Agenda Date: 7/29/09
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 ATLANTIC CITY ELECTRIC COMPANY FOR AUTHORITY TO ISSUE DEBT SECURITIES PURSUANT TO N.J.S.A. 48:3-9) ORDER

DOCKET NO. EF09040328

(SERVICE LIST ATTACHED)

BY THE BOARD:

Atlantic City Electric Company ("ACE" or "Company"), a public utility of the State of New Jersey, filed a petition dated April 24, 2009,requesting authority pursuant to N.J.S.A. 48:3-9 : (i) by no later than December 31, 2011, at its option, to issue and sell in one or more series up to $250 million in aggregate amount of debt securities (as defined below) and (ii) to take any other actions that may be necessary or desirable in connection with the proposed transactions.

The Company previously issued $77,250,000 of tax-exempt bonds consisting of $22,600,000 of variable rate tax-exempt bonds, as authorized by the Board in Docket No. EF97050362 (Order dated June 30, 1977), and $54,650,000 of auction rate bonds, as authorized by the Board in Docket No. EF04050367 (Order dated July 27, 2004) (the "Tax-Exempt Bonds"). As stated in the petition, during 2008, the Company repurchased all but $800,000 of the Tax-Exempt Bonds in response to disruption in the market for tax-exempt bonds that are insured by one of the mono-line insurers (e.g., MBIA or Ambac). According to the Company's filing, the credit ratings of all of the mono-line insurers dropped below AAA, resulting in a loss of investor confidence making it difficult for the remarketing agent to successfully remarket the Tax-Exempt Bonds. Therefore, the Company repurchased the tax-exempt bonds and continues to hold these bonds in the Company's name. Petitioner proposes to redeem all of the Tax-Exempt Bonds and to refund them with debt securities if authorized by the Board.

ACE is also engaged in a construction program with estimated expenses of $282,000,000. According to the Company, the program is designed to improve and extend its facilities, to enable it to better serve the public. The Company seeks the flexibility to obtain permanent financing for up to $172,750,000 of short-term debt anticipated to be incurred for outlays associated with its 2009-2010 construction program.

ACE proposes issuing both secured and unsecured obligations (the "Debt Securities") including the following: 1) First Mortgage Bonds, which may be designated Secured Medium Term Notes, issued under the Company's Mortgage and Deed of Trust dated January 15, 1937 to The Bank of New York Mellon, as successor trustee; 2) Senior Notes issued under the Company's Indenture (for Senior Debt Securities) dated as of April 1, 2004 to The Bank of New York Mellon, as trustee; or 3) unsecured Medium Term Notes, issued under the Company's Indenture dated March 1, 1997 to The Bank of New York Mellon, as trustee.

According to the Company, the Debt Securities may be sold pursuant to a registration statement filed with the United States Securities and Exchange Commission ("SEC") under the Securities Act of 1933. The Debt Securities may be issued and sold publicly or in private placements directly to prospective purchasers through one or more underwriters or placement agents to be selected by the Company. The arrangements between the Company and the underwriters or placement agents, if any, regarding the sale of the Debt Securities will be detailed in one or more agreements to be executed at the time of issuance.

The Company anticipates that the Debt Securities, if authorized, may be issued in one or more series and will have maturities between 9 months and 40 years from the date of issuance. Other terms of the Debt Securities, including call provisions and interest rates, will be determined depending on the maturities selected and market conditions at the time such terms and rates are set. On the basis of current and historical market conditions, the Company has revised its request from the date of the filling, and now anticipates that the maximum coupon spread over U.S. Treasury securities for the Debt Securities will be as follows:

MARKET YIELD SPREAD TABLE

Range of Maturities	**Maximum Coupon Spread (Basis Points)**
1 year to less than 18 months	425
18 months to less than 2 years	435
2 years to less than 3 years	445
3 years to less than 4 years	455
4 years to less than 5 years	465
5 years to less than 7 years	475
7 years to less than 10 years	485
10 years to less than 15 years	495
15 years to less than 20 years	505
20 years to less than 30 years	515
30 years to 40 years	520

The coupon spreads above are based upon the difference between the market yield of corporate debt securities having ratings comparable to the Company's First Mortgage Bonds and U.S. Treasury securities with like maturities. If market conditions change materially, ACE confirms that it will seek Board approval for an updated yield spread schedule. The prices to be paid to the Company, the interest rates, the maturity dates, the redemption premium and the public offering price of any Debt Securities have not yet been determined, such determinations being dependent upon the results of the offering(s) to be made at future date(s), but not later than December 31, 2011.

The Company requested that the Debt Securities include any tax-exempt bonds that may be issued through a governmental agency and/or may be issued as credit enhancement for such tax-exempt bonds. The Company also requested that the Debt Securities also include secured or unsecured bank loans ("Bank Loans"). Bank Loans would carry interest rates (fixed or variable) and maturities, and other terms and conditions, all of which would be dependent upon market conditions prevailing at the time of execution.

A portion of ACE's 2009-2011 construction program for its Mid-Atlantic Power Pathway may be financed by a direct loan from the federal government or with debt securities guaranteed by the federal government. In 2009, the Company made an application to the U.S. Department of Energy ("DOE") for $11,000,000 of such funding, pursuant to Title XVII of the Energy Policy Act of 2005 (the "Federal Financing"). The Company anticipates that either a loan from or guarantee by the federal government will result in a lower interest rate than would generally be available to the Company without federal backing. According to the Company, if it is successful in obtaining the Federal Financing, any terms and conditions must then be negotiated with the DOE making the amount that may be approved or the timing of disbursement of any such funds unpredictable. A decision from the DOE on whether the Company is eligible for Federal Financing is expected by the fourth quarter of 2009. The Company maintains that the federal government requires evidence of Board financing authority before granting any such Federal Financing. Therefore, the Company requests that any such Federal Financing received for the 2009-2011 period be considered as Debt Securities.

In a letter dated July 17, 2009, the Department of the Public Advocate, Division of Rate Counsel ("Rate Counsel") stated that It has reviewed the petition and supporting documents, and does not object to the Board granting the requested authorization, subject to certain recommendations and conditions, some of which are included as part of this Order.

Rate Counsel did express concerns regarding two issues in the financing which are not adopted as part of this Order. First, Rate Counsel noted what it termed a discrepancy in the number of tax exempt bonds that are planned to be refinanced. The petition discussed the refinancing of $77 million of tax exempt bonds composed of $55 million of auction rate bonds and $22 million of variable rate bonds. In a response to one of Rate Counsels discovery requests, the Company only discussed refinancing the $55 million auction rate bonds. No mention was made of refinancing the remaining $22 million of variable rate bonds. Board staff contacted the Company regarding this discrepancy was informed that the $22 million of variable rate bonds were remarketed in June. If authorized to do so, the Company is plans to use the $22 million requested and no longer needed for this purpose to further reduce its short-term debt balance.

Rate Counsel was also concerned that the maximum credit spreads originally proposed by the Company appeared to be high. Rate Counsel compared these originally proposed spreads to pricing obtained from financial institutions as of the end of May 2009 that showed spreads of 200 to 300 basis points for ACE's long-term debt. The Company explained that rates move constantly and the spread data received on any given day is really only accurate for that day. The Company stated that it attempted to estimate the maximum spread over the time period of the financing application to minimize applications to the Board to amend the yield spread table. The yield spreads reflected in this Order have been reduced in an effort to balance the concerns of Rate Counsel and the needs of the Company.

Accordingly, the Board, after investigation and review of the Company's representations, the comments of Rate Counsel and the recommendation of Board Staff, FINDS that the purposes of the issuance of the Debt Securities are necessary, reasonable and proper, that the proposed issuance and sale of the Debt Securities is in accordance with the law, is in the public interest, and the Board HEREBY APPROVES the purposes thereof.

The Board, being satisfied with the actions as proposed by the Company as indicated above, and approving the purposes thereof, HEREBY ORDERS that Atlantic City Electric Company IS HEREBY AUTHORIZED, from time to time, but not later than December 31, 2011:

(I) to issue and sell, from time to time, the Debt Securities in an aggregate principal amount not to exceed $250 million; and

(II) to take any other action that may be necessary or desirable in connection with the above transactions.

This Order is subject to the following provisions:

1. 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 the Company.

2. This Order shall not be construed as certification that the authorized Debt Securities will be represented by tangible or intangible assets of commensurate value or investment cost.

3. Except as previously stated, this Order shall neither affect, nor in any way limit, the exercise of the authority of this Board or of the State in any future petition or in any future proceeding with respect to rates, franchises, services, financing (including method of sale of securities), accounting, capitalization or any other matters affecting the Company. Rate Counsel, Board Staff and any other parties reserve the right to examine this transaction and its impact on rates in the context of the Company's next base rate case.

4. This Order shall not constitute pre-approval or presumed approval of any costs associated with the Debt Securities. All such costs shall be subject to review for reasonableness in the context of the Company's next base rate case.

5. This Order shall not affect or in any way limit the manner in which ACE registers its securities with the SEC.

6. ACE shall provide Rate Counsel and the Board with a copy of its SEC registration statement for this debt issue, upon request.

7. ACE shall furnish the Board with copies of all executed indentures.

8. The Debt Securities authorized herein shall not be redeemed at a premium prior to maturity without further Board approval.

9. If Medium Term Notes are sold pursuant to competitive bidding, ACE shall furnish this Board in writing, as soon as practicable after accepting the bids for Medium Term Notes, the names of all principal bidders together with the interest rate, the annual cost of money to the Company, the price to the public, the percentage yield and the price to the Company applicable to each bid. ACE shall telephonically notify the Chief Economist prior to its issuance of Debt Securities, whether issued in an offering registered under the Securities Act or not, and will supply the following for informational purposes only: (i) principal amounts or amounts of the Medium Term Notes proposed to be sold; (ii) anticipated maturity ranges; (iii) actual current yields of U.S. Treasury securities; (iv) range of estimated coupon spreads over U.S. Treasury securities; (v) data, as available, with respect to the recent sale of comparable Medium Term Notes of other utilities; and (vi) such other information as the Company shall deem relevant to assess the reasonableness of the expected sale of the Medium Term Notes.

10. Whether the Debt Securities are sold in an offering that is registered under the Securities Act or sold on a competitively bid basis, the Company shall not issue Debt Securities at coupon rates in excess of those that would result from the Market Yield Spread Table in this Order. In the event that market conditions change, ACE may submit to the Board for approval of a request to issue Debt Securities at coupon rates in excess of those that

would result from the Market Yield Spread Table. Any such request submitted by Petitioner for approval of the Board shall be accompanied by a statement of the basis or the rationale therefore. If the Board approves the proposed Market Yield Spread Table, the Company may then issue the Debt Securities authorized by this Order at the revised rates.

11. The debt securities authorized in this docket shall be for the purposes identified in the Petition. The debt issuances shall not be used for the purpose of any affiliate transactions.

12. Petitioner should undertake long-term debt financings in a manner that achieves the lowest reasonable cost of capital for customers.

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

14. The authority granted in this Order shall become null and void and of no effect with respect to any portion thereof that has not been exercised by December 31, 2011.

DATED: 7/31/09

BOARD OF PUBLIC UTILITIES
BY:

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JEANNE M. FOX
PRESIDENT

Frederick F. Butler
FREDERICK F. BUTLER
COMMISSIONER

JOSEPH L. FIORDALISO
COMMISSIONER

Nicholas Asselta
NICHOLAS ASSELTA
COMMISSIONER

Elizabeth Randall
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 Atlantic City Electric Company for Authority to Issue Debt Securities Pursuant to <u>N.J.S.A.</u> 48:3-9

Docket No. EF09040328

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