

**RECOMMENDATION ON THE
SPECIAL EXCEPTION & VARIANCE APPLICATION OF
PSE&G/Bergen Switching Phase II - Special Exception & Variance
FILE # 15-207**

I. INTRODUCTION

Pursuant to Public Law 2015, Chapter 19, The New Jersey Meadowlands Commission (NJMC) has become part of the New Jersey Sports and Exposition Authority (NJSEA), effective February 5, 2015.

An application for one special exception and two bulk variances has been filed with the NJSEA by Raymond A. Tripodi of Public Service Electric and Gas Company (PSE&G) for the premises located along Hendricks Causeway identified as Block 4014, Lot 4, in the Borough of Ridgefield, New Jersey. Said premises is located within the Hackensack Meadowlands District's (District) Public Utilities, Environmental Conservation, and Light Industrial B zones. The special exception is sought in connection with the applicant's proposal to install an electric transmission tower on the portion of the subject premises zoned Environmental Conservation. The two variances are sought in connection with the applicant's proposal to install new public utility processing equipment and a fence on the Light Industrial B zone portion of the subject premises.

Specifically, the applicant is requesting special exception approval pursuant to:

1. N.J.A.C. 19:4-5.10(a)2: an electric transmission tower is listed as a special exception use in the Environmental Conservation zone.

In addition, the applicant is requesting variance relief from the following:

1. N.J.A.C. 19:4-5.84(a)3i, which requires a minimum front yard setback of 35 feet. The applicant is proposing a setback of 31.9 feet to an equipment

foundation located within the required front yard facing Hendricks Causeway on the portion of the subject premises zoned Light Industrial B.

2. N.J.A.C. 19:4-8.10(a)1, which prohibits fences or walls in excess of 24 inches in height in required front yards. An eight-foot-high fence is proposed in the required front yard facing Hendricks Causeway on the portion of the subject premises zoned Light Industrial B.

Notice was given to the public and all interested parties as required by law. The public notice was published in The Record newspaper. No written objections were received. A public hearing was held in the NJSEA Offices on Tuesday, June 30, 2015. All information submitted to the Division of Land Use Management relative to this application is made part of the record of this recommendation.

II. GENERAL INFORMATION

A. Existing and Proposed Use

The subject property is a 78.24-acre parcel with frontage on Hendricks Causeway to the north and Victoria Terrace to the west. The site is currently improved with an electrical switching station and electric transmission towers with overhead wiring. The subject property is located in three zones within the District: Public Utilities, Environmental Conservation and Light Industrial B. The substation is located on the portions of the site within the Public Utilities and Light Industrial B zones, adjacent to Hendricks Causeway. Gravel covers most of the surface area within the substation. Approximately 60 acres of the site is located in the Environmental Conservation zone and consists of wetlands. Bellman's Creek traverses this portion of the property from west to east. Several electric transmission towers with overhead wiring are located throughout the entire site.

The proposed project involves utility improvements required by PJM Interconnection LLC (PJM), the regional transmission authority for the northeastern United States that evaluates systems to ensure that the power demands and power capacity within the transmission system are sufficient. The proposed switching station upgrade project is part of an overall transmission corridor upgrade between the PSE&G Bergen Switching Station in Ridgefield and the PSE&G Linden Switching Station in Linden. The existing Bergen Switching Station was built in the 1950's and currently serves approximately 47,000 customers. The upgrades are required to be in service by June 2016. The agencies that govern electric transmission requirements, including the Federal Energy Regulatory Commission (FERC) and PJM, may issue violations if the upgrades are not completed.

The applicant is proposing to install an electric transmission tower on the portion of the subject premises within the Environmental Conservation zone. The two bulk variances are sought in connection with the applicant's proposal to install new public utility processing equipment and a fence on the portion of the subject premises located within the Light Industrial B zone.

B. Response to the Public Notice

No written comments were submitted to this Office prior to the public hearing.

III. PUBLIC HEARING (June 30, 2015)

A public hearing was held on Tuesday, June 30, 2015. NJSEA staff in attendance were Sara J. Sundell, P.E., P.P., Director of Land Use Management and Chief Engineer; Sharon Mascaró, P.E., Deputy Director of Land Use Management and Deputy Chief Engineer; Mia Petrou, P.P., AICP, Senior Planner; and Ronald Seeloy, P.E., P.P., Senior Engineer.

A. Exhibits

The following is a list of the exhibits submitted by the applicant at the public hearing and marked for identification as follows:

<u>Number</u>	<u>Description</u>
A-1	"Site Plan," two sheets, prepared by PSEG Services Corporation, dated September 16, 2014, revised through June 17, 2015.
A-2	"Picket Fence (Typical)," undated.

B. Testimony

Thomas J. Trautner, Jr., Esq., of the firm Chiesa, Shahinian & Giantomasi, PC, represented PSE&G at the hearing. The following witnesses testified in support of the application:

1. Micheal Percarpio, Senior Project Manager, PSE&G;
2. Bradley Johnson, P.E., Black and Veatch; and
3. Raymond Tripodi, P.E., P.P., P.M.P., PSE&G.

Staff findings and recommendations are based on the entire record. A transcript of the public hearing was prepared and transcribed by Beth Calderone, Certified Shorthand Reporter.

C. Public Comment

No members of the public were present at the public hearing.

IV. RECOMMENDATION(S)

A. Standards for the Granting of a Special Exception to permit an electric transmission tower in the Environmental Conservation zone as per N.J.A.C. 19:4-5.10(a)2.

The Hackensack Meadowlands District Zoning Regulations at N.J.A.C. 19:4-4.13(e) state in part that, *a special exception use shall not be granted unless specific written findings of fact are made based upon the evidence presented that supports the following conclusions:*

1. *The proposed special exception use at the specified location will contribute to and promote the welfare or convenience of the public.*

The granting of the requested special exception to permit the installation of an electric transmission tower on the portion of the subject premises located in the Environmental Conservation zone will contribute to and promote the welfare and convenience of the public. The proposed improvements will be consistent with the character of the existing development on the portion of the site within the Public Utilities and Light Industrial B zones, which contain the existing switching station. All relevant District performance standards as enumerated at N.J.A.C. 19:4-7 will be met. The general welfare and convenience of the public will benefit from an expanded switching station as it will allow PSE&G to meet increased demand for electricity, an essential public commodity, in the region.

2. *The proposed special exception use will not cause substantial injury to the value of other property in the neighborhood.*

The proposed electric transmission tower will be compatible with the surrounding land uses and will not cause substantial injury to the value of other properties in the neighborhood. The subject property is very large in comparison to its neighbors, and its large size provides sufficient area to accommodate the proposed improvement while providing adequate distance to neighboring properties. The area in which the subject property is located consists primarily of heavy industrial uses. A privately-owned electrical substation is situated to the east of the site.

3. *The special exception use will not dominate the immediate neighborhood in a manner that could prevent development and use of neighboring properties in accordance with the applicable regulations, in consideration of the following:*

- i. *The location and size of the special exception use;*

The location and size of the proposed electric transmission tower in the Environmental Conservation zone portion of the property will not dominate the immediate area or neighborhood as to prevent development in accordance with District zoning regulations. The proposed tower is similar in nature and arrangement to the existing towers on the site, as well as to the two proposed towers proposed on the Public Utilities portion of the property, and represent an expansion of an existing use on the site. The tower is proposed to be installed in a location providing sufficient distance from the public right-of-way and neighboring properties as to not be visually intrusive to employees at other facilities in the

neighborhood. The tower will not be particularly distinguishable from other electric transmission towers in the surrounding area.

ii. The nature and intensity of the operation of the special exception use;

While the proposed improvements represent an increased capacity in electric power transmission, the proposed electric transmission tower will be unmanned, requiring only occasional visits by PSE&G personnel for maintenance purposes. This low intensity use will have no detrimental effects on the surrounding properties.

iii. The location of the site with respect to access and circulation;

The location of the proposed electric transmission tower on the subject premises is accessible from Hendricks Causeway through the internal roadway network within the existing switching station. The installation of the proposed electric transmission tower will not impact access and circulation on Hendricks Causeway. Although there are no full-time employees on site, there is adequate area available for parking for maintenance personnel. Existing site access points and on-site circulation routes will remain as existing and are adequate to serve the proposed electric transmission tower. Therefore, the proposed special exception will not dominate the neighborhood or impact the use of surrounding properties.

iv. The location, nature, and height of structures, walls and fences on the site; and

The location, nature, and height of the proposed electric transmission tower in the portion of the property zoned Environmental Conservation will not dominate the surrounding area. The electric transmission tower has been designed to the required height to accommodate the electric transmission operations and connections to other improvements. Proposed perimeter security fencing will be installed as a continuation of the existing fence line along Hendricks Causeway and will be of the same height and material as the existing security fence.

v. The nature and extent of landscaping and screening on the site.

The site is presently well-maintained and landscaped in an appropriate manner. Due to the distance of the proposed electric transmission tower from neighboring properties and adjacent public right of ways, no new landscaping or screening will be required.

4. Adequate utilities, drainage and other necessary facilities have been or will be provided.

The requested special exception on the subject premises will not detrimentally impact the existing utility infrastructure. Rather, the proposed transmission tower will upgrade electrical service to the region. The subject property is currently developed with an electric switching station and contains all required utilities. The site will continue to function as it exists, since PSE&G currently operates an electric switching station at this location. The proposed electric transmission tower will not affect the ability of the existing on-site

drainage system to perform in a safe and efficient manner. Additionally, the existing utility infrastructure, including electric, water, sanitary sewer and gas, is adequate to meet the requirements of the uses on site.

5. *Adequate access roads and drive aisles have been or will be provided and shall be designed to prevent traffic hazards and minimize traffic congestion.*

The neighborhood's existing roadway network can satisfactorily support the proposed electric transmission tower. Access to the switching station will be from a series of existing driveways on Hendricks Causeway that lead into the existing switching station. The proposed electric transmission tower will not impact site circulation, nor will it cause any additional congestion in the area.

6. *The special exception use will not have a substantial adverse environmental impact.*

The granting of the requested special exception to permit the installation of the electric transmission tower on the portion of the subject premises in the Environmental Conservation zone will not result in any substantial environmental impacts. Although installation of the transmission tower requires the disturbance of wetlands, the footprint of the disturbance is minimal. PSE&G has submitted applications to both the Army Corps of Engineers and the NJDEP, who have jurisdiction over wetlands disturbances, for required permits, including Federal Consistency and Water Quality Certifications. District environmental performance standards will be met for noise, vibration, glare, air emissions and hazardous and radioactive materials.

B. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-5.84(a)3i, which requires a minimum front yard setback of 35 feet. The applicant is proposing a setback of 31.9 feet to an equipment foundation located within the required front yard facing Hendricks Causeway on the Light Industrial B zone portion of the subject premises.

The Hackensack Meadowlands District Zoning Regulations at N.J.A.C. 19:4-4.14(e) state in part that, *a variance shall not be granted unless specific written findings of fact directly based upon the particular evidence presented are made that support conclusions that...*

1. *Concerning bulk variances:*

- i. *The variance requested arises from such condition that is unique to the property in question, is not ordinarily found in the same zone, and is not created by any action of the property owner or the applicant.*

The subject property consists of approximately 78.24 acres and is located in the District's Environmental Conservation, Public Utilities and Light Industrial B zones. Nearly 80 percent of the site is located within the Environmental Conservation zone and is comprised primarily of wetlands. Upland portions of the subject property are currently improved with an existing electric switching station, including a GIS Hall and electrical equipment. Multiple driveways provide access to the site from Hendricks Causeway.

The expansion project is required as part of a regional resiliency initiative to upgrade existing energy infrastructure. As part of the upgrade, the applicant proposes a concrete foundation for new electrical equipment at a minimum setback of 31.9 feet measured

from the northerly property line abutting Hendricks Causeway. The placement and configuration of the proposed electrical equipment on the site is dictated by the predominant presence of wetlands, the location of the existing electrical equipment and the regulatory requirements of the National Electric Safety Code (NESC) to maintain certain clearances between equipment structures. Therefore, the variance requested arises from conditions that are unique to the property in question and were not created by any action of the property owner.

- ii. The granting of the variance will not adversely affect the rights of neighboring property owners or residents.*

The concrete electrical equipment foundation is proposed to be located 31.9 feet from the northerly property line along Hendricks Causeway. As the portion of the concrete foundation that extends 3.1 feet into the front yard is only five (5) feet wide in comparison to the property frontage that is hundreds of feet long, no adverse visual impacts are anticipated. Existing site and maintenance operations will be maintained at their present levels. The site is an unmanned electrical switching station that requires only occasional visits by PSE&G personnel.

The proposed variance will not impact the ability of neighboring properties to function as intended. Rather, the proposed improvements will promote energy resiliency, which will benefit area energy customers. In addition, there are no residences in the general vicinity of the site. Therefore, the granting of the requested

variance will not adversely affect the rights of neighboring property owners or residents.

iii. The strict application of the regulations will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner.

The strict application of the minimum front yard setback requirement of 35 feet on the subject property will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner. If the variance was not granted to permit the installation of the electrical processing equipment foundation, PSE&G would not be able to expand its existing electrical switching station at this location. The switching station must be expanded to meet an increase in demand for electricity in the region. The existing switching station is located in portions of the property located in the Environmental Conservation, Public Utilities and Light Industrial B zones. In order to minimize impacts to the portions of the property located in the Environmental Conservation zone and the existence of the electrical switching station on the Public Utilities zone portion of the subject premises, it was demonstrated that the only suitable area for the proposed facility expansion is on the Light Industrial B zone portion of the property in the front yard facing Hendricks Causeway.

The location of new electrical equipment on site is constrained by the presence of existing improvements whose function must be maintained as they are upgraded, as well as regulatory

requirements of the NESC to maintain certain clearances between equipment structures. Therefore, the existing site conditions present exceptional practical difficulties in the ability to comply with the front yard setback requirements.

iv. The variance will not result in substantial detriment to the public good and will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

Approval of the requested variance to permit a 31.9-foot front yard setback, whereas a minimum front yard setback of 35 feet is required, will not result in substantial detriment to the public good and will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare. The proposed switching station upgrades will promote the general welfare through the improvement of power capacity to the public customers of PSE&G that are served by this switching station. The proposed improvements will blend in with the character of the existing switching station. As the portion of the concrete foundation that extends 3.1 feet into the front yard is only five (5) feet wide, no adverse visual impacts are anticipated. All relevant District performance standards as enumerated in N.J.A.C. 19:4-7 will be met.

The electric switching station is an unmanned facility and requires only periodic maintenance by PSE&G personnel. Therefore, it is anticipated that traffic levels will not differ from those of the existing operations at the site. Due to the abundant presence of wetlands on the subject property and the location of the existing

electrical processing equipment, it is not possible to maintain a 35-foot front yard setback for a small, five-foot wide section of the required concrete foundation structure.

- v. *The variance will not have a substantial adverse environmental impact.*

The granting of the requested variance to permit a minimum front yard setback of 31.9 feet, whereas a minimum setback of 35 feet is required, will not have a substantial adverse environmental impact. No wetlands will be disturbed during the construction of the concrete electrical processing equipment foundation. Minimum open space requirements will be maintained. The District's environmental performance standards for noise, glare, vibrations, airborne emissions, hazardous materials and water quality will not be exceeded.

- vi. *The variance represents the minimum deviation from the regulations that will afford relief.*

The proposed project involves the expansion and upgrading of an existing electric switching station as part of a regional energy infrastructure initiative. The particular characteristics of the property, including the abundant presence of wetlands and the location of existing improvements, constrain the ability of the proposed electrical processing equipment to comply with the front yard setback requirements of the Light Industrial B zone. These conditions represent exceptional practical difficulties in the accommodation of the required expansion and upgrades to the switching station. The proposed concrete electric processing

equipment foundation, which extends approximately three feet into the required front yard along Hendricks Causeway for a width of approximately five feet, occupies only a small portion of the property's northerly front yard. Adequate light, air and open space will continue to be provided. Therefore, the requested variance represents the minimum deviation from the regulations that will afford relief.

vii. Granting the variance will not substantially impair the intent and purpose of these regulations.

The granting of the requested variance to permit a 31.9-foot front yard setback, whereas a minimum front yard setback of 35 feet is required, will not substantially impair the intent and purpose of these regulations. Due to the existing configuration of the property and the location of the improvements on site, including the presence of wetlands and the layout of the proposed equipment upgrades, the site is constrained in its ability to meet the required front yard setback. As the District Zoning Regulations are intended to provide for infrastructure and utility improvements and to promote the efficient use of the land, the requested variance will not substantially impair these purposes.

C. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.10(a)1, which prohibits fences or walls in excess of 24 inches in height in required front yards. An eight-foot fence is proposed in the required front yard facing Hendricks Causeway on the Light Industrial B zone portion of the subject premises.

The Hackensack Meadowlands District Zoning Regulations at N.J.A.C. 19:4-4.14(e) state in part that, *a variance shall not be granted unless specific written findings of fact directly based upon the particular evidence presented are made that support conclusions that...*

1. *Concerning bulk variances:*

- i. The variance requested arises from such condition that is unique to the property in question, is not ordinarily found in the same zone, and is not created by any action of the property owner or the applicant.*

The requested variance to permit an eight (8)-foot high picket fence within the required 35 foot front yard setback facing Hendricks Causeway arises from conditions that are unique to the site. The subject property consists of approximately 78.24 acres, fronting Hendricks Causeway to the north and Victoria Terrace to the west, and is located in the District's Environmental Conservation, Public Utilities and Light Industrial B zones. Nearly 80 percent of the site is located within the Environmental Conservation zone and is made up primarily of wetlands. Upland portions of the subject property are currently improved with an existing electric switching station, including a GIS Hall and electrical equipment. The proposed fence will be located approximately 10 feet from the Hendricks Causeway right-of-way.

District zoning regulations restrict the placement of fences within required front yards. The property is configured and improved in such a way that limits potential locations for the fence without jeopardizing security. The applicant is proposing to install the proposed fence in-line with an existing switching station security fence located along Hendricks Causeway further to the west. The

proposed location of the fence will preserve the established logistical functions of the site. These circumstances are unique to the property in question.

- ii. *The granting of the variance will not adversely affect the rights of neighboring property owners or residents.*

The granting of the requested variance to permit an eight (8)-foot high picket fence within the required front yard setback along the Hendricks Causeway public right-of-way will not adversely affect the rights of neighboring property owners or residents. The site is located within a fully developed industrial area. Properties immediately located to the east, west and south of the premises are zoned Heavy Industrial, Light Industrial B and Intermodal B respectively and consist of a variety of industrial and public utility uses. There are no residential properties located within the immediate vicinity of the subject premises.

The proposed fence, which shall be set back approximately 10 feet from the front property line along Hendricks Causeway, will not be highly visible from the road due to landscaping that will be planted as part of a prior approval for an expansion of the existing switching station. The proposed fence will not create any negative visual impacts to the neighboring properties or impede their ability to function as intended. Therefore, the granting of the variance will not adversely affect the rights of neighboring property owners or residents.

iii. The strict application of the regulations will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner.

The strict application of the regulations will result in peculiar and exceptional practical difficulties to, and exceptional and undue hardship upon, the property owner. The easterly portion of the site in the vicinity of Hendricks Causeway was recently improved by PSE&G to be utilized as an expansion to the existing electrical switching station. The approved site layout has been designed to utilize the entire premises in a safe and efficient manner. The strict application of the required 35-foot front yard setback would result in placing the fence in the middle of equipment associated with the switching station operations, thus rendering the switching station essentially unsecured. The proposed location of the fence will allow the site to continue to function as intended, while maintaining the aesthetics of the neighborhood.

iv. The variance will not result in substantial detriment to the public good and will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

There will be no substantial detriment to the public good and no adverse effects to the public health, safety, morals, order, convenience, prosperity or general welfare by the granting of the requested variance. The surrounding neighborhood properties principally consist of heavy industrial and public utility uses. The applicant proposes to construct an eight (8)-foot high picket fence within the required 35-foot front yard setback along Hendricks

Causeway. The fence is proposed to be set back approximately 10 feet from the front property line, minimizing any potential line of sight issues for vehicular traffic exiting the site. The location and type material of the proposed fence will match the existing switching station security fence.

v. The variance will not have a substantial adverse environmental impact.

The granting of the requested variance to permit an eight (8)-foot high picket fence within the required front yard setback will not have any adverse environmental impacts. The location of the proposed fence within the required front yard along Hendricks Causeway will not violate District's performance standards regarding noise, vibrations, airborne emissions, hazardous materials, glare or water quality. In addition, no environmentally sensitive areas will be disturbed by the placement of the fence.

vi. The variance represents the minimum deviation from the regulations that will afford relief.

The requested variance represents the minimum deviation from the regulations that will afford relief. Potential locations to provide a fence around the essential equipment without altering the safe operation and layout of the switching station are limited. The fence is proposed to be set back approximately 10 feet from the property line at its closest point, providing adequate line of sight for vehicular traffic exiting the site.

vii. Granting the variance will not substantially impair the intent and purpose of these regulations.

The requested variance to permit an eight (8)-foot high picket fence within the required front yard setback along Hendricks Causeway will not impair the intent and purpose of the regulations. One intent of prohibiting fences in required front yards is to minimize the visual impacts to neighboring properties. The portion of the property in question in the vicinity of Hendricks Causeway is located in the Public Utilities and Light Industrial B zones, which are comprised of various industrial and commercial uses. Although the fence will be located in the required front yard setback, the fence will be screened by landscaping that minimize the visual impact to the surrounding area. Further, the fence at the proposed location will provide a level of security for PSE&G while maintaining overall logistical functionality of the site.

V. SUMMARY OF CONCLUSIONS

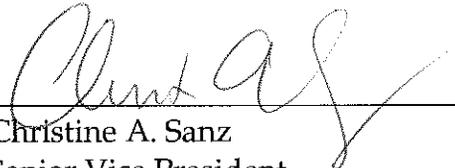
A. Standards for the Granting of a Special Exception to permit an electric transmission tower as a principal use in the Environmental Conservation zone as per N.J.A.C. 19:4-5.10(a)2.

Based on the record in this matter, the special exception application to construct an electric transmission tower on the portion of the subject premises located in the Environmental Conservation zone is hereby recommended for APPROVAL.

<u>APPROVAL</u>	<u>9/3/15</u>	
Recommendation on Special Exception Request	Date	Sara J. Sundell, P.E., P.P. Director of Land Use Management
<u>Approval</u>	<u>9/3/15</u>	
Recommendation on Special Exception Request	Date	Christine A. Sanz Senior Vice President Chief Operating Officer

B. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-5.84(a)3i, which requires a minimum front yard setback of 35 feet. The applicant is proposing a setback of 31.9 feet to an equipment foundation located within the required front yard facing Hendricks Causeway on the Light Industrial B zone portion of the subject premises.

Based on the record in this matter, the bulk variance application to construct an equipment foundation on the Light Industrial B zone portion of the subject premises within the required front yard facing Hendricks Causeway at a minimum setback of 31.9 feet, whereas a minimum front yard setback of 35 feet is required, is hereby recommended for APPROVAL.

<u>APPROVAL</u>	<u>9/3/15</u>	
Recommendation on Variance Request	Date	Sara J. Sundell, P.E., P.P. Director of Land Use Management
<u>Approval</u>	<u>9/3/15</u>	
Recommendation on Variance Request	Date	Christine A. Sanz Senior Vice President Chief Operating Officer

