

**DRAFT – FOR CONSIDERATION AT THE JUNE 25, 2009
MEETING OF THE HIGHLANDS COUNCIL**

Public Comments Received on the Consistency Determination for PSE&G Susquehanna-Roseland 500-kV Transmission Line (December 22, 2008 – January 30, 2009 Comment Period):

- Public Service Electric and Gas Company (PSE&G)
- PSEG Services Corporation
- NJ Transit
- New York-New Jersey Trail Conference
- New Jersey Highlands Coalition
- New Jersey Conservation Foundation
- Township of Montville
- Stop The Lines!
- Longwood Lake Cabin Owners Association
- Utility and Transportation Contractors Association
- Morris County Chamber of Commerce
- NJ Chamber of Commerce
- Numerous (approximately 300) private citizens

Public Comment Summary

The public comments received included both statements of support for, and opposition to, the proposed project. The public comments (including comments from the applicant) also included specific comments on the Highlands Council's Draft Consistency Determination (CD). In summary, the comments address the following issues:

Supportive Comments

- Supports the project as it would significantly increase the electric system capacity, which would have a beneficial effect on future electrical pricing in New Jersey resulting in a benefit to all electricity users in the State.
- Supports the project because there is a need for increased electrical capacity to avoid future power outages. Believes that it is in the public interest to grant this exemption to protect public health and safety from the potential for blackouts and brownouts by 2012.
- Supports the project because it is essential for the future of this state and the national power grid. Upon project completion, nobody will be misplaced from their homes, no power lines added where there are not already power lines, hundred of jobs would have been created, safe and clean work would have been performed, and a vital upgrade completed.
- Believes that PSE&G has a strong record of environmental stewardship in New Jersey to build this project in a manner that is sensitive to the natural environment. The Council should work with the company to mitigate any potential impacts of the project rather than deny the essential exemption.
- Believes that PSE&G made the environmentally smart and sensitive call by selecting a route that follows an existing power line and does not require the taking of property for the project.
- Believes that at a time when millions of people are losing their jobs globally, New Jersey cannot delay an essential economic stimulus such as the proposed project.

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- Believes that electric transmission lines are not an eyesore. They are often places to get the best glimpse of deer, other animals, or an unexpected beautiful vista. They provide a sense of security; when off-trail and lost, the transmission line can be followed out of the wilderness.
- The PSE&G transmission system has not seen any major upgrades since the mid 1970s, and at that time, the electric system peak demand was about 6,000 megawatts. Present peak demand is close to 11,000 megawatts, and over the years small scale reinforcements have been made to maintain a high level of reliability, while deferring the need for major system upgrades as long as possible. But sooner or later, when there are no more minor reinforcements that can be made, significant investment in our future must be made.

Opposition Comments

- Is opposed to the project because it directly contravenes the goals and purposes of the Highlands Act in numerous areas, including protection of surface and ground waters, preservation of land in its natural state, and protecting the scenic and other resources of the Highlands Region.
- Is opposed to the project because of the potential health risks from electromagnetic energy.
- Believes that PSE&G is in a hurry to get the project in on their schedule and due diligence is being sacrificed for the sake of expediency.
- Even without any new construction or preparation for a new line, the current power line contributes to serious erosion, flooding, mud and rock slides. A new line, towers, and its construction will only exacerbate the problem.
- The permanent disturbance caused by construction of the Jefferson Switching Station is an area almost 20 acres in size and could create up to 7 acres of impervious surface. The site planned for the switching station is comprised entirely of forested lands within a Forest Resource Area, constrained by steep slopes, within prime ground water recharge areas, and within 300 feet of open water protection buffers.
- The proposed power line, with such large capacity, will serve one major function: to bring coal power to eastern New Jersey and New York City from Pennsylvania and Ohio. Coal power is the single most significant cause of the carbon emissions that cause climate change.
- New Jersey has a goal of increasing power from renewable sources of electricity, including off-shore wind and deep geothermal power. The proposed Susquehanna-Roseland line will do nothing to assist in developing either of these resources. The only function this line will serve is to increase the use of coal and hasten the devastating effects of climate change and degrade the New Jersey Highlands along the way.
- Believes that in no way does the proposed project qualify as a “maintenance” project. It entails removal of the entire existing lines supporting system (i.e. all towers, foundations, lines, grounding, etc.) and installation of more than three times the existing power (kV) that is currently running across the existing lines.
- This project does not address the needs of “23” soon to be “overloaded” lines in the surrounding PJM network. Current studies show that the demand for power is ebbing and likely to decline, not

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increase. Second, the “overload” that they are talking about represents approximately only 50 hours out of the 8,760 in a year. Finally, 750 million dollars is not required to solve an overload issue of 50 or even 500 hours at peak times in the summer. Conservation is the answer.

- Believes that the lines should be placed underground.
- Concerned about hiker safety and public access to northern New Jersey’s trails and public lands while the construction is underway and afterwards. The proposed transmission line passes through at least eight major recreational areas with hiking trails and preserved public lands.
- A visual impact analysis was conducted which shows that there will be a 14% increase in acreage from which it will be possible to see at least 10 towers and an 11% increase in acreage from which it will be possible to see at least 25 towers. 50 or more towers will be visible on an additional 8% of acreage. The entire corridor span will experience the additional visual impact, but the impact will be extremely negative within the Highlands Region.
- Concerned that all the planned access roads will provide easy new access for all-terrain vehicles (ATVs), which not only can pose a danger to hikers but also damage trails. Power line rights of way are the most common entry way for illegal ATVs to gain access to hiking trails.
- The project details, engineering and site plans are conspicuously incomplete. The applicant has not provided engineering plans for access roads that calculate disturbances based on width and additional clearing beyond the road surface. The applicant has also not submitted stormwater controls or any provisions to demonstrate that impacts will be properly mitigated, how environmental conditions will be avoided, and if necessary, restored.
- The applicant refers to access roads as temporary disturbances, yet on page 10 of the Verified Petition of the BPU filings, the applicant admits that the construction process will be 30 months long. This is inconsistent with the definition of “temporary” provided in the Freshwater Wetland Protection Act rules, N.J.A.C. 7:7A, which defines temporary as a maximum of a 6 month disturbance.
- The applicant has not demonstrated a willingness to minimize impacts where possible.
- Many tracts of preserved lands will be impacted by this project. The proposed “temporary” access routes will cause direct severe and long-term impacts on many public and private preserved lands.

Comments Regarding Consistency Determination

- Agrees with the findings of the Council staff’s draft Consistency Determination that the application for an exemption fails to adequately address the myriad impacts the proposed power line will inflict on the Highlands and thereby does not merit an exemption.
- Requests that the Council adopt the Draft Highlands RMP Consistency Determination as written (except the category of stormwater management which should be given “inconsistent” determinations).
- Because incomplete information was provided in the HAD application, several Council findings of either “consistent” or “not applicable” should be changed to “inconsistent.”

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- PSE&G mentioned in its narrative 18 species that are rare, threatened and endangered that it had identified within the ROW and Jefferson Switching Station. These are listed in the Council's Consistency Determination. In June 2008, the New Jersey Natural Heritage Program provided data to PSE&G that lists 58 species "on the referenced site" plus 6 additional within one mile of the site.
- The Consistency Determination should recognize the potentially severe impacts of the transmission line upgrade on migratory birds and their habitat. Migratory bird habitat includes an aerial component that requires protection.
- Impacts of the proposed project on rare and endangered plants and their habitat, including four Natural Heritage Priority sites, should be addressed in the Council's Consistency Determination.
- Supports the Council staff opinion that construction of access roads would result in long-lasting (if not permanent) disturbance.
- Agrees with Council staff that the HAD application has not addressed scenic resource protection goals.
- In addition to the lands listed in the Council staff's Consistency Determination, other nearby lands will be scenically impacted. A list of these impacted lands was provided.
- The applicant has not submitted any stormwater plans to the NJDEP for their review; therefore the project is currently inconsistent with the Stormwater Management Rules, Flood Hazard Area Rules and Freshwater Wetland Rules. The Highlands Council cannot reach a finding of consistency on a non-existent Stormwater Management Plan. Until such time as PSE&G has a Council approved stormwater plan for the proposed project and the Jefferson Switching Station, the project must be found inconsistent with the goals, policies and objectives relating to preparation of stormwater management plans.
- The applicant has stated at numerous public workshops that the locations of access roads are subject to change. The Consistency Determination should reflect that the applicant's submission is incomplete and subject to change, therefore any changes or modifications to the project in any shape or form will invalidate the consistency review conducted by the Highlands Council, thereby invalidating any NJDEP permits, exemptions and/or waivers.
- Required information regarding the cost of the project was not provided in the HAD application. Blocks and lots required were not provided. The total acreage of the project site is significantly understated. The required site plan(s) has not been provided.
- The definition of "project site" has, it appears, been narrowly interpreted by the applicant, to include only the existing right-of-way, the new switching station and the travel surfaces of the construction access routes. The definition of "project site" should include all Highlands areas utilized for the project, whether or not they are owned by PSE&G, and whether use of the site is considered permanent or temporary.

Applicant's Comments

- Believes that the Council staff's reliance on the goals, policies and objectives of the Regional Master Plan (as required by Regional Master Plan Objective 7F1f) in the Draft Consistency Determination is

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not supported by and directly contravenes the Highlands Act. Feels that the applicant should be entitled to confirmation from NJDEP that the project is exempt as a utility line upgrade, which requires only that the activity be consistent with the goals and purposes of the Act.

- Is of the opinion that the project ensures that economic growth can proceed in a sound manner (one of the goals of the Act). Believes that the project is being constructed in order to maintain electric reliability in the State of New Jersey and in the eastern region of PJM Interconnection, L.L.C.
- Believes that the applicant's actions to meet the goals and purposes of the Act can be summarized in three words: avoid, minimize, and mitigate.
- The applicant provided a project need description and noted that the issue of "need" will be fully considered within the context of the pending construction authorization proceeding at the New Jersey Board of Public Utilities. The applicant has submitted extensive testimony on the issue of need.
- The applicant provided a summary of the alternatives analysis that was conducted. The summary included the route selection criteria (e.g., minimizing impacts to the natural and human environment, minimizing crossing designated natural resource lands, avoid new crossing of large lakes), the route selection (based on evaluation of three alternatives), and a listing of factors that shows that the selected route alternative would result in the least impacts to the natural and human environment.
- With respect to potential forest impacts, the applicant states that forest resources would be protected through the use of Low Impact Development (LID) and Best Management Practices (BMPs). The applicant proposes to mitigate the loss of forest resources through the use of land preservation, conservation easements, community grants for tree planting and reforestation of off-ROW properties. The applicant states that a forestry management plan for property surrounding the Jefferson Switching Station site will be developed. In addition, the applicant states that a Forest Management Plan will be developed and submitted when all ROW and access agreements have been completed and that site specific forest mitigation measures and forestry and endangered species management plans will be forwarded to the appropriate regulatory agencies during the environmental approval process.
- With respect to potential impacts to Highlands Open Waters and Riparian Areas, the applicant is proposing to utilize structural and non-structural LID-BMPs (examples of which are listed) to minimize impacts to buffers and riparian areas. The applicant notes that upon completion of the design, all riparian areas will be shown on plans submitted to regulatory agencies and that as part of the NJDEP permitting process for wetlands and flood hazard permits pursuant to N.J.A.C. 7:7A and N.J.A.C. 7:13, the appropriate Stream Corridor Restoration and Protection Plans required by the NJDEP will be prepared. The applicant anticipates development of wetland and riparian zone mitigation plans as part of the NJDEP Land Use Regulation Program Applications. At the Jefferson Switching Station, the applicant states that impacts to wetlands and transition areas have been minimized.
- With respect to steep slopes, the applicant notes that the Highlands Rules concerning steep slopes allow for linear development when there are no feasible alternative for the linear development outside of the steep slope areas. As the majority of the project is along an existing ROW which limits impacts to other Highlands Resources, the project minimizes impacts to steep slopes. The applicant

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is proposing to utilize structural and non-structural LID-BMPs (examples of which are listed) to minimize impacts in steep slope areas.

- With respect to critical habitat, the applicant noted that as part of the initial site assessment process, a Threatened and Endangered Species Habitat Assessment was conducted for the project area. The study concluded that the proposed utility upgrade would not affect species such as the long-eared owl, woodland raptors and grassland birds such as the bobolink, grasshopper sparrow, and redheaded woodpecker. The ROW consisted largely of successional habitats and not mature woodland habitat or maintained grasslands typically utilized by these species. The study concluded that consultation with the United States Fish and Wildlife Service (USFWS) and NJDEP Endangered and Non-game Species Program would be necessary to determine the necessary species specific surveys which would need to be conducted. Further site specific and species specific studies are currently in the planning stages.
- The applicant notes that as part of the initial site assessment process, a Vernal Habitat Survey for the Project area was conducted. The applicant provided details of the study and noted that 15 wetlands areas were identified along the length of the ROW which contained vernal habitats. No vernal pools were found on the proposed Jefferson Switching Station site.
- The applicant notes that it has conducted the initial surveys to determine the presence or absence of critical habitat throughout the project area. It is noted that additional studies will be conducted at the appropriate times of the year for the species of concern. The applicant states that a critical habitat avoidance plan will be prepared in coordination with the USFWS, NJDEP Endangered and Non-game Species Program, NJDEP Land Use Regulation Program and the Highlands Council biological staff to determine the appropriate avoidance and mitigation measures necessary to insure no impacts to these critical resources.
- With regard to Land Preservation and Stewardship, the applicant states while new structures are being proposed within the Special Environmental Zone, existing structures would be removed and previously disturbed areas would be destroyed; which will ultimately result in zero percent increase in disturbance with the Special Environmental Zone.
- With respect to Carbonate Rock, the applicant indicates that there are three structures along the existing ROW proposed in the Carbonate Rock Area. The applicant states that prior to conducting any work on any of the structures, an extensive geotechnical boring program already in progress will be completed. The results of these studies will determine the suitability of the area to support structures and determine which methodologies will be used to prevent foundation failure. Further, the applicant states that during the design of the project, all necessary measures to control drainage around structures within karst formations will be employed.
- In terms of Lake Management, the applicant notes that for more than 80 years, the existing ROW has crossed lake areas. The project will not change the location of the utility structures; it replaces one structure with another structure. As part of the scenic resources analysis, the applicant states that it will examine the impacts of the proposed new structures on the Highlands Lake Management Areas.
- The applicant acknowledges that the majority of the ROW falls within mapped Prime Ground Water Recharge Areas but notes that the project will create less than 4,300 square feet of new impervious

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surface (for tower foundations) along the ROW. The applicant notes that construction of the Jefferson Switching Station will entail encroachment into a Prime Ground Water Recharge Area and notes that in preparing the Stormwater Management Plan for the site, there will be an examination of methods to achieve at least 125% of ground water infiltration (some generic techniques are briefly discussed). The applicant notes that it anticipates utilizing LID-BMPs to conform to the New Jersey Stormwater Management Rules and that Soil Erosion and Sediment Control Plans and Stormwater Management Plans will be forwarded to the appropriate regulatory agencies for review.

- The applicant states that in coordination with the New Jersey State Historic Preservation Office (SHPO), it is in the process of completing a Phase 1A/1B Historic and Archaeological Survey for the project area. In addition, the applicant is preparing a Visual Modeling Study. These studies will be forwarded to the appropriate regulatory agencies for review.
- With respect to Regional Guidance for Development and Redevelopment, the applicant notes that the project will protect, restore and/or enhance sensitive environmental resources including forests, critical habitats; Highlands Open Waters and their buffers, steep slopes, Prime Ground Water Recharge Areas, Wellhead Protection Areas and Agricultural Resource Areas.
- With respect to smart growth, the applicant notes that it will, as necessary, conduct hydrologic studies documenting velocity, volume and pattern of water flow through the Jefferson Switching Station site. The project will also incorporate LID-BMPs. The applicant states that overall, the project supports smart growth. By maintaining the reliability of the electric transmission system, the project will allow for growth in urban areas and other parts of State Planning Areas 1 and 2. It is a smart growth project in every sense.
- The applicant states that with respect to air quality, the project does not include any new statutory emission sources in the Highlands Region.
- The applicant provides a summary statement which states that there is a clear need for this project for the economic well-being of the State. Without the project, the reliability of the grid may be jeopardized. The Legislature established that such utility upgrades, when conducted in existing rights-of-way, are exempt from the Highlands Act.

Highlands Council Consistency Determination Edits – Post Dec-Jan 2009 Comment Period

The numerous comments received that stated support or opposition for the proposed project were read carefully by Council staff and are summarized above. As the majority of those opinions do not directly relate to the policies and objectives listed in the Consistency Determination template, they are not reflected in the Consistency Determination. Similarly, comments regarding legal interpretations, such as the language and intent of the exemption, while carefully reviewed and considered by Council, are not reflected in the Consistency Determination. Some comments were not addressed in the Consistency Determination as they pertain to issues beyond its scope, such as specific requirements specified in the NJDEP HAD application form (i.e., project cost, block and lot).

Since the end of the December 2008/January 2009 public comment period, and based upon the findings of the Highlands Council staff draft Consistency Determination, further input from the Highlands Council staff, NJDEP, the public and other agencies, the applicant revised the proposed project (submitted on May 19, 2009) to reduce the environmental impacts. Specifically, the revised project:

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- Relocates the proposed switching station from Jefferson Township to the Borough of Hopatcong, significantly reducing the permanent impacts from this upgrade;
- Provides for use of existing roads for access to the maximum extent possible; and
- Incorporates a framework for a Comprehensive Mitigation Plan (CMP) in response to project impacts to Highlands and other resources as part of the proposed project. The applicant commits that the CMP will be prepared consistent with the Highlands RMP using the approach of avoid, minimize and mitigate. It will provide an approach and process for identifying the specific resource issues, the means to avoid and minimize the specific impact, and ultimately the ability to define ways that would help mitigate unavoidable environmental impacts. With respect to mitigation, the proposed approach is nested in a planning approach where individual plans would be interwoven to meet multiple resource objectives. The combined effect of these plans is intended to effectively deal with the proposed project as a whole unit.

The applicant's revisions to the application to reduce the environmental impacts are substantial. Therefore, the Highlands Council developed a revised Draft Consistency Determination and solicited a second round of public comments on that document. The public comments to the revised Consistency Determination are reflected in a separate public comment/response document.