and conditions above and beyond the terms contained in the Joint Petition. Notwithstanding statements made in the Joint Petition, testimony, discovery materials or any information provided by the Joint Petitioners, only those commitments stated in this Stipulation shall apply;

(iii) The Signatory Parties shall support approval of the Acquisition upon the terms set forth in this Stipulation in any proceedings before the Board regarding approval of the

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Acquisition. The Signatory Parties shall defend this Stipulation in the event of opposition to approval of the Acquisition from non-signatory parties before the Board;

(iv) It is the intent of the Signatory Parties that the provisions hereof be approved by the Board as being in the public interest. The Signatory Parties further agree that they consider the Stipulation to be binding on them for all purposes herein;

(v) In the event any particular aspect of this Stipulation is not accepted and approved in its entirety by the Board, any Signatory Party aggrieved thereby shall not be bound to proceed with this Stipulation and shall have the right to litigate all issues addressed herein to a conclusion. More particularly, in the event this Stipulation is not adopted in its entirety by the Board, in any applicable Order(s), then any Signatory Party hereto is free to pursue its then available legal remedies with respect to all issues addressed in this Stipulation as though this Stipulation had not been signed;

(vi) This Stipulation shall become effective and be binding on the Signatory Parties after the issuance of a Board Order approving this Stipulation or upon such date as the Board may specify. This Stipulation contains terms and conditions above and beyond the terms contained in the Joint Petition, each of which is interdependent with the others and essential in its own right to the signing of this Stipulation. Each term is vital to the agreement as a whole, because the Signatory Parties expressly and jointly state that they would not have signed the Stipulation had any term been modified in any way. None of the Signatory Parties shall be prohibited from or prejudiced in arguing a different policy or position before the Board in any other proceeding, as such agreements pertain only to this matter and to no other matter;

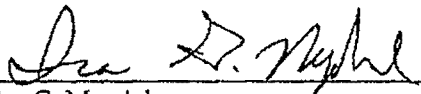
(vii) This Stipulation sets forth a compromise of divergent positions and shall not be regarded as precedent in any future case. Except as expressly provided herein, no

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Signatory Party shall be deemed to have approved, agreed to, or consented to any principle or methodology underlying or supposed to underlie any agreement provided herein; and

This Stipulation may be executed in as many counterparts as there are Signatory Parties of this Stipulation, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.


**SOUTH JERSEY INDUSTRIES, INC.,
ETG ACQUISITION CORP. AND
SOUTH JERSEY RESOURCES GROUP,
LLC**

By: 
Ira G. Megdal

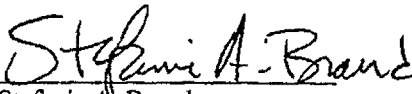
**PIVOTAL UTILITY HOLDINGS
d/b/a ELIZABETHTOWN GAS**

By: _____
Kenneth T. Maloney

**GURBIR S. GREWAL
ATTORNEY GENERAL OF
NEW JERSEY**
Attorney for the Staff of the
Board of Public Utilities

By: 
Alex Moreau
Deputy Attorney General

**STEFANIE BRAND
DIRECTOR
DIVISION OF RATE COUNSEL**

By: 
Stefanie A. Brand
Rate Counsel

**NEW JERSEY LARGE ENERGY USERS
COALITION**

By: _____
Paul Forshay

DATE: June 20, 2018

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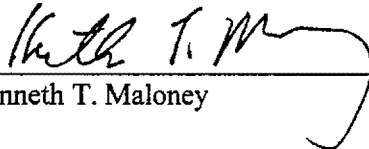
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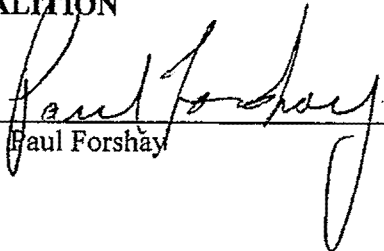
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