



Agenda Date: 4/25/18
Agenda Item: 5B

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

WATER

IN THE MATTER OF THE PETITION OF THE)
ATLANTIC CITY SEWERAGE COMPANY FOR)
APPROVAL OF A FINANCING PROGRAM INVOLVING)
THE ISSUANCE OF LONG TERM DEBT AND THE)
REFINANCING OF EXISTING LONG TERM DEBT)
THROUGH JUNE 30, 2021)

ORDER

DOCKET NO. WF18020145

Parties of Record:

Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel
Ira G. Megdal, Esq., Cozen and O'Connor, P.C. for the Petitioner

BY THE BOARD:

On February 8, 2018, The Atlantic City Sewerage Company ("Petitioner" or "Company"), a public utility corporation of the State of New Jersey, with its principal office at Suite 300, 1200 Atlantic Avenue, Atlantic City, New Jersey 08404, filed its petition in this matter with the New Jersey Board of Public Utilities ("Board") seeking authority pursuant to N.J.S.A. 48:3-7 and 48:3-9 and N.J.A.C. 14:1-5.9 for the following:

- (a) Issue and sell up to \$10 million aggregate principal amount of long-term debt consisting of one or more series of Long-Term Debt (as defined below) by no later than June 30, 2021;
- (b) Execute and deliver one or more supplemental mortgage indentures, loan agreements, term loan agreements, notes, and such other documents as may be necessary or appropriate to effectuate the issuance of Long-Term Debt; and
- (c) Take such actions as Petitioner determines may be necessary or appropriate in connection with any of the foregoing.

Petitioner operates a sewage collection and transmission system within its defined service territory, consisting of the City of Atlantic City, New Jersey. Within its service territory, Petitioner serves approximately 7,500 customers. Petitioner purchases its sewerage treatment from the Atlantic County Utilities Authority.

Petitioner contemplates issuance of both new and replacement Long-Term Debt (hereinafter referred to as "Long-Term Debt") through tax exempt or taxable issuances in conjunction with issuances by the New Jersey Economic Development Authority ("EDA") or taxable issuances through bank loans. The use of proceeds from Petitioner's issuance of new Long-Term Debt will be for the construction, rehabilitation, upgrade and expansion of various sections and components of the sanitary sewer system required to meet the needs and demands of Atlantic City, while maintaining the environmental integrity of the region. Petitioner will issue replacement Long-Term Debt in circumstances where it is economically advantageous to do so.

Petitioner may issue Long-Term Debt in the form of secured or unsecured bonds. If Petitioner issues Long-Term Debt in the form of secured bonds, the Long-Term Debt will be issued pursuant to an indenture of mortgage dated as of December 31, 1991 ("Original Indenture"), by and between the Company and National Community Bank of New Jersey ("Mortgage Trustee", now The Bank of New York Mellon), as supplemented by one or more supplemental indentures ("Supplemental Indentures") to the Original Indenture, as heretofore amended and supplemented (collectively, "Mortgage Indenture"). The Mortgage Indenture constitutes a first mortgage lien on substantially all of the property of Petitioner except for certain excluded property. All bonds issued under the Mortgage Indenture will be *pari passu*. Petitioner may also issue Long-Term Debt without issuing bonds, in the form of a term loan agreement, loan agreement, or other similar document.

In furtherance of issuing Long-Term Debt in the form of secured bonds, Petitioner will grant a first mortgage lien on substantially all of its property. Petitioner may also make, execute and deliver to the Mortgage Trustee under the Mortgage Indenture certain financing statements upon forms UCC-1, providing to the Mortgage Trustee a security interest in substantially all of the Petitioner's property, except for certain excluded additions.

Petitioner proposes to issue the Long-Term Debt, if in the form of bonds, pursuant to a private placement. Petitioner, as noted above, may also enter into a loan agreement or term loan agreement. In either event, in each debt issue under this Petition, the Petitioner will solicit and receive bids from a minimum of three (3) prospective purchasers for the purchase of the Long-Term Debt. For each series of bonds, loan agreement, term loan agreement or similar document issued under this Petition, a request for proposal will be issued to at least three prospective purchasers. For all Long-Term Debt issued by the Petitioner, pursuant to this petition, Petitioner will accept the most economically advantageous proposal. The interest rate and other terms of any Long-Term Debt issuance will be determined by the receipt of such proposals.

Petitioner is seeking authorization of the Board for the financing program described above so that it can have the flexibility to take advantage of favorable market conditions for Petitioner's securities, term loan, term loan agreement or similar form of indebtedness as opportunities arise without obtaining further approval of the Board. By granting Petitioner the authority it seeks, Petitioner will be in the best position to attain the lowest cost of funds available for long-term debt.

Petitioner currently intends to make an issuance of Long-Term Debt during the second or third quarter of 2018. Petitioner intends to issue approximately \$8 million of Long-Term Debt at that time.

In connection with the financing contemplated by this petition, Petitioner proposes to:

- (a) Make, execute and deliver one or more Supplemental Indentures to ACSC's Mortgage Indenture for secured debt;
- (b) Make, execute and deliver one or more loan agreements, term loan agreements or similar documents; and/or
- (c) Make, execute and deliver one or more underwriting agreements, official statements, bond purchase agreements, loan and security agreements and indentures and such other documents, agreements, instruments and indentures as may be necessary or appropriate for any of the proposed financings.

The following is a summary of the proposed terms for financing:

- (a) The terms and conditions of the Long-Term Debt, including purchase price, interest or dividend rate, maturity date, sinking fund provisions, if any, and redemption provisions, if any, will be established by the competitive process described in this petition; and
- (b) If secured, the Long-Term Debt will be issued under and subject to the Mortgage Indenture and any Supplemental Indentures thereto as may be required.

The Petitioner may hire a financial advisor in connection with one or more of the offerings of Long-Term Debt, as it deems necessary or appropriate. The financial advisor, if retained by the Petitioner, will be expected to provide assistance in determining the terms and circumstances of a particular transaction and to advise Petitioner with respect to market conditions and prospective underwriters for the proposed financing.

By this petition, Petitioner requests authorization to issue and sell the Long-Term Debt without further approval by the Board of the specific terms and conditions thereof under the procedures described herein which constitute competitive conditions. Petitioner proposes to proceed with each such issuance and sale so long as the sale produces the most economically beneficial transaction, pursuant to received competitive proposals.

The price to be paid to the Petitioner under the proposal accepted is expected to be between 98% and 102% of the principal amount of the Long-Term Debt offered for sale, if in the form of bonds.

In the event the conditions set forth above are satisfied, Petitioner would accept the proposal which produces the lowest effective cost of money to Petitioner and would further propose to issue and sell such securities in accordance with the terms thereof, without further order of this Board. No later than 24 hours prior to receipt of the proposal(s) received through the offering process, Petitioner will provide the Board with information as to the date and time scheduled for receipt of the bid proposals or other offering. At that time, Petitioner will also provide the Board with information relating to Petitioner's then current assessment of the financial markets, including:

- (a) Recent sales of comparable securities issues, if applicable and if any;
- (b) Yields on outstanding comparable utility securities issues, if applicable and if any; and
- (c) Other relevant information needed to assess the reasonableness of the effective cost of funds.

As soon as practicable following the acceptance of any proposal resulting in the issuance and sale of any Long-Term Debt hereunder, Petitioner will submit to the Board the terms of the accepted proposal as well as the respective terms of each of the other proposals received including the interest rates, the prices to be paid, and the effective cost of funds to Petitioner under each proposal.

By letter dated April 5, 2018, the Division of the Rate Counsel notified the Board that, after reviewing the petition, supporting documents and discovery responses, it is not opposed to its approval.

The Board after investigation, having considered the petition and exhibits submitted in this proceeding, as well as any supplemental information provided by the Petitioner, **FINDS** that the above-proposed issue or issuances of Long-Term Debt is to be made in accordance with the law, and the Board hereby approving the purposes thereof, **HEREBY ORDERS** that the Petitioner be and is **HEREBY AUTHORIZED** through June 30, 2021 the following:

- Pursuant to N.J.S.A. 48:3-7 and N.J.S.A. 48:3-9, issue and sell up to \$10 million aggregate principal amount of their Long-Term Debt;
- Execute and deliver one or more supplemental mortgage indentures, loan agreements, term loan agreements, notes, and such other documents as may be necessary or appropriate to effectuate the issuance of Long-Term Debt;
- Hire a financial advisor in connection with one or more of the offerings of Long-Term Debt as it deems necessary or appropriate; and
- Take such actions as Petitioner determines may be necessary or appropriate in connection with any of the foregoing.

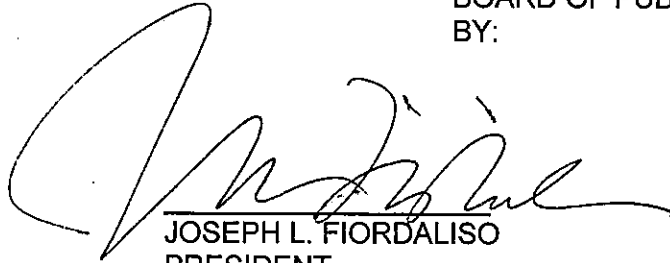
This Order is issued subject to the following provisions:

1. Petitioner may issue Long-Term Debt as set forth above in compliance with this Order. No further Order of this Board shall be necessary for the Petitioner to complete the financing or financings of the Long-Term Debt proposed by the Petitioner if the conditions of this Order are met;
2. Petitioner shall, as promptly as is practicable following the end of each month during which the Long-Term Debt is sold, file with the Board a statement which shall set forth the Long-Term Debt transactions concluded during such month including the names of the agents and details of the transactions with the agents. Such statement shall also set forth: (a) the principal amount, maturity date, redemption provisions, commissions and the interest rate spread over comparable United State Treasury securities for any Long-Term debt sold; and (b) the principal amount of the Long-Term Debt remaining authorized for issuance and sale in this Docket;
3. Petitioner shall issue the Long-Term Debt solely as provided for in this Order;
4. Petitioner shall furnish this Board with copies of all final and complete documents as executed and filed with other regulatory agencies, if any;
5. Petitioner shall semi-annually file with this Board, a statement setting forth: (a) the amount of Long-Term Debt issued pursuant to this Order; and (b) details with respect to the disbursement of proceeds from such issuances;
6. This Order shall not be construed as a certification that the securities authorized to be offered for sale will be represented by tangible or intangible assets of commensurate value or investment costs;
7. This Order shall not effect nor in any way limit the exercise or authority of this Board, or this State, in any future petition or in any proceeding with respect to rates, franchises, services, financing, capitalization, depreciation, or any other matters affecting the Petitioner; and
8. 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.

This Order shall become effective on May 5, 2018.

DATED: 4/25/18

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT




MARYANNA HOLDEN
COMMISSIONER



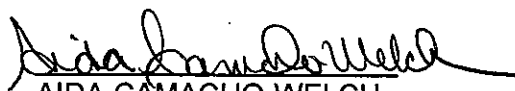
DIANNE SOLOMON
COMMISSIONER



UPENDRA J. CHIVUKULA
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER

ATTEST: 
AIDA CAMACHO-WELCH
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 PETITION OF THE ATLANTIC CITY SEWERAGE COMPANY FOR
APPROVAL OF A FINANCING PROGRAM INVOLVING THE ISSUANCE OF LONG TERM DEBT AND
THE REFINANCING OF EXISTING LONG TERM DEBT THROUGH JUNE 30, 2021
DOCKET NO. WF18020145

SERVICE LIST

Aida Camacho-Welch
Secretary of the Board
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, NJ 08625-0350
aida.camacho@bpu.nj.gov

Christine Lin
Economist Office
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, NJ 08625-0350
christine.lin@bpu.nj.gov

Maria L. Moran, Director
Division of Water
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, NJ 08625-0350
Maria.moran@bpu.nj.gov

Megan Lupo, Esq.
Legal Specialist
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, NJ 08625-0350
megan.lupo@bpu.nj.gov

Stefanie A. Brand, Esq., Director
Division of Rate Counsel
140 East Front Street, 4th Floor
Post Office Box 003
Trenton, NJ 08625-0003
sbrand@rpa.nj.gov

Debra Robinson, Esq.
Division of Rate Counsel
140 East Front Street, 4th Floor
Post Office Box 003
Trenton, NJ 08625-0003
drobinson@rpa.nj.gov

Caroline Vachier, Esq.
Department of Law & Public Safety
Division of Law
124 Halsey Street
Post Office Box 45029
Newark, NJ 07101-45029
carolinevachier@law.njoag.gov

Ira Megdal, Esq.
Cozen O'Connor
457 Haddonfield Road
P.O. Box 5459
Suite 300
Cherry Hill, NJ 08002
imegdal@cozen.com

Christine Soares, Esq.
Cozen O'Connor
457 Haddonfield Road
P.O. Box 5459
Cherry Hill, NJ 08002
csoares@cozen.com

Thomas S. Kavanaugh
President & General Manager
Atlantic City Sewerage Company
1200 Atlantic Avenue, Suite 300
Atlantic City, New Jersey 08404
tkavanaugh@acsewerage.com