

Public Comments Received on, and Highlands Council Responses to, the Proposed JCP&L Califon Substation Landscape Plan (Comment Period of March 29 – April 19, 2010):

- Township of Tewksbury Land Use Board
- Township of Tewksbury Environmental Commission
- Township of Tewksbury Scenic Roads and Bridges Commission
- Morris County Trust for Historic Preservation
- Alliance for Historic Hamlets
- Association of New Jersey Environmental Commissions (ANJEC)
- Citizens to Save Tewksbury
- Friends of Fairmount Historic District
- Attorney for Friends of Fairmount Historic District
- New Jersey Conservation Foundation
- Newark Firefighters Union, Inc.
- Residents Alliance for Neighborhood Preservation, Inc. (RANPI)
- Upper Raritan Watershed Association
- Private citizens (approximately 60)
- Jersey Central Power & Light (applicant)

Introduction

The proposed Jersey Central Power and Light (JCP&L) electric substation is proposed to be located in Tewksbury Township, Hunterdon County, on Fox Hill Road, within the Fairmount Historic District. The substation plan was the subject of a Board of Public Utilities decision affirming project need and site selection, and a July 15, 2009 Amended Decision issued by the New Jersey Department of Environmental Protection (NJDEP). This Amended Decision constituted a Highlands Applicability Determination (HAD) and Water Quality Management Plan Consistency Determination pursuant to N.J.A.C. 7:38-2.4(a). The HAD found that the project was exempt under Exemption #11 of the Highlands Act pursuant to N.J.S.A. 13:20-28.a.11; however, the exemption was subject to compliance with several conditions, including the following:

Prior to construction, JCP&L shall submit to the Highlands Council for review and approval an extensive landscape plan, using native plant species, to screen the substation from adjacent homes and roadways and complement the character of the existing historic district. Failure to implement the approved landscape plan shall constitute a violation of this exemption and the Highlands Act.

During its review of the JCP&L Landscape Plan, the Highlands Council solicited and considered written comments from the public and interested parties on the landscape plan, as well as comments from JCP&L (public comment period which extended from March 29, 2010 through April 19, 2010). It should be noted that in addition to the numerous comments received that related specifically to the proposed landscape plan and the impact to historic and scenic resources, several

comments were submitted regarding issues that are outside of the Highlands Council's limited scope of review (such as the potential for fire danger associated with the substation and public safety in general). While these types of comments were carefully reviewed by staff, they are not addressed herein.

Public Comment Summary

Comments were submitted by the public, interested parties, and by JCP&L. These are summarized below.

Public/Interested Parties Comments

Comments received from the public and interested parties were grouped into the following categories: 1) Landscape Plan Screening Issues; 2) Landscape Plan Vegetation Issues; 3) Historic and/or Scenic Impacts; 4) Issues Related to HAD Amended Decision/Exemption; 5) Regional Master Plan Policies and Objectives; 6) Challenges to JCP&L Claims as Related to Landscape Plan; and 7) Other Issues.

Landscape Plan Screening Issues

- Believes that the landscape plan is deficient with respect to proper screening of the proposed substation from the surrounding area. Feels that it is obvious that an eight-to-ten-foot wall and short landscape plantings are insufficient to screen a structure that might be over sixty feet high. Feels that the artistic rendering submitted by JCP&L of its landscaping plan makes this deficiency clear.
- Finds the screening entirely ineffective, the plantings inadequate and the fencing materials inappropriate, particularly so with the plan's proposal to install a vinyl fence to screen the substation view from the historic residence on Hollow Brook Road. With respect to the public roadway, finds the proposed imitation wall to be decidedly uncomplimentary to the authentic character of the Fairmount Historic District. Feels that on the unlikely chance that this wall would be executed in a "believable" style, its scale is profoundly out of proportion to its historic hamlet surroundings.
- States that while appreciative of the efforts by JCP&L in developing a plan which provides the maximum screening permissible, neither BPU Vegetation Management guidelines nor National Electrical Code clearance requirements allow for the construction or installation of any materials which would provide adequate screening of any 230-kv substation. The physical height and composition of a 230-kv substation does not allow for it to be screened by plantings alone, and enclosing structures such as walls or silos cannot be constructed and achieve both screening and clearance requirements. Compounding the difficulties at the proposed JCP&L site is the location of the substation within the wire zone. Feels that due to these limitations, the substation equipment will be plainly visible to pedestrian, equestrian and vehicular observation.

- Believes that no screening plan presented by JCP&L to-date comes close to achieving the goal of preserving the historic character of Fox Hill Road and the area surrounding the proposed substation.
- Believes that the JCP&L landscape plan is seriously deficient and flawed as it lacks the necessary specificity of the required large distribution poles to take the power from the substation to the main electrical distribution network on Hunterdon County Route 517. Feels that the placement of these poles affects the current landscape of the properties as well as the proposed landscape plan. JCP&L testified at the Tewksbury Land Use Board hearings that the poles had not yet been engineered, but indicated that two different paths were possible; both of which present significant threats to the historic district and scenic roads.

Response: The Highlands Council recognizes the extremely difficult task of screening the proposed JCP&L substation from the Fairmount Historic District and the neighboring roadways – Fox Hill Road and Hollow Brook Road. The Council further recognizes the limited options available to JCP&L in designing a landscape plan to buffer its substation from the surrounding community. Despite JCP&L’s efforts to provide an acceptable landscape plan to screen their facility from the historic district and roadways, the landscape plan as proposed does not form an adequate buffer between the substation structure and the surrounding community, including the historic district, historic properties, and roadways. Although the Landscape Plan does include a wall intended to help screen the substation location, it does not adequately block views into the site from Fox Hill Road and does not buffer views from Hollow Brook Road.

Landscape Plan Vegetation Issues

- Identifies several concerns regarding the plant species selection for the landscape plan. The “native” plant list includes Pfitzer juniper, a non-native species. The Atlantic white cedar is not an appropriate tree for this site as it prefers lowlands and is found in coastal regions such as the New Jersey Pine Barrens. The Canadian hemlock, although a native, rarely thrives in this region as it is susceptible to the woolly hemlock adelgid.
- States that JCP&L has proposed plantings along the Block 17, Lot 2 and Block 17, Lot 5 property line to attempt screening. However, the area is completely designated as transitional wetlands and is concerned that the landscape plan does not certify that the recommended plantings have a high percentage probability of thriving in such wetlands.

Response: The Highlands Council reviewed the plant species selection for the landscape plan. With respect to Pfitzer Juniper (*Juniper chinensis var. Pfitzeriana*), while Highlands Council acknowledges that it is a non-native evergreen, it is also noted that this species was selected as it is both deer browse resistant and drought resistant. The buffer plantings should be comprised of native plantings wherever possible. The Highlands Council concurs with the comment that Canadian hemlock (*Tsuga canadensis*) is a native evergreen that is rapidly declining in New Jersey and

across the country due to infestations of the woolly adelgid. Native stands of hemlock are known to succumb within 3 to 5 years of onset of infestation. Hemlock viability in isolated locations such as this requires routine maintenance to ensure that the woolly adelgid does not invade. Only nursery stock that has been certified free of the pest should be planted. Fertilization of planted hemlocks can encourage an increase in woolly adelgid populations.

Historic and/or Scenic Impacts

- Believes that any objective consistency review can come to only one conclusion, which is that the proposed substation is inconsistent with the Historic and Scenic Resource elements of the Highlands Act and the Highlands Regional Master Plan. Feels that JCP&L essentially recognized this by acknowledging, in the course of the Township Land Use Board and BPU proceedings, that the proposed substation cannot be effectively screened from the view of the public and of nearby residents. This is due in part to its proximity to Fox Hill Road and because of the restrictions placed on plantings by the BPU's vegetation management guidelines within the utility right-of-way.
- Urges the Highlands Council to find the proposed landscape plan inconsistent with the goals and purposes of the Highlands Act. Identifies that section of the Highlands Act which states: "the Legislature finds and declares that the New Jersey Highlands...includes many sites of historic significance..." and concludes with the declaration that "all such aforementioned measures should be guided, in heart, mind, and spirit, by an abiding and generously given commitment to protecting the incomparable water resources and natural beauty of the New Jersey Highlands so as to preserve them intact, in trust, forever for the pleasure, enjoyment, and use of future generations..." Feels it is clear the proposed substation and its landscape plan are entirely inconsistent with these goals regarding scenic and historic resources.
- States that Fox Hill Road is in a State and Federal historic district and that the road is a designated scenic road in Tewksbury. Feel strongly that the JCP&L proposed landscape plan will in no way screen the view of the proposed substation from the historic district and does not conceal views from the scenic road.
- States that the proposed substation is located on Fox Hill Road, near its intersection with Hollow Brook Road. Both roads are designated as scenic roads in the Tewksbury Township Master Plan. The location of the proposed substation is opposite Tewksbury Township's Pascale Park, a Green Acres protected public park. Pascale Park is designated for passive use activities including hiking, horseback riding, and bird watching. Feels that the landscaping plan, as currently rendered, fails to adequately screen the proposed substation as required by RMP policies and objectives. Believes that the substation cannot be effectively screened in a manner that maintains the integrity of the Fairmount Historic District and the scenic resource values of Fox Hill and Hollow Brook Roads.

- Feels that the lack of adequate screening will have a negative impact not only on the Fairmount Historic District as a whole, but also the historic homes in the district immediately adjoining the proposed facility.
- States that the Highlands Council’s requirement in this instance is to ensure that the landscaping properly screens the proposed substation, and is consistent with historic and scenic resource protection. States that in addition to screening the substation from adjacent homes and roadways, historic and scenic resource protection is at issue. Feels that not only does the proposed landscape plan fail on this basis, an alternative is not possible because of requirements regarding height and placement of trees and shrubbery relative to the substation, connecting wires, and overhead high voltage lines.
- References Section 7 Page 1 of the Fairmount Historic District nomination document, states, “One house (#33) is set perpendicular to the road for a southern exposure, an orientation typical of the region’s early domestic architecture.” States that given the fact that this home has been singled out as an example of the region’s early domestic architecture, believes the Highlands Council should give careful consideration to the negative impact the substation would have on the historic value and the scenic view from this historic home.
- States concern that a potential fire generated by the substation could endanger an historic structure (the nearby historic home); a contributing property (Property #33, Section 7, Page 20, State and Federal Register of Historic Places, Fairmount Historic District) of the New Jersey State and Federal Historic Registries.
- States that the Historic Preservation Commission of Tewksbury Township finds that the proposed landscape screening, which has a height limitation of 8 to 15 feet because of BPU regulations on vegetation in the high voltage wires zones, will not adequately screen the tower poles at 65 feet and the transformer at 19 feet. The lack of adequate screening will have a negative impact not only on the rural landscape setting of Fairmount Historic District as a whole, but also on contributing resources in the district immediately adjoining the proposed facility. The Commission also finds that the proposed wall with variegated top, which is only 12 feet tall at its highest point, will not provide adequate screening, and screening is not in keeping with the character of the Historic District. The Historic Preservation Commission strongly recommends that the Highlands Council reject the proposed Landscaping Plan as not in compliance with the screening conditions stipulated in the July 15, 2009 NJDEP decision.
- States that the electrical substation technology is an anachronism in this historic district. Even if the station itself were designed to replicate 18th or 19th century architecture (an approach which in itself would violate the Secretary of the Interior’s Standards), electricity was not an aspect of the streetscape at that time. At worst, the wires should be placed underground.

- Believes that the proposed encroachment is clearly an adverse effect on the historic district, as determined by NJ SHPO, and feels that the Highlands Council should not allow it. Understands that the applicant has provided no analysis of alternatives to avoid this encroachment, and also that there is not any provision for the archaeological work required before the landscaping can be properly planned. Without these components, feels that the Highlands Council is not in a position to act on the application. Asks the Council to therefore deny this determination until the application is complete.
- Concerning the Fairmount Historic District map by JCP&L included as part of their landscape plans submittal to the Highlands Council, believes that it potentially misrepresents the significance of the subject lot within the designated district, and would like to make the following distinction. The district’s nomination to the National Register of Historic Places clearly outlines the importance of the juxtaposition of the contributing architectural structures with the open lands that surround them.

Response: The Highlands Council recognizes the directive of the Highlands Act to “protect the natural, scenic, and other resources of the Highlands Region,” and “preserve farmland and historic sites and other historic resources.” Furthermore, the Highlands Council is aware of the memorandum prepared by the New Jersey Historic Preservation Office, dated March 17, 2009 in response to the proposed substation project. The memorandum states “The proposed project will have an **adverse effect** on the Fairmount Historic District.” The memorandum speaks for itself and highlights the inconsistency between the substation project as proposed and the goals and purposes of the Highlands Act, as reflected by the goals, policies and objectives of the RMP. Since the landscape plan cannot effectively screen the historic district from the substation, the adverse impacts noted by the Historic Preservation Office would not be mitigated.

Issues Related to HAD Amended Decision/Exemption

- Feels that absent adequate screening and buffering, the landscape plan does not, and cannot, meet the NJDEP exemption condition that it properly screen “the substation from adjacent homes and roadways and complement the character of the existing historic district” and is, accordingly, inconsistent with the goals and purposes of the Highlands Act as they relate to historic and scenic resource protection.
- Believes that JCP&L, having resolutely selected an unsuitable site directly under power lines, cannot maintain that BPU regulations do not permit it to screen and buffer the site adequately, a required condition of the NJDEP Highlands Applicability Determination (HAD) Amended decision. Feels that JCP&L either meets the requirements for Exemption #11 to apply – or it does not. Believes that the lack of an effective landscape plan, for whatever the reason, means that it does not comply and therefore, does not meet the conditions of the exemption.
- States that the Public Notice for this comment period indicates that “the purpose of the Highlands Council review is not to reconsider the entire substation plan or, in any way,

reconsider NJDEP's conditional HAD." The commentor questions these limitations, as NJDEP's Conditional HAD states that "Failure to implement the approved landscape plan shall constitute a violation of this exemption and the Highlands Act." States that there is no limiting language in this condition which authorizes the Highlands Council to circumscribe its authority. To the contrary, the condition says that the landscape plan must screen the substation from adjacent homes and roadways and must complement the character of the existing historic district. There is no limiting language such as "to the extent practicable."

- Feels that it is simply not possible to adequately screen a facility of this size at this location to materially reduce the negative impacts to the cultural, scenic, historic, and recreational values to be protected under the Act. Therefore, the requirement to meet the language of Exemption 11, ("provided that the activity is consistent with the goals and purposes of this Act.") cannot be met. Thus, believes that the Highlands Council should insist that the existing exemption, granted by the NJDEP without Highlands Council input, be withdrawn and the applicant be advised to seek alternative sites that meet all the needs of the Highlands Region.

Response: The NJDEP issued an amended exemption decision with the condition that the Highlands Council review and approve a landscape plan intended to buffer the surrounding neighborhood from the proposed substation. This condition gave JCP&L an opportunity to illustrate that a landscape plan could be designed to provide an adequate buffer to protect the historic district and the adjacent roadways. The current review is intended to determine whether or not JCP&L was able to satisfy that condition. The Highlands Council review and decision will therefore be within the scope of and expected by NJDEP's Amended Decision, not a reconsideration of it.

Regional Master Plan Policies and Objectives

- Believes that the proposed project is inconsistent with the Highlands Council Regional Master Plan (RMP) Policy 4A3, which states "To ensure through local development review, where a municipality has adopted an historic preservation ordinance under Policy 4C2, that human development does not adversely affect the character or value of resources which are listed on the Highlands Historic and Cultural Resource Inventory to the maximum extent practicable." Feels that the proposed JCP&L substation's landscape plan will not accomplish the preservation objective of ensuring to the maximum extent practicable that the development does not affect the character or value of the historic resource.
- Believes that the proposed project is inconsistent with the Highlands Council RMP Objective 4A3a, which states that all development and redevelopment applications shall include submission of a report identifying potential historic, cultural and/or archaeological resources on the subject property or immediately adjacent properties. States that on March 17, 2009, the Deputy State Historic Preservation Officer (SHPO) sent a memo to the NJDEP Freshwater Wetlands, Land Use Regulation Program, regarding the proposed

substation which stated that “The proposed project will have an adverse effect on the Fairmount Historic District. An alternatives analysis should be done pursuant to Freshwater Wetlands Rules in accordance with N.J.A.C. 7:4-8.8. Therefore an alternatives analysis must be conducted to analyze whether an alternative to the proposed undertaking is available which would result in lesser impacts to buildings....” The memo continued: “Below Ground resources. Based on the topographic setting, known archaeological site locations and historic maps, the project site contains a high potential for prehistoric period and 19th century historic period archaeological deposits. In consequence, a Phase I archaeological survey, and as necessary Phase II archaeological survey, must be conducted on the project site within areas of proposed ground disturbance to identify the presence or absence of archaeological deposits.” Believes that no archaeological survey has been done.

- Notes that the Highlands Council RMP Policies 4A6, 4A8, 4C1, and 4C2 call for implementation of municipal and county mechanisms and actions to protect historic resources. Believes that Tewksbury Township’s actions regarding historic resource protection are consistent with the RMP policies. Believes that in its review of the landscape plan, the Highlands Council should recognize that Tewksbury Township has already established the very sorts of bodies, standards, and guidelines called for by the Technical Report and the RMP goals and objectives to protect both historic and scenic resources. Feels that the Council should recognize the work of these municipal bodies and ordinances as consistent with the Highlands Act and RMP, and support these municipal bodies’ findings of inconsistency of the landscape plan with the Highlands Act and the RMP.
- Notes that Highlands Council RMP Policy 4B5 states: “To require that the impact of proposed human development on the scenic resources of the Highlands Region be addressed during local development review and Highlands Project Review and approval.” States that review of the proposed substation and landscaping plan by the local government has already taken place by several local boards, including the Township Committee, the Scenic Roads and Bridges Commission, the Land Use Board, the Historic Preservation Commission, and the Environmental Commission. States that the JCP&L landscape plan specifically affects a scenic road and believes that the protections that have been provided by the municipality for scenic roads should be recognized and accepted by the Highlands Council as evidence of inconsistency of the proposed project with protection of the scenic resource.
- States that the Highlands Council RMP Scenic Resource Protection Program suggests the following protection mechanism: “Establish road corridor guidelines that protect existing tree rows along scenic roads and require minimum buffer yards (e.g. 100 feet) to be left in natural vegetation, subject to safety considerations and environmental protection needs. Minimum landscape provisions of the buffer may be established for different types of roadside environments.” (RMP at pg 296.) Believes that the proposed JCP&L landscaping plan does not meet this proposed standard; therefore the proposed JCP&L landscape plan must be deemed inconsistent with the RMP.

Response: As described in the Highlands Council Determination Letter, despite the efforts of JCP&L to provide an acceptable plan to screen the proposed facility from the Fairmount Historic District and roadways, the Landscape Plan does not form an adequate buffer between the substation structure and the surrounding community, including the historic district and historic properties, and is therefore inconsistent with historic and scenic goals, policies, and objectives of the RMP. The proposed JCP&L substation, as designed and sited within the Fairmount Historic District, does not serve to protect, preserve, or enhance Highlands resources. This finding is significant enough to support a determination that the Landscape Plan is not sufficient to ensure that the project as a whole is consistent with the goals and purposes of the Highlands Act.

Challenges to JCP&L Claims as Related to Landscape Plan

- Believes that the JCP&L claim that their substations need to be built as close to the road as possible for access in times of emergency – that they cannot use private driveways for access (they need their own access) – is untrue. Believes this is germane to the proposed landscaping screening plan because JCP&L has used the driveway access argument to reject alternative sites that would not have negative impacts on scenic and historic resources in the Highlands Preservation area. Believes there is factual evidence (based on other existing JCP&L substations) that demonstrates that the JCP&L claim is untrue: 1) States that the entrance to the JCP&L Manalapan Substation is 600 feet off the road and access is gained at the rear of the substation through the private driveway of the neighboring warehouse; 2) States that the access road to the JCP&L Jackson substation is 1,500 feet from the road.
- Believes the JCP&L claim that it can't run wires for long distances to feed a substation is untrue. States in fact, JCP&L runs wires for miles and miles to feed substations. Believes this is germane to the proposed landscaping screening plan because JCP&L has used this argument to reject alternative sites that would not have negative impacts on scenic and historic resources in the Highlands Preservation area. Believes there is factual evidence (based on other existing JCP&L substations) that demonstrates that the JCP&L claim is untrue: The Newburgh Road substation in Hackettstown is fed by a 35-kv line that runs over the mountains and through a shopping center to get the power to the substation. A 35-kv line feeds the JCP&L Peapack substation from Chester, well over 8 miles away. The Cross Roads substation in Chester is fed by a 35-kv line that runs for miles along Lamington Road. In Basking Ridge, 35-kv lines that feed substations run parallel to the 230-kv lines for several miles.

Response: The Highlands Council acknowledges the claims made in the comments; however, the Highlands Council does not have adequate information to determine if these claims are correct. The focus of this review is the proposed Califon Substation site in Tewksbury, as determined by Board of Public Utilities and NJDEP decisions.

Other Issues

- States that although JCP&L may be limited with respect to tree height due to BPU regulations, believes that they are not limited in wall height. Feels that a 12-14 foot wall, similar to those along the highways, would conceal much, although not all, of the structures inside, and at least improve the vista at eye level, particularly if ivy is planted to run up it.
- States that there was a suggestion made at the town hearing to use a brownfield site or land adjacent to a brownfield site, and feels that was an excellent suggestion. Believes this can satisfy the residents' aesthetic concerns and the negative impact on an historic district as well promoting a stated goal of the Highlands Act to promote brownfield redevelopment.
- States that the proposed landscape plan conforms to the BPU's rigid vegetation management rules, which are based on national guidelines implemented in the wake of the blackout of 2005. Also states that given the physical nature of an electrical substation, all should agree it is virtually impossible to completely hide one from view. That said, the commentor asks the question, if the Highlands Council does not approve the JCP&L landscape plan, does that mean the project is prohibited from being built?
- States that although does not have confidence that the proposed stone wall will aesthetically satisfy the requirement to blend in with the historic character of the area, is more concerned about the stormwater issues created as a result of the introduction of this substantial impervious structure.

Response: The Highlands Council acknowledges the comments relative to the restrictions placed on the height of vegetation. The condition that JCP&L develop a satisfactory landscape plan stated that the landscape plan be extensive and should screen the substation from the adjacent homes and roadways and should complement the character of the existing historic district. The condition concludes that failure to implement the approved landscape plan would result in a "violation of the exemption and the Highlands Act." Regarding other potential sites, the focus of this review is the proposed Califon Substation site, as determined by Board of Public Utilities and NJDEP decisions.

JCP&L Comments

- Feels that the proposed landscape plan fully meets the condition set forth in NJDEP's Amended Decision – that it is an extensive landscape plan, using native plant species, to screen the substation from adjacent homes and roadways and complement the character of the existing historic district.
- Notes that it had submitted information to the Highlands Council to be consistent with the exemption condition and to be responsive to the Highlands Council's request for specific materials including: 1) a narrative timeline of meetings, events, and actions involving JCP&L, the Township, and Friends of Fairmount Historic District (FFHD) since the issuance of the BPU Order; 2) section elevations of the proposed landscaping plan, which incorporates input received from FFHD; 3) a formal landscaping plan prepared by a certified landscape architect reflecting input from surrounding residents; 4) a depiction of a screening wall that

was requested by Tewksbury Township; 5) photographs of existing substations that have characteristics comparable to those of proposed substation; and 6) explanation of the restrictions that prevent construction of an enclosure or barn-type structure over and around the proposed substation.

- States that the landscape plan was created by a New Jersey-licensed Certified Landscape Architect, with input from JCP&L and its professional engineers.
- Notes that the landscape plan provides a four-season buffer along the perimeter of the substation boundaries in order to screen the substation with native plant species as required by NJDEP. States that the buffers were designed to fulfill requests from representatives of Tewksbury Township and from certain residents, while conforming to the legally-mandated height restrictions due to the transmission lines located over the northern portion of the site.
- Notes that the certified landscape architect designed the landscape buffers to visually screen the eye-level views from the traffic on Fox Hill Road and the adjacent residential properties. It is additionally noted that in order to ensure the effectiveness of the buffers, notes were included in the Landscape Plan to allow for field adjustments during the installation of the landscape plant materials so that natural gaps in the existing wooded area are filled to enhance the screening.
- States that the Landscape Plan submitted to the Highlands Council by JCP&L reflects the evolution that has occurred as a result of discussions, comments, and requests made during the initial Land Use Board application process, as well as the meetings with the neighboring residents and the Township since the issuance of the BPU Order.
- Notes that Tewksbury Township officials had requested a screening wall on the property frontage. States that at the request of the Township, the wall was designed and fashioned with a crumbling façade. Notes that this concept was submitted to the Township for review on February 8, 2010 and while waiting for final comments from the Township, this concept wall has been incorporated into the proposed landscape plan.
- States that during the project review process, individuals have complained that some of the electrical equipment associated with the project is too tall to be able to screen and thus, the Highlands Council could never approve the proposed landscape plan (despite NJDEP's implicit presumption that a landscape plan was approvable). Believes these complaints miss the mark. States that there is nothing in the Highlands Act or the NJDEP's Amended Decision granting the exemption that requires that the substation be rendered invisible. Feels that NJDEP's conditional approval requires only a screen comprised of native species.
- Notes that portions of the proposed substation property are within the pre-existing transmission easement (circa. 1925), which includes the wire zone (the land directly under the outermost wire or tower) and the border zone (the land between the wire zone and the edge of the right of way) of this easement. Notes that the legal restrictions on vegetation in transmission easements are different for each zone, with those in the wire zone being more

restrictive. JCP&L determined and agreed that plantings up to 8 feet could be used in the wire zone. Believes that working within existing legal requirements, the proposed landscape plan provides screening for the proposed substation.

- Believes that the proposed landscape plan does complement the character of the existing historic district. The plan, including the requested crumbling-façade screening wall, has been designed to use native plant species, consistent with the character of the surrounding landscape.
- States that while the proposed substation property is located within the boundaries of the Lower Fairmount Historic District, there are only three homes that are classified as historic homes and are within the immediate vicinity (500 feet) of the proposed substation. Notes that a transmission easement and line in existence since 1925 (pre-dating the establishment of the Lower Fairmount Historic District) currently extends through and is adjacent to the subject property. Notes that the homes on the two flag lots behind the proposed substation are not classified as historic homes. States that there is a mix of historic and post-1980 constructed homes as well as utility and telecommunication infrastructure in the surrounding area, including the Apple Lane development.
- States that the subject property is not adjacent to, or within any significant resources listed in the Highlands Council's Highlands Scenic Resource Inventory, although notes that the Tewksbury Master Plan of 2003 indicates that Fox Hill Road is a scenic road. States that JCP&L has considered this aspect in the development and design of the landscape plan – that it has masked the view of the substation from the road and further attempted to distract the public' view by, among other things, the inclusion of the crumbling façade screening wall, as requested by Township officials.
- Notes that the Highlands Council's review for this project specifically is for consistency with the historic resource protection and scenic resource protection programs in the Highlands RMP. Believes this type of consistency determination is within the jurisdiction of NJDEP when issuing exemptions for utility projects, and states that although NJDEP has already made that determination for the proposed project, JCP&L would like to assure the Highlands Council that the landscape plan is consistent with the historic and scenic resource protection programs of the RMP, as well as the remainder of the goals and purposes of the Highlands Act. States that the company and its landscape architect developed the landscape plan cognizant of the historic resources of the Fairmount Historic District and worked with Tewksbury Township to ensure that the landscape plan was protective of all resources. Believes that the landscape plan does not adversely impact any historic resources.

Response: As stated above, relative to the comments regarding the deficiency of the landscape plan, the Highlands Council recognizes the extremely difficult task of screening the proposed JCP&L substation from the Fairmount Historic District and the neighboring roadways – Fox Hill Road and Hollow Brook Road. The Highlands Council further recognizes the limitations faced by JCP&L in designing a landscape plan to buffer its substation from the surrounding community.

Despite JCP&L's efforts to provide an acceptable landscape plan to screen their facility from the historic district and roadways, the landscape plan does not form an adequate buffer between the substation structure and the surrounding community, including the historic district, historic properties, and roadways. Although the Landscape Plan does include a wall intended to help screen the substation location, it does not adequately block views into the site from Fox Hill Road and does not buffer views from Hollow Brook Road.

The Highlands Council disagrees with the JCP&L's presumption that the NJDEP's condition only requires a landscape plan comprised of native species. The condition clearly states that in order to meet the condition, JCP&L must produce "an extensive landscape plan, using native species, to screen the substation from adjacent homes and roadways and complement the character of the existing historic district." The condition goes on to state that, "Failure to implement the approved landscape plan shall constitute a violation of this exemption and the Highlands Act."