



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

IN THE MATTER OF HAPPINESS IS ) ORDER APPROVING EXEMPTION  
CAMPING, INC PETITION FOR AN EXEMPTION )  
FROM MAIN EXTENSION RULES AT )  
N.J.A.C. 14:3-8.8(b) (1) ) DOCKET NO.: EO09030215

(SERVICE LIST ATTACHED)

BY THE BOARD:

By this Order, the Board considers a request by Happiness is Camping, Inc. located in Hardwick Township, Warren County, New Jersey ("Petitioner") for an exemption from the Main Extension Rules pursuant to N.J.A.C. 14:3-8.8(b)(1).<sup>1</sup> 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.<sup>2</sup> The Petitioner is seeking to have electric service installed to a recreation/gym building being built on the grounds of an established summer camp catering to children afflicted with cancer.

Petitioner filed a petition for a significant public good exemption with the Board on May 1, 2008. This work has been completed and paid for by Petitioner under protest. The cost of Jersey Central Power and Light ("JCP&L") for installing electric service is \$3,664.72. By granting this petition, the Board would Order a reimbursement of these funds from JCP&L to Petitioner.

The Petitioner submits that it is exempt from the requirements for the costs of the extension pursuant to N.J.A.C. 14:3-8.8(b)(1), because the project will provide a significant public good, as described in N.J.A.C. 14:3-8.8(h). N.J.A.C. 14:3-8.8(h) provides that to obtain an exemption based on significant public good, a Petitioner 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; (2) the project is consistent with smart growth, or that the benefit of the project outweighs the benefits of smart growth; and (3) there is no practicable alternative means of providing the benefit while still complying with this

<sup>1</sup> Petitioners initially filed for an exemption pursuant to N.J.A.C. 14:3-8.8(a)(6). Effective May 19, 2008, the Board amended its Main Extension Regulations and moved the relevant exemption from N.J.A.C. 14:3-8.8(a)(6) to N.J.A.C. 14:3-8.8(b)(1).

<sup>2</sup> The Petition also references a hardship exemption pursuant to N.J.A.C. 14:3-8.8(b)(2), but does not address the factors articulated in the Board's rules. The Board did not consider whether Petitioner would be entitled to exemption pursuant to N.J.A.C. 14:3-8.8(b)(2).

subchapter. In assessing criterion two (2), the Board must consult with the Office of Smart Growth ("OSG") and other State agencies.

The Petitioner presents the following as to each criterion in N.J.A.C. 14:3-8.8(h):

**1. Whether the Project or Activity Served by the Extension will Provide a Significant Benefit to the Public or to the Environment**

Happiness is Camping, Inc. is a 501 (c) 3 which has maintained a 145 acre year round camp at this location for 28 years. Petitioner argues that the recreation building was not contemplated originally. The recreation/gym building was proposed and partially funded by the camp's Director of Nursing in memory of her husband and camp volunteer, a firefighter killed on September 11, 2001, to provide a building so the children and others who use the Camp would have a place for activities during rainy or inclement weather. The camp provides both passive and active recreation. Its primary purpose is to provide a free camping experience for children with cancer and their siblings. Additionally public schools groups and other educational groups use the camp as does the Hardwick Township Senior Citizen Group.

**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**

Here, Petitioner states that the Camp's property is in an area not designated for growth, although construction of the recreation/gym building is consistent with smart growth in that the agreement with DEP Green Acres provided that as long as the Camp constructed additional buildings on its property, which serve the purpose of providing facilities for camping, it met the objectives of the Green Acres Program.

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

Petitioner argues that there is an absolute need for an indoor recreation facility on the Camp's property that is accessible to the children living in the cabins at the camp. Building the gym/recreation center off-site in an area designated for growth would be entirely impractical. The camp has been active in this location for 28 years, busing the children to a smart growth area to a recreation facility would undercut and negate the goals of having a camping experience in a rural area.

The following steps were taken by Board Staff and are part of the record that the Board has reviewed.

Pursuant to the requirement in N.J.A.C. 14:3-8.8(h)(2), Staff consulted with the OSG, and the Department of Environmental Protection ("DEP"). James Souder, Interim Executive Director of the Office of Smart Growth, has identified that 62 Sunset Lake Road, Hardwick Township, Warren County (aka Block 601, Lot 9) is located in a Planning Area 5, Environmentally Sensitive non-growth area.

Director Souter's June 17, 2009 letter states,

As it relates to providing an exemption in accordance with N.J.A.C. 14:8.8(h), OSG has determined the following:

The extension would provide a significant benefit to the public and the environment consistent with *Goal 7: Preserve and Enhance Areas with Historic, Cultural, Scenic, Open Space and Recreational Value* of the State Plan. With respect to the environment, the project is expected to enhance, preserve and utilize this open space and recreational asset through collective, planning, design and management techniques. DEP has indicated that a conservation easement on the land occupied by the camp protects the area from further unsuitable development, and that the proposed project will not violate the easement terms. In addition, the proposed recreational building will be offered for use to seniors from the surrounding community who are in need of such a facility.

... It appears as if the public benefit served by providing a facility for campers with cancer and seniors with access to an amenity that is important for these citizens. There does not appear to be a practical alternative to the project as proposed and the benefit to the two groups outweighs and benefit from rejecting the project. Consequently, the OSG believes this exemption should be granted to this property and to Happiness is Camping, Inc., because the proposed project and its uses address Goal 7 and benefit the ailing children as well as the senior citizen public in Hardwick Township at the same time with the same structure.

The Office of Planning and Sustainable Communities at the DEP responded on November 17, 2008 that, "as the department has already been supportive of the group through the easement purchase and not objecting to the construction of the recreation facility, we would not object to an exemption for utilities that will serve this facility. It would be difficult to imagine an organization that is providing more of a "significant public good" than Happiness is Camping, Inc. "

#### DISCUSSION:

The Board's jurisdiction over utility extensions is found at N.J.S.A. 48:2-27, which provides that the Board "may ...require any public utility to establish, construct, maintain and operate any reasonable extension," where the extension is: (1) reasonable and practicable; (2) will furnish sufficient business to justify the construction; and (3) when the financial condition of the public utility reasonably warrants the original expenditure. In considering the requested exemption, the Board adopted rules concerning the extension of service at N.J.A.C. 14:3-8.1 et seq.

The Board notes that the entire Township along with the surrounding area is located in a Planning Area 5 - Environmentally Sensitive Planning Area or non-growth area. There is no growth area located within a reasonable distance to build this facility. The purpose of the gym/recreation center is to provide a place for activities in inclement weather for the children living with cancer attending the camp.

The Petitioner has been located on this property for 28 years and conveyed its property into the Green Acres program in 2001 with the intent to specifically preserve the land of the camp. The DEP has determined that this use of the property is consistent with the Green Acres conservation easement granted by the Green Acres lease.

The Board recognizes the multiple use of the facility catering to several segments of society, young campers and seniors, and that the facility is located on a property run continuously as a camp for the past 28 years. The recreation/gym building's placement on the camp green acres property provides maximum usage with the least disturbance to the property for the children and seniors.

Additionally, the Board notes that the purpose of the recreation/gym building is part and parcel of the camp's goal of providing a rural camp experience to children with cancer and their siblings. The recreation/gym building will also be used by the local senior community.

The Board therefore FINDS that the public good served by building a recreation/gym building on the site of the Happiness Is Camping, Inc. camp facility located in Hardwick Township, Warren County, NJ constitutes a significant benefit to the public for purposes of the Main Extension Rules.

As noted above, the OSG and DEP concluded that the project is consistent with the Green Acres easement and therefore consistent with smart growth and confirmed that by granting this exemption, the Board will enforce the Goal 7 of the State's smart growth goals located in the State Plan. The Board agrees with the assessment of the OSG and DEP and FINDS that extending electric service to recreation/gym building, where the facility is built on a camp property that was constructed and has been in continuous use for 28 years, and prior to the operative date of the Main Extension Rules is consistent with the principles of Smart Growth and there is no practical alternative means while providing the benefit while still complying with the rules. Therefore, the Board FINDS that the benefit of this project to the young campers and senior citizens outweigh any negative impacts on Smart Growth.

Additionally, this Main Extension and service will serve the recreation/gym building on the established camp property in Hardwick Township, which is entirely located in a Planning Area 5 – Environmentally Sensitive Planning area. It is appropriate to have the recreation/gym building within walking distance for the campers living on the property. Therefore, the Board FINDS that there is no practical alternative of providing the benefit while still complying with the rules.

As to the remaining statutory requirements, the Board must ascertain that the financial condition of the utility warrants the expenditure and whether the extension will furnish sufficient business to justify the expense. Jersey Central Power and Light was sent a letter on March 27, 2009. JCP&L responded to this request on April 7, 2009 stating that the annual distribution revenue would be approximately \$325.00, causing JCP&L 10 years to recover the line extension costs. JCP&L further indicated that if the Board orders it to return the contribution in aid of construction, that the entire amount paid in protest would be returned. JCP&L further stated that if the Board requires JCP&L to collect a refundable deposit, a portion of the cost would not be refundable.

After reviewing the exemption petition, the Board FINDS that the criteria set out in the rules at N.J.A.C. 14:3-8.8(b)(1) for a project that will provide a significant public good are met.

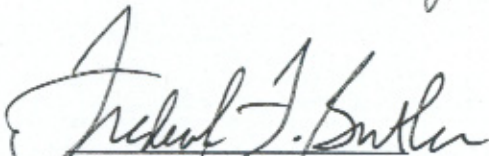
Specifically, the Board FINDS as follows: (1) the construction a electric main extension by JCP&L to the Happiness Is Camping, Inc. recreation/gym building in Hardwick Township, Warren County, for benefit of the cancer patient children and seniors living in Hardwick will constitute a significant benefit to the public; (2) that benefit to the public of the recreation/gym building located on the long established camp property is consistent with and outweighs potential negative impacts on smart growth; and (3) because the geographic location of Hardwick Township, Warren County, which is entirely located in a Planning Area 5 – Environmentally Sensitive Planning Area, there is no practicable alternative means of providing a recreation/gym building for this camp established for 28 years in this location, while still complying with the rules. Therefore, the Board HEREBY GRANTS the exemption from the Main Extension Rules pursuant to N.J.A.C.14:3-8.8(b)(1) for an extension of an electric main to service the recreation facility/gym located at 62 Sunset Lake Road, Hardwick, New Jersey.


Pursuant to N.J.A.C. 14:3-8.8(k)(3), the Board is to determine the distribution of costs for the extension at the time of approval of the exemption based on significant public good. Therefore, the Board HEREBY ORDERS that the distribution of costs of extending electric service to 62 Sunset Lake Road, Hardwick, New Jersey shall be governed by the requirements at N.J.A.C. 14:3-8.7 for extensions that serve a designated growth area.

DATED: 7/31/09

BOARD OF PUBLIC UTILITIES  
BY:


  
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PRESIDENT

  
FREDERICK F. BUTLER  
COMMISSIONER

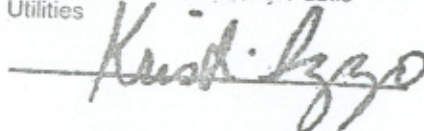
  
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ATTEST:   
KRISTI IZZO  
SECRETARY

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 HAPPINESS IS CAMPING, INC. PETITION FOR AN EXEMPTION  
FROM MAIN EXTENSION RULES AT N.J.A.C.14:3-8.8(b) (1)**

Docket No. EO 09030215

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BPU Docket No. EO04060395

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