

**STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES**

In the Matter of the Petition of Shore Water Company for Authority to Enter into \$540,000.00 Principal Amount of Debt with Manasquan Bank, and for Approval to Implement its Financial Plan Containing Several Interconnecting Aspects.

PETITION

BPU Docket No. WF2010--_____

TO THE HONORABLE BOARD OF PUBLIC UTILITIES:

Petitioner, Shore Water Company (hereinafter “Shore” the “Company” or “Petitioner”), by way of this Petition to the Board of Public Utilities (hereinafter “Board” or “BPU”), respectfully represents as follows:

1. Shore is a family-owned and operated public water utility of the State of New Jersey, subject to the jurisdiction of the Board, with offices at 105 23rd Avenue, South Seaside Park, New Jersey 08752.

2. Shore has provided service to the South Seaside Park section of Berkeley Township, New Jersey since 1952.

3. Communications and correspondence relating to this Petition should be sent to Stephen B. Genzer, Esq., Saul Ewing Arnstein & Lehr LLP, 1037 Raymond Boulevard, Suite 1520, Newark, New Jersey, 07102 and John Morro, CPA, 74 South Shore Drive, South Amboy, New Jersey 08879.

4. With this Petition, Shore seeks authority from the Board pursuant to N.J.S.A. 48:3-9(a)(1) and N.J.A.C. 14:1-5.9 to enter into \$540,000.00 principal amount of debt with Manasquan Bank in order to finance infrastructure improvements the Company is implementing in order to

continue to provide safe, adequate, and proper service to its customers including adhering to the goals of the New Jersey Water Quality and Accountability Act (“WQAA”).¹

5. In furtherance of complying with its obligations, Shore has developed an Asset Management Plan to assess and evaluate the Company’s infrastructure and identify various assets in need of replacement or repair. See Exhibit “A” for a more detailed explanation of the Company’s Asset Management Plan (“AMA”).

6. In order to finance these improvements, Shore files this Petition which requests Board approval for the various financial actions (collectively, “Financial Plan”) required to accomplish the first phase of its AMA.

7. First, Shore seeks approval for a loan (“Infrastructure Improvement Loan”) from the Manasquan Bank in the principal amount of \$540,000.00. A true and correct copy of the Note Agreement and related documents are attached hereto as **Exhibit “B.”**

8. The maturity date will be June 25, 2036.

9. The initial interest rate will be 3.900% for five years. After five years the interest rate will reset for another five years. The loan principal will amortize over 15 years.

10. Shore is currently proceeding under an interim construction loan to accomplish Phase 1 of the AMA. The requested approval of the Infrastructure Improvement Loan is intended to convert that interim construction loan into permanent financing.

11. Consummation of the interim construction loan (of less than one year while construction takes place) into a permanent Infrastructure Improvement Loan is contingent upon Board approval. See Exhibit “B.”

¹ N.J.S.A. 58:31-1 to -7.

12. The interim construction loan will be converted into permanent financing once the first phase of the Company's AMA (as described in Exhibit A) is addressed and after the Board approves the Infrastructure Improvement Loan.

13. The interim construction loan is needed in order to accomplish Phase 1 of the Plan for the reasons described in Exhibit A and so it will not inconvenience Shore's customers since Phase 1 generally serves a specific section of Shore's service area which is a summer community.

See Exhibit "A."

14. Those residences should thus not be impacted by upgrading that section of the system commencing in October, 2020.

15. In negotiations to secure an Infrastructure Improvement Loan, it became clear that the then current ownership structure of the Company inhibited the financial ability of the Company to obtain the financing required to proceed with the necessary improvements under the WQAA.

16. By way of explanation, prior to September 24, 2020, the following entities each owned 34.1665 shares of the Company's stock:

- a. Kristin Farfalla & Issue GST Non Exempt Trust under Phillip J. Citta Trust dated June 5, 2002;
- b. Lorianne Erbe & Issue GST Non Exempt Trust under Phillip J. Citta Trust dated June 5, 2002;
- c. Justin Citta & Issue GST Non Exempt Trust under Phillip J. Citta Trust dated June 5, 2002; and
- d. Heather Moffitt & Issue GST Non Exempt Trust under Phillip J. Citta Trust dated June 5, 2002, (collectively, the "Citta Trusts").

17. Thus, the Citta Trusts, in the aggregate, owned 136.666 shares of stock.

18. Each of the Citta Trusts is a New Jersey Trust administered by Trustees Marie Roselli, Kristin Farfalla, and Timothy L. Coyle.

19. Potential lenders communicated their concern that the trustees of the trusts were reluctant to pledge shares in order to act as collateral for an infrastructure improvement loan. Thus, The Citta Trusts' ownership of the Company's stock served as an impediment to the Company's ability to obtain financing to complete the necessary infrastructure improvements under the WQAA.

20. In order to alleviate this barrier, the Company entered into a Stock Redemption Agreement with the Citta Trusts, dated September 24, 2020, whereby the Company purchased each individual trust's shares (for an aggregate purchases of 136.666 shares).

21. Thereafter, under the Financial Plan, Shore's President, Gloria F. Stuart, intends to purchase 37.58 shares of treasury stock from the Company (subject to Board approval) to obtain a majority interest in the Company in order to secure the above-referenced financing ("Share Purchase").

22. Ms. Stuart's purchase of these shares would result in her owning 154.246 shares of Shore's Common Stock – a majority interest.

23. The Company's sole remaining shareholder, Samuel Faiello, would own 146.668 shares of the Company's common stock which, together with Ms. Stuart's shares, collectively represents all of the issued and outstanding shares of the Company's common stock.²

24. A true and correct copy of the Share Purchase Agreement (redacted only for the purchase price in the context of this Petition) is attached hereto as **Exhibit "C."**

25. Once the Board approves the Financial Plan of the Company (which is the described series of financial transactions in this Petition) in any manner it believes required, including the prospective loan, and Share Purchases (to the extent the Board believes approving the Share

² The remaining shares purchased from the Citta Trusts amount to 99.086 Shares held as Company Treasury Stock.

Purchases is necessary), Shore intends then to proceed with the conversion of the interim construction loan into the permanent financing of the Infrastructure Improvement Loan, thereby enabling the Company to permanently finance, within the context of **Exhibit “B”**, the investments needed to proceed with Phase 1 of the AMA, the described necessary improvements needed to continue to maintain safe, adequate and proper service to its customers and fulfill its obligations under the WQAA.

26. Accordingly, to the extent the Board believes it is necessary pursuant to N.J.S.A. 48:2-51.1(a) and N.J.A.C. 14:1-5.14(c), or other statutes, Shore seeks the Board’s approval for the various aspects of the Financial Plan, described in support of the relevant actions including both various stock purchase arrangements described in Count 2, *infra*, and the debt described in Count 1, *infra*.

27. Shore respectfully requests that the Board approve the relief sought in this Petition for the reasons set forth below.

COUNT I

Authority to Enter into \$540,000.00 Principal Amount of Debt with Manasquan Bank to Secure an Infrastructure Improvement Loan

28. Petitioner repeats and reiterates the contents of each of the foregoing paragraphs as if set forth again here anew.

29. Consistent with its obligations under the New Jersey Water Quality and Accountability Act (“WQAA”), N.J.S.A. 58:31-1 to -7, the Company seeks to complete the construction and installation of certain water utility plant infrastructure improvements under the AMA. See Exhibit “A.”

30. Thus, Shore seeks the Board's approval to enter into the Infrastructure Improvement Loan, see Exhibit "B", pursuant to N.J.S.A. 48:3-9(a)(1) and N.J.A.C. 14:1-5.9, to finance the Infrastructure Improvement Loan.

31. Pursuant to N.J.S.A. 48:3-9(a)(1): "no public utility shall, unless it shall have first obtained authority from the Board to do so . . . [i]ssue any . . . evidence of indebtedness payable more than 12 months after the date or dates thereof[.]" Thereafter, the statute states that "[t]he board shall approve any such proposed issue, with or without hearing at its discretion, when satisfied that such issue is to be made in accordance with law and the purpose thereof is approved by the board." N.J.S.A. 48:3-9(a)(1).

32. In compliance with the applicable provisions of N.J.A.C. 14:1-5.9, Shore provides the following information in support of this Petition:

- a. Pursuant to N.J.A.C. 14:1-5.9(1), a statement of the amount and terms of the proposed issue including the nature of the security therefor, if any; the purposes for which the proceeds are to be used; and the nature of all rights and limitations applicable to the security, see Exhibit "B."
- b. Pursuant to N.J.A.C. 14:1-5.9(3), where one of the purposes is the construction, completion, extension, or improvement of facilities, a general description of the work proposed to be done, and an estimate of the cost thereof in reasonable detail. See Exhibit "A."
- c. Further, where one of the purposes is the improvement or maintenance of service, there shall be included a description of the existing service as well as of the improvements, or betterments proposed. See Exhibit "A."
- d. Pursuant to N.J.A.C. 14:1-5.9(9)(i)-(vii), information relating to the current financial condition of the petitioner setting forth:
 - i. As to each class of capital stock of the petitioner, the amount authorized and the amount issued and outstanding, see Paragraphs 22-23, supra.
 - ii. As to each class of preferred stock of the petitioner, a summary statement of the terms of preference thereof, the Company has no preferred stock.

- iii. As to each issue or series of long-term indebtedness of the petitioner, the principal amount authorized to be issued, date of issue, date of maturity, rate of interest and principal amount outstanding; and as to each such issue secured by a mortgage upon any property of the petitioner, the date of said mortgage, name of trustee, principal amount authorized to be secured, and a brief description of the mortgaged property, Shore currently has no long-term indebtedness, see Exhibit “D”;
 - iv. Other indebtedness of all kinds, giving same by classes and describing security, if any, the short-term construction loan, see Exhibit “B”;
 - v. The amount of interest charged to income during previous fiscal year upon each kind of indebtedness and rate thereof; and, if different rates were charged, the amount charged at each rate, see Exhibit “D”;
 - vi. The amount of dividends paid upon each class of stock during the previous calendar year and rate thereof, Shore did not issue dividends during the previous calendar year, see Exhibit “D”
 - vii. A detailed income statement for the previous calendar year and balance sheet showing conditions at the close of that year, see Exhibit “D.”
N.J.A.C. 14:1-5.9(9)(i)-(vii).
- e. Pursuant to N.J.A.C. 14:1-5.9(10), no franchise or other right is proposed to be capitalized directly or indirectly. See Exhibit “B.”

32. As evidenced by the foregoing, Shore respectfully submits that the Infrastructure Improvement Loan is in accordance with the law and in furtherance of an acceptable purpose – the Company’s continued provision of safe, adequate and proper service and compliance with the WQAA.

33. In the interest of completing the necessary infrastructure improvements in a timely and efficient manner, Petitioner wishes to secure the Board’s approval for the Infrastructure Improvement Loan as expeditiously as possible so that the construction loan can be expeditiously converted into permanent financing and the benefits described by implementing Phase 1 of the Plan described herein may flow to Shore, its customers, and the State of New Jersey.

34. Consistent with this goal and cognizant of the legitimate review rights of other possible parties, the Company respectfully requests that the Board retain jurisdiction over this matter and process this matter as a non-contested case rather than transferring this matter to another agency.

35. Shore believes the Board's retention of jurisdiction over this case will help to expedite and streamline the review process, allow the Board to retain a greater degree of control over any substantive and procedural issues that may arise, and enhance the Board's understanding of the issues and representations made by the Petitioner.

36. Since the Company has already met with both Board Staff and the Division of Rate Counsel, it is further requested that the Board hold an initial conference as soon as practicable if it believes necessary in order to assist the development of an agreed upon schedule and process.

WHEREFORE, Shore respectfully requests that the Board:

- (a) grant authority to for the Company to proceed with the Infrastructure Improvement Loan;
- (b) find that the requirements of N.J.S.A. 48:3-9(a)(1) and N.J.A.C 14:1-5.9 are met;
- (c) find that the requirements of any other relevant state statute or regulation have been met;
- (d) determine to retain this matter for processing by the Board directly, with a decision to be rendered both o permit the infrastructure improvements to proceed as soon as possible and the conversion of the construction loan into permanent financing to occur; and
- (e) grant such other relief as may be reasonable and necessary.

COUNT II

Authority to Proceed with all Other Aspects of the Financial Plan, Including the Share Purchase to the Extent the Board Believes it Necessary

37. Petitioner repeats and reiterates the contents of each of the foregoing paragraphs as if set forth again here anew.

38. As noted in previous paragraphs, *supra*, in negotiations to secure the Infrastructure Improvement Loan, it became clear that the then current ownership structure of the Company inhibited the financial ability of the company to obtain the financing required to proceed with the necessary improvements under the WQAA. See Paragraphs 15 and 19, *supra*.

39. Accordingly Shore seeks approval (to the extent the Board believes such approval is necessary) for the Share Purchase, as set forth in Paragraphs 20-24, *supra*.

40. The Financial Plan, including the Share Purchase, will not constrain or limit the Board's ability to regulate the operations of the Company.

41. Indeed, Shore will continue to be regulated in the same manner by the Board as they are today. Further, the Share Purchase will not impact any Board orders, rulings, or regulations in effect and applicable to Shore.

42. The Share Purchase is in the public interest because it, as part of the Financial Plan, should lead to the continued provision of safe, adequate, and proper service for Shore's customer's and enhance the Company's compliance with the WQAA by better enabling Shore to obtain the permanent financing to proceed with Phase 1 of its infrastructure improvement plan.

43. In short, the Share Purchases satisfies both the "no harm" standard in N.J.S.A. 48:2-51.1(a), as well as the "positive benefits" standard under N.J.A.C. 14:1-5.14(c).

44. Consistent with the requirements of N.J.S.A. 48:2-51.1(a), the Financial Plan, including the Share Purchase, will not have an adverse impact on the provision of safe, adequate and proper utility service.

45. This is especially true in light of the fact that the Company's day-to-day operations will not change, and as described in more detail in **Exhibit "A"**, and will allow greater access for any needed maintenance within the areas affected by the infrastructure improvements

46. Shore has a long history of providing safe, adequate and proper utility service, and the Share Purchase will not diminish this commitment in any way.

47. In fact, the Share Purchase will further the Company's ability to produce safe, adequate and proper utility service by better enabling it to secure the permanent financing of the Infrastructure Improvement Loan.

48. This loan will also act to move the Company toward a more balanced capital structure which has in the past impacted the company's ability to set its rates including an actual more balanced actual capital structure.

49. Further, the Financial Plan including the Share Purchase will not have an adverse impact on the rates paid by Shore's customers by better matching the actual capital structure of the company with the rates set using that capital structure, and will yield the positive benefits for customers as discussed above.

50. No operations or administration of the utility will change as a result of the Share Purchase except to the extent of allowing the company to have greater access to various forms of capital as described in the Financial Plan within this Petition.

51. Finally, the Share Purchase will not have an adverse impact on the Company's employees, as there will be no changes in employment levels, responsibilities, or compensation.

52. Shore further commits to honoring all existing contracts³ after consummation of the Share Purchase as an integral part of the Financial Plan.

53. In addition, the Share Purchase will not prevent Shore from fulfilling its obligations to employees with respect to pension benefits pursuant to N.J.S.A. 48:3-10, because the Company does not sponsor any formal pension plan.

³ Shore notes that it is not party to any collective bargaining agreements.

- a. The Share Purchase will not have an adverse impact on competition in the water industry because Shore will still have a discrete service territory, which it will continue to serve following completion of the Share Purchase.
- b. The following information, in addition to **Exhibits “A”** and **“B”**, is attached hereto for the Board’s consideration, or will be provided as available pursuant to N.J.A.C. 14:1-5.14(b)(1)-(14):
 - i. Pursuant to N.J.A.C. 14:1-5.14(b)(1), see **Exhibit “C.”**
 - ii. Pursuant to N.J.A.C. 14:1-5.14(b)(2) a copy of the corporate resolution of the Company authorizing the Share Purchase. see **Exhibit “C.”**
 - iii. Pursuant to N.J.A.C. 14:1-5(b)(3) and (4), copies of recent balance sheets and income statements of Shore including pro forma balance sheets and income statements of Shore, are attached as **Exhibit “D.”**
 - iv. Pursuant to N.J.A.C. 14:1-5(b)(5) Copies of certificates of incorporation including amendments, are attached hereto as **Exhibit “E.”**
 - v. Pursuant to N.J.A.C. 14:1.5.14(b)(6) and (7) there are no new shares to be issued.
 - vi. Pursuant to N.J.A.C. 14:1-5.14 (b)(8) and (14) no Franchise costs will be capitalized. In addition to the actual price paid for the stock shares, the only anticipated fees expenses and accounting for the Stock Purchase would relate to the processing of this letter petition and the legal services attendant to the Company’s Financial Plan. The details of amount of those fees will be available during the processing of this petition.
 - vii. Pursuant to N.J.A.C. 14:1-5.14 (b)(9), see **Exhibit “C.”**
 - viii. Pursuant to N.J.A.C. 14:1-5.14 (b)(10) the various benefits to the public and the surviving corporation are set forth above.

- ix. Pursuant to N.J.A.C. 14:1-5.14 (b)(11), other than those described in this petition, there are no anticipated changes as a result of the acceptance of this Petition to the Company's finances, operations, accounting, rates, depreciation, operating schedules, maintenance and management and none are proposed as a result of this transaction.
- x. Pursuant to N.J.A.C. 14:1-5.14 (b)(12) proof of service of notice of the proposed transaction on any entities, including municipalities served by Shore, and any utilities serving in Shore's service area will be provided.
- xi. Pursuant to N.J.A.C. 14:1-5.14 (b)(13) proof of compliance with rules, regulations and statutes requiring approval from other State and Federal regulatory agencies having jurisdiction in the matter is inapplicable since no approvals from other agencies are required.

54. Accordingly, for the foregoing reasons, Shore respectfully submits that the Financial Plan including the Share Purchase satisfies the both the "no harm" standard in N.J.S.A. 48:2-51.1(a), as well as the "positive benefits" standard under N.J.A.C. 14:1-5.14(c).

55. Shore respectfully requests that a final decision be rendered by the Board as soon as possible so that the Company's complete Financial Plan as described in this Petition occur in a timely manner, and the interim construction loan can be made permanent upon completion of Phase 1 of the Infrastructure Plan and upon Board approval.

WHEREFORE, Shore respectfully requests that the Board:

- (a) to the extent it is necessary, grant authority for the Financial Plan including the Share Purchase;
- (b) find that the requirements of N.J.S.A. 48:2-51.1 and N.J.A.C. 14:1-5.14(c) are met;
- (c) find that the requirements of any other state statute or regulation have been met;
- (d) determine to retain this matter for hearing by the Board directly, with a decision to be rendered to permit the

infrastructure improvements to proceed as soon as possible;
and

- (e) grant such other relief as may be reasonable and necessary.

Respectfully submitted,

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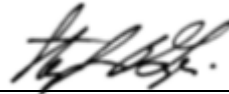
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Attorneys for Petitioner

Shore Water Company

Dated: October 19, 2020

By:



Stephen B. Genzer

CERTIFICATION

Gloria F. Stuart hereby certifies as follows:

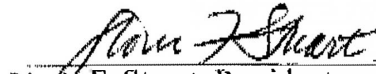
1. I am President of Shore Water Company, the Petitioner herein, and am authorized to execute this Certification on its behalf. I have reviewed the Petition and supporting schedules filed in this matter.

2. I hereby certify that the information contained therein is true to the best of my knowledge, information and belief.

3. This will further certify that it is Petitioner's intention, in good faith, to use the proceeds of the proposed loan for the purposes set forth in this Petition.

4. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: October 19, 2020



Gloria F. Stuart, President
Shore Water Company