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OCT 25 2018

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

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10/25/18



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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 Town of Newton, Sussex County
BPU Docket No.: GE18040364**

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 Town of Newton, Sussex 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.

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Background

The Company filed the above-referenced Verified Petition on or about April 2, 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 Town of Newton Ordinance No. 2018-5 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 Town. Subsequently, on June 12, 2018, the Company responded to Rate Counsel's discovery requests RCR-1 through RCR-4.

Elizabethtown currently provides natural gas service to approximately 2,811 customers within the Town, consisting of 2,300 residential and 511 commercial customers. Petition, ¶ 4. The Company anticipates customer growth within its service territory and within Newton of approximately 1% to 2% annually for the next 5 years. Responses to RCR-1 & 2; 10T:L20-24 (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 Town. Petition, ¶ 4; 11T:L16-19 (9/27/18).

The Company services its customers within Newton through its Andover Service Center, 95-B Stickles Pond Road, Newton, New Jersey 07860; the Customer Service Department by telephone, at 800-242-5830; and by e-mail, at G2etcustcare@southernco.com. 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 Town, with no changes in its location or hours of operation. Response to RCR-3.

The Town 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 Town for a period of fifty years, by ordinance adopted on September 3, 1946.

Petition, ¶ 5 and Ex. A. Pursuant to that ordinance, the Company's right to use the streets within the Town for the provision of service expired on September 3, 1996. See Petition, ¶ 5 and Exs. A & B. The Company represents that it has continued to provide uninterrupted service to its customers within the Town. 10T:L8-19 (9/27/18).

In Ordinance No. 2018-5, adopted on March 12, 2018, the Town set forth certain limits on its renewed franchise and consent to the Company, including limiting it to the statutory maximum period of fifty years from the date of its final adoption. Petition, ¶ 6 and Ex. B. On March 14, 2018, the Company accepted and agreed to the terms and conditions of the municipal consent in Ordinance No. 2018-5, 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. 11T:L16-19 (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 Town, and Ordinance No. 2018-5 does not exceed 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, the municipal consent to construct, maintain and operate gas lines in the streets and other public places in the Town is limited to a term not exceeding fifty 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 Town Ordinance No. 2018-5, 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
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
Town of Newton, Sussex County
BPU Docket No. GE18040364

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