



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center**  
**Newark, NJ 07102**  
**www.bpu.state.nj.us**

IN THE MATTER OF THE PETITION OF ATLANTIC )  
CITY ELECTRIC COMPANY FOR APPROVAL OF THE )  
SALE OF CERTAIN LAND AND PREMISES SITUATE IN )  
THE TOWNSHIP OF MAURICE RIVER, IN PART, AND )  
THE CITY OF MILLVILLE, IN PART, COUNTY OF )  
CUMBERLAND AND STATE OF NEW JERSEY TO )  
R.W.V. LAND & C.M. LIVESTOCK, L.L.C. PURSUANT )  
TO N.J.S.A. 48:3-7 )  
)

DIVISION OF  
ENERGY

PREHEARING ORDER

DOCKET NO. EM02050313

**SERVICE LIST ATTACHED**

BY THE BOARD:<sup>1</sup>

BACKGROUND

On January 23, 2009, a prehearing conference was held in this matter. That conference was attended by various parties representing Atlantic City Electric ("ACE"); the Developer, Millville 1350, LLC; the Department of Environmental Protection ("DEP"); the Division of Rate Counsel; the Columbia Environmental Law Clinic ("Law Clinic"); and Board Staff.

Upon consideration of the positions put forth by all entities in attendance, the Board issues the following prehearing Order.

**1. NATURE OF PROCEEDINGS AND ISSUES TO BE RESOLVED:**

The underlying issue involves a request by ACE for the approval of a contract for the sale of land claimed no longer used and useful for energy purposes. The parties agree that the ultimate question centers on whether or not the Board should approve the sale to the developer as set forth in the Petition. The parties do not agree, however, as to the nature of review and role that the Board should take in making this ultimate decision. At this point, the Board will continue to allow the parties to discuss this issue, and will delay a finding until after the parties have had further opportunity to review the case.

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<sup>1</sup> Due to the appearance of a conflict of interest Commissioner Asselta recused himself from participating in and voting on this matter.

**2. PARTIES AND ATTORNEYS OR REPRESENTATIVES:**

Parties to this matter include ACE; R.W.V. Land & C.M. Livestock, L.L.C. and Millville 1250, LLC; Citizens United to Protect the Maurice River and Its Tributaries, Inc.; New Jersey Audubon Society; New Jersey Conservation Foundation; the Association of New Jersey Environmental Commissions; DEP; and Board Staff.

**3. SPECIAL LEGAL REQUIREMENTS AS TO NOTICE OF HEARING:**

None at this time.

**4. SCHEDULE OF HEARING DATES, TIME AND PLACE:**

None at this time. The Board HEREBY REQUEST the Division of Law to hold a second prehearing meeting on April 29, 2009, at 11:00 a.m. in the Board's Hearing Room at Two Gateway Center, Newark, New Jersey.

**5. STIPULATIONS:**

None at this time

**6. SETTLEMENT:**

Settlement conference(s) among the parties are encouraged and may be convened at the convenience of the parties without prior approval or knowledge of the Board. At this time, however, based upon discussions with the parties, settlement does not seem likely.

**7. AMENDMENTS TO PLEADINGS:**

None.

**8. CASE EVENTS AND DATE FOR COMPLETION:**

The parties in attendance at the Prehearing Conference of January 23, 2009 agreed to the following schedule, as well as committing to a second prehearing conference. Based upon that agreement, and the considerations of the Board and the case, the following partial schedule has been set:

Last Date for all parties to propound discovery	February 13, 2009
Last Date for all parties to respond to discovery	March 9, 2009
Last date to submit new appraisals	March 23, 2009
Last date to submit updated economic analysis	April 22, 2009
Second prehearing conference	April 29, 2009

**9. ORDER OF PROOFS:**

To be determined.

**10. EXHIBITS MARKED FOR IDENTIFICATION:**

None at this time.

**11. EXHIBITS MARKED IN EVIDENCE:**

None at this time.

**12. MOTIONS CONTEMPLATED, PENDING OR GRANTED:**

An ongoing discussion remains as to the possibility of dispositive motions in this matter, and any schedule for those motions will be set following the second prehearing conference.

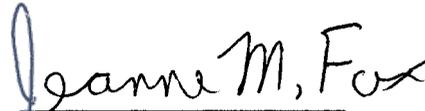
**13. OTHER SPECIAL MATTERS:**

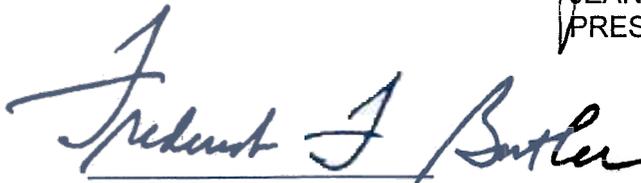
None.

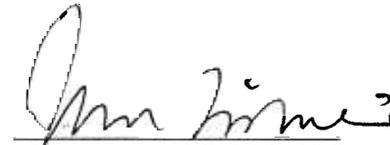
Therefore, upon consideration of the forgoing, the Board HEREBY ISSUES this prehearing order.

DATED: 4/14/09

BOARD OF PUBLIC UTILITIES  
BY:

  
JEANNE M. FOX  
PRESIDENT

  
FREDERICK F. BUTLER  
COMMISSIONER

  
JOSEPH L. FIORDALISO  
COMMISSIONER

  
ELIZABETH RANDALL  
COMMISSIONER

ATTEST:

  
KRISTI IZZO  
SECRETARY

