



Agenda Date: 6/22/18
Agenda Item: LSC

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/

IN THE MATTER OF THE PETITION OF) ORDER
ELIZABETHTOWN GAS COMPANY FOR)
AUTHORIZATION THROUGH JUNE 30, 2021: (i) TO)
MAKE, EXECUTE AND ISSUE A TERM LOAN)
AGREEMENT TO PROVIDE INITIAL FINANCING FOR)
ELIZABETHTOWN GAS COMPANY; (ii) TO MAKE)
EXECUTE AND ISSUE A FIRST MORTGAGE)
INDENTURE AND ANY APPROPRIATE)
SUPPLEMENTAL MORTGAGE INDENTURES; AND (iii))
TO MAKE, EXECUTE AND ISSUE FIRST MORTGAGE)
BONDS OR OTHER EVIDENCES OF INDEBTEDNESS)
) DOCKET NO. GF18050512

Parties of Record:

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

BY THE BOARD:

Petitioner, Elizabethtown Gas Company ("Elizabethtown Gas Company," "Petitioner" or the "Company") filed an Amended Petition on May 30, 2018, for authorization through June 30, 2021:

- (i) to make, execute and deliver pursuant to N.J.S.A. 48:3-7 a First Mortgage Indenture and any appropriate supplemental mortgage indentures providing for the issuance of a mortgage bond or mortgage bonds;
- (ii) to issue such first mortgage bond or first mortgage bonds with a maturity or maturities of not more than forty (40) years from the respective dates of issuance;
- (iii) to issue other evidences of indebtedness, such as loan agreements, term loan agreements, and other evidences of indebtedness or similar documents payable more than twelve (12) months from the date or dates thereof; and

- (iv) to provide that all such bonds, loan agreements, term loan agreements and other evidences of indebtedness payable in more than twelve (12) months for the date or dates thereof will not exceed the amount of \$800,000,000.

On December 21, 2017, South Jersey Industries, Inc. ("SJI"), ETG Acquisition Corp. and South Jersey Resources Group, LLC ("SJRG"),¹ together with Pivotal Utility Holdings, Inc. ("Pivotal") ("Joint Petitioners") filed a verified joint petition with the Board requesting approval of the acquisition of control by ETG Acquisition Corp. of Pivotal's New Jersey utility operating division, Elizabethtown Gas ("Elizabethtown"), including the sale of substantially all of Elizabethtown's assets ("Acquisition") under N.J.S.A. 48:2-51.1, N.J.S.A. 48:3-7, N.J.A.C. 14:1-5.14 and N.J.A.C. 14:1-5.6.

As stated in the joint petition, ETG Acquisition Corp. was established to acquire substantially all of the assets of Elizabethtown. The Joint Petitioners represent that: (1) ETG Acquisition Corp. will purchase the Elizabethtown assets free of debt; (2) following the Acquisition closing (the "closing"), Elizabethtown will be a wholly owned subsidiary of SJI Utilities, Inc., a New Jersey corporation that SJI will form as part of the Acquisition; and (3) at closing, ETG Acquisition Corp. will change its name to Elizabethtown Gas Company.

Elizabethtown Gas Company will be engaged in the distribution and sale of natural gas to approximately 288,000 residential, business, and industrial customers in seven counties in two areas of New Jersey: the Union and Northwest Divisions.

At the date of the closing, Elizabethtown Gas Company will have no funds to use for working capital, capital investments, or to operate the utility.

On May 8, 2018, Petitioner filed an initial petition in this docket seeking authorization to enter into a term loan agreement in the amount of approximately \$530,000,000 payable in more than twelve (12) months from the date or dates thereof to provide initial financing for Elizabethtown Gas Company. Petitioner indicated that it will enter into a term loan agreement which will be payable within 364 days of issuance (the "Short-Term Term Loan"). Petitioner also indicated that it will issue first mortgage bonds within six (6) months of the closing, and will pay off the Short-Term Term Loan at that time. On May 30, 2018, Petitioner filed an amended petition no longer seeking approval to enter into the Short Term Loan agreement, since the term loan will be a short-term loan. However, Petitioner reiterated that it continues to seek approval to issue a mortgage indenture, and to issue, among other things, the first mortgage bonds referenced above.

Elizabethtown Gas Company additionally seeks authorization by the petitions to engage in a transaction or series of transactions commencing three to six months following the closing, which will include the issuance of First Mortgage Bonds discussed above, in the approximate amount of \$530,000,000.

If Elizabethtown Gas Company deems the same to be reasonable and prudent given existing market conditions at the time, it represents it will enter into interest rate hedges.

¹ ETG Acquisition Corp. and SJRG are wholly owned subsidiaries of SJI.

Elizabethtown Gas Company also seeks authorization to make, issue and execute a First Mortgage Indenture under and pursuant to which Elizabethtown Gas Company will issue the first mortgage bonds discussed above.

Once Elizabethtown Gas Company makes, executes and delivers the above stated first mortgage bonds, there will remain approximately \$270,000,000 of additional allowed debt, pursuant to this Order.

Over a three (3) year period, Petitioner proposes that it be authorized to make, execute and issue a supplemental mortgage indenture, or supplemental mortgage indentures; term loan agreements or other evidences of indebtedness; all of which will be used for various purposes, including paying down other short term debt balances which will be incurred by Elizabethtown Gas Company in the ordinary operation of its business.

According to the Petitioner, the First Mortgage Indenture will create a first lien upon substantially all of its real and personal property, except certain items such as cash, investments, inventories, accounts receivable and transportation equipment. Petitioner requests that the bonds and other evidences of indebtedness may be used, *inter alia*, to take out the initial Short-Term Term Loan, to provide additional working capital or retire short term debt if it would be economically advantageous to do so.

Petitioner also requests authority, as appropriate market opportunities arise, to issue bonds under the First Mortgage Indenture as part of one series, or as part of several series. It seeks authorization such that the bonds may be issued with various terms and specified conditions, such as redemption provisions that vary from series to series and may bear interest at different rates. The terms of the proposed bonds cannot be determined at this time, as they will be dependent upon market and other conditions at the time of issuance and sale. The Petitioner states that the bonds will be sold at 100% of principal amount, at a discount or at a premium.

The Petitioner represents that any series of bonds may be issued in one or more offerings that will be registered under the Securities Act of 1933, as amended (the "Securities Act") or in one or more offerings that will be exempt from registration under the Securities Act. If a bond offering is registered under the Securities Act, the sale will be made in a manner which, in the judgment of the Company, yields a financially advantageous result for the Company. If a bond offering is not registered under the Securities Act, Elizabethtown Gas Company intends to sell the bonds either to or through one to three agents, in either case to purchasers that will be accredited investors, as defined in rules adopted by the Securities and Exchange Commission ("SEC"), or to other purchasers as may be permitted under applicable SEC rules with respect to the exemption from registration on which the Company relies for such issuance. The Petitioner requests that successful bidder or bidders may, in turn, resell the bonds to qualified institutional buyers, pursuant to Rule 144A under the Securities Act, or to any eligible purchasers under an applicable exemption from the Securities Act. This type of sale, in an unregistered offering, will be made to or through the agent or agents whose bid or bids will, in the judgment of the Company, yield a financially advantageous result for the Company. The agent or agents to be utilized by the Company may change from offering to offering.

It is anticipated that the interest rates to be borne by the bonds will not exceed ten percent (10%); provided, however, that if market conditions require an interest rate greater than ten percent (10%), Petitioner indicates it will notify the Office of the Economist of the Board at least fourteen (14) days before the issuance of any bonds.

Petitioner proposes to issue bonds within the following yield spreads over U.S. Treasury securities; provided, however, that if market conditions require a yield spread over U.S. Treasury securities greater than as set forth below, Petitioner will notify the Office of the Economist of the Board at least seven (7) days before pricing of the bonds. If Petitioner receives no written objection from the Office of the Economist of the Board within seven (7) days of receipt of notice, the Maturity Yield Spread Table shall be deemed amended as set forth in such notice:

MARKET YIELD SPREAD TABLE

<u>Range of Maturities</u>	<u>Maximum Coupon Spread Over U.S. Treasury Securities (Basis Points)</u>
1 Yr. to less than 18 Mos.	217
18 Mos. to less than 2 Yrs.	252
2 Yrs. to less than 3 Yrs.	283
3 Yrs. to less than 4 Yrs.	315
4 Yrs. to less than 5 Yrs.	321
5 Yrs. to less than 7 Yrs.	368
7 Yrs. to less than 10 Yrs.	392
10 Yrs. to less than 15 Yrs.	408
15 Yrs. to less than 20 Yrs.	474
20 Yrs. to 40 Yrs.	485

Petitioner also intends to make, execute and deliver other evidences of indebtedness, such as loan agreements, and term loan agreements, payable more than twelve (12) months from the date or dates thereof if economically advantageous to Petitioner. All such indebtedness will not exceed \$800,000,000.

To allow Petitioner to take advantage of changing money market conditions and advantageously manage its cost of capital and meet competitive conditions, Petitioner requests authority, as appropriate market opportunities arise, to issue and sell bonds in one or more offerings. The terms of the proposed bonds cannot be determined at this time, as they will be dependent upon market and other conditions at the time of issuance and sale. However, Petitioner will select the form of instrument which in the judgment of Petitioner would allow the issuance and sale of bonds in a financially advantageous manner.

The timing of each transaction with respect to each issuance of bonds, the price to be paid to Petitioner, the rate of interest, maturity, redemption provisions and prices, and the type, terms and conditions of the bonds will be determined from time to time for each issuance of bonds.

The Petitioner states that such determinations will depend upon the market conditions at the time of issuance and sale. Depending upon the then prevailing market conditions, the bonds will have maturities of up to forty (40) years from their respective dates of issuances. Bonds may include conventional, floating rate, put, call, remarketed, swaps, options or other terms and conditions. Petitioner requests that all bonds be sold without further approval by this Board in accordance with procedures set forth in this Petition.

The Company plans to initially finance its general construction program with internally generated funds and short-term debt. Periodically, Elizabethtown Gas Company may pay down short-term debt to prevent balances from becoming too high with the proceeds from the sale of long-term debt, bonds or from equity infusions.

The New Jersey Division of Rate Counsel ("Rate Counsel") has reviewed this matter and by letter dated June 20, 2018, states that it does not object to the Petitioner's request for authority to issue debt to finance the Acquisition with certain conditions. Those conditions are contained in this Order. Additionally, Rate Counsel indicates such approval of this petition must be expressly conditioned on the Board's approval of the underlying Acquisition transaction, including all conditions accompanying such Board approval, and the actual closing of the Acquisition transaction. Rate Counsel further recommends that after closing on the Acquisition and issuance of the short-term term loan, the Company proceed as expeditiously as practicable to refinance the short-term term loan with secured long-term debt in order to prudently recapitalize Elizabethtown and protect its customers from potential instability in capital markets. (Rate Counsel Letter at 5).

Notwithstanding these recommendations, Rate Counsel reserves its right to take appropriate positions regarding financing matters, cost of capital and the setting of rates in current and future proceedings that involve the Petitioner. Id. at 6.

The Board, after investigation, having considered the petitions, exhibits, discovery in this proceeding, the comments submitted by Rate Counsel, and the recommendation of the Board Staff, **FINDS** that the proposed series of transactions set forth in the Amended Petition is to be made in accordance with the law, and the Board approving the purposes thereof, **HEREBY ORDERS** that Petitioner be and is **HEREBY AUTHORIZED** through June 30, 2021: (i) to make, execute and deliver pursuant to N.J.S.A. 48:3-7 a First Mortgage Indenture and any appropriate supplemental mortgage indentures providing for the issuance of a mortgage bond or mortgage bonds; (ii) to issue such first mortgage bond or first mortgage bonds with a maturity or maturities of not more than forty (40) years from the respective dates of issuance; (iii) to issue other evidences of indebtedness, such as loan agreements, term loan agreements, and other evidences of indebtedness or similar documents payable more than twelve (12) months from the date or dates thereof; and (iv) to provide that all such bonds, loan agreements, term loan agreements and other evidences of indebtedness payable in more than twelve (12) months for the date or dates thereof will not exceed the amount of \$800,000,000; and that Petitioner may take all reasonable steps in order to complete the transactions contemplated by this Petition.

This Order is issued subject to the following provisions:

1. This Order shall be conditioned on the Board's approval of the underlying Acquisition in BPU Docket No. EM17121309, including all conditions accompanying such Board approval, and the actual closing of the Acquisition.
2. Petitioner will issue the short-term debt loan and the various series of Bonds in compliance with this Order. No further Order of this Board shall be necessary for

Petitioner to complete the series of Bond transactions or other issuances of indebtedness payable no more than twelve (12) months from the dates thereof if the conditions of this order are met.

3. With respect to each issue and sale of any Bonds which may be made through competitive bidding, and not registered under the Securities Act, Petitioner shall provide this Board with the following material for informational purposes, as soon as, and in no event later than twenty-four (24) hours prior to the time for the receipt of bids (which materials may be provided by mail or by facsimile transmission and confirmed by mail): (a) a statement in respect of bidding for the Bonds which shall specify (i) the date and time for receipt of bids for the Bonds, (ii) the principal amount of the Bonds, (iii) the series designation of the Bonds, (iv) the minimum and maximum percentage of principal amount which may be specified in the bid as the purchase price for the Bonds, (v) the term of the Bonds, (vi) the terms and conditions, if any, upon which the Bonds may be redeemed, whether at the option of the Petitioner, pursuant to any sinking fund or improvement fund for the Bonds, or otherwise, and (vii) such other provisions as may be established by Petitioner with respect to the terms and conditions of the Bonds and the bidding thereof; and (b) an assessment of the then current financial markets applicable to the Bonds which shall include (i) data with respect to recent sales of comparable securities of other utilities, (ii) interest rate spreads between United State Treasury Bonds and utility securities comparable to the Bonds, (iii) the anticipated number of bidders for the Bonds, (iv) the anticipated range of the yield of the Bonds based upon current market conditions, and (v) such other information as Petitioner shall deem relevant to assess the expected sale of the Bonds and the reasonableness of the annual cost of money.
4. If competitive bidding procedures are utilized, and: (a) at least three independent bids for the purchase of Bonds are received; (b) Petitioner accepts the bid which produces the most advantageous financial terms to Petitioner; and (c) the price to Petitioner in such bid is no less than ninety-seven percent (97%) of principal amount and no more than one-hundred and two percent (102%) of principal amount, Petitioner may, without further Order of the Board, issue and sell the Bonds in accordance with the terms and conditions contained in such accepted bid. If (x) only one or two bids are received for the Bonds, or (y) Petitioner proposes to accept the bid which does not produce the most advantageous financial terms to the Petitioner or (z) the accepted bid provides for a price to the Petitioner of less than ninety-seven percent (97%) of principal amount or more than one-hundred and two percent (102%) of principal amount, the proposed issuance and sale of the Bonds shall not be consummated until a further Order of the Board authorizing such issuance and sale has been entered.
5. If Bonds are sold pursuant to competitive bidding, Petitioner shall furnish the Board in writing as soon as practicable after accepting the bid for Bonds, the names of all principal bidders together with the interest rate, the annual cost of money to Petitioner, the price to the public, if applicable, the percentage yield and the price to Petitioner applicable to each bid.
6. While it is anticipated that the interest rates to be borne by the Bonds will not exceed ten percent (10%), if market conditions require an interest rate greater than ten percent (10%), Petitioner will notify the Office of the Economist of the

Board at least fourteen (14) days prior to the issuance of any Bonds if this falls within the Market Yield Spread Table approved by this Order. If the rate exceeds the approved range, Petitioner shall seek Board approval as described below.

7. Whether the Bonds are sold in an offering that is registered under the Securities Act, or sold on a competitively bid basis, Petitioner shall not issue Bonds at coupon rates in excess of those that would result from the Market Yield Spread Table set forth in this Order. In the event that market conditions change, Petitioner may file an updated Market Yield Spread Table for Board approval, before issuing Bonds with coupon rates that are not within the Market Yield Spread Table set forth herein.
8. Petitioner shall telephonically notify the Chief Economist prior to its issuance of Bonds, whether issued in an offering registered under the Securities Act or not, and will supply the following for informational purposes only: (a) principal amount or amounts of the Bonds proposed to be sold; (b) anticipated maturity ranges; (c) actual current yields of United States Treasury securities; (d) range of estimated coupon spreads over United States Treasury securities; (e) data, as available, with respect to recent sales of comparable Bonds of other utilities; and (f) such other information as Petitioner shall deem relevant to assess the reasonableness of the expected sale of the Bonds. Further, within seven (7) business days after the issuance and sale of any Bonds, Petitioner will provide the Chief Economist such information as was available at the time of sale upon which Petitioner based its decision to sell, such as market data with respect to utilities with similar credit ratings that have issued comparable securities.
9. Petitioner shall, as promptly as is practicable following the end of each month during which the Bonds are sold, file with the Board a statement which shall set forth the Bond 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 Bonds sold and (b) the principal amount of the Bonds remaining authorized for issuance and sale in this Docket.
10. Petitioner shall furnish the Board with copies of each Note Indenture, similar indenture, and supplemental indenture, as executed.
11. Petitioner shall furnish this Board with copies of all final and complete documents as executed and filed with other regulatory agencies, including the SEC.
12. Petitioner shall semi-annually file with this Board, a statement setting forth: (a) the amount of Bonds issued pursuant to this order; and (b) details with respect to the disbursement of proceeds from such issuances.
13. 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.
14. This Order shall not effect nor in any way limit the exercise or authority of this Board, or of this State, in any future petition or in any proceeding with respect to

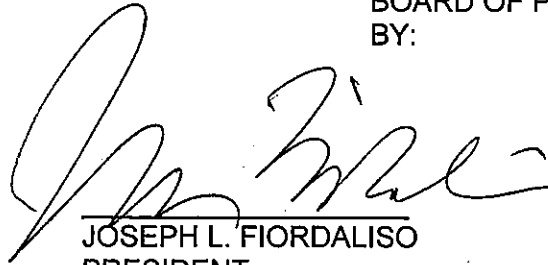
rates, franchises, services, financing, capitalization, depreciation, or any other matters affecting the Petitioner.

15. 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.
16. Petitioner should undertake financing in a manner that achieves the lowest reasonable cost of capital to customers.
17. Petitioner is obligated to use a prudent mix of capital to finance its utility operations and investments.
18. The authority granted in this Order shall become null and void and of no effect with respect to any portion thereof which is not exercised by June 30, 2021.

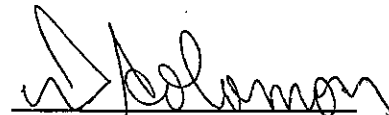
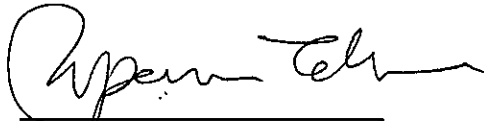
This Order shall become effective on July 2, 2018.

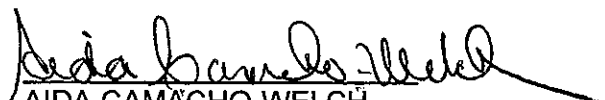
DATED: 6/22/18

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT


MARY-ANNA 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 ELIZABETHTOWN GAS COMPANY FOR
AUTHORIZATION THROUGH JUNE 30, 2021: (i) TO MAKE, EXECUTE AND ISSUE A TERM
LOAN AGREEMENT TO PROVIDE INITIAL FINANCING FOR ELIZABETHTOWN GAS
COMPANY; (ii) TO MAKE EXECUTE AND ISSUE A FIRST MORTGAGE INDENTURE AND
ANY APPROPRIATE SUPPLEMENTAL MORTGAGE INDENTURES; AND (iii) TO MAKE,
EXECECUTE AND ISSUE FIRST MORTGAGE BONDS OR OTHER EVIDENCES OF
INDEBTEDNESS
DOCKET NO. GF18050512**

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