



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center**  
**Newark, NJ 07102**  
**www.nj.gov/bpu/**

ENERGY

IN THE MATTER OF THE PETITION OF ATLANTIC )  
CITY ELECTRIC COMPANY FOR AN ORDER OF ) CLARIFYING DECISION  
APPROVAL OF THE SALE OF ITS NUCLEAR )  
GENERATING UNITS )  
) DOCKET NO. EM99110870

(SERVICE LIST ATTACHED)

BY THE BOARD:

This Supplemental Order further memorializes and clarifies the reasoning and actions taken by the Board of Public Utilities (the "Board") in this matter, by a vote of three Commissioners, at its May 15, 2000 special public agenda meeting.

As noted in its Summary and Final Restructuring Orders, dated July 15, 1999 and March 30, 2001, respectively, the Board determined that, in order to calculate stranded costs for securitization purposes, taxes, including the accumulated deferred federal income tax ("ADFIT"), be collected through the Market Transition Charge-Tax ("MTC-Tax"), which will be calculated on an annual basis for a full recovery from ratepayers for the term of the transition bonds. In its Order dated September 17, 2001 ("September 2001 Order"), the Board determined the amount of the Company's stranded costs, eligible for recovery by the Company, as defined by N.J.S.A. 48:3-51, to be approximately \$297.9 million as of December 31, 1999, subject to further adjustment at the time of closing and subject to verification, and also that the Company have the opportunity to recover eligible stranded costs through the Company's Market Transition Charge, including appropriate taxes, inclusive of ADFIT, in a time frame and manner to be determined by the Board.

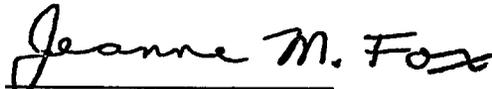
This Supplemental Order is intended to reaffirm that the Board's intent in its earlier Orders in determining the Company's recoverable stranded costs "net of tax" was not to cause, nor did such Orders in fact cause, the Company's ADFIT associated with the Nuclear Assets to reduce stranded costs otherwise recoverable from the Company's ratepayers. The calculation of recoverable stranded costs included a line item for the ADFIT in the amount of \$54,145,588. The Board had previously determined that the Company was entitled to recover the future federal income tax liability associated with the receipt of the recoverable stranded costs. See In the Matter of Atlantic City Electric-Rate Unbundling, Stranded Cost and Restructuring Filings, BPU Docket. Nos. EO97070455, EO9707546 and EO97070457 (March 30, 2001) ("Final Restructuring Order"). Accordingly, in approving the use of securitization for the recovery of stranded costs, the Board allowed a "tax gross-up" in the revenue requirement intended to, and which in fact does, restore the ADFIT balance over the term of the stranded cost recovery

period in the form of the MTC – Tax component. See In the Matter of the Petition of Atlantic City Electric Company for a Bondable Stranded Costs Rate Order in Accordance with N.J.S.A. 48:3-49 et seq., BPU Docket No. EF01060394 (September 20, 2002) (“Bondable Stranded Costs Rate Order”). The MTC – Tax component of stranded cost recovery associated with the Nuclear Assets is specifically intended by the Board to, and in fact does, gross-up net of tax stranded costs, thereby ensuring that the ADFIT balance is not flowed-through to the Company’s ratepayers and, consequently, ensuring and establishing that the Company is not in violation of the normalization requirements of Section 168(i)(9) of the Internal Revenue Code.

In furtherance of the aforementioned intent, the Board DIRECTS the Company to maintain an accurate accounting of the aggregate amount of MTC–Tax recovered from ratepayers and, in accordance with the formula set forth in Appendix C of the Bondable Stranded Costs Rate Order, to make such true-up adjustments from time to time as may be necessary to ensure that the MTC–Tax component of stranded cost recovery collects the full tax liability associated with billing the transition bond charges, including the \$54,145,488 amount of the ADFIT reserve from the Company’s ratepayers over the stranded cost recovery period -- thereby ensuring no flow through of the benefit of the ADFIT balance to the Company’s ratepayers. Any remaining MTC–Tax component will be collected in accordance with the September 2001 Order, the Final Restructuring Order, and the Bondable Stranded Costs Rate Order.

DATED: 10/25/07

BOARD OF PUBLIC UTILITIES  
BY:

  
JEANNE M. FOX  
PRESIDENT

  
FREDERICK F. BUTLER  
COMMISSIONER

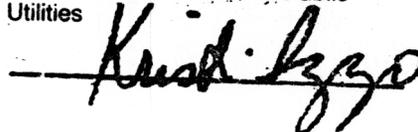
  
JOSEPH L. FIORDALISO  
COMMISSIONER

  
CHRISTINE V. BATOR  
COMMISSIONER

ATTEST:

  
KRISTI IZZO  
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities



**STATE OF NEW JERSEY  
BOARD OF PUBLIC UTILITIES**

---

I/M/O THE PETITION OF ATLANTIC  
CITY ELECTRIC COMPANY  
REGARDING THE SALE OF NUCLEAR  
ASSETS

---

STIPULATION  
BPU Docket No. EM99110870

**APPEARANCES:**

Mark L. Mucci, Esq., Saul Ewing LLP, on behalf of Atlantic City Electric Company

Caroline Vachier, Deputy Attorney General, on behalf of the Staff of the Board of Public Utilities

Ami Morita, Esq., Diane Schulze, Esq. and Kurt Lewandowski, Esq., Deputy Public Advocates, on behalf of the Department of the Public Advocate, Division of Rate Counsel

**TO THE HONORABLE BOARD OF PUBLIC UTILITIES:**

The Parties in this proceeding are as follows: Atlantic City Electric Company ("Atlantic" or "Company"), the Department of the Public Advocate, Division of Rate Counsel ("Rate Counsel"), and the Staff of the Board of Public Utilities ("Board" or "Staff") (collectively, the "Parties"). The Company and Board Staff (collectively, the "Signatory Parties") have come to an agreement on the issues in dispute in this matter. The Signatory Parties hereto agree and stipulate as follows:

**Introduction**

1. This docket was originally initiated for the review and approval of the sale of interests in nuclear generating units by Atlantic. As recounted in prior Orders in this Docket, a request had been submitted to the Internal Revenue Service

("IRS") for a Private Letter Ruling ("PLR") regarding the treatment of certain federal income tax benefits associated with the divested assets. On June 22, 2007, a Motion was filed in this docket by Atlantic, seeking a BPU Order responding to the PLR issued by the IRS on May 25, 2006, in response to that request.

2. By Order dated August 8, 2007, the Board memorialized its adoption of a procedural schedule in this matter. The Parties have conducted discovery, filed initial briefs, and engaged in settlement discussions. As a result of the discussions, the Signatory Parties have reached agreement on this Stipulation as a means to resolve this matter.

3. In the course of discovery and negotiation in this matter, the Company revised its calculation of the Accumulated Deferred Federal Income Taxes associated with accelerated depreciation (ADFIT), to the amount of \$54,145,588

4. Attached hereto as Exhibit A is a Form of Order clarifying previous Orders in this Docket. Atlantic and Staff agree that adoption of the Order attached hereto as Exhibit A would resolve the Motion filed by Atlantic on June 22, 2007. Atlantic agrees that the adoption of this Order would constitute an appropriate response to its Motion. Atlantic further agrees that, subject to paragraph 5 of this Stipulation, if the Order attached as Exhibit A is adopted, it will not seek to recover the ADFIT in any manner other than as set forth in Exhibit A.

5. The Signatory Parties hereto agree that they have entered into this Stipulation, and recommended its adoption by the Board, in order to resolve the concerns raised in this docket and addressed in the May 25, 2006 PLR. The Signatory Parties acknowledge that if the treatment of the ADFIT set forth in Exhibit A does not

resolve the issues raised in the May 25, 2006 PLR, and/or the IRS takes the position the treatment of the ADFIT constitutes a violation of the depreciation normalization rules under the Internal Revenue Code, it will be necessary to resolve the issues raised in the Company's June 22, 2007 Motion referenced in paragraph 1, above. Accordingly, the Signatory Parties agree that, in such event: all Parties will be placed in the same position as if this Stipulation had not been executed and the Board Order attached hereto as Exhibit A had not been executed; the provisions of paragraph 4 above would no longer be in effect; and this matter would be returned to the BPU for disposition of the Company's Motion, under such schedule as may be determined at that time.

6. There is a currently pending appeal filed by Atlantic, from a BPU Order which had directed the Company to withdraw the request for a PLR, with Docket A-4577-05T5. The Signatory Parties agree that, with the adoption of this Stipulation, that appeal should be considered moot. Accordingly, the Signatory Parties agree to a dismissal of that appeal on the same conditions as those set forth in the dismissal of a similar matter involving a different appellant, In the Matter of Public Service Electric and Gas Company, Docket No. A-4494-05T5, without prejudice to the right of Atlantic to challenge the order appealed from, in the event any action is taken to penalize Atlantic based on that order.

7. This Stipulation is the product of extensive negotiations by the Signatory Parties, and it is an express condition of the settlement embodied by this Stipulation that it be presented to the Board in its entirety without modification or condition. It is also the intent of the Signatory Parties to this Stipulation that this

settlement, once accepted and approved by the Board, shall govern all issues specified and agreed to herein. The Signatory Parties to this Stipulation specifically agree that if adopted in its entirety by the Board, no appeal shall be taken by them from the order adopting same as to those issues upon which the Signatory Parties have stipulated herein. The Signatory Parties agree that the within Stipulation reflects mutual balancing of various issues and positions and is intended to be accepted and approved in its entirety. Each term is vital to this Stipulation as a whole, since the Signatory Parties hereto expressly and jointly state that they would not have signed this Stipulation had any terms been modified in any way. In the event any particular aspect of this Stipulation is not accepted and approved by the Board, then any Signatory Party hereto materially affected thereby shall not be bound to proceed under this Stipulation. None of the 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.

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

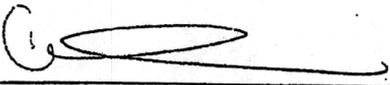
ATLANTIC CITY ELECTRIC COMPANY

October 19, 2007  
Date

By:   
Saul Ewing LLP  
Mark L. Mucci, Esq.  
Attorney for Petitioners

ANNE MILGRAM  
ATTORNEY GENERAL OF NEW JERSEY

10/19/07  
Date

By:   
\_\_\_\_\_  
Caroline Vachier  
Deputy Attorney General