



Agenda Date: 9/12/07
Agenda Item: 9A

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

IN THE MATTER OF KIDS EDUCATIONAL	)	ORDER DENYING
ENRICHMENT PROGRAM – PETITION FOR	)	EXEMPTION
EXEMPTION FROM MAIN EXTENSION RULES AT	)	
<u>N.J.A.C. 14:3-8.8(a)(6)</u>	)	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 were subsequently published in the New Jersey Register on December 20, 2004 at 36 N.J.R. 5928. 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 Kids Educational Enrichment Program (Petitioner) for an exemption from the Main Extension Rules pursuant to N.J.A.C. 14:3-8.8(a)(6). This section of the rules provides for an exemption from the cost limits on extensions of service in areas not designated for growth for a project that will provide a significant public good.

The Petitioner is a non-profit organization that provides childcare for families in Sussex County, New Jersey. The Petitioner serves approximately 500 children a year. The Petitioner built a new building located at 11 Park Lake Road in Sparta, NJ in an area not designated for growth. The Petitioner now seeks relief from the rules that required the Petitioner to pay the entire cost of extending telephone and electric service to the school. Jersey Central Power & Light Company billed the Petitioner \$12,270.57 to extend electric service. Embarq billed the Petitioner \$12,594.96 to extend telephone service. Petitioner now seeks to have these costs (totaling \$24,865.53) reimbursed via this exemption petition.

To obtain an exemption based on a significant public good, the rules provide that a person must demonstrate to the Board that all of the following criteria are met:

1. The project or activity served by the extension would provide a significant benefit to the public or to the environment;

Here Petitioner states that they provide child care for toddlers everyday and public school children during times when school is not in session. They provide financial assistance for families that are economically disadvantaged. The new building will help Petitioner provide care for more school-aged children.

2. That the project ... is consistent with smart growth, or that the benefit of the project outweighs the benefits of smart growth. In making this determination, the Board will consult with the Office of Smart Growth and other State agencies;

The Petitioner states that the building site is consistent with the principals of smart growth and that it has been approved as a "job creation center" as part of the county's regional growth plan.

3. There is no practicable alternative means of providing the benefit while still complying with this subchapter.

The Petitioner states that the building site is centrally located to the population they serve and that it is close to White Lake which provides recreational opportunities for the children.

Pursuant to the requirement in N.J.A.C. 14:3-8.8(h)(2), staff consulted with the Office of Smart Growth. In a letter dated July 13, 2007, Benjamin Spinelli, Acting Executive Director of the Office of Smart Growth stated that the development of a child care facility in the Environmentally Sensitive Planning Area (PA5) outside of Sparta Township's designated Center is "not consistent with the State Development and Redevelopment Plan (State Plan) and smart growth principles." He went on to note that "whether the child care center is in a 'jobs creation center' under the County strategic plan does not change the PA5 designation set forth in the State Plan."

DISCUSSION:

After reviewing the petition, the Board FINDS that while the services Petitioner provides are valuable, not all of the above criteria are met. Specifically, the Board FINDS, that construction of telephone and electric extensions to serve the Petitioner is not consistent with smart growth and that the benefit of the project does not outweigh the benefits of smart growth. The Board does not agree with the Petitioner's contention that the project is consistent with smart growth because its new building was built in a "jobs creation center." As indicated by a letter from the Office of Smart Growth dated July 13, 2007, the County's designation of this area as a "jobs creation center" in no way creates a center or other area designated for growth under the State Development and Redevelopment Plan or the Board's rules at N.J.A.C. 14:3-8.2. To create an area designated for growth, the Township of Sparta would need to petition the State Planning Commission for Plan Endorsement. See N.J.A.C. 5:85-7.1, et seq. All three criteria of N.J.A.C. 14:3-8.8(a)(6) must be met in order for the Board to grant an exemption. As discussed

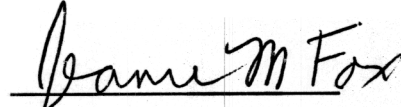
above the second criterion is not met, and as a result, the Board need not address criteria one or three. Therefore, the Board HEREBY DENIES the exemption from the Main Extension Rules pursuant to N.J.A.C. 14:3-8.8(a)(6) for an extension of telephone and electric service to a facility built by Kids Educational Enrichment Program at 11 Park Lake Road in Sparta, New Jersey.

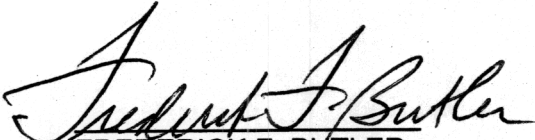
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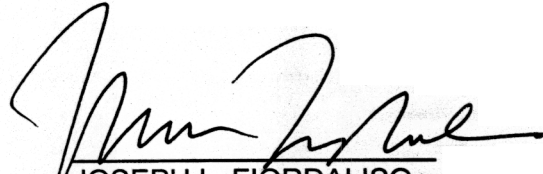
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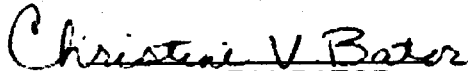
BOARD OF PUBLIC UTILITIES

BY:

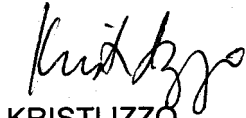

JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER

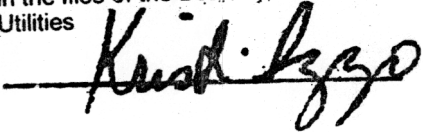

JOSEPH L. FIORDALISO
COMMISSIONER


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 KIDS EDUCATIONAL ENRICHMENT PROGRAM – PETITION FOR
EXEMPTION FROM MAIN EXTENSION RULES AT N.J.A.C. 14:3-8.8(a)(6)

NON-DOCKETED MATTER

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