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A MEMBER N. J., N. Y. & GA. BARS

November 26, 2008

Via E-Mail, Fax and Certified Mail/RRR

President Fox and Commissioners
New Jersey Board of Public Utilities
Two Gateway Center
8th Floor
Newark, New Jersey 07102

Re: PSE&G Susquehanna-Roseland Project

Dear President Fox and Commissioners of the Board:

I am the Township Attorney for the Township of Byram, Sussex County, New Jersey. I am also a licensed Professional Planner with a Masters in City and Regional Planning with extensive experience in Land Use and Environmental Law. On behalf of the Township of Byram, I am writing to object to the effort by PSE&G to circumvent local Land Use Board administrative procedures by attempting to proceed before your Board without first presenting its plans for review and action by the Byram Land Use Board on applications for development. It has come to our attention that PSE&G has decided to seek BPU approval for site plans, proposed site grading, site improvements, site plan revisions and construction of access roads, replacement towers and higher voltage transmission wires throughout northwestern New Jersey and including multiple sites in the Township of Byram, Sussex County.

This effort by PSE&G is inconsistent with the promises made by PSE&G to representatives of Byram Township and other municipalities on July 28, 2008 at the Lake Mohawk Country Club at which time it was promised by PSE&G that the applicant would present plans for the developments to local Planning Boards and Zoning Boards of the municipalities along the lines. PSE&G's proposed action is inconsistent with the Township's Land Use Ordinance, which explicitly require that applications for development be made to the Municipal Land Use Board. See N.J.S.A. 40:55D-1 et seq. In addition, the Municipal Land Use Law, in Section N.J.S.A. 40:55D-19, explicitly authorizes appeals to the Board of Public Utilities after proceeding before local administrative agencies. PSE&G is breaching its prior promises to Byram by circumventing the Byram Land Use Board. PSE&G elected to pursue local Board reviews by its prior actions and statements and BPU should enforce that election and those promises made by PSE&G.

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We object to the efforts by PSE&G to proceed without Byram Land Use Board review and we request that the Board dismiss the application as premature. If the BPU still intends to hear the matters without requiring Byram Land Use Board review, we confirm that the Township of Byram objects to any acceptance of jurisdiction by BPU and the Township requests that any matter to be heard by the Board be treated as a "contested case" and referred to the Office of Administrative Law for trial prior to any decision on the substance or merits by the BPU.

Very truly yours,

VOGEL, CHAIT, COLLINS and
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THOMAS F. COLLINS, JR., ESQ., P.P.
Municipal Attorney for the Township of Byram

TFC/db

cc: George D. Sous, PSE&G
Mayor and Council of Byram Township
Byram Township Land Use Board
Kurt Senesky, Esq.
Joseph Sabatini, Township Manager
Chris Hellwig, P.P., Township Planner
John Gutwerk, Zoning Officer
New Jersey Department of Environmental Protection (NJDEP)-Highlands Section
Highlands Council