



Agenda Date: 2/7/07  
Agenda Item: 9C

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center**  
**Newark, NJ 07102**  
**[www.bpu.state.nj.us](http://www.bpu.state.nj.us)**

IN THE MATTER OF GARY AND MARGARET NEIL	)	ORDER GRANTING
PETITION FOR EXEMPTION FROM SMART GROWTH	)	EXEMPTION
RULES <u>N.J.A.C.</u> 14:3-8.8(a)(7)	)	
	)	NON-DOCKETED MATTER

(SERVICE LIST ATTACHED)

**BY THE BOARD:**

The Board of Public Utilities ("Board") adopted its Extension of Service Rules ("Main Extension Rules") on November 16, 2004 and these rules are set forth at N.J.A.C. 14:3-8.1 et seq. The Main Extension Rules were promulgated to ensure that the Board's regulations governing extension of service reflected the State of New Jersey's Smart Growth policies. This Order will address a petition for an exemption from the Main Extension Rules.

The Board will address a request by Gary and Margaret Neil ("Petitioners") for an exemption from the Main Extension Rules pursuant to N.J.A.C. 14:3-8.8(a)(7). This section of the rules provides for an exemption from the cost limits on extensions of service in areas not designated for growth for projects that would result in an extraordinary hardship as described in the rule. The Petitioners are building a house at 1844 Winslow Road, Willamstown, Gloucester County, New Jersey, in an area not designated for growth. They are replacing an existing home with a new home that will more easily let them provide care for extended family members. Petitioners' parents care for Petitioners' two mentally challenged uncles. The Petitioners, their parents and the two uncles will live in the new house and will continue to farm this property as the family has done since the 1940's. Petitioners now seek relief from the rules which would otherwise require the Petitioners to pay the entire cost of extending electric service to the house on Winslow Road. Atlantic City Electric has determined the cost of extending service to the house would be \$4536.74. The work has been completed, and Petitioner paid Atlantic City Electric to perform the extension. Petitioners now seek a reimbursement of this cost.

The Board received a letter on November 15, 2006 from Charles M. Horner, Director, Regulatory Programs at the Pinelands Commission indicating that the Petitioners' development is consistent with the Pinelands Comprehensive Management Plan.

To obtain an exemption based on an extraordinary hardship, N.J.A.C. 14:3-8.8(a)(7) provides that a person must demonstrate to the Board that all of the following criteria are met:

1. Compliance with this subchapter would cause an extraordinary hardship;
2. The extraordinary hardship results from unique circumstances that do not apply to or affect other projects in the region;
3. The unique circumstances arise from the project itself and not from the circumstances or situation of the regulated entity or its customers; and
4. Neither the extraordinary hardship nor the unique circumstances are the result of any action or inaction by the regulated entity, its shareholders, or its customers.

### DISCUSSION

After reviewing the petition, the Board **FINDS** that the above criteria are met. Specifically, the Board **FINDS** that there are unique circumstances that led to an extraordinary hardship, and that these unique circumstances did arise from the project itself. Importantly, the Board notes that Petitioners are simply replacing an old, insufficient house with a new house on the site, and with this exemption the Petitioners will be able to continue to operate a family farm on the property, and this type of land use is consistent with the State's smart growth goals. Moreover, the Board received a letter on November 15, 2006, from Charles M. Horner, Director Regulatory Programs at the Pinelands Commission indicating that the Petitioners' development is consistent with the Pinelands Comprehensive Management Plan. Moreover, while personal financial distress arising from circumstances unrelated to the project does not result in a determination of extraordinary hardship, in the instant matter there are other unique circumstances that merit such a finding. See I/M/O Evelyn DeLaurentis Petitioner for Exemption from Smart Growth Rules N.J.A.C. 14:3-8.8(a)(6) (September 14, 2006) (non-docketed matter).


Therefore, the Board **HEREBY GRANTS** the petition for an exemption from the Main Extension Rules pursuant to N.J.A.C. 14:3-8.8(a)(6) for an extension of electric service to a house at 1844 Winslow Road, Willamstown, Gloucester County, New Jersey. Pursuant to N.J.A.C. 14:3-8.8(j)(3), the Board **HEREBY ORDERS** Atlantic City Electric to treat this extension as if it were in an area designated for growth as governed by N.J.A.C. 14:3-8.7 and to refund to the Petitioners any portion of funds that may have been paid to Atlantic City Electric by Petitioners to which they are entitled under N.J.A.C. 14:3-8.7 and Atlantic City Electric's tariff.

DATED:

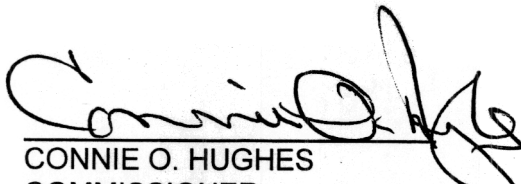
2/7/07


BOARD OF PUBLIC UTILITIES  
BY:

  
JEANNE M. FOX  
PRESIDENT

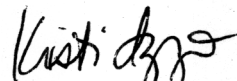
  
FREDERICK F. BUTLER  
COMMISSIONER

  
JOSEPH L. FIORDALISO  
COMMISSIONER

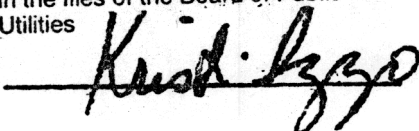
  
CONNIE O. HUGHES  
COMMISSIONER

  
CHRISTINE V. BATOR  
COMMISSIONER

ATTEST:

  
KRISTI IZZO  
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 EVELYN DeLAURENTIS  
PETITION FOR EXEMPTION FROM SMART GROWTH  
RULES N.J.A.C. 14:3-8.8(a)(6)**

**SERVICE LIST**

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