



State of New Jersey

DEPARTMENT OF TRANSPORTATION

One Executive Campus
Route 70 West, Second Floor
Cherry Hill, NJ 08002

Jon S. Corzine
Governor

Stephen Dils
Commissioner

August 11, 2009

ATLANTIC CITY ELECTRIC
5100 Harding Hwy
Mays Landing, NJ 08330

In Reply Please Refer To:

Application No. P-077-3-08-0006546
County: SALEM
Municipality: UPPER PITTSBORO TWP.
Route: NJ 77

To Whom It May Concern:

The Department of Transportation has reviewed the application for the above referenced permit and finds that the said permit must be denied for the following reasons:

- The New Jersey Administrative Code, Title 16 Highways, Chapter 41, Highway Occupancy (N.J.A.C. 16:41) indicates in Subchapter 16:41-6.1 (q) that "Longitudinal installation of overhead lines on the highway rights-of-way shall be limited to single wooden pole type construction."
- The New Jersey Administrative Code, Title 16 Highways, Chapter 25, Utility Accommodation (N.J.A.C. 16:25) indicates in Subchapter 16:25-5.2(a) that "Any longitudinal installation of overhead lines on the highway right-of-way shall be limited to single wooden pole type of construction. The Department, however, will consider utility requests to use a non-wooden pole type of construction when an existing pole is replaced on a case-by-case basis in accordance with N.J.A.C. 16:25-2.3, only in circumstances in which public safety is not compromised."
- The Department does not feel that Atlantic City Electric's proposed traffic safety measures meet the Administrative Code requirement that "public safety is not compromised."

-The placement of the required pole foundations of this size, as well as electric and telephone lines underground, exhausts the ability to locate future additional public utilities (i.e., water, sewer, gas) within the berm area as indicated in the N.J.A.C. 16:25 Subchapter 3.1(c) and New Jersey Administrative Code for Highway Occupancy N.J.A.C. 16:41 Subchapter 6.3(i)10.

-The New Jersey Statue, Title 48 Public Utilities, indicates in Subchapter 48:7-1 that "No poles shall be erected in any street of an incorporated city or town without first obtaining from the incorporated city or town a designation of the street in which the same shall be placed and the manner of placing the same. Such use of the public streets shall be subject to such regulations as may be first imposed by the corporate authorities of the city or town." This documentation was never presented to the Department.

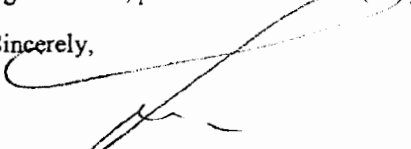
-An agreement must be reached between the Department and Atlantic City Electric regarding the long-term need to repair, upgrade or replace the proposed additional guide rail and traffic devices. These repairs/upgrades will be the responsibility of Atlantic City Electric.

If you desire to proceed with your proposal, please submit a new application, six sets of plans and the appropriate fee.

Please be informed that any work performed within the State right-of-way without the benefit of a valid permit is considered an encroachment and can result in legal action and fines.

If you have any questions or information regarding the above, please contact me at (856) 486-6685.

Sincerely,


Victor Ushyaner
For Regional Maintenance Engineer
SOUTH REGION

NEW JERSEY DEPARTMENT OF TRANSPORTATION

MEMORANDUM

TO: Victor Uzlyaner
Region South Maintenance Permits

FROM: Karen Minch
Utility Coordination

DATE: July 10, 2009

PHONE: 609-530-5385

SUBJECT: Utility Permit Application # P-077-3-08-0006546
Atlantic City Electric
Route 77 – MP 10.2 – 11.6
Upper Pittsgrove Township, Salem County

Background

Atlantic City Electric submitted the subject utility permit application on March 19, 2008. The application proposes to install seventeen (17) steel structures carrying 230 kV transmission lines within State Highway Route 77 right of way. Although other factors were of concern, the permit application was denied primarily based on the rules in the New Jersey Administrative Code, Title 16 Highways, Chapter 25, Utility Accommodation (N.J.A.C. 16:25). The code indicates in Subchapter 16:25-5.2(a) that "Any longitudinal installation of overhead lines on the highway right-of-way shall be limited to single wooden pole type of construction. The Department, however, will consider utility requests to use a non-wooden pole type of construction when an existing pole is replaced on a case-by-case basis in accordance with N.J.A.C. 16:25-2.3, only in circumstances in which public safety is not compromised." The reference to N.J.A.C. 16:25-2.3 is the Waiver subchapter of the code. Atlantic City Electric has appealed the decision and requests a waiver from the code requirements.

To meet these waiver requirements, Atlantic City Electric submitted additional plans and a report entitled "*UAC Policy Waiver Report and Traffic Safety Study for ACE 230 kV Steel Pole Installation, N.J. Route 77, Township of Upper Pittsgrove, Salem County, New Jersey*". The documentation is a preliminary submission to evaluate the additional safety measures proposed by Atlantic City Electric. Subsequent to the submission, an informal meeting was held with Atlantic City Electric representatives to discuss and clarify the proposed improvements.

Proposed Safety Mitigation

The primary safety improvement proposed by Atlantic City Electric is the installation of guide rail to prevent motorists from directly impacting the structures. Atlantic City Electric also proposes to remove all of the existing distribution utility poles (89 poles) both northbound and southbound within the application limits instead of the 49 poles previously proposed in their application.

In addition to the removal of all the existing utility poles, Atlantic City Electric proposes several safety improvements to the State Highway. These improvements include rumble strips on the outside shoulders, grooving or adding a friction course to the travel lanes in the location of the horizontal curves, and the placement of traffic safety devices. The particular devices mentioned in the report are flexible ground mounted delineators along the edge of shoulder throughout the project limits and solar powered flashing beacon warning signs and chevron signs at the horizontal curves.

Data Analysis

There were thirty total accidents over a three year period on State Highway Route 77 from milepost 10.2 to 11.6 for the years 2005 to 2007 and the accident rate is above the Statewide Crash Rate for a highway cross section of two lanes with shoulder for the year 2007. A summary of the accident rates shows that many of the accident indicators in this location are overrepresented. Key indicators such as fatal and injury severity were above the Statewide average. Collision types of angle, head on, and animal were also overrepresented as well as several environmental factors including wet pavement surface and night conditions. The fixed object accident rate, a form of run off the road accidents was extremely high accounting for over 36 percent of the total accidents. This accident rate included one fatality and was significantly overrepresented compared to the 2007 Statewide accident rate for fixed objects of 12.25 percent.

The steel structures proposed by Atlantic City Electric are considered obstructions and their proposal for protecting the structures with guide rail is necessary. Although guide rail is necessary in protecting highway obstructions, it is also considered a roadside obstruction, and Atlantic City Electric's proposal will install over 3200 feet of additional guide rail on the northbound side of the highway.

There is also a benefit of removing all of the distribution utility poles. However, utility poles are not considered fixed objects in design and the tradeoff of installing over 2000 feet of guide rail on the southbound side of the highway to protect transformer boxes in lieu of the utility poles is not an appropriate course of action. Therefore, any consideration of this approach would require the transformer boxes to be moved outside of the right of way. In addition, the issue of requiring homeowners to upgrade their electrical facilities as part of this mitigation effort is also an issue and will require a legal interpretation by a State Deputy Attorney General.

The other safety measures proposed by Atlantic City Electric may improve the highway's existing conditions, however, some of the proposed items, in particular the flashing beacons at the curves is not a Department standard.

Recommendation

A thorough review of the additional documentation submitted by Atlantic City Electric and the analysis of highway data for this location has been performed. Because guide rail itself is considered an obstruction, it is the Department's policy that every effort should be made to eliminate an obstruction prior to the installation of guide rail. The high number of run off the road type accidents on this highway is cause for great concern with the introduction of these seventeen obstructions within the highway's clear zone. Based on these factors, the Department does not agree with Atlantic City Electric that placing the steel structures, even with guide rail protection and the additional safety measures proposed, meets the Administrative Code requirement that "public safety is not compromised" on this highway. Therefore, the request for a waiver to the requirements in N.J.A.C. 16:25 is denied.

There are additional concerns that have been previously discussed with Atlantic City Electric or are a result of this submission. These concerns are itemized below:

1. In the event that the highway needs to be widened, the burden of the cost to relocate these facilities will be the responsibility of the residents and citizens of the State of New Jersey.
2. The expense and manpower needed to repair, upgrade or replace the proposed additional guide rail and traffic devices will be the responsibility of the State.
3. The placement of electric and telephone lines underground further exhausts the ability to locate additional public utilities (i.e., water, sewer, gas) within the berm area as indicated in the N.J.A.C. 16:25 Subchapter 3.1(c) and New Jersey Administrative Code for Highway Occupancy N.J.A.C. 16:41 Subchapter 6.3(i)10.