

**BYRAM TOWNSHIP
SUSSEX COUNTY, NEW JERSEY
RESOLUTION NO. 12 - 2009**

**RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWNSHIP OF
BYRAM URGING THE HIGHLANDS COUNCIL TO RECOMMEND TO
THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
THAT PSE&G EXEMPTION REQUEST BE DENIED FOR PSE&G'S
PROPOSED SUSQUEHANNA-ROSELAND PROJECT**

WHEREAS, The Mayor and Council of the Township of Byram object to the proposal of PSE&G, a commercial public utility, for an exemption from the Highlands Act for its proposed construction project in Byram Township and throughout Northern New Jersey through the Highlands Region; and

WHEREAS, The Mayor and Council of the Township of Byram have found that the proposed Susquehanna-Roseland project is inconsistent with the intent and purposes of the Highlands Act, inconsistent with the specific language of the Highlands Act regarding exemptions for public utilities, inconsistent with the Highland Regional Master Plan (RMP) and inconsistent with the New Jersey Department of Environmental Protection Rules for the Preservation Area; and

WHEREAS, The Township recommends and requests that the Highlands Council specifically find that the proposed project of PSE&G is inconsistent with the intent and purposes of the Highlands Act and inconsistent with the exemption for public utilities. In this regard, the Mayor and Council of the Township of Byram find that the proposed project is not a mere upgrade, but it is a major reconstruction of an entire new transmission system and line and that it is not exempt from the Highlands Act; and

WHEREAS, The Mayor and Council of the Township of Byram find that the 59 findings of inconsistencies outlined by Highlands Council Staff in its detailed review of the PSE&G project demonstrate that the proposed project is not exempt under the Highlands Act and is not consistent with the intent and purpose of the Act as required in the exemption authorized by the Highlands Act; and

WHEREAS, The Mayor and Council of the Township of Byram urge the Highlands Council and the State of New Jersey BPU and Federal Regulators to insist that the project be held answerable for these inconsistencies with the Highlands Act and the intent and purpose of the Highlands Act; and

WHEREAS, The Mayor and Council of the Township of Byram urge that the Highlands Council find that PSE&G should complete a more detailed Highlands review and the Highlands Council should urge the New Jersey Department of Environmental Protection to deny the requested exemption and require that substantial weight be given to the ongoing considerations at all levels of government as to whether or not to approve this project and the procedures that should be followed for review of the project given the extraordinary impact of the project upon residents of the Township of Byram and the Highlands Region; and

WHEREAS, The Mayor and Council of the Township of Byram find that PSE&G has not demonstrated the need for the proposed project and has not demonstrated that the project will be consistent with the intent and purpose of the Highlands Act; and

WHEREAS, The Township of Byram has previously provided NJDEP with prior correspondence requesting that the NJDEP find that the project is not consistent with the purposes of the Act and with the utility exemption authorized in the Highlands Act. Said prior recommendations to the Highlands Council are attached hereto and incorporated herein by reference; and

WHEREAS, Based upon the submissions of the Township of Byram to the NJDEP, the Township finds that there are numerous concerns regarding the full scope and irreplaceable loss of natural resources protected by the Highlands Act, the Regional Master Plan (RMP) and NJDEP Rules if this massive project is deemed to be exempt by

the NJDEP. These impacts include, but are not limited to, the impact upon drinking water supplies, water features, land forms that affect those water features, forested areas, habitats and threatened and endangered species, scenic and cultural resources. The Township recommends that the Highlands Council find that these resources are essential to the Highlands Region and to the future of the Township of Byram and that the protection of these resources must be given full scrutiny of this massive undertaking, prior to approval of this development by the Highlands Council and the NJDEP.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Township of Byram that the Mayor and Council find that the proposed PSE&G Susquehanna-Roseland project is inconsistent with the intent and purpose of the Highlands Act, the Highlands Council RMP and the Rules of the New Jersey Department of Environmental Protection and is inconsistent with the plain meaning and intent and purpose of the Highlands Act exemption for utilities and should therefore be deemed non-exempt from the Highlands Act and subject to all of the requirements and review responsibilities to the Highlands Act and Byram Township's local land use ordinances.

NOW THEREFORE BE IT FURTHER RESOLVED that the Mayor and Council urge the Highlands Council to recommend to the NJDEP that the exemption not be granted and the Mayor and Council urge the NJDEP to deny the exemption request; and

NOW THEREFORE BE IT FURTHER RESOLVED, that a copy of this resolution be forwarded by the Township Clerk to the Highlands Council, Terry Pilawski of NJDEP, NJBPU, the Governor of the State of New Jersey and local Legislators and the other New Jersey municipalities affected by the PSE&G Susquehanna-Roseland project.

Introduced and passed January 20, 2009

Ayes: 5
Noes: 0
Absent: 0

BYRAM TOWNSHIP COUNCIL

Attest:

I certify that the foregoing resolution was adopted by the Byram Township Council at a meeting held on January 20, 2009



Doris Flynn, Township Clerk

TOWNSHIP OF BYRAM
NEW JERSEY

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COPY

November 14, 2008

NJDEP Division of Watershed Management
Bureau of Watershed Regulation
P.O. Box 418
Trenton, NJ 08625
Attn: Highlands Applicability Determination

Dear Sir:

The Byram Township Environmental Commission submits these comments on the PSE&G "Application for Highlands Applicability and Water Quality Management Consistency Determination" for the Susquehanna-Roseland 500 KV transmission line.

The Township received its copy of this application shortly after September 19, 2008 and submits these comments within the 30-day time period allotted following the publication of the application in the NJDEP Bulletin on November 5.

This project will have serious impacts on the Township of Byram and its residents. The Township submits these comments in the expectation that this project will be very closely and fully examined, including an examination of the data and assumptions used to declare the need for the project and whether these assumptions were or continue to be valid. Presumably the Highlands determination will take into account whether this project is necessary in determining whether it is consistent with the Highlands Act.

This project also seems to contradict Governor Corzine's N.J. energy master plan, which calls for the State to obtain 30% of its power from renewable resources by 2020 and which also emphasizes conservation and efficiency to reduce demand.

In addition to these broader questions, there are several specific issues within this Highlands Applicability application that are of concern to Byram Township:

Errors or missing information about Byram Township:

- In Appendix F, most of the Byram tax maps date from 1961. Byram recently updated its maps as of 2006.
- Appendix A lists "Block and Lot information for Parcels Located Within the Highlands Preservation Area" and includes 57 parcels from Byram Township.

This list submitted to NJDEP is inconsistent with the list of properties submitted to the Byram Township Land Use Board for local applications for development, which have not yet been filed or acted upon.

- In Appendix G, there are no indications as to how Tower #56/4 would be accessed. All other tower locations do indicate access routes.
- There appears to be no information about which of the three types of new structures would be installed at the nine tower sites in Byram Township. The application proposes 38 unipoles and 37 lattice towers within the Highlands region but there appears to be no mention of what types are proposed for Byram, nor a discussion of whether the access road disturbance will be greater for the unipoles, which come in very large sections.

Access roads:

- Access roads will be built to construct the new towers and remove the old. These need to be large enough for equipment to bore foundation holes, to deliver concrete, and for cranes large enough to erect the structures, as well as trucks big enough to bring in the elements that make up the towers. Helicopters may be used in some cases.
- The chart on page III-4 does not define as ‘additional disturbance’ any of the access roads within the PSE&G ROW and defines access roads outside of the ROW as ‘temporary disturbance.’ The chart concludes that only 5.5 total acres of ‘temporary disturbance’ will be required outside of the ROW within the Highlands area.
- Considering the width, grading, and depth of the base required for the heavy equipment using these access roads, these definitions seem illogical.
- Although the ROW currently has been aggressively cleared under the new NJ rules, the proposed access roads would remove all remaining low vegetation as well as considerable topsoil and thus result in much more considerable disturbance than the current clearing.
- Access roads outside of the ROW in areas that are currently mostly forested will result in very substantial and long-lasting disturbance, which will take decades to ameliorate and a very prolonged period to fully repair. To define this as ‘temporary disturbance’ is not credible and appears to be an attempt to circumvent a truthful examination of this issue under the Highlands review.
- Similarly, these access roads are not defined as additional impervious surfaces, based on their proposed construction from “matting, loosely packed gravel aggregates, and/or wooden planks.” Whether or not these construction materials are credible for the heavy equipment using these roads, under the Highlands Act these materials appear to be consistent with or similar to materials that are classified as impervious.
- In upland (forested) areas, these ‘temporary access roads’ are to be excavated to 12” with gravel aggregate over stabilization fabric and to be only 16’ wide.
- In wetland or buffer areas, there is to be no excavation and the roads are to consist of fabric overlain with timber matting or gravel aggregate. Given the often mucky and water-logged nature of soils in wetlands and buffers, this

construction method seems possibly optimistic. Byram has recently had the experience of constructing a bicycle trail across a wetlands and found that many truckloads of rock and gravel were needed to establish a base within these areas for both construction equipment and subsequent trail use. Stabilizing these areas for heavy equipment would probably have required substantial permanent damage to the wetlands.

- Access roads are shown for all towers except the one on Block 335 Lot 2, Tower # 56/4. This is a preserved parcel recently purchased in-fee by the Township using local and State open space funding. This parcel contains mature forest and very steep slopes, with the tower site at the very crest of the parcel on very rugged rocky terrain. There are no existing access roads to this tower site and the PSE&G maps provide no indication of how this might be achieved. An access road from either end of this forested parcel would create extensive damage, ruining the natural features of the parcel that led to its preservation as open space and contravening the purposes of State Green Acres funding program, as well as of Byram Township's open space trust fund. Access from the Andover side of this parcel would be impeded by the existence of homes built since the original 230 KV line was installed.
- While the access roads are proposed for a minimal 16' and the poles or lattice structures call for a maximum of about 90 square feet of new impervious surface for poles and far less for lattice, there seems to be no discussion of how much clearance might be needed in the area of the towers to provide adequate room for the construction activities. Presumably, at each site this would be a substantial area. These acres of disturbance or impervious cover do not seem to be addressed in the application document.

Highlands resources:

- The Highlands Act calls for protecting the "natural, scenic, and other resources" of the Highlands region.
- The PSE&G application fails to address the impact on scenic resources, which will clearly be a major issue throughout the project area but most especially in the Highlands area, including Byram Township.
- The application uses its definition of access roads as 'temporary' impacts to claim only temporary impacts to the contiguous forests of the Highlands and extrapolates from this its claim of negligible scenic impacts.
- Several hundred Byram homeowners will be directly impacted by the distinctly unscenic qualities of towers that will rise more than double the height of existing towers and of the persisting scars to the landscape generated by the 'temporary access roads.' Many more residents of the Township and the region will be impacted by having a view of these much higher towers and by experiencing that view from numerous locations as they travel around the area.
- Setting aside the impacts of health issues, this scenic damage threatens to adversely affect scores of property values within Byram Township.
- In concert with its claim of only temporary impacts to the contiguous forests of the Highlands, the PSE&G application also claims that his project will

impose no impacts on habitats or listed species. However, it seems clear that the damage caused by access roads outside of the ROW and construction activities by definition will disrupt these contiguous forests and thus impact habitats.

- While the application does state that PSE&G's "minimization measures" will include "positioning the path to avoid potentially suitable habitat for species of concern," there are no details about where this might be done and what species might be involved. On pages IV-6 & 7, the application details its investigations of habitats and species and concludes there will be no impact on habitats for listed species.
- The US Dept. of Interior, Fish and Wildlife does see a possible threat to the Indiana bat and/or bog turtle and requires that PSE&G work with them to avoid adverse impacts.
- PSE&G's proposal to mitigate the loss of forested areas by replacement with "forest of equal ecological value and functions" also contains no details of where this replacement forest might be located and how that will mitigate the damage at actual construction/access road sites in Byram. The same is true of the PSE&G wetlands mitigation proposal, although it appears that no wetlands as mapped by PSE&G in Byram would be disturbed.
- The application also states that "construction activities are not expected to permanently impact any steep slope areas," which are defined in the Highlands Act as slopes greater than 20%. Any access roads on Block 335 Lot 2 in Byram (the current open space parcel formerly known as 'Owners Maintenance') will disturb slopes in excess of 20%. Large areas of this parcel are characterized by slopes of in excess of 25% (with most of the rest of the parcel characterized by slopes of 15-25%); and the 25%+ slopes form a more or less continuous barrier for any proposed access from the roads that border this parcel (Whippoorwill Lane and Andover-Mohawk Road). There are also some slope features that would be disturbed if the tower site were to be accessed from the developed neighborhoods in Andover Township.

The Byram Township Environmental Commission looks forward to obtaining a copy of the NJDEP review of this Highlands Applicability application. If further information is needed regarding Byram's comments, please contact Environmental Commission Secretary Margaret McGarrity at 973-347-2500 x. 138.

Very truly yours,



Joseph Sabatini
Byram Township Manager

Cc: George Sous, PSE&G Regional Public Affairs Manager