



Agenda Date: 7/29/09
Agenda Item: 2E

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

ENERGY

IN THE MATTER OF THE REQUEST OF ATLANTIC)	ORDER OF TRANSMITTAL
CITY ELECTRIC COMPANY FOR AUTHORIZATION)	
TO ESTABLISH A REGULATORY ASSET RESULTING)	
FROM THE IMPACT OF RECENT ECONOMIC)	
DEVELOPMENTS ON PENSION COSTS)	DOCKET NO. EO090503555

(SERVICE LIST ATTACHED)

BY THE BOARD:

By letter dated May 1, 2009, Atlantic City Electric Company ("ACE" or "Company") requested authorization from the New Jersey Board of Public Utilities ("Board"), pursuant to N.J.S.A. 48:2-13 and 16, to defer as a regulatory asset certain increases in charges to its financial statements which the Company stated were required under Statement of Financial Accounting Standards (SFAS) No. 87, "Employers' Accounting for Pensions," as amended by SFAS 158, "Employers' Accounting for Defined Benefit Pension and Other Postretirement Plans." According to the Company, the recent downturn in the economy has resulted in an unusually large change in the fair value of its pension assets. The Company maintains that the stated accounting regulations require that the difference between the level of the operations and maintenance ("O&M") pension expense currently included in its base rates and the level of O&M pension expense it is required to record be deferred as a regulatory asset.

By letter motion dated May 18, 2009, the Department of the Public Advocate, Division of Rate Counsel ("Rate Counsel") requested that the Board either dismiss ACE's petition as "impermissible single issue ratemaking" or transfer the matter to the Office of Administrative Law ("OAL") as a contested case. According to Rate Counsel, the Company's letter petition was not properly supported by testimony or other documentation and asks for extraordinary relief outside of a base rate case by asking to defer incremental pension expense without taking into account the Company's overall financial condition. Rate Counsel concludes that the petition should be dismissed, but if it is not dismissed, the Company should be required to prove its case in an evidentiary hearing at the OAL.

Under the agreement between Rate Counsel and ACE, on June 9, 2009, ACE responded to Rate Counsel's motion to dismiss or transmit the petition to the OAL. According to ACE, Board authorization to establish a deferred regulator asset for the pension expense will have no current rate impact for the Company's customers and will not bind the Board in the Company's next filed rate case when the Board will determine whether these additional pension costs can be charged to ratepayers. ACE also maintains that it is inappropriate to decide this matter solely based on legal arguments, and therefore, it is appropriate that a detailed record be developed

so that the Board can decide whether circumstances warrant grant of the requested authority. ACE requests that the Board retain the matter for further discovery and review at the earliest possible time.

By letter dated June 23, 2009, Rate Counsel replied to ACE's response continuing to maintain that the requested authority to record a regulatory asset constitutes single issue rate making and should be denied. In the alternative, Rate Counsel repeated its request that the matter be transferred to the OAL as a contested case pursuant to N.J.A.C. 1:1-4.1 for a full evidentiary hearing, noting that ACE has conceded that this matter warrants the development of a complete record prior to any Board decision. Additionally, ACE has not presented evidence of any need for urgent action which could be a basis for the Board to retain the matter.

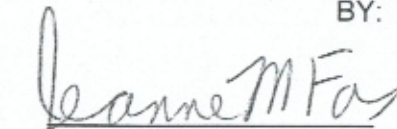
DISCUSSION AND FINDING

The Board has carefully reviewed the petition, the motion and the responses. The Board agrees that a record should be developed before any decision is made on the request for authorization to record a regulatory asset. The Board FINDS that, given the dispute over whether the grant of such authorization is warranted under current circumstances, in the exercise of its discretion, this matter should be transferred to the OAL as a contested case, for review and evidentiary hearing, if necessary, pursuant to N.J.A.C. 1:1-4.1.


The Board HEREBY ORDERS that this proceeding, including all filings and comments received to date, be transmitted to the OAL pursuant to N.J.A.C. 1:1-8.2, for a review of the request to establish a regulatory asset under stated accounting principles and under the circumstances to be established.

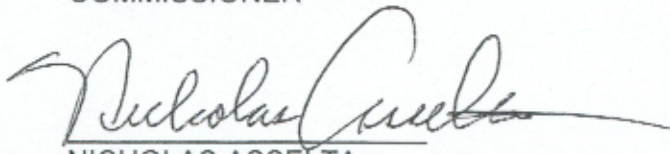
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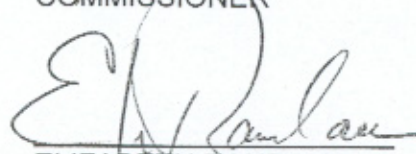
BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT

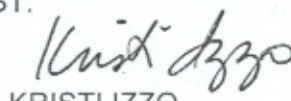

FREDERICK F. BUTLER
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER


NICHOLAS ASSELTA
COMMISSIONER


ELIZABETH RANDALL
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

