Agenda Date: 12/1/09
Agenda Item: 2G

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 NEW JERSEY NATURAL GAS COMPANY FOR AUTHORIZATION THROUGH SEPTEMBER 30, 2012: (1) PURSUANT TO N.J.S.A. 48:3-9, TO ENTER INTO A CREDIT FACILITY ALLOWING THE ISSUANCE OF BANK NOTE OBLIGATIONS; (2) TO ISSUE AND SELL PURSUANT TO N.J.S.A. 48:3-9 MEDIUM TERM NOTES; (3) TO MAKE, EXECUTE AND DELIVER PURSUANT TO N.J.S.A. 48:3-9 LOAN AGREEMENTS WITH THE NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY TO FACILITATE THE ISSUANCE AND SALE OF TAX-EXEMPT BONDS; (4) TO ENTER INTO INTEREST RATE RISK MANAGEMENT TRANSACTIONS RELATED TO CERTAIN OUTSTANDING LONG-TERM DEBT SECURITIES AND ANY NEW ISSUANCES APPROVED HEREUNDER; AND (5) TO INCREASE THE NUMBER OF METERS THAT NEW JERSEY NATURAL GAS COMPANY MAY INCLUDE ANNUALLY AS PART OF THE LEASE FINANCING PROGRAM APPROVED BY THE BOARD ON OCTOBER 25, 2001.	ORDER OF APPROVAL DOCKET NO.: GF09080702

Richard Reich, Esq. New Jersey Natural Gas, New Jersey Natural Gas Co.1415 Wyckoff Road P.O. Box 1464 Wall, NJ 07719, for Petitioner

BY THE BOARD:

On August 24, 2009, New Jersey Natural Gas Company ("Petitioner" or "Company"), a public utility of the State of New Jersey, filed a petition assigned to Docket No. GF09080702 (the "Petition") with the New Jersey Board of Public Utilities ("Board"), pursuant to N.J.S.A. 48:3-7 and 48:3-9, and N.J.A.C. 14:1-5.9, requesting authorization to:

(a) enter into a revolving credit facility for up to three years providing, among other things, for the issuance of promissory notes ("Bank Note Obligations") in an aggregate principal amount not to exceed $250,000,000 at any one time outstanding;

(b) (i) issue and sell Medium-Term Notes ("MTNs") with a maturity of not more than thirty (30) years in an aggregate principal amount of not more than $125,000,000; (ii) make, execute and deliver a trust indenture, trust indentures or supplements thereto or a note purchase agreement or note purchase agreements providing for the issuance of the MTNs; (iii) make, execute and deliver a thirty-third (33rd) supplemental indenture ("Thirty-Third Supplemental Indenture") and additional supplemental indentures providing for the issuance of MTNs in the form of a first mortgage bond or bonds with a maturity or maturities of not more than thirty (30) years and in aggregate principal amount of not more than $125,000,000 or to secure MTNs issued as described in (i) above; and (iv) make execute and deliver other supplemental indentures, and issue first mortgage bonds as shall be necessary to complete the transactions contemplated in the Petition;

(c) (i) make, execute and deliver loan agreements with the New Jersey Economic Development Authority ("EDA") to facilitate the issuance and sale of tax-exempt or taxable bond issuances through the EDA with a maturity of not more than thirty (30) years in an aggregate principal amount of no more than $100,000,000 ("New EDA Bonds"); (ii) make, execute and deliver a thirty-third (33rd) supplemental indenture ("Thirty-Third Supplemental Indenture") and additional supplemental indentures providing for the issuance of a first mortgage bond or bonds with a maturity or maturities of not more than thirty (30) years and in aggregate principal amount of not more than $100,000,000 as security for the New EDA Bonds; (iii) make execute and deliver such other supplemental indentures, and to issue first mortgage bonds as shall be necessary to complete the transactions contemplated in the Petition; and (iv) make, execute and deliver letter of credit agreements, insurance agreements or other arrangements that may exceed one year to provide additional credit or liquidity support to New EDA Bonds;

(d) enter into one or more interest rate risk management transactions, including interest rate swaps and interest caps, floors and collars or other derivative agreements or arrangements (collectively, "Interest Rate Swaps") (i) with a duration of up to three years to have the effect of synthetically fixing the rate on no more than $100,000,000 of the certain outstanding tax-exempt variable rate bonds previously issued by the EDA. (ii) in connection with the issuance and sale of the MTNs in amount up to $125,000,000 and/or New EDA Bonds in an amount up to $100,000,0000 (the MTNs and the New EDA Bonds are referred to collectively as "New Debt");

(e) redeem, refinance, or defease any of the Company's outstanding long-term debt securities, as long as the redemption, refinancing or defeasance is economically advantageous for the Petitioner;

(f) increase the number of gas meters available for lease financing as approved by the Board on October 25, 2001 (Docket No. GF01030184) from the currently authorized amount of 15,000 meters per year to 20,000 meters per year to expand the program in connection with Petitioner's customer growth; and

(g) make, execute and deliver purchase agreements and related agreements and instruments with financial institutions (including procuring credit enhancement instruments) and take such other actions the Company determines may be necessary to complete the transactions contemplated in the Petition without further order of the Board.

According to the Petition, the net proceeds of these transactions or series of transactions will be used to retire short-term debt through the issuance of long-term debt; to fund capital expenditure requirements, including those related to the Accelerated Infrastructure Program ("AIP"), energy efficiency expenditures and environmental remediation expenditures; to fund pension and other post-employment benefit programs; and, potentially, to redeem, refinance or defease any of Petitioner's indebtedness or debt securities as long as the redemption, refinancing or defeasance would be economically advantageous for the Petitioner. Petitioner's construction program has been financed, and it is expected that it will be financed, in part, by short-term debt, and periodically Petitioner proposes to retire that debt.

If authorized, as requested, the New Debt may be issued at various times through September 30, 2012, have differing maturity dates and bear interest at different rates, and may contain other terms that vary from series to series. Petitioner intends to sell the MTNs either to or through agents who will be "accredited investors," as defined in rules under the Securities Act of 1933, as amended. ("Securities Act"). The successful bidder or bidders, in turn, may resell the MTNs to "qualified institutional buyers" pursuant to Rule 144A under the Securities Act or to any eligible purchasers under an applicable exemption under the Securities Act. The sale will be made to or through the agent or agents whose bid or bids result is the most financially advantageous to the Petitioner. Through the agent or agents, Petitioner will conduct a competitive bidding process or negotiate sale terms directly (if market conditions dictate that a negotiated sale would be the best option), in order to provide the Petitioner with the most economically advantageous financing. The agents to be utilized by the Petitioner may change from offering to offering.

Petitioner proposes that the New Debt bear interest rates set within the maximum yield spreads over U.S. Treasury securities as provided in the Market Yield Spread Table below:

Range of Maturities	Maximum Yield Spread (Basis Points)
1 year to less than 18 months	400
18 months to less than 2 years	410
2 years to less than 3 years	420
3 years to less than 4 years	430
4 years to less than 5 years	440
5 years to less than 7 years	450
7 years to less than 10 years	460
10 years to less than 15 years	470
15 years to less than 20 years	480
20 years to 30+ years	490

According to the Company, the coupon spreads proposed above are based upon the difference between the market yield of corporate debt securities having ratings comparable to the Petitioner's first mortgage bonds and U.S. Treasury securities with like maturities. These maximum coupon spreads are designed to allow for differences in redemption provisions as well as for ordinary market volatility. If market conditions change materially, the Petitioner will deliver an updated yield spread schedule to the Board for approval.

Petitioner requests that all of the New Debt be sold without further approval by this Board in accordance with procedures set forth in the Petition, meaning that, except as specifically defined, the actions necessary to effectuate the transactions authorized by this Order can be taken without further Order of the Board.

Given volatility in the financial markets, Petitioner requests authority in connection with the issuance and sale of the New Debt to enter into one or more Interest Rate Swaps related to the aggregate principal amount of the New Debt. The purpose of these types of transactions is to better manage interest costs and provide protection in the event of significant changes in financial market conditions by locking in or capping favorable interest rates. Petitioner also requests authority to enter into one or more forward rate agreements. The purpose of these types of transactions is to allow Petitioner to take advantage of favorable interest rates by agreeing to an interest rate that would be effective sometime in the future.

Petitioner also seeks authorization to enter into one or more Interest Rate Swaps to have the effect of fixing the rate on up to $100,000,000 of the Outstanding EDA Bonds. As of the filing date of the Petition, the interest rate on the Outstanding EDA Bonds is reset every 7 or 35 days, depending upon the applicable series. On those dates, an auction is held for the purposes of determining the interest rate of the securities. The interest rate associated with the Petitioner's variable-rate debt is based on the rates on the Outstanding EDA Bonds. For the six months ended March 31, 2009, all of the auctions surrounding the Outstanding EDA Bonds have failed, resulting in those bonds bearing interest at their maximum rates, defined as the lesser of (i) 175 percent of the 30-day LIBOR rate or (ii) 10 to 12 percent per annum, as applicable to such series of Outstanding EDA Bonds. While the failure of the auctions does not signify or constitute a default of Petitioner, the Outstanding EDA Bonds do impact Petitioner's borrowing costs on the variable-rate debt. Petitioner wishes to avoid the potential volatility and increased borrowing costs that may be associated with the fluctuating maximum rates by entering into Interest Rate Swaps. According to the Company, the purpose of these Interest Rate Swaps is to better manage interest costs and provide protection in the event of significant changes in financial market conditions by locking in or capping favorable interest rates.

Petitioner also requests authority to enter into letter of credit agreements, insurance agreements or other arrangements with financial institutions, with terms or maturities that may exceed one year, pursuant to which such entities may provide additional credit or liquidity support to New EDA Bonds. The intended purpose of additional credit or liquidity support is to enhance the credit rating of such debt and thereby reduce the interest expense of the debt. The Petitioner's obligations under a letter of credit agreement, insurance agreement or other arrangement as described above, will not increase the amount of long-term debt above that incurred under the corresponding loan agreement with the EDA.

The Company requests authority to redeem, refinance or defease at its option, any of the outstanding principal balance of any of its remaining outstanding debt securities which are eligible to be redeemed at their previously established redemption prices, including any premium, plus interest thereon to the date of redemption. Petitioner represents that it will not engage in any redemption, refinancing, refinancing or defeasance unless it is economically advantageous to the Petitioner. Petitioner requests authority to issue New Debt in order to finance such redemption, refinancing or defeasance.

Petitioner stated that it intends to use the net proceeds of these transactions or series of transactions to retire short-term debt through the issuance of long-term debt; to fund capital expenditure requirements, including those related to our AIP and environmental remediation expenditures; to fund pension and other post-employment benefit programs; and, potentially, to redeem, refinance or defease any of its indebtedness or debt securities as long as such redemption, refinancing or defeasance would be economically advantageous for the Petitioner.

Petitioner also requests authority to increase the number of meters that it acquires using a lease financing obligation ("Lease") from the currently authorized number of 15,000 meters per year to 20,000 meters per year. The originally approved limit of 15,000 meters was based upon a total of 400,000 meters. According to the information provided, Petitioner's service territory has grown, and the total number of meters has increased to approximately 487,000. Petitioner proposes to increase the limit on the number of meters acquired using lease financing to 20,000 meters annually. Petitioner believes that the use of lease financing for meters has resulted in a lower overall financing cost for the acquisition of meters and related equipment.

The Petition and supplemental information were provided to the Department of the Public Advocate, Division of Rate Counsel ("Rate Counsel"). By letter dated November 23, 2009, Rate Counsel indicated that it did not oppose grant of the petition provided that certain limitations were imposed. Among those restrictions, Rate Counsel recommended that the Company be required to seek Board approval of any coupon rate in excess of the proposed market yield spread table, and that interest management transactions be limited to "conventional interest rate swaps and interest caps and should not extend to other derivative arrangements." Id. at 11. Rate Counsel recommended that the Company be required to give notice to Board Staff and Rate Counsel ten (10) business days before seeking any financing using "other types of derivative arrangements or other unconventional interest rate management arrangements," and be required to seek Board approval for the proposed financing if Rate Counsel objects within five (5) business days. Additionally, Rate Counsel noted that it reserved its right to examine transactions entered into under any authority granted by this Order within future rate cases.

Although the Company requested authority to issue the New Debt for a period of three years, this Order limits the authority granted to a period of two years, except that authority is granted for a period of three years with respect to the revolving credit facility based on information provided by the Company that to limit authority to two years would cause it to incur an additional $800,000 in issuing costs if authority were later granted to extend the facility. Given the unsettled nature of both the economy and the financial markets, a more frequent review of the Company's financial activities is appropriate.

Therefore, the Board, after investigation, having considered the Petition and exhibits submitted in this proceeding, as well as supplemental information provided by the Petitioner and the comments of Rate Counsel and Board Staff, FINDS that the proposed transaction is in accordance with the law, is in the public interest and approving the purposes thereof, HEREBY ORDERS that Petitioner be and is HEREBY AUTHORIZED:

(a) through September 30, 2012 to pursuant to N.J.S.A 48:3-9, to enter into a revolving credit facility with a duration of up to three years providing, among other things, for the issuance of Bank Note Obligations in an aggregate principal amount not to exceed $250,000,000 at any one time outstanding;

(b) through September 30, 2011 to issue and sell pursuant to N.J.S.A. 48:3-9 MTNs with a maturity of not more than thirty (30) years in an aggregate principal amount of not more than $125,000,000; (ii) make, execute and deliver pursuant to N.J.S.A 48:3-9 a trust indenture, trust indentures or supplements thereto or a note purchase agreement or note purchase agreements, as the case may be, providing for the issuance of such MTNs;

(iii) make, execute and deliver pursuant to N.J.S.A. 48:3-7 a Thirty-Third Supplemental Indenture and additional supplemental indentures providing for the issuance of MTNs (A) in the form of a first mortgage bond or bonds with a maturity or maturities of not more than thirty (30) years and in aggregate principal amount of not more than $125,000,000 or (B) to secure MTNs; and (iv) make execute and deliver pursuant to N.J.S.A. 48:3-7 such other supplemental indentures, and to issue such first mortgage bonds as shall be necessary to complete the transactions contemplated in the Petition;

(c) through September 30, 2011 to make, execute and deliver pursuant to N.J.S.A. 48:3-9 loan agreements with the EDA to facilitate the issuance and sale of New EDA Bonds in an aggregate principal amount of no more than $100,000,000; (ii) make, execute and deliver pursuant to N.J.S.A. 48:3-7 a Thirty-Third Supplemental Indenture and additional supplemental indentures providing for the issuance of a first mortgage bond or bonds with a maturity or maturities of not more than thirty (30) years and in aggregate principal amount of not more than $100,000,000 to secure the New EDA Bonds; (iii) make execute and deliver pursuant to N.J.S.A. 48:3-7 such other supplemental indentures, and to issue such first mortgage bonds there under as shall be necessary to complete the transactions contemplated in the Petition; and (iv) make, execute and deliver letter of credit agreements, insurance agreements or other arrangements that may exceed one year to provide additional credit or liquidity support to New EDA Bonds;

(d) through September 30, 2011 to enter into, pursuant to N.J.S.A. 48:3-9, one or more Interest Rate Swaps up to $100,000,000 of the outstanding EDA Debt (i) to have the effect of synthetically fixing the rate on the Outstanding EDA Bonds; and/or (ii) in connection with the New Debt

(e) through September 30, 2011 to redeem, refinance, or defease any of the Petitioner's outstanding long-term debt securities as long as the redemption, refinancing or defeasance is economically advantageous to the Petitioner;

(f) through September 30, 2011 to increase the number of gas meters available for lease financing as approved by the Board on October 25, 2001 (Docket No. GF01030184) from the currently authorized amount of 15,000 meters per year to 20,000 meters per year to expand the program to meet the Petitioner's customer growth; and

(g) through September 30, 2011 to make, execute and deliver purchase agreements and related agreements and instruments with financial institutions (including procuring credit enhancement instruments) and take such other actions the Petitioner determines may be necessary in connection therewith as shall be necessary to complete the transactions contemplated in the Petition without further order of the Board. To make, execute and deliver purchase agreements and related agreements and instruments with financial institutions (including procuring credit enhancement instruments) as shall be necessary to complete the transactions contemplated in the Petition without further Order of the Board.

This Order is issued subject to the following conditions:

1 Petitioner will issue the various series of New Debt in compliance with this Order. No further Order of this Board shall be necessary for Petitioner to complete the series of MTN transactions if the conditions of this order are met.

2. With respect to each issue of New Debt, the Petitioner shall provide the following material for information purposes as soon as it is available and in no event later than forty-eight (48) hours prior to the anticipated time for the pricings: (1) a statement with respect to the indicative pricing for the New Debt and the terms thereof which shall specify (i) the anticipated date and timing for the pricing of the New Debt, (ii) the aggregate principal amount of the New Debt, (iii) the terms and conditions upon which the New Debt may be redeemed, whether at the option of the Petitioner, pursuant to any mandatory provision, or otherwise, and (iv) such other provisions as may be established by the Petitioner with respect to the terms and conditions of the New Debt and the market pricing therefore; (2) an assessment of the then current financial market applicable to the New Debt, including, (i) data with respect to recent sales of comparable securities of other utilities, if any, (ii) data with respect to current yields on certain outstanding debt of the Petitioner, (iii) anticipated compensation to and names of the underwriters of the New Debt, (iv) the anticipated range of the yield on the New Debt based upon current market conditions, and (v) other information necessary to assess the expected sale of the New Debt and the reasonableness of the effective cost of any rate thereof.

3. If (1) the interest rate on any series of MTNs in relation to U.S. Treasury securities does not exceed the range in the table above or (2) the compensation of the underwriter with respect to any series does not exceed 1.0% of the aggregate principal amount of the MTNs issued and sold, the Petitioner may effect MTN transactions without further Order of the Board. If either the interest rate or the compensation to the underwriters exceeds such amount, the proposed issuance and sale of such MTNs shall not be consummated until further Order of the Board.

4. If New Debt is sold pursuant to competitive bidding, Petitioner shall furnish this Board in writing, as soon as practicable after accepting the bid for New Debt, the names of all principal bidders together with the interest rate, the annual cost of money to Petitioner, the price to the public, the percentage yield and the price to Petitioner applicable to each bid.

5. The Petitioner shall, as promptly as is practical after acceptance of an offer for, and the pricing of, any MTNs, notify the Board's Office of the Chief Economist and Rate Counsel in writing of the action to be taken and include a statement of the compensation to and names of all the underwriters, and, as applicable, the aggregate principal amount of the MTNs, the interest rate of the MTNs and any other provision with respect to the terms and conditions of the MTNs.

6. The Petitioner shall furnish the Board with copies of executed documents filed with other regulatory agencies relating to the New Debt simultaneously with the filing with the other regulatory agencies.

7. While it is anticipated that the interest rates to be borne by the New Debt will not exceed ten percent (10%), if market conditions require an interest rate greater than ten percent (10%), Petitioner will notify the Office of the Economist of the Board at least fourteen (14) days prior to the issuance of any New Debt but only if this rate falls within the Market Yield Spread Table approved by this Order.

8. The New Debt authorized herein shall not be redeemed at a premium prior to maturity without further Board approval, unless the estimated present value savings derived from the difference between interest or dividend payments on the new issue of comparable securities and those securities refunded is on an after-tax basis greater than the estimated present value of all redemption, tendering and issuing costs, assuming an appropriate discount rate. Petitioner shall furnish the Board with sufficient evidence to support the estimated present value savings prior to redemption.

9. The Petitioner shall furnish the Board with copies of all executed supplements to the Mortgage Indenture.

10. The Petitioner shall semi-annually file with the Board, with a copy to Rate Counsel, reports required in <u>N.J.A.C.</u> 14:1-5.9(b) setting forth the terms and conditions of all the New Debt issued during that period together with a calculation of the cumulative principal amount, and the manner in which the proceeds thereof have been disbursed.

This Order shall not be construed as certification that the securities authorized to be offered for sale will be represented by tangible or intangible assets of commensurate value or investment costs.

12. Except for the revolving credit facility, the authority granted under this Order shall become null and void and of no effect with respect to any portion thereof that is not exercised by December 31, 2011. For the revolving credit facility, the authority granted under this Order shall become null and void and of no effect with respect to any portion thereof that is not exercised by December 31, 2012.

13. The Order shall not constitute pre-approval of any cost of authorization for rate recovery. Petitioner's regulated capital structure and capital costs are subject to review in Petitioner's next base rate case or other appropriate proceeding.

14. This Order shall not be construed as directly or indirectly fixing, for any purpose whatsoever, any value of the tangible or intangible assets now owned or hereafter to be owned by Petitioner.

15. Petitioner should undertake financing in a manner that achieves the lowest reasonable cost of capital to its customers.

16. Petitioner is obligated to use a prudent mix of capital to finance its utility operations and investments.

17. This Order shall not affect nor in any way limit the exercise of the authority of this Board or of the State of New Jersey in any future proceeding with respect to rates, franchises, services, financing (including method of sale of securities), accounting, capitalization depreciation or any other matters affecting Petitioner.

DATED: 12/1/09

BOARD OF PUBLIC UTILITIES
BY:

Jeanne M Fox
JEANNE M. FOX
PRESIDENT

Frederick F. Butler
FREDERICK F. BUTLER
COMMISSIONER

JOSEPH L. FIORDALISO
COMMISSIONER

Nicholas Asselta
NICHOLAS ASSELTA
COMMISSIONER

ELIZABETH RANDALL
COMMISSIONER

ATTEST:

Kristi Izzo
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

Kristi Izzo

SERVICE LIST

In the Matter of the Petition of New Jersey Natural Gas Company for authorization through September 30, 2012: (1) Pursuant to N.J.S.A. 48:3-9, to enter into a credit facility allowing the issuance of bank note obligations; (2) to issue and sell pursuant to N.J.S.A. 48:3-9 medium term notes; (3) to make, execute and deliver pursuant to N.J.S.A. 48:3-9 loan agreements with the New Jersey Economic Development Authority to Facilitate the issuance and sale of tax-exempt bonds; (4) to enter into interest rate risk management transactions related to certain outstanding long-term debt securities and any new issuance approved hereunder; and (5) to increase the number of meters that New Jersey Natural Gas company may include annually as part of the lease financing program approved by the Board on October 25, 2001.

Docket No. GF09080702

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