



State of New Jersey  
DIVISION OF RATE COUNSEL  
140 EAST FRONT STREET, 4<sup>TH</sup> FL  
P. O. BOX 003  
TRENTON, NEW JERSEY 08625

BOARD OF PUBLIC UTILITIES

NOV 29 2017

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CHRIS CHRISTIE  
Governor

KIM GUADAGNO  
Lt. Governor

STEFANIE A. BRAND  
Director

November 29, 2017

Via Hand Delivery

Irene Kim Asbury, Secretary  
Board of Public Utilities  
44 South Clinton Ave. 9<sup>th</sup> Floor  
P.O. Box 350  
Trenton, New Jersey 08625-0350

**Re: In the Matter of the Petition of Atlantic City Electric Company  
Pursuant to N.J.S.A. 48:2-13 and N.J.S.A. 48:3-9 for Authority to  
Issue Up to \$350 Million of Short-Term Indebtedness Prior to  
January 1, 2020  
BPU Docket No. EF17080925**

Dear Secretary Asbury:

Please accept for filing an original and ten copies of these comments filed on behalf of the Division of Rate Counsel ("Rate Counsel") regarding the above-referenced matter. Enclosed is one additional copy. Please date stamp the copy as "filed" and return it to the courier. Thank you for your consideration and attention to this matter.

Case Mgmt  
list copied

Tel: (609) 984-1460 • Fax: (609) 292-2923 • Fax: (609) 292-2954  
<http://www.nj.gov/rpa> E-Mail: [njratepayer@rpa.state.nj.us](mailto:njratepayer@rpa.state.nj.us)

**A. Background**

On September 23, 2017, Atlantic City Electric Company (“ACE” or the “Company”) filed a petition with the New Jersey Board of Public Utilities (“BPU” or the “Board”) requesting authority pursuant to N.J.S.A. 48:2-13 and N.J.S.A. 48:3-9 to issue up to \$350 million of short-term debt prior to January 1, 2020. (“Petition”) Short-term debt refers to any instrument or loan arrangement with a term not to exceed one-year, but it is typically one day to three months.

The Company’s Petition closely mirrors the short-term debt authority granted by the Board in the Company’s previous short term debt filing.<sup>1</sup> As was the case in the Company’s last short-term debt petition docket, ACE is requesting authority for a ceiling short-term debt authority of \$350 million. The current authority expires on December 31, 2017 and ACE seeks to extend that authority for two years to December 31, 2019.

According to ACE’s Petition, “the Company anticipates that short-term external financing will be necessary to provide for (i) working capital requirements; (ii) temporary financing of construction program expenditures; and (iii) general corporate purposes.” *Petition, paragraph. 4.* As for the requested authority to retain the ceiling authorization at \$350 million short-term, ACE merely cites to the Board’s order in the previous docket decided in December 2015. *Petition, paragraph 5.* However, in response to RCR – 17, ACE provides its justification as to why it believes the \$350 million ceiling authority remains appropriate. Specifically, ACE contends that “Under certain capital market conditions, many bond investors do not participate in sub-index size (less than \$300 million) bond offerings. This can make permanent financing of short-term debt at these

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<sup>1</sup> I/M/O the Petition of Atlantic City Electric Company Pursuant to NJSA 48:2-13 and NJSA 48:3-9 for Authority to Issue up to \$350 Million of Short-Term Indebtedness Prior to January 1, 2018, BPU Docket No. EF15091045, Order, December 16, 2015.

reduced levels more costly to ratepayers since interest rates associated with long-term financing typically increase as the size and the liquidity (level of interest) of the transaction decrease. Maintaining the Company's short-term debt limit of \$350 million will allow ACE flexibility to access capital markets when it is most advantageous."

*Response to RCR-17.*

ACE states that it may utilize the following types of short-term debt: borrowings under one or more revolving credit facilities or bank loans, commercial paper, and/or short-term notes. *Petition, paragraph 7.* However, ACE uses its commercial paper program (back stopped by its credit facility participation) as the primary source of its short-term borrowing. *Response to RCR-6.* ACE's short-term interest rates during the past year have been modestly increasing but still fairly low, averaging about 1.4 percent.

**B. Assessment of the Petition**

As stated in the Petition, ACE uses short-term debt for a variety of purposes. It uses short-term debt to temporarily finance construction-related expenditures, to meet its working capital requirements, and for other general corporate purposes. *Response to BPU-2.* Since January 2015, ACE's highest borrowing of short-term debt in any one month was \$246 million in November 2015. *Response to RCR-6, Attachment 1.* Moreover, the monthly balance has averaged \$182 million in 2015, zero in 2016 and \$19 million in 2017. *Id.* However, in evaluating ACE's request, it is the maximum usage (and need for) short-term debt that matters, not the average level.

The Company explains in response to RCR-17 that the current authorized limit of \$350 million will be an appropriate ceiling going forward for 2018 and 2019 given its projected capital spending during those years and expected cash flow. The Company provides detail on this in response to RCR-2, which is its cash flow projections for 2017

– 2019. This response shows projected capital spending in excess of \$300 million per year. Hence, there will be a continuing and ongoing need for large short-term debt borrowings to provide the needed interim financing.

In addition to short-term financing, ACE obtains financing from other sources as well, including medium-term and long-term debt vehicles and from equity infusions from ACE's parent company, PHI. Generally speaking, the Board does not consider a utility's short-term debt outstanding when establishing a capital structure and rate of return for ratemaking purposes. Rather, ACE must appropriately time the roll-over of its short-term debt into permanent financing to maintain a well-balanced permanent capital structure.

ACE states that its target is to maintain an equity ratio of at least 48 percent in a capital structure that excludes short-term debt. *Response to RCR-12*. In order to achieve this target, ACE must carefully time its short-term and long-term debt financings as well as manage its equity ratio through dividend payments to, and equity infusions from, PHI parent.

At June 30, 2017, ACE's permanent capital structure was 50.4% common equity and 49.6% long-term debt. *Response to BPU-4*. This is generally in line with the capital structure and rate of return that was agreed to in the settlement of ACE's most recent base rate case. *Response to BPU-12*.

ACE's prior short-term debt financings do not appear to have had a negative impact on the Company's long-term debt rating and the cost of permanent capital. ACE's ratings for Senior Secured debt are A (S&P), A3 (Moody's) and A- (Fitch). *RCR-2*. Its ratings for Senior Unsecured securities are as follows: BBB+ (S&P), Baa2 (Moody's), and BBB+ (Fitch). *Response to RCR-22 and BPU-7*. The rating agency reports appear to regard ACE's level of liquidity as being adequate given its credit

facility sublimit of \$300 and its current \$350 million borrowing authority approved by the Board. *Id.*

ACE forecasts that short-term debt rates will be in the range of 1.75% to 2.00% through the end of 2019. *Response to BPU-5.* In addition to the interest paid on its commercial paper short-term borrowings, ACE currently pays fees on its credit facility sublimit that total \$532,000 per year. *Response to BPU-6.* Both the interest rate outlook and the credit facility fees appear in line with prevailing and expected market costs over the next two years.

### **C. Rate Counsel Conclusion**

The use of short-term debt is an important tool for the Company in managing its cash flows, day-to-day business operations and even the scheduling of permanent financing. It is also the utility's lowest cost source of investor-supplied capital. ACE's interest rate on short-term debt in 2017, despite recent increases, has been about 1.4 percent, and the Company estimates that during 2018 to 2019 short-term interest rates will be about 1.75 to 2.0 percent. *Response to BPU-5.* ACE's primary source of short-term debt has been from the issuance of low-cost commercial paper, backed up by its credit facility. *Response to RCR-6* To the extent feasible, ACE should continue to minimize its short-term debt borrowing costs through the use of its commercial paper program. While excessive use of short-term debt has the potential to be problematic and could even weaken a utility's credit rating, this has not been the case with ACE. Historically, ACE has made use of substantially less than its full short-term borrowing authority, and there is no indication of credit rating agency concern over excessive leverage or loss of liquidity. For example, in 2017 its maximum short-term borrowing

was only about \$64 million compared to about \$2.0 billion in permanent capital.

*Response to RCR -6 and 12.*

While ACE has not provided a specific calculation showing the need to retain the current \$350 million authority, it would seem prudent to provide management with the requested financial flexibility. As noted above, in addition to normal day-to-day cash flow needs, the Company is projecting relatively high construction expenditures to continue over the next two years, more than \$300 million per year. This level of investment cannot be entirely financed with internally-generated cash, according to Company projections. *Response to RCR-2.* Short-term debt plays an important role in funding construction outlays on an interim basis, pending the scheduling of permanent financing. Having \$350 million in short-term borrowing authority will provide the flexibility to appropriately and efficiently schedule new long-term debt issuances both for construction and to replace maturing debt.

As stated above, Rate Counsel does not oppose ACE's request for short-term debt authority, including maintaining the current ceiling of \$350 million. Nonetheless, several caveats or conditions should accompany the Board's granting of this authority. The Board should include in any Order granting the Company's requested authority in this docket the twelve provisions set forth in the previous 2015 Board Order that approved the current \$350 million ceiling level of short-term debt. Rate Counsel notes that the Company has agreed to all of these conditions or reservations (see Response to RC -4) and has included all twelve provisions in its proposed form of Order provided as Exhibit D to the Petition.

Consistent with the Board's Order in the 2015 docket, the Order in this docket should include the following twelve requirements:

1. Within 30 days after the close of each fiscal quarter, Petitioner shall file with the Board a statement setting forth in reasonable detail the amounts of its unsecured indebtedness outstanding, the dates of issue and maturity, and the rates of interest thereon.
2. This Order shall not be construed as a certification that the securities proposed to be issued will be represented by tangible or intangible assets of commensurate value or investment costs.
3. 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.
4. This Order shall not affect or in any way limit the exercise of the authority of this Board or of this State, in any future petition or in any proceeding with respect to rates, franchises, service, financing, accounting, capitalization, depreciation or in any other matter affecting Petitioner.
5. Petitioner shall submit to the Office of the Economist and to Board Staff copies of all resolutions that shall be adopted by the Board of Directors of Petitioner during the term of this Order, which shall have the effect of changing the amount of the unsecured indebtedness within the limits established by this Order. Such submittals shall be for informational purposes only, and shall be made within ten (10) days following the taking of such action by Petitioner's Board of Directors.
6. On each day where the Petitioner determines that it requires short-term funds in the form of commercial paper, Petitioner shall first use commercially reasonable efforts to obtain competitive bids from at least three (3) commercial paper dealers. Petitioner shall then select the bid that offers the best terms at the lowest rate to

Petitioner and to its New Jersey ratepayers. Petitioner shall maintain documentation as to such efforts to obtain competitive bids from at least three (3) commercial paper dealers. Such documentation shall be supplied to Board Staff or Rate Counsel upon request.

7. Petitioner is obligated to conduct its short-term borrowing at the lowest reasonable cost.
8. All Short-Term Debt issued pursuant to the authority granted by this Order is to be used to fund utility operations and investments only, not to fund unregulated affiliates.
9. The Board's approval of the Petition does not constitute pre-approval of any cost recovery from customers or rate setting.
10. Petitioner retains the obligation to use a prudent mix of capital to finance its utility operations and investments to provide service at lowest reasonable cost.
11. Rate Counsel reserves all rights to take appropriate positions in any future Board proceedings involving Petitioner.
12. The authority granted in this Order shall become null and void and of no effect with respect to any portion which is not exercised prior to January 1, 2020.

These provisions will satisfy the concerns of Rate Counsel that the Company's ratepayers are not harmed by the requested authority and that BPU approval is limited to the transactions described herein, does not indicate authorization to include any specific



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assets or amounts in rate base, does not indicate authorization for any other ratemaking treatment, and does not establish any precedent with regard to approval of future financing petitions.

Respectfully submitted,

STEFANIE A. BRAND  
DIRECTOR, DIVISION OF RATE COUNSEL

By:   
Diane Schulze  
Assistant Deputy Rate Counsel

DS/lg

C: Service List (via electronic and USPS regular mail)

I/M/O the Petition of Atlantic City Electric Company  
Pursuant to N.J.S.A. 48:2-13 and 48:3-9 for Authority  
to Issue Up to \$350 Million Of Short-Term  
Indebtedness Prior to January 1, 2020  
BPU Dkt. No. EF17080925

I/M/O the Petition of Atlantic City Electric Company  
for Authority to Issue Up to \$350 Million of  
Long-Term Debt Securities Pursuant to N.J.S.A.  
48:3-9 (2018-2019)  
BPU Dkt No. EF17080924

Irene Kim Asbury, Secretary  
Board of Public Utilities  
44 South Clinton Avenue, 3rd Floor  
Suite 314  
P.O. Box 350  
Trenton, NJ 08625

Paul Flanagan, Esq.  
Executive Director  
Board of Public Utilities  
44 South Clinton Avenue  
P.O. Box 350  
Trenton, NJ 08625

Thomas Walker, Director  
Board of Public Utilities  
Energy Division  
44 South Clinton Avenue  
P.O. Box 350  
Trenton, NJ 08625

Stacy Peterson  
Board of Public Utilities  
Energy Division  
44 South Clinton Avenue  
P.O. Box 350  
Trenton, NJ 08625

Mark Beyer, Chief Economist  
Office of the Economist  
Board of Public Utilities  
44 South Clinton Avenue  
P.O. Box 350  
Trenton, NJ 08625

Cynthia Covie, Esq.  
Board of Public Utilities  
44 South Clinton Avenue  
P.O. Box 350  
Trenton, NJ 08625

Bethany Rocque-Romaine  
Board of Public Utilities  
44 South Clinton Avenue  
P.O. Box 350  
Trenton, NJ 08625

Christine Lin  
Office of the Economist  
Board of Public Utilities  
44 South Clinton Avenue  
P.O. Box 350  
Trenton, NJ 08625

Geoffrey Gersten, DAG  
Dept of Law & Public Safety  
Division of Law  
124 Halsey Street, 5th Floor  
Newark, NJ 07101

Alex Moreau, DAG  
Dept of Law & Public Safety  
Division of Law  
124 Halsey Street, 5th Floor  
Newark, NJ 07101

Veronica Beke, DAG  
Dept of Law & Public Safety  
Division of Law  
124 Halsey Street, 5th Floor  
Newark, NJ 07101

Stefanie A. Brand  
Director  
Division of Rate Counsel  
140 East Front Street, 4<sup>th</sup> Floor  
P.O. Box 003  
Trenton, NJ 08625

Ami Morita, Esq.  
Division of Rate Counsel  
140 East Front Street, 4<sup>th</sup> Floor  
P.O. Box 003  
Trenton, NJ 08625

Diane Schulze, Esq.  
Division of Rate Counsel  
140 East Front Street, 4<sup>th</sup> Floor  
P.O. Box 003  
Trenton, NJ 08625

James Glassen, Esq.  
Division of Rate Counsel  
140 East Front Street, 4<sup>th</sup> Floor  
P.O. Box 003  
Trenton, NJ 08625

Lisa Gurkas  
Division of Rate Counsel  
140 East Front Street, 4<sup>th</sup> Floor  
P.O. Box 003  
Trenton, NJ 08625

Matthew I. Kahal  
1108 Pheasant Xing  
Charlottesville, VA 22901

Phillip J. Passanante  
Associate General Counsel  
Atlantic City Electric Company  
92DC42  
500 N. Wakefield Dr.  
Newark, DE 19702-5440

Jeffery E. Snyder  
Asst. Treasurer - 92DC33  
Atlantic City Electric Company  
500 N. Wakefield Drive  
Newark, DE 19702-5440

Roger Pedersen, Manager  
NJ Regulatory Affairs  
63ML38  
Atlantic City Electric Company  
5100 Harding Highway  
Mays Landing, NJ 08330