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Commissioner Robert Martin
Department of Environmental Protection
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P.O. Box 402
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June 24, 2010

Re: PUBLIC SERVICE ELECTRIC AND GAS COMPANY FRESHWATER WETLANDS INDIVIDUAL PERMIT APPLICATION AND FLOOD HAZARD AREA INVIDUAL PERMIT APPLICATION FOR THE SUSQUEHANNA-ROSELAND TRANSMISSION LINE
NJDEP APPLICATION NUMBER 0000-08-0010.1

Dear Commissioner Martin,

At the New Jersey Environmental Federation's Annual Conference on April 17, 2010, your keynote address included commitments to increase renewable energy in New Jersey and oppose coal-fired energy produced in Pennsylvania polluting our state's air and water. After stating those commitments Kate Millsaps on my staff asked you if you would uphold those goals by denying PSE&G permits to construct the Susquehanna-Roseland transmission line, which will bring coal-fired energy from Pennsylvania into New Jersey. You responded that your Department would review PSE&G's permit application and render a decision based on if that application was in line with the rules governing freshwater wetlands and flood hazard areas.

PSE&G's Freshwater Wetlands and Flood Hazard Area Individual Permit Applications have been under the review of the DEP Division of Land Use Regulation for almost a year now, being modified twice since the incomplete application was originally submitted in early September. After revising and resubmitting the application in February, PSE&G received two deficiency letters from the DLUR and one deficiency letter from the State Historic Preservation Office. After this the applicant again revised their application and split the project into two, a practice not typically permitted under the freshwater wetlands rules governing individual permits.

Your staff has reviewed the applications as you said would be done at the NJEF conference, and has found that despite numerous revisions and the provision of supplemental data these applications continue to fail to satisfy the rules and regulations to obtain individual permits. Lou Cattuna, Warren County Section Chief in the DLUR, issued a letter May 6, 2010, stating 58 requests. The requests included making more information available for public review including the project's mitigation proposal, verifying information on threatened and endangered species along the ROW, and providing more detailed analysis on why individual towers were located in wetland areas.

On May 14, 2010, John H. Heilferty, the Principal Environmental Specialist in the Division of Land Use Regulation, issued a letter detailing the lack of information PSE&G had provided in relation to threatened and endangered species. This letter also highlights an issue the Coalition has raised in the past related to this project: the quality of the threatened and endangered species surveys conducted by the applicant. The Coalition has concerns that the surveys were not conducted often enough to cover the proper timing for the various species that could potentially be found on the ROW, studies focused on areas near towers and not the access roads or other portions of the ROW, and these surveys focused on finding individuals and not habitat. Heilferty noted in his letter, "Review of the submitted surveys indicates that insufficient survey timing, duration and/or location has been expended" for studies of timber rattlesnake (2). This letter also states "additional floristic surveys are required" (3). These studies should be conducted over a period of two years, with site visits multiple times a year, to ensure that all plants are properly identified.

The State Historic Preservation Office sent a deficiency letter to the applicant on April 21, 2010. Freshwater Wetlands Rules for an individual permit requires that the project "will not adversely affect a property which is listed or is eligible for listing on the New Jersey or National Register of Historic Places" (N.J.A.C. 7:7A-7.2(b)9). The Department should await a decision by SHPO on this project before ruling on this application.

In applying for a Freshwater Wetlands Individual Permit PSE&G continues to claim that its mitigation proposal will bring the project in line with the rules and regulations for an individual permit despite the fact that the rules state a mitigation proposal should not be considered in the review of the project for consistency with Freshwater Wetland Rules. However PSE&G has not even provided the Department with a mitigation plan to justify their claims that the mitigation proposal will indeed minimize environmental impacts in regulated areas associated with the project. The mitigation plan must be made available for review and comment by the public before a decision is made on this project. This "trust us on our word" strategy should not be acceptable to the department, especially for a project of such a large scope that will have detrimental impacts on a number of sensitive regions and resources in the Highlands.

In a blatant attempt to evade federal review, PSE&G has proposed bifurcating the transmission line project to be "respectful of the National Environmental Policy Act (NEPA) process that is currently being conducted by the National Park Service (NPS) at

the Delaware Water Gap National Recreation Area (DEWA) and Appalachian Trail" (May 14, 2010 letter from Raymond Tripodi to Lou Cattuna). The National Park Service, however, has yet to announce the scope of the review it will undertake for this project. The NEPA review could potentially include the entire length of the power line. Contrary to their assertions, PSE&G is not being respectful of the NEPA review process as they are attempting to move approvals along for the Eastern portion of the power line before NPS has decided if the portion will be part of its Environmental Impact Statement. The NPS is not expected to make a decision on scope until the end of the summer or early fall and the Department should not grant PSE&G permits to begin construction until that point out of respect for the federal authority and the NEPA review process.

The bifurcated project being proposed to the DEP is not the project the applicant received approval to construct from the Board of Public Utilities. PSE&G does not have BPU approval to segment the project and there has been no determination on the need for the eastern portion of the line separately. Segmenting the project is contradictory to the points the applicant made before the BPU, that energy needed to be imported from a Berwick, Pennsylvania power plant to maintain reliability and the line must be a Pennsylvania to New Jersey line. Under the Freshwater Wetlands Rules for individual permits at N.J.A.C. 7:7A- 7.1(c) an application for a single project is not allowed to be segmented into separate portions, "*Each individual permit applies to the entire site upon which permitted activities occur... an applicant shall not segment a project or its impacts by separately applying for individual permits for different portions of the same project*". PSE&G claims that the eastern portion would have "separate utility," yet the BPU never made a ruling on the "separate utility" of the eastern portion of the line and this bifurcation should not be permitted under N.J.A.C. 7:7A- 7.1(c).

This application should not be considered complete as illustrated by the deficiency letters issued by your Department and since PSE&G is still meeting with parties to discuss tower relocations. In response to Lou Cattuna's letter and their proposal to bifurcate the line, PSE&G just submitted new mapping with changes in tower locations, access roads, and lay down areas. The company is not sure which towers will be accessed by helicopter and is still in the process of hiring a helicopter contractor to determine which locations can be done using this less damaging technology. The application should not be considered comprehensive and subject to a decision until tower locations and methods of constructing and accessing those points is finalized and a mitigation plan is in place.

Thank you for considering these comments and please deny this permit.

Sincerely,

Julia Somers, Executive Director

Cc: Tom Micai, Director, DLUR
Lou Cattuna, Warren County Section Chief, DLUR
Jeff Tittel, Director, New Jersey Chapter Sierra Club

Dave Pringle, Campaign Director, New Jersey Environmental Federation
Dena Mottola Jaborska, Executive Director, Environment New Jersey
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