

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE**

IN THE MATTER OF THE APPLICATION OF)
THE LEWES BOARD OF PUBLIC WORKS FOR A)
CERTIFICATE OF PUBLIC CONVENIENCE AND)
NECESSITY TO PROVIDE WATER SERVICES IN) PSC DOCKET NO. 03-CPCN-06
AND AROUND THE DEVELOPMENTS OF) (LEWES DEVELOPMENTS)
SAVANNAH PLACE, SWANENDAEL, AND)
HIGHLAND ACRES, AS WELL AS SAVANNAH)
AND GILLS NECK ROAD IN LEWES AND)
REHOBOTH HUNDRED, SUSSEX COUNTY,)
DELAWARE (FILED MAY 12, 2003))

ORDER NO. 6426

**CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
TO EXPAND PUBLIC WATER UTILITY SERVICES**

This 8th day of June, 2004, the Commission finds, determines, and Orders the following:

I. BACKGROUND

1. For over 100 years, the Board of Public Works of the City of Lewes ("the Board") has been authorized to provide utility services - including public water supply - to the inhabitants of the City of Lewes ("City" or "Lewes").¹ Since at least 1963, the Board has also been authorized to provide its water and sewer services to areas outside the corporate limits of the City.² The Board, as a municipal utility, is generally not subject to the regulatory jurisdiction of this Commission. 26 Del. C. § 202(a) (2002 Supp.). However, if the Board wishes to expand its operations or facilities it must (in most

¹22 Del. Laws ch. 196 (1901).

²54 Del. Laws ch. 211 (1963).

instances) first seek, and obtain, a Certificate of Public Convenience and Necessity ("CPCN") from this Commission. See 26 Del. C. § 203C(a) (2003 Supp.).³

2. On May 12, 2003, the Board filed just such an application for a CPCN to expand its service territory to several areas outside of the City's limits.⁴ The proposed new service territory would encompass 232 parcels of land that the Board, in its application, grouped into three sub-areas: the Gills Neck Road area; the Savannah Road area; and the Savannah Place area.⁵ The Gills Neck Road area lies southeast of the City; the Savannah Road and Savannah Place areas lie generally to the southwest of the City off of Savannah Road. While all of the parcels lie outside of the current corporate boundaries of Lewes, the parcels do lie either adjacent to, near, or between other areas where the Board already holds a CPCN to provide public water utility services.⁶

³Since July 2003, a municipality need not obtain a CPCN in order to extend its municipal water utility operations into an area that the municipality has annexed under the provisions of Chapter 1 of Title 22 of the Delaware Code. That "annexation" exemption is not applicable to this proceeding that involves a proposed service territory lying beyond the City of Lewes' corporate limits.

⁴Application, Exh. 4 filed May 12, 2003 (proposed service territory of 230 parcels); Amended Exh. 4 filed May 16, 2003 (revising proposed territory to encompass 231 parcels); Amended Exhs. 3 & 4 filed June 9, 2003 (changing certain parcel owners on listing of landowners); Amended Exhs. 3 & 4 filed July 2, 2003 (revising proposed territory to encompass 232 parcels).

⁵The Savannah Place grouping includes properties within the developments listed by the Board as "Swanendael," "Highland Acres," and "Savannah Place."

⁶The Board was previously granted certificates by the Department of Natural Resources and Environmental Control ("DNREC") to provide public utility water services to designated areas both within, and outside of, the City's corporate limits.

3. To support its application, the Board filed copies of "Petition[s] for Water Service" executed (in mid-2001) by numerous landowners of parcels lying within the Board's three-area, proposed service territory. According to the Board, 191 persons or entities are "landowners of record" of the 232 parcels that would be included in this new service territory. As the Board counts it, 111 of those landowners executed petitions for the Board to provide public water services. Thus, according to the Board's calculations, 58.12% of the landowners holding an interest in the properties within the proposed service territory executed petitions requesting the Board to be the public water supplier for the three areas.⁷ With more than a majority of the landowners having executed a petition, the Board asserts that it is entitled to a CPCN to expand its service territory to include the combined three sub-areas. See 26 Del. C. § 203C(e)(1)b. (2002 Supp.).⁸

⁷See Appl., Amended Exh. 4 at pg. 6 (filed July 2, 2003). The Board also calculated that landowners of 53.88% of the parcels in its proposed service territory had executed a petition asking for the Board to be the public water supplier. Id.

⁸A CPCN premised on § 203(e)(1)b. requires that a "majority of the landowners of the proposed service territory" have executed a water service petition. Since the water utility CPCN jurisdiction in 2001, this Commission has continued to use the "nose count" methodology for determining whether the necessary majority exists. Under such methodology, each person or entity holding any fee ownership interest in a parcel within the proposed service territory is counted as a "landowner of the proposed territory to be served." See 26 Del. C. § 203C(j) (2002 Supp). The only exception is for condominium units, where the condominium association is deemed the landowner for all the units. Id. Thus, under the "nose count" procedure, when several persons hold a fee interest in a single parcel (e.g., as tenants in common, joint tenants, or tenants by the entirety), each such person is counted as a "landowner of record," regardless of the relative size of his or her interest. Similarly, if one person holds a fee interest in several parcels within the proposed territory, such person is counted as "one" "landowner," despite his/her holding interests in several parcels. Under this method, one answers the "majority of the landowners" question by simply surveying whether 51% or more of such landowners signed water service petitions. This "nose count"

4. As required by statute⁹ and this Commission's rules,¹⁰ the Board sent notices to the landowners of all the parcels within the three sub-areas included in the Board's proposed service territory. Those March 2003 notices (sent by certified mail) informed each of the landowners of the Board's application and summarized the landowner's right to object to the issuance of a CPCN, to request a hearing on the Board's application, or to "opt-out" and have his, her, or its parcel of land excluded from any service territory which might eventually be awarded to the Board.¹¹

5. At Staff's direction, the Board also published notice of its CPCN application in the Delaware State News newspaper on June 19,

methodology was apparently used by DNREC during its tenure as the administrator of the water utility CPCN regime. This Commission has not chosen to move to another method - such as the "landowners of a majority of the parcels" - without either an explicit legislative direction to do so or a re-examination conducted in a proceeding where the relevant statutory text can be thoroughly vetted.

⁹26 Del. C. § 203C(e) (1) (2002 Supp.).

¹⁰"Regulations Concerning Water Utilities Including the Public Service Commission's Jurisdiction to Grant and Revoke Certificates of Public Convenience and Necessity," §§ 10.107, 10.109 (adopted in PSC Order No. 5730 (June 5, 2001)) ("Water CPCN Rules").

¹¹Appl., Exh. 1 (filed May 12, 2003) (form of notice and mail return receipts). See 26 Del. C. § 203C(i) (2002 Supp.); Water CPCN Rules §§ 10.108, 10.109. Apparently, the Board initially "over-notified" 36 other landowners whose properties were not included in the Board's proposed service territory. The Board sent "recall" notices to those non-affected landowners in April 2003. Finally, by amendments filed May 16, 2003, the Board added an additional parcel to its proposed service territory. The amendment indicated the Board had, at that time, sent the required direct notice to the landowners of that additional parcel. In addition, in the same filing, the Board also reported that it was sending notices, again at that time, to the property owners of several other parcels who apparently had not been mailed notices in March 2003. See Amendments filed May 16, 2003.

2003. That newspaper notice also explained the landowners' options to request a hearing, object, or "opt-out."¹²

6. The notices brought forward challenges to the Board's application from 30-some landowners. After asking several of those landowners to clarify their positions, Staff now reports that landowners of 29 parcels have filed documents exercising the "opt-out" option for their properties.¹³ Those "opt-out" parcels are listed in Exhibit "B" to this Order. In a few instances, a landowner who had previously signed a petition for water service later then filed a request to have his or her property excluded from the service territory. In addition to the "opt-outs" - which in many cases also include language objecting to the issuance of a CPCN that would include that parcel - one other landowner objected to the Board's application but without requesting to "opt-out."¹⁴ Staff has also provided its survey of the percentage of landowners who signed water service petitions in 2001. Staff calculates that after excluding the 29 parcels (and their landowners) for which "opt-out" requests have

¹²The Board apparently failed to publish a similar notice in The News Journal newspaper. In light of the length of time that has now passed since the dates that the water service petitions were executed and this application was filed, the Commission will not direct the Board to now publish another notice in another newspaper. The Commission suspects that such notice would only invite further confusion among the landowners who already received direct notice in early 2003.

¹³See "Opt-Out" Letters file. See Letters of K. Neilson Staff, to F. & R. Emick, J. & J. Horn, C. & H. Gardowski, and J. King (all June 11, 2003) (all requesting clarification of landowners' positions); Letter of K. Neilson, Staff, to NM. & N. Bouse (June 2, 2003) (responding to landowners' inquiries). See further Letter of J. King (rec'd. July 7, 2003) (clarifying that the landowner objects but does not "opt-out"); Letter of R. Speakman on behalf of M. Ware (rec'd. June 25, 2003) (withdrawing earlier Ware "opt-out" request for parcel 3-35-8.14-33).

¹⁴See Letter of J. King (rec'd. July 7, 2003).

been filed, 261 persons or entities hold a fee interest in one or more of the remaining 203 parcels in this revised, proposed service territory. Of those landowners, 61.3% (160) signed water service petitions.¹⁵ Thus, Staff concludes that a "majority of the landowners" have requested that the Board be granted a CPCN to provide water services in this adjusted service territory.¹⁶ Staff also reports that its investigation did not reveal any other reason to deny the requested CPCN.

7. The Commission sat to consider the Board's application at its public meeting on June 8, 2004. Based on Staff's recommendation and on Staff's calculations, the Commission now grants the Board a CPCN to expand its public water service territory (and its operations and facilities) to encompass the parcels listed in Exhibit "A" to this Order. Such service territory does not include the parcels listed in Exhibit "B", which have now been excluded from the Board's service territory due to the landowners' exercise of the "opt-out" option.

¹⁵See Staff Memorandum & Staff Analysis of the No. of Land Owners (June 3, 2004). Staff's 261 figure for total landowners differs from the Board's initial submission which suggested 191 total landowners. In deciding this matter, the Commission relies on Staff's calculations. Staff also reports that the 160 persons executing water service petitions hold interests in 109 parcels. Thus, water service petitions have been executed by one or more landowners "owning" 109 of the 203 parcels. This constitutes 53.7% of the parcels in the adjusted service territory.

¹⁶As noted above, the 61.3 percentage represents 160 of the 261 total landowners. The single objection (see n. 14 above) - even when supplemented by the "opt-out" requests - does not rise to the level of objections from a majority of the landowners. See 26 Del. C. § 203C(i) (2002 Supp.) (no CPCN can be granted if a majority of the landowners object).

II. SUMMARY OF THE EVIDENCE¹⁷

8. In addition to the documents noted above, the record in this matter includes other materials and correspondence. Thus, besides the copies of the 2001 water petitions¹⁸ and the return receipts indicating the mailing of the required notices to landowners,¹⁹ the Board's application (as thrice amended) also includes:

- (a) a listing of the Sussex County tax parcel identification numbers for the properties in the proposed service territory (Appl., Amended Exh. 4 filed July 2, 2003);
- (b) a listing of the landowners of record of each of the parcels included in the proposed service territory as well as tax maps locating the parcels (Appl., Amended Exhs. 3 & 4 filed July 2, 2003 & maps submitted May 9 & 16, 2003); and
- (c) a certification that the Board's expansion of service to the parcels in the proposed service territory will comply with the water pressure requirements of 26 Del. C. § 403(a)&(b), and is not barred by any of the restrictions set forth in 26 Del. C. § 403(c) (Appl., ¶ 8 (a)-(d)).²⁰

In other parts, the record also contains:

- (a) an affidavit reflecting the publication of the public notice of the Board's application on June 19, 2003, in the Delaware State News newspaper;
- (b) copies of Staff's correspondence to the Office of Drinking Water of the Division of Public Health, the Office of the State Fire Marshal, and the Department of Natural Resources and Environmental

¹⁷The Commission has reviewed this matter under the informal fact-finding procedure contemplated by 29 Del. C. § 10123.

¹⁸Appl., Exh. 4 filed May 12, 2003.

¹⁹Appl., Exh. 1 filed May 12, 2003 & other documents concerning subsequent mailings filed May 16, 2003.

²⁰See 26 Del. C. § 203C(e) (3) (2002 Supp.).

Control in which Staff solicited those agencies' comments concerning the Board's application;

- (c) correspondence from the Office of Drinking Water of the Division of Public Health (dated June 16, 2003) and the Office of the State Fire Marshal (dated June 24, 2003) reporting that neither office had any outstanding issues with the Board that might preclude the Commission from granting the requested CPCN;²¹
- (d) Staff's June 3, 2004 Memorandum (with attachment) reporting on its investigation of the application and recommending that the Commission grant the requested CPCN for the adjusted service territory;
- (e) letters and correspondence from landowners requesting that their parcels be excluded from the service territory ("Opt-Out" file);
- (f) copies of letters from K. Neilson of Staff to several persons either providing responses to earlier inquiries or asking for additional clarification about the landowner's position concerning the inclusion of their parcels in the service territory;²²
- (g) correspondence from landowners J. King and R. Speakman (on behalf of M. Ware) setting forth their positions concerning the application;²³ and
- (h) a September 29, 2003 letter from the Board's consulting firm: (i) setting forth the Board's plans to eventually "loop" a part of its water system through an easement in the Highland Acres development; (ii) outlining how the Board might attempt to interconnect the Highland Acres and the Swanendael/Savannah Place developments; and (iii) reciting that landowners in the Savannah Place development had requested Board service

²¹In Staff's memorandum, Staff indicates that DNREC has previously informed Staff that it would provide written comments on proposed CPCN applications only if it has an objection to an application. In this matter, DNREC has not submitted any comments.

²²See letters cited in n. 13 above.

²³See letters cited in n. 13 above.

because of the poor quality of water furnished by the development's present system.

III. FINDINGS OF FACT & CONCLUSIONS OF LAW

9. As noted before, the Commission has been granted the jurisdiction to determine whether a CPCN should be granted to a water utility - including one linked to a municipality - in order to allow that water utility to expand its operations and facilities. See 26 Del. C. § 203C(a) (2003 Supp.).

10. The Board now seeks such a CPCN for its three-area, 232 parcel, expanded service territory under the provisions of 26 Del. C. § 203C(e)(1)b. (2002 Supp.). Staff reports, based on its investigation, that after excluding the 29 parcels that have been "opted-out" by their landowners, 61.3% of the landowners of record of the remaining 203 parcels executed water service petitions requesting that the Board be the designated water utility for the territory. Thus, under the "nose count" methodology traditionally (and currently) utilized under § 203C(e)(1)(b), it appears that the Board has submitted sufficient documents to be entitled to a CPCN to serve its (now revised) expanded service territory.²⁴

11. While the Commission now accepts Staff's conclusion that the documents tendered by the Board satisfy the provisions of § 203C(e)(1)(b)., the Commission does note two things. First, the Board's application has included in a single CPCN application, and in a single service territory, parcels which the Board describes as lying

²⁴As noted before, Staff also reports that landowners holding an interest in 109 of the 203 parcels (53.7%) in the revised three-area service territory have executed such water service petitions.

within three sub-areas. Two of such sub-areas, denominated "Savannah Road" and "Savannah Place," encompass parcels that are relatively close in terms of geographic distances. However, those two sub-areas appear to be somewhat separated from the main part of the Gills Neck Road area, the Board's third sub-area.

12. The Commission is cautious when a utility, seeking a CPCN under § 203C(e)(1)(b)., proposes a single service territory that encompasses parcels in non-contiguous, widely-separated areas. In such a scenario, there lurks the possibility of mischief: the utility might be relying on a large number of petitioning landowners in one area to provide an overall "majority" to support a service territory encompassing a different area where petitions for utility service might be minimal or non-existent. The Commission does not believe that § 203C(e)(1)(b). was meant to allow this type of result where high numbers in one area or development might be used to decide whether that utility's water operations should also be provided in another "non-linked" area or development. Of course, deciding which areas or developments are - or are not - "linked" so that they can be considered (and their landowners counted) within a single service territory is not always easy. Each such type of application must be reviewed based on its own circumstances.

13. In this particular matter, the Commission is not convinced that any such mischief lurks by the Board's joinder of its three sub-areas into a single service territory. As noted, the Gills Neck Road area is not directly contiguous to the other areas. So too, if scrutinized separately, the number of remaining petitioning landowners

in the Gills Neck Road area may not be overwhelming. However, the Commission believes the three areas can be legitimately considered (and "counted") together. First, the physical geographic separation of the areas is not great. Second, the areas are all adjacent or immediately close to either the corporate limits of the City or other service territories certificated to the Board. In such a case, the Commission believes that the three sub-areas share a "community of interest" that allows them to be encompassed within a single CPCN application. Finally, the continued "right" of a landowner to "opt-out" and have his or her property excluded provides a buffer against a utility using a distant "majority" to force landowners in a non-linked area or development to become subscribers of the utility.

14. Second, Staff's "majority of the landowners" calculation here is premised on the notion that in determining a "majority" for purposes of §203C(e)(1)b. the landowners who have chosen to "opt-out" their properties should be excluded from the "nose count." Thus, Staff says, the application here should be granted because a majority of the landowners holding parcels in the adjusted service territory - after excluding the "opt-out" parcels (and their landowners) - signed petitions for the Board to be the public water supplier to these remaining properties. The Commission believes that, in this context, Staff's approach is a reasonable application of § 203C(e)(1)(b). However, in another case and in another context, the Commission might

revisit the interplay between "opt-outs," "objections," and the "majorities" required by either § 203C(e) (1) (b). or § 203C(i).²⁵

15. Consequently, the Commission finds that the Board has submitted documentation sufficient to satisfy § 203C(e)(1)b. for the now revised service territory. The Board has also submitted sufficient documentation to establish that it provided the notice required by 26 Del. C. § 203C(e) (1) and this Commission's Water CPCN Rules. Third, because the Board is not generally subject to this Commission's oversight, it cannot be the subject of any current Commission finding that it is unwilling or unable to provide safe, adequate, and reliable water services. Nor does anything in the present record suggest that this Commission should now, in this CPCN proceeding, conduct an investigation into the quality of the Board's public water services to its existing customers. Thus, there is no basis for the Commission to invoke the provisions of 26 Del. C. §203C(f) (2002 Supp) to withhold the CPCN requested by the Board.

16. In summary, the Board has submitted the necessary documents called for by the provisions of 26 Del. C. §§ 203C(e)(1), 203C(e) (1) b., & 203C(e) (3) (2002 Supp.). The Commission also finds that there is no reason to deny the Board the requested CPCN under the provisions of either 26 Del. C. §§ 203C(f) or 203C(i) (2002 Supp.). Since the Board has satisfied the statutory requirements, the Commission shall issue a CPCN permitting the Board to expand its

²⁵Under the provisions of § 203C(i), the Commission cannot grant a CPCN if a "majority" of the landowners in the proposed service territory object. 26 Del. C. § 203C(i) (2002 Supp.).

service territory and operations to provide water utility services to the parcels identified in Exhibit "A".

Now, therefore, **IT IS ORDERED:**

1. That, pursuant to 26 Del. C. § 203C(e) (2002 Supp.), the Board of Public Works of the City of Lewes is hereby granted a Certificate of Public Convenience and Necessity to serve an area encompassing the Sussex County tax map parcels set forth in Exhibit "A" to this Order. The tax map parcels listed in Exhibit "B" are excluded from, and are not included within, this Certificate of Public Convenience and Necessity.

2. That the Board of Public Works of the City of Lewes shall comply with any and all federal, state, county, and local statutes, ordinances, orders, regulations, rules, and permit conditions that are applicable, or may become applicable, to any matter involving water utility services provided to the service territory granted by this Certificate of Public Convenience and Necessity.

3. That the Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

/s/ Arnetta McRae
Chair

/s/ Joshua M. Twilley
Vice Chair

/s/ Joann T. Conaway
Commissioner

PSC Docket No. 03-CPCN-06, Order No. 6426 Cont'd.

/s/ Donald J. Puglisi
Commissioner

/s/ Jaymes B. Lester
Commissioner

ATTEST:

/s/ Karen J. Nickerson
Secretary

E X H I B I T "A"

**PARCELS WITHIN CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY
LEWES AND REHOBOTH HUNDRED
SUSSEX COUNTY, DELAWARE
SUSSEX COUNTY TAX MAP PARCEL NOS.**

3-35-8.10-1	3-35-8.10-51	3-35-8.14-28
3-35-8.10-11	3-35-8.10-53	3-35-8.14-29
3-35-8.10-13	3-35-8.10-6	3-35-8.14-3
3-35-8.10-14	3-35-8.10-7	3-35-8.14-30.01
3-35-8.10-15	3-35-8.10-9	3-35-8.14-31
3-35-8.10-17	3-35-8.11-12	3-35-8.14-32
3-35-8.10-18	3-35-8.11-13	3-35-8.14-32.01
3-35-8.10-19	3-35-8.11-15	3-35-8.14-33
3-35-8.10-2	3-35-8.11-16	3-35-8.14-36
3-35-8.10-23	3-35-8.11-18	3-35-8.14-37
3-35-8.10-24	3-35-8.11-19	3-35-8.14-38
3-35-8.10-26	3-35-8.11-20	3-35-8.14-39
3-35-8.10-27	3-35-8.11-24	3-35-8.14-4
3-35-8.10-28	3-35-8.11-25	3-35-8.14-40
3-35-8.10-29	3-35-8.11-26	3-35-8.14-41
3-35-8.10-3	3-35-8.11-27	3-35-8.14-42
3-35-8.10-30	3-35-8.11-27.02	3-35-8.14-42.01
3-35-8.10-31	3-35-8.11-3	3-35-8.14-42.02
3-35-8.10-32	3-35-8.11-4	3-35-8.14-42.03
3-35-8.10-33	3-35-8.11-6	3-35-8.14-42.04
3-35-8.10-35	3-35-8.11-7	3-35-8.14-42.05
3-35-8.10-36	3-35-8.11-8	3-35-8.14-43
3-35-8.10-37	3-35-8.11-8.01	3-35-8.14-44
3-35-8.10-38	3-35-8.14-11	3-35-8.14-44.01
3-35-8.10-39	3-35-8.14-12	3-35-8.14-44.02
3-35-8.10-4	3-35-8.14-15	3-35-8.14-45
3-35-8.10-40	3-35-8.14-16	3-35-8.14-46
3-35-8.10-41	3-35-8.14-17	3-35-8.14-47
3-35-8.10-42	3-35-8.14-18	3-35-8.14-49
3-35-8.10-43	3-35-8.14-19	3-35-8.14-5
3-35-8.10-44	3-35-8.14-2	3-35-8.14-50
3-35-8.10-45	3-35-8.14-20	3-35-8.14-51
3-35-8.10-46	3-35-8.14-23	3-35-8.14-52
3-35-8.10-47	3-35-8.14-24	3-35-8.14-53
3-35-8.10-48	3-35-8.14-24.01	3-35-8.14-54
3-35-8.10-49	3-35-8.14-25	3-35-8.14-55
3-35-8.10-5	3-35-8.14-26	3-35-8.14-57
3-35-8.10-50.01	3-35-8.14-26.01	3-35-8.14-58
3-35-8.10-50.03	3-35-8.14-27	3-35-8.14-6

3-35-8.14-6.01	3-35-8.18-7
3-35-8.14-60	3-35-8.18-7.01
3-35-8.14-61	3-35-8.18-8
3-35-8.14-62	3-35-8.18-8.01
3-35-8.14-63	3-35-8.18-8.02
3-35-8.14-64	3-35-8.18-8.03
3-35-8.14-65	3-35-8.18-8.04
3-35-8.14-66	3-35-8.18-9
3-35-8.14-68	3-35-8-36
3-35-8.14-7	3-35-8-36.01
3-35-8.14-7.01	3-35-8-36.02
3-35-8.14-71	3-35-8-36.03
3-35-8.14-72	3-35-8-36.06
3-35-8.14-73	3-35-8-38
3-35-8.14-74	3-35-8-44
3-35-8.14-75	3-35-8-46
3-35-8.14-76	3-35-8-47
3-35-8.14-77	3-35-8-48
3-35-8.14-78	3-35-8-49.01
3-35-8.14-79	3-35-8-50.01
3-35-8.14-8	3-35-8-51
3-35-8.14-8.01	3-35-8-52
3-35-8.14-80	3-35-8-53
3-35-8.14-81	3-35-9-2
3-35-8.14-82	3-35-9-3
3-35-8.14-83	3-35-9-3.01
3-35-8.14-84	3-35-9-3.02
3-35-8.14-85	3-35-9-4
3-35-8.14-86	3-35-9-5
3-35-8.14-87	3-35-9-5.01
3-35-8.14-88	3-35-9-6
3-35-8.14-9	3-35-9-6.01
3-35-8.15-39.01	3-35-9-7
3-35-8.15-4	3-35-9-9
3-35-8.15-65	
3-35-8.18-10	
3-35-8.18-11	
3-35-8.18-12	
3-35-8.18-13	
3-35-8.18-14	
3-35-8.18-15	
3-35-8.18-16	
3-35-8.18-17	
3-35-8.18-18	
3-35-8.18-18.01	
3-35-8.18-20	
3-35-8.18-22	
3-35-8.18-3	
3-35-8.18-3.01	
3-35-8.18-4	
3-35-8.18-5	
3-35-8.18-6	

E X H I B I T "B"

"OPT-OUT" PARCELS WITHIN CERTIFICATE OF

PUBLIC CONVENIENCE AND NECESSITY

**LEWES AND REHOBOTH HUNDRED
SUSSEX COUNTY, DELAWARE**

SUSSEX COUNTY TAX MAP PARCEL NOS.

3-35-8.10-10
3-35-8.10-12
3-35-8.10-16
3-35-8.10-34
3-35-8.10-9.01
3-35-8.11-1
3-35-8.11-11
3-35-8.11-14
3-35-8.11-17
3-35-8.11-2
3-35-8.11-5
3-35-8.14-69
3-35-8.14-70
3-35-8.14-1
3-35-8.14-10
3-35-8.14-13
3-35-8.14-14
3-35-8.14-21
3-35-8.14-22
3-35-8.14-30
3-35-8.14-34
3-35-8.14-48
3-35-8.18-19
3-35-8.18-21
3-35-8-37
3-35-8-50
3-35-8-50.02
3-35-8-50.03
3-35-9-7.01