

**STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES**

**IN THE MATTER OF THE PEITION :
OF JERSEY CENTRAL POWER & :
LIGHTING COMPANY FOR A :
DETERMINATION CONCERNING : ANSWER
THE ALLENHURST-OCEANVIEW :
34.5 KILOVOLT TRANSMISSION : DOCKET NO. E024060479
LINE PROJECT LOCATED IN :
ALLENHURST BOROUGH, NEW :
JERSEY PURSUANT TO N.J.S.A :
40:55D-19 :**

**TO: THE HONORABLE COMMISSIONERS
OF THE NEW JERSEY BOARD OF PUBLIC UTILITIES**

Respondent, the Borough of Allenhurst (“Allenhurst”), a Body Politic incorporated within the State of New Jersey, with its principal place of business located at 125 Corlies Avenue, Allenhurst, New Jersey, Monmouth County, New Jersey, hereby states, by way of Verified Answer to the above-captioned Petition as follows:

I. General Background

1. Allenhurst was developed on the site of a 120 acre farm originally owned by Abner Allen.
2. Allenhurst was incorporated on April 26, 1897.
3. Allenhurst is located north of the Village of Loch Arbour and the City of Asbury Park; east of Ocean Township and the Borough of Interlaken; and south of the Borough of Deal. Deal Lake runs along the western and southern edges of the Borough, separating it from Ocean Township and the Borough of Interlaken; and the southern portion of the Borough of Deal. The Atlantic Ocean borders Allenhurst to the east.

4. Allenhurst is a quiet historic Atlantic shore town with a year-round population of approximately five hundred people.
5. Allenhurst is characterized by wide streets, and buildings that belong to Greek revival, Queen Anne, Italianate, Victorian Eclectic, Vernacular Variations, Colonial Revival, Spanish Mission/Italian Renaissance, Bungalow, English Tudor, and other 19th century architectural styles.
6. Allenhurst has retained many of its original 19th century structures.
7. The streetscape, which consists today, features a typical mix of 19th century domestic architecture and mature shade trees along the residential streets.
8. Allenhurst consists of a small and clearly defined and limited business district along Main Street.
9. Land in Allenhurst is allocated to four main uses: residential (88%), business and commercial (7.5%), parks and recreation (3%) and municipal operations (1.5%)
10. In November of 1980, the New Jersey Department of Cultural and Environmental Services conducted an Historic Sites Survey of Allenhurst and determined that a multitude of private and public structures that were eligible for listing on the State/National Registers of Historic Places.
11. In 1985 a Cultural Resources Reconnaissance by the U.S. Army Corps of Engineers noted that Allenhurst's building stock reflected the popular styles of late 19th and early 20th century architecture and also noted that Allenhurst was eligible as an Historic District.

12. On February 13, 2003, Allenhurst adopted Ordinance 2003-05, known as the Historic Preservation Ordinance. This ordinance establishes the entire town as part of the Historic District.
13. The Historic Preservation Ordinance establishes the circumstances, conditions, and procedures to obtain a Certificate of Appropriateness from the Planning Board as it pertains to exterior architectural features, application for permits from the Construction Official or applications for development of properties within Allenhurst.
14. The Historic Preservation Ordinance includes Design Guidelines which establish suggested means of maintaining the visual sense of the past within the district.
15. The Design Guidelines are utilized by the Planning Board to review all development applications within Allenhurst.
16. A key element of any permitted development in Allenhurst is the requirement to maintain the aesthetic qualities of the community which maintains its link to its rich history and keeps the town a beautiful, quaint seaside community.
17. Petitioner seeks to install two new steel poles in Allenhurst in connection with Allenhurst-Oceanview 34.5 kilovolt Transmission Line Project (“Project”). The two proposed poles are identified as pole 188 and pole 184.
18. The proposed Project impacts the Corlies Avenue and Lake Drive corridor of Allenhurst.
19. Currently, JCP&L has three transmission lines which enter Allenhurst from Ocean Township over Deal Lake. These transmission lines follow Corlies Avenue. Once the transmission lines enter Allenhurst, they make a ninety degree turn to the south onto Lake Drive. The transmission lines travel down Lake Drive and make a ninety degree turn to the east to access a substation.

20. The Corlies Avenue bridge from Ocean Township into Allenhurst is a gateway way into the Borough.
21. There are six homes located on Lake Drive.
22. As part of a Redevelopment Plan, twenty-three affordable housing units will be constructed on Lake Drive.
23. To the rear of the homes located on Lake Drive are New Jersey Transit train tracks.
24. JCP&L currently uses the New Jersey Transit corridor for electric transmission and distribution purposes. Located in this corridor are poles utilized by JCP&L, which support these electric lines.
25. The current transmission lines on Corlies Avenue and Lake Drive are supported by six wood poles.
26. These six wood poles are located across the street from the homes on a strip of land between Deal Lake and Lake Drive.
27. In connection with the Project, proposed pole 188 is to replace a wood pole located at, or about, the corner of Corlies Avenue and Lake Drive. This corridor is the eastern entrance into Allenhurst from Ocean Township. Further, proposed pole 188 would be placed across the street from a private residence.
28. Currently, a wood pole is situated at, or about, the proposed location of pole 188. The current pole is approximately 72 feet in height with a diameter of 22 inches and has no foundation.
29. Proposed pole 188 would be steel, 73 feet in height, 46 inches in diameter at its base and be situated on a concrete foundation 7 feet in diameter, 30 feet deep and 12 inches above grade.

30. Proposed pole 184 is to be placed on Lake Drive across the street from a private residence.
31. Currently, a wood pole is situated at, or about, the proposed location of pole 184. The current pole is approximately 48 feet in height with a diameter of 22 inches and has no foundation.
32. Proposed pole 184 would be steel, 72 feet in height, 42 inches in diameter at its base and be situated on a concrete foundation 7 feet in diameter, 36 feet deep and 12 inches above grade.
33. The Petitioner sought a zoning permit from Allenhurst's Zoning Official for construction of poles 188 and 184.
34. Allenhurst's Zoning Official denied the Petitioner's zoning permit.
35. Allenhurst's Zoning Official noted that public utility use is not specifically permitted in any zone within the Borough. However, under easement agreements JCP&L had been granted a non-conforming use for the utility poles impacted by the proposed Project.
36. Petitioner was advised that in connection with poles 188 and 184, the requirement of concrete foundations and replacing wood poles with steel poles would require a variance under N.J.S.A. 40:55D-10(d)(2) for an expansion of a non-conforming use.
37. Petitioner filed an application with the Allenhurst's Planning Board seeking variance relief for poles 188 and 184.
38. Hearings were conducted before the Allenhurst Planning Board on June 28, 2023, and May 22, 2024.
39. At the June 28, 2023, hearing, Lawrence Hozempa, Daniel Somerville, and Jeffrey Morris were offered by JCP&L in support of its application. Mr. Hozempa, an employee

of FirstEnergy Service Company, was presented as the general manager for the transmission planning and protection department. Mr. Somerville, an employee of FirstEnergy Service Company, was presented as an engineer in the transmission design group. Mr. Morris, of Boswell Engineering, was presented on behalf of JCP&L as a licensed planner and engineer.

40. At the June 28, 2023, hearing, witnesses from JCP&L admitted that the installation of proposed poles 188 and 184 would create an aesthetic detriment to Allenhurst.
41. At the June 28, 2023, hearing, members of the Planning Board and public asked questions of the JCP&L witnesses about alternate routes for the proposed transmission lines and voiced concern about the aesthetic impact of the two steel poles being erected at the gateway of the Borough.
42. At the June 28, 2023, witnesses from JCP&L admitted that they did not consider alternate routes for the proposed transmission lines. This included, utilizing the New Jersey Transit corridor, crossing Deal Lake at another point, running the transmission lines on the lakebed, or suspending the transmission lines under the Corlies Avenue bridge.
43. At the June 28, 2023, witnesses from JCP&L claimed that running the lines underground was considered. However, the witnesses could provide no specifics with regard to that consideration such as projected cost, route and/or provide any reports/documents reflecting that JCP&L considered placing the transmission lines underground.
44. At the conclusion of the June 28, 2023, hearing, JCP&L requested that the matter be carried so the company could consider the comments of the Planning Board and public and review the feasibility of alternate routes for the transmission lines. Once JCP&L had

an opportunity to confer internally they would then request a second hearing before the Planning Board.

45. After approximately one year, JCP&L requested a second hearing before the Planning Board.

46. On May 22, 2024, a second hearing was held in connection with JCP&L's application before the Planning Board.

47. At the May 22, 2024, hearing, Daniel Somerhill, Jeffrey Morris, and Lawrence Hozempa testified on behalf of JCP&L.

48. At the May 22, 2024, hearing, JCP&L made no changes or modifications to the plans for the Project which were presented at the first Planning Board meeting.

49. At the May 22, 2024, hearing, witnesses on behalf of JCP&L testified that it was not "reasonably feasible" for other alternate transmission routes (e.g. placing the lines underground, crossing Deal Lake at another point).

50. At the May 22, 2024, hearing, despite claiming that feasibility reports were created, none were provided to the Board.

51. At the May 22, 2024, hearing, again, witnesses for JCP&L could not provide the cost estimate for placing the transmission lines underground.

52. At the May 22, 2024, hearing, despite claiming alternate routes could create potential environmental risks, witnesses for JCP&L could not clearly identify same.

53. Between the first hearing and second hearing, JCP&L did not explore the feasibility of routing the transmission lines along the New Jersey Transit railroad corridor.

54. Between the first hearing and the second hearing, JCP&L did not explore the feasibility of carrying the transmission lines over Deal Lake and then placing them underground.

55. At the May 22, 2024, members of the Planning Board, public and attorneys on behalf of objecting residents posed questions to the witnesses and provided comments regarding their position on the proposed Project.
56. At the conclusion of the hearing the Planning Board conducted a vote on JCP&L's application. The application was denied unanimously.
57. It is anticipated that the resolution memorializing this decision will be adopted by the Planning Board at its July 17, 2024, meeting. Once the resolution is passed, same will be supplied to this Board.
58. JCP&L filed the instant Petition on June 26, 2024.

RESPONSE TO PETITION

1. This paragraph does not pertain to the Respondent and no response is provided.
2. The Respondent neither admits nor denies the allegations contained in this paragraph of the Petition and leaves Petitioner to their proofs.
3. The Respondent neither admits nor denies the allegations contained in this paragraph of the Petition and leaves Petitioner to their proofs.
4. The Respondent denies the allegations contained in this paragraph of the Petition.
5. The Respondent denies the allegations contained in this paragraph of the Petition.
6. The Respondent denies the allegations contained in this paragraph of the Petition.
7. The Respondent denies the allegations contained in this paragraph of the Petition.

FACTUAL BACKGROUND

8. The Respondent neither admits nor denies the allegations contained in this paragraph of the Petition and leaves Petitioner to their proofs.
9. This paragraph does not pertain to the Respondent and no response is provided.
10. This paragraph does not pertain to the Respondent and no response is provided.
11. The Respondent admits the contents of this paragraph.
12. The Respondent neither admits nor denies the allegations contained in this paragraph of the Petition and leaves Petitioner to their proofs.
13. The Respondent neither admits nor denies the allegations contained in this paragraph of the Petition and leaves Petitioner to their proofs.
14. The Respondent denies the allegations contained in this paragraph of the Petition.
15. The Respondent denies the allegations contained in this paragraph of the Petition.
16. The Respondent neither admits nor denies the allegations contained in this paragraph of the Petition and leaves Petitioner to their proofs.
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18. The Respondent denies the allegations contained in this paragraph of the Petition.
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PROJECT DESCRIPTION

29. The Respondent neither admits nor denies the allegations contained in this paragraph of the Petition and leaves Petitioner to their proofs.
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NEED FOR THE PROJECT

46. The Respondent neither admits nor denies the allegations contained in this paragraph of the Petition and leaves Petitioner to their proofs.
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SITE SELECTION AND ALTERNATIVE SITE ANALYSIS

50. The Respondent denies the allegations contained in this paragraph of the Petition.
51. The Respondent admits the allegations contained in this paragraph of the Petition.
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JURISDICTION AND REGULATORY STANDARD FOR APPROVAL

61. The Respondent admits the allegations contained in this paragraph of the Petition.
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66. Petitioner's allegation in this paragraph is a legal conclusion to which no response is required. To the extent a response is required, Respondent denies any allegation.

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75. The Respondent denies the allegations contained in this paragraph of the Petition.

REASONABLE NECESSITY AND BEST AVAILABLE SITE

76. The Respondent denies the allegations contained in this paragraph of the Petition.
77. The Respondent denies the allegations contained in this paragraph of the Petition.
78. The Respondent denies the allegations contained in this paragraph of the Petition.

OTHER APPROVALS

79. The Respondent neither admits nor denies the allegations contained in this paragraph of the Petition and leaves Petitioner to their proofs.

AFFIRMATIVE DEFENSES

1. At all relevant times, Respondent complied with all applicable laws, regulations, and standards in denying the zoning application.
2. Petitioner has failed to state a claim upon which relief may be granted.
3. Petitioner has failed to demonstrate it is entitled to relief under applicable statutory and regulatory provisions and/or requirements.
4. Petitioner lacks standing to bring some or all of the claims in the Petition.

RESERVATION OF RIGHTS

Respondent reserves the right to supplement its Answer and its Affirmative Defenses with additional defenses that become available or apparent during the course of investigation, preparation of discovery, and to amend its Answer accordingly.

WHEREFORE, Respondent respectfully requests that the Board issue an Order denying and dismissing the Petition and granting such other relief as the Board shall deem just and equitable.

REARDON ANDERSON, LLC
Attorneys for Borough of Allenhurst and
Borough of Allenhurst Planning Board

BY: */s/ Erik Anderson*
ERIK ANDERSON

DATE: July 15, 2024