



STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center, Suite 801
Newark, NJ 07102
www.nj.gov/bpu/

AUDITS

IN THE MATTER OF THE DEFERRED BALANCES
AUDIT OF ATLANTIC CITY ELECTRIC COMPANY)
PHASE II: AUGUST 2002-JULY 2003)

ORDER
DOCKET NOS. EX02060363
EA02060364

Roger E. Pederson, Manager, New Jersey Regulatory Affairs, Atlantic City Electric Company
Philip J. Passanante, Assistant General Counsel, Atlantic City Electric Company
Dianne Schulze, Assistant Deputy Public Advocate, Department of the Public Advocate,
Division of Rate Counsel

BY THE BOARD:

The matter before the Board is whether to accept as final the Atlantic City Electric Company ("ACE" or "Company") Phase II deferred balances audit report ("Phase II Report"), and allow the Company to release the retainage due to Mitchell & Titus, LLP ("M&T") in the amount of \$31,317 consistent with Article IV, Section D of the October 2, 2002 Agreement for Consulting Services between ACE and M&T.

PROCEDURAL HISTORY

On July 29, 2002, the Board of Public Utilities ("BPU" or "Board") issued a Request for Proposal to secure the services of an independent auditor to conduct audits of New Jersey's four electric utilities' restructuring-related deferred balances. On October 2, 2002, M & T and Barrington-Wellesley Group, Inc., its subcontractor, were engaged to perform the audits for ACE ("Audit").

The Audit covered the period of August 1, 1999 through July 31, 2003 (the "Transition Period") and reviewed the impact of transactions during that time on the deferred balances of ACE which were the result of the Company's restructuring and unbundling mandated by the various provisions of the Electric Discount and Energy Competition Act ("EDECA"), N.J.S.A. 48:3-49, et seq. The Audit was conducted in two phases. The Phase I portion of the Audit examined the deferred balances from August 1, 1999 through July 31, 2002, while the Phase II portion of the Audit examined the deferred balances from August 1, 2002 through July 31, 2003.

The objective of the Audit was to provide the Board with a certified opinion as to whether ACE's deferred balances, as of July 31, 2003, were accurately calculated, correctly recorded, fairly stated in all material respects, and in compliance with Board Orders. The Audit also included a prudence review of the Company's basic generation service procurement practices for the first

three years of the Transition Period as a utility that had divested its generation assets. The Audit also examined the Company's mitigation efforts, consistent with applicable laws, with respect to its above-market Non-Utility Generation contract costs during the Transition Period.

For the Phase I proceeding, the Board authorized full evidentiary hearings to address all accounting and prudence related issues. These hearings were held at the Office of Administrative Law under Docket No. ER02080510, I/M/O the Petition of Atlantic City Electric Company D/B/A Conectiv Power Delivery For Approval Of Amendments To Its Tariff To Provide For An Increase In Rates For Electric Service, filed pursuant to the Board's directive at pages 73-74 of its March 30, 2001 Final Decision and Order in Docket Nos. E097070455 and EO97070457. The Company, Board Staff and the Department of the Public Advocate, Division of Rate Counsel ("Rate Counsel") (formerly known as the Ratepayer Advocate) fully participated in the Phase I hearings. The Board issued its Final Decision and Order on the Phase I portion of the Audit on July 8, 2004 ("The July 8, 2004 Order").

At its December 2, 2005 agenda meeting, the Board acknowledged receipt of the ACE Phase II Deferred Balances Audit report ("Phase II Report"), and released it for public comment. By Secretary's letter dated December 5, 2005, interested parties were directed to submit initial comments on the Phase II Report by January 10, 2006, and reply comments by January 24, 2006.

On December 7, 2005, Rate Counsel filed a letter motion seeking full evidentiary hearings on the Phase II Report, and requested that the Board require ACE to provide Rate Counsel with complete copies of all responses to M & T's discovery requests, as well as any responses to Board Staff's discovery requests related to Phase II of the Audit. On December 20, 2005, Rate Counsel propounded discovery on ACE seeking additional information relative to specific items in the Phase II Report. Also on December 20, 2005, Rate Counsel propounded discovery on Board Staff requesting M & T's audit work papers, supporting documentation and audit verification procedures. On January 30, 2006, Rate Counsel wrote to ACE's Counsel requesting responses to discovery propounded on December 20, 2005. In response, ACE declined to answer that discovery, absent any directive from the Board to do so. On February 27, 2006, Rate Counsel filed a motion seeking an Order from the Board compelling ACE to provide the discovery sought.

At its August 16, 2006 Agenda meeting, and by Order dated August 18, 2006, the Board denied Rate Counsel's motion seeking to compel responses to its December 20, 2005 discovery on Board Staff, requesting Audit verification procedures, information, utility work papers and supporting documentation relating to the Phase II portion of the Audit. The Board directed ACE to provide Rate Counsel by September 7, 2006, with copies of ACE's responses to M&T's and Staff's discovery requests, and to respond to Rate Counsel's outstanding discovery requests. Rate Counsel was directed to review the responses and file comments with the Board by November 2, 2006. ACE was permitted to file reply comments by November 30, 2006. Further, Rate Counsel's motion for full evidentiary hearings was held in abeyance until Staff had received and reviewed the comments and reply comments, at which time the motion would be brought before the Board for consideration.

On September 1, 2006, ACE filed a motion for reconsideration of the Board's August 18, 2006 Order. On September 11, 2006 Rate Counsel filed a letter reply in opposition to ACE's motion for reconsideration. On September 18, 2006, ACE filed a response to Rate Counsel's opposition. On September 22, 2006, Rate Counsel filed a letter requesting that the Board disregard and strike from the record ACE's response to Rate Counsel's reply.

At its November 9, 2006 Agenda meeting, and by Order dated November 17, 2006, the Board denied Rate Counsel's request that the Board disregard and strike from the record ACE's "response to opposition." The Board also denied ACE's motion for reconsideration and directed the Company to fully comply with the August 18, 2006 Board Order with revised deadlines for the production of discovery responses.

Under the revised deadlines, ACE was to provide to Rate Counsel by December 1, 2006, copies of ACE's responses to M&T's and Staff's discovery requests, and to respond to Rate Counsel's discovery requests. Rate Counsel was given until January 26, 2007 to review the responses and file comments with the Board. ACE was then given until February 23, 2007 to file reply comments.

By letter dated January 26, 2007, Rate Counsel indicated, that based upon its review of the Phase II Report and discovery responses provided, its request for evidentiary hearings in the matter was withdrawn. Rate Counsel recommended that any acceptance of the Phase II Report by the Board should be conditioned upon:

- I. Continued calculation of interest on the deferred balances, consistent with the Board's July 8, 2004 Order and with Finding No. 1 of the Phase II Deferred Report;
- II. Verification by the Company that it has made the appropriate entries to its allowance for doubtful accounts, consistent with Finding No.2 of the Phase II Report;
- III Resolution of the pending proceeding regarding the appropriate treatment of Accumulated Deferred Investment Tax Credits, Excess Deferred Income Taxes and Accumulated Deferred Income Taxes;
- IV. Additional information being supplied by ACE regarding the \$1 million of regulatory proceeding costs pursuant to Item 7 of the Board's May 16, 2005 Decision and Order in Docket Nos. ER03020110, ER04060423, EO03020091 and EM02090633; and
- V. Filing of updated deferred NNC, MTC and SBC balances by ACE.

Rate Counsel noted that certain findings made by the Board in the Deferred Balances Order had been appealed by the Company, and that a final resolution of the Company's deferred balances audit could not be made until all appeals were finally resolved. By letter dated February 22, 2007, ACE stated that the appeal pending at that time should not prevent the Board from accepting the Phase II Report.

On August 9, 2007, the Appellate Division issued a decision affirming the Board's substantive determinations in their entirety. ACE subsequently appealed the decision to the Supreme Court of New Jersey. ACE's request for certification was denied on or about January 18, 2008.

Subsequently, the Staff, Rate Counsel and the Company continued discussions on the outstanding audit issues, and exchanged additional information. On October 13, 2008, ACE responded to a Staff request to provide an update on any resolution of outstanding issues in the Phase II Report. ACE indicated that it was in the process of finalizing the adjustment to the cumulative interest during the Transition Period, and anticipated that the adjustment would be made in the fourth quarter of 2008.

By letter dated November 12, 2008, Rate Counsel indicated that the only outstanding issue was the calculation of interest on the deferred balances on a net of tax basis. On January 23, 2009, ACE submitted detailed work papers supporting its calculation of the actual interest adjustment.

On March 25, 2009, a meeting with ACE, Rate Counsel and Staff was held to review the work papers. Consistent with discussions at the March 25, 2009 meeting, ACE submitted additional information on April 6, 2009.

By letter dated May 4, 2009, Rate Counsel indicated that there were no further objections to Board approval of the Phase II Report based upon its review of the documentation provided by ACE detailing the calculation of interest on the deferred balances on a net-of-tax basis.

DISCUSSION

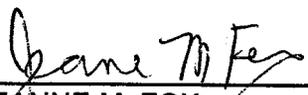
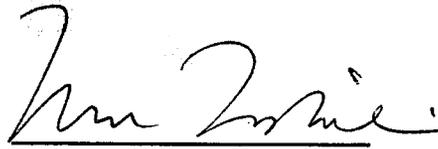
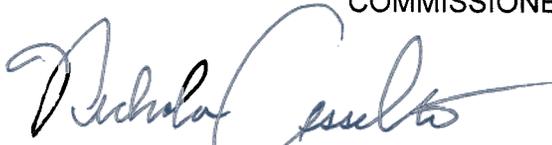
Based upon careful review of the ACE Phase II Report, the comments received, and based on representations by Staff and Rate Counsel that all outstanding issues associated with the Phase II Report as discussed above have been resolved, the Board HEREBY ACCEPTS the ACE deferred balances Phase II Report as final. Consistent with Article IV, Section D of the October 2, 2002 Agreement for Consulting Services between ACE and M&T, the Board HEREBY DIRECTS ACE to release the audit retainage fee in the amount of \$31,317 within 45 days of the date of this Order.

DATED: 4/27/11

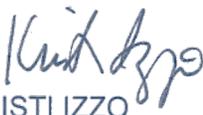
BOARD OF PUBLIC UTILITIES
BY:



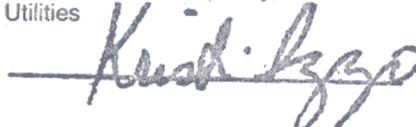
LEE A. SOLOMON
PRESIDENT


JEANNE M. FOX
COMMISSIONER
JOSEPH L. FIORDALISO
COMMISSIONER
NICHOLAS ASSELTA
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



IN THE MATTER OF THE DEFERRED BALANCES AUDIT OF
ATLANTIC CITY ELECTRIC COMPANY PHASE II:
AUGUST 2002-JULY 2003- DOCKET NOS. EX02060363 AND EA02060364

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