



Agenda Date: 6/14/07  
Agenda Item: IIA

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

ENERGY

IN THE MATTER OF THE DESIGNER	)	ORDER APPROVING
HOMES OF NJ's EXEMPTION FROM	)	EXEMPTION
UNDERGROUND EXTENSION REGULATIONS	)	
PURSUANT TO <u>N.J.A.C. 14:3-8.4(i)</u>	)	
	)	DOCKET NO. EO07050352

(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 were subsequently published in the New Jersey Register on December 20, 2004 at 36 N.J.R. 5928(a). 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. Further, the Main Extension Rules consolidated all underground extension rules in N.J.A.C. 14:3-8.4. This Order will address a petition for an exemption from N.J.A.C. 14:3-8.4(d), which requires that certain extensions be made underground.

Designer Homes of NJ (Petitioner) is developing four contiguous single-family homes in the Borough of Hopatcong, Sussex County, in an area designated for growth, which it hopes to market in the range of \$500,000 to \$600,000 each. The four single family homes are being built on a consolidation of forty six previously approved lots. The Electric Distribution Company (EDC) serving this area is Jersey Central Power & Light Company (JCP&L). JCP&L correctly informed the Petitioner that electrical service to this development should be made via underground wiring in accordance with the requirements of N.J.A.C. 14:3-8.4 (d).

N.J.A.C. 14:3-8.4(d) requires that an extension of electric or telecommunications service to a residential development be made underground if:

“1. The extension is located within, and will serve, a development of three or more residential units in the same geographic area that do not have electric or telecommunications service as of August 15, 2005; and

2. Either of the following criteria are [sic] met:

The extension will be placed along streets that were constructed after August 15, 2005; or

ii. The extension will be placed along streets constructed prior to August 15, 2005, which are not already served by overhead facilities.”

On March 16, 2007, the Petitioner filed an exemption request with the Board seeking an exemption from the requirements of N.J.A.C. 14:3-8.4(d), as allowed by N.J.A.C. 14:3-8.4(i).

N.J.A.C. 14:3-8.4(i) allows a regulated entity or an applicant for an extension of service to submit an exemption request to the Board. More specifically, N.J.A.C. 14:3-8.4(i) states:

When the requirement that an extension be located underground will result in hardship, inequity, or will be discriminatory to other affected parties, the regulated entity or applicant may request from the Board a special exemption, or approval of special conditions. The Board may require that the requesting party submit, as part of such a request, documentation that the requesting party has deposited in an escrow account an amount up to the estimated difference in cost between underground and overhead service.

In the current matter, the site where the Petitioner seeks to build the new homes is in a rocky terrain that will require extensive blasting in order to facilitate the installation of underground lines. On April 5, 2007, Board Staff visited the construction site and observed:

- The entire site was extremely rocky having both large continuous pieces of rock on and beneath the surface;
- Areas of the site contain very large “ledge” rock (single pieces of rock whose volume is comparable in size to a single family house);
- The surrounding areas adjacent to this site are all served via overhead wires for power and communications; and
- The four houses will occupy the entire site and there is no more adjacent vacant property for additional development.

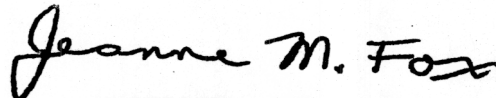
Furthermore, the Petitioner has received an estimate of \$200,000 for rock blasting and removal costs above the cost of rock-free trenching on the construction site, which would add approximately 8% to the cost of the project's homes. In addition, each home will have an individual well and septic system, so that underground trenching throughout the development for these utilities is not required. Completion of this project will complete development in this specific area, so that the undergrounding of the electric and telecommunications service would result in an isolated island without hope of expansion. JCP&L stated no preference in the type of distribution system (overhead or underground) that JCP&L would own and maintain on completion of the development. Finally, JCP&L personnel stated, that to the best of their knowledge, there are no more than two small underground fed developments in the borough and that the conditions at this site indicate overhead feed is a proper choice.

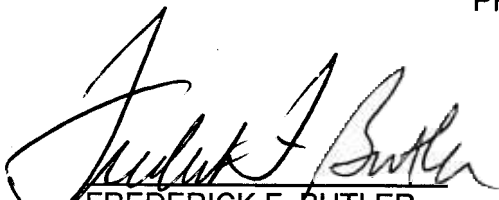
After reviewing the petition, the Board FINDS that criteria for an exemption under N.J.A.C. 14:3-8.4(i) are met. Specifically, the Board FINDS that construction of underground electric extensions to serve the homes that the Petitioner is building will constitute a hardship due to the fact that the terrain is extremely rocky and would require an extensive and costly amount of blasting in order to facilitate the installation of underground lines to the homes in question. The Board notes that all the homes in this development are located in an area designated for growth and that granting of this type of exemption is consistent with the State's policy to promote growth in areas designated for growth. Furthermore, the completion of this development will conclude development in this specific area and will not provide a future opportunity for expansion of service to additional developments, thus limiting the benefit of an underground extension of service in this instance. Therefore, the Board HEREBY ACCEPTS AND APPROVES the exemption from the Underground Extension Rules pursuant to N.J.A.C. 14:3-8.4(i) for an extension of electric service to:

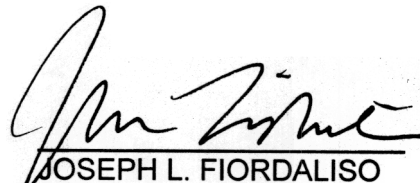
1. Block 31106, Lots 12 and 23;
  2. Block 31204, Lots 1-5 and 11-19;
  3. Block 31202, Lots 1-12 and 32-34;
  4. Block 31202, Lots 1-5
- In the Borough of Hopatcong, Sussex County.

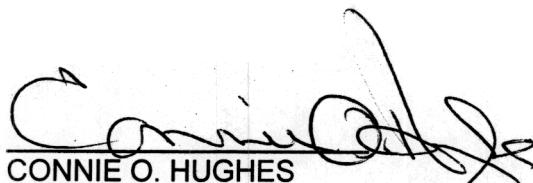
DATED: 6/20/07

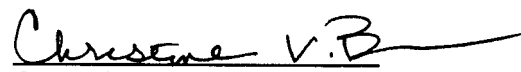
BOARD OF PUBLIC UTILITIES  
BY:

  
JEANNE M. FOX  
PRESIDENT

  
FREDERICK F. BUTLER  
COMMISSIONER

  
JOSEPH L. FIORDALISO  
COMMISSIONER

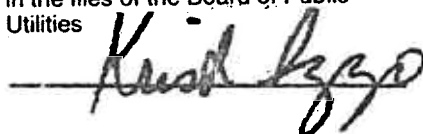
  
CONNIE O. HUGHES  
COMMISSIONER

  
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 DESIGNER HOMES OF NJ, INC. –  
EXEMPTION FROM UNDERGROUND EXTENSION  
REGULATIONS AT N.J.A.C. 14:3-8.4(i)

NON-DOCKETED MATTER

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