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OCT 25 2018

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

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10/29/18*



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OCT 25 2018

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

STEFANIE A. BRAND
Director

October 25, 2018

Via Hand Delivery and Electronic Mail

Hon. Aida Camacho-Welch, Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
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 Consent
Renewing a Franchise in the Borough of Washington,
Warren County
BPU Docket No.: GE18050578**

Dear Secretary Camacho-Welch:

Please accept for filing an original and ten copies of comments submitted on behalf of the New Jersey Division of Rate Counsel ("Rate Counsel") concerning the above-referenced Verified Petition of Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas ("Elizabethtown" or the "Company") for approval of a municipal consent in the Borough of Washington, Warren County. We enclose one additional copy. Please date stamp the copy as "filed" and return it to us in the enclosed self-addressed, stamped envelope. Thank you for your consideration and attention to this matter.

*Case mgmt
list copied*

Background

The Company filed the above-referenced Verified Petition on or about May 23, 2018, seeking approval, pursuant to N.J.S.A. 48:2-14, N.J.S.A. 48:3-15 and N.J.A.C. 14:1-5.5, of Borough of Washington Ordinance No. 2018-06 granting the Company consent to provide natural gas utility service, and to construct and maintain pipes and related facilities in streets and other public areas, within the Borough. Subsequently, on July 13, 2018, the Company responded to Rate Counsel's discovery requests RCR-1 through RCR-4. In addition, on October 24 the Company responded to supplemental question SR-1 from Rate Counsel regarding the age of the Company's infrastructure within the Borough. See 12T:L17 to 14T:L17 (9/27/18).

Elizabethtown currently provides natural gas service to approximately 3,462 customers within the Borough, consisting of 3,133 residential and 329 commercial customers. Petition, ¶ 4. The Company anticipates customer growth within its service territory of approximately 1% to 1.5%, and approximately 50 to 100 new customers within the Borough, annually for the next 5 years. Responses to RCR-1 and 2; 11T:L8-12 (9/27/18). Elizabethtown represents that it has the capacity necessary to ensure a continuation of its natural gas service and does not foresee any concerns regarding its ability to meet the existing and future demands of the Borough. Petition, ¶ 4.

The Company services its customers within the Borough through its New Village Service Center, 148 Edison Road, Stewartsville, New Jersey 08886, located approximately seven miles from the Borough, from 7:30 a.m. to 5:00 p.m.; the Customer Service Department by telephone, at 800-242-5830; and by e-mail, at G2etcustcare@southernco.com, 24 hours a day, seven days a week. Response to RCR-3 and June 18 e-mail from Petitioner. Elizabethtown anticipates that

this service center will continue to service its customers in the Borough, with no changes in its location or hours of operation. Response to RCR-3.

The Borough granted a franchise and consent to the Company to provide natural gas utility service and to construct and maintain pipes and related facilities in streets and other public areas within the Borough for a period of ninety-nine years, by Ordinance No. 78, adopted on November 6, 1905. Petition, ¶ 5 and Ex. A. Pursuant to that Ordinance, the Company's right to use the streets within the Borough for the provision of service expired on November 6, 2004. See Petition, ¶ 5 and Ex. A; 10T:L24 to 11T:L 3 (9/27/18). The Company represents that it has continued to provide uninterrupted service to its customers within the Town. 11T:L4-7 (9/27/18).

In Ordinance No. 2018-06, adopted on April 17, 2018, the Borough set forth certain limits on its renewed franchise and consent to the Company, including limiting it to a period of ten years from the date of its final adoption. Petition, ¶ 6 and Ex. B. On May 2, 2018, the Company accepted and agreed to the terms and conditions of the municipal consent in Ordinance No. 2018-06, pursuant to N.J.S.A. 48:3-16. Petition, ¶ 7 and Ex. C.

At the hearing held by the hearing officer for the Board of Public Utilities ("Board") on this Petition on September 27, 2018, Gary Marmo, Director of New Business Development for Elizabethtown, testified that the Company has the capacity to meet the full gas requirements of its existing and anticipated new customers located within the municipality. See 12T:L2-16 (9/27/18). No one has contacted Rate Counsel with any objection regarding this matter.

Rate Counsel Position

Since the Company represents that it has the capacity necessary to serve the full natural gas requirements of its existing and anticipated new customers located in the Borough, and Ordinance No. 2018-06 limits the municipal consent to ten years, below the statutory maximum of fifty years, Rate Counsel does not object to approval of Elizabethtown's Petition. Rate Counsel recommends that the Board 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 this municipal consent should be addressed in a future base rate case 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, and limited by Ordinance No. 2018-06, the municipal consent to construct, maintain and operate gas lines in the streets and other public places in the Borough is limited to a term not exceeding ten 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 Board approval is limited to the municipal consent provided in Borough Ordinance No. 2018-06, and that there is no authorization to include any

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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
Director, Division of Rate Counsel

By: 
Brian Weeks, Esq.
Deputy Rate Counsel

c: Service List (by via electronic and regular mail)

I/M/O the Petition of Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas for the Approval of a Municipal Consent Renewing a Franchise in the Borough of Washington, Warren County
BPU Docket No. GE18050578

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