

STATE OF FLORIDA  
SITING BOARD

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AT

IN RE: JEA BRANDY BRANCH COMBINED )  
CYCLE CONVERSION POWER PLANT )  
SITING APPLICATION NO. PA00-43. )

OGC CASE NO. 00-2321  
DOAH CASE NO. 00-5120EPP

JLW-Clood

FINAL ORDER ON LAND USE AND SITE CERTIFICATION

On January 15, 2002, an administrative law judge with the Division of Administrative Hearings ("DOAH") submitted a Recommended Order on Land Use Following Remand and a Recommended Order on Certification in this administrative proceeding. The two Recommended Orders indicate that copies were served upon counsel for the Applicant, JEA Brandy Branch Combined Cycle Conversion Plant ("JEA"), the Department of Environmental Protection ("DEP"), the City of Jacksonville ("City"), the St. Johns River Water Management District ("SJRWMD"), and other designated agencies. Copies of the Recommended Order on Land Use Following Remand and the Recommended Order on Certification are attached hereto as Exhibits A and B, respectively. The matter is now before the Governor and Cabinet, sitting as the "Siting Board," for final agency action under the Florida Electrical Power Plant Siting Act ("PPSA") embodied in §§ 403.501-403.518, Florida Statutes.

BACKGROUND

JEA is a municipally-owned utility providing electric service to approximately 350,000 customers in Duval County and surrounding counties. On December 8, 2000, JEA filed an application with DEP for site certification for the Brandy Branch Combined Cycle Conversion Project (the "Project"). JEA's Brandy Branch facility is located in western Duval County near the town of Baldwin, Florida. The entire Project site covers approximately 153 acres, and approximately 45 acres have already been developed in connection with an existing power plant consisting of three simple-cycle combustion turbines and supporting facilities. These three simple-cycle combustion turbines are now in operation at the Project site.

In this PPSA proceeding, JEA is proposing to convert two of the existing simple-cycle combustion turbines (Units 2 and 3) into a combined cycle unit by adding a new 190 megawatt steam turbine generating unit. This steam turbine unit will be powered by two new heat recovery generators located behind the two combustion turbines. These two heat recovery generators will supply steam to the steam turbine by capturing exhaust gases from the two combustion turbines.

The new steam turbine generator will be installed to the west of existing Unit 3. A new cooling tower will also be constructed at the Project site to cool the steam turbine condenser. The conversion of Units 2 and 3 into a combined cycle unit would create a 530 megawatt unit, which is projected to be placed into operation in the year 2004. Unit 1 will continue as a 170 megawatt simple-cycle combustion turbine. Consequently, the total plant output at the Project site will be approximately 700 megawatts when the new steam turbine generating unit begins operation.

DEP forwarded JEA's application to DOAH for formal proceedings and Administrative Law Judge, J. Lawrence Johnston (the "ALJ"), was assigned to preside over the case. Pursuant to § 403.508(2), Florida Statutes, land use hearings were held by the ALJ on April 24 and December 4, 2001, for the purpose of determining whether the Project site is "consistent and in compliance with existing land use plans and zoning ordinances" of the City.<sup>1</sup> In compliance with § 403.508(3), Florida Statutes, the ALJ also received evidence at the final hearing on the issue of whether the Project will comply with the criteria for site certification set forth in the PPSA.

#### RECOMMENDED ORDERS ON LAND USE

In his initial Recommended Order on Land Use, the ALJ concluded that the Project site "is consistent and in compliance with the City of Jacksonville's land use plans and is generally consistent with the applicable zoning ordinances for the site." However, the ALJ found that the heights of the emissions stacks at the Project site as finally approved in DEP's air permit would probably exceed the stack heights represented in JEA's Planned Unit Development ("PUD") application approved by the City of Jacksonville. The ALJ observed that the parties had entered into an agreement that, as soon as DEP issues an air permit for the Project determining the actual air emissions limits and stack heights, JEA would seek a revision to its PUD zoning approval to accommodate any necessary revisions to the air emissions limits and stack heights.

The Recommended Order on Land Use Following Remand contains an additional finding by the ALJ that, on August 30, 2001, the City Planning Commission granted JEA's request that the PUD zoning for the Project site be modified to allow a maximum structure height of 199 feet and to provide that the Project must comply with the conditions of any air emissions permit issued by DEP. The ALJ further found that the maximum height of any Project structure at the site will be 190 feet.

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<sup>1</sup> The ALJ entered his initial Recommended Order on Land Use in this PPSA proceeding on July 5, 2001. However, on September 18, 2001, the Siting Board entered an Order of Remand for Further Proceedings. In its Order of Remand to DOAH, the Siting Board directed that further evidence be taken

## RECOMMENDED ORDER ON CERTIFICATION

The ALJ recommended that the Siting Board enter a final order granting "full and final certification" of the Project. Included in the Recommended Order on Certification are the following significant findings of fact of the ALJ:

1. The primary fuel to power the Project generating units is and will continue to be natural gas, and the burning of this natural gas will not generate solid or hazardous waste through the combustion process. Low sulfur fuel oil will continue to be used as a "backup" fuel only, limited to use for a maximum of 288 hours per unit on an annual basis.
2. The planned withdrawal of ground water in the operation of the Project is not expected to have an adverse impact on the ground water resources at the site or on adjacent properties. In addition, the operation of the Project is not expected to have any adverse impacts on surface waters.
3. Emissions from operation of the Project are not expected to have any significant adverse impacts on air quality, vegetation, soils, or visibility in the area surrounding the Project or in the nearest Class I area.
4. The Project construction and operation will result in significant economic benefits to Duval County, the region, and the State of Florida, and no significant permanent adverse socioeconomic impacts are expected.

### CONCLUSION

No Exceptions were filed by any party to this PPSA proceeding objecting to any of the factual findings, legal conclusions, or recommendations of the ALJ in the two Recommended Orders now on review before the Siting Board. Furthermore, the record in this case does not contain any requests by governmental agencies or members of the general public that site certification of the Project should be denied. Having reviewed the matters of record and being otherwise duly advised, the Siting Board concludes that site certification of the Project will serve and protect the broad interests of the public and should be approved.

It is therefore ORDERED:

A. The Recommended Order on Land Use Following Remand and the Recommended Order on Certification entered by the ALJ in this PPSA proceeding are adopted and incorporated by reference herein.

B. The site of the proposed Project is determined to be consistent and in compliance with existing land use plans and zoning ordinances of the City of Jacksonville.

C. Site Certification of the JEA Brandy Combined Cycle Conversion Project as proposed in the Applicant's Site Certification Application is APPROVED, subject to the

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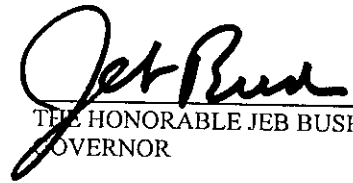
on the issue of the Project's compliance with the City of Jacksonville's Planned Unit Development requirements.

Conditions of Certification set forth in "DEP Exhibit 2," which Conditions of Certification are incorporated by reference herein.

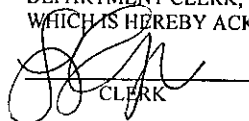
D. Authority to assure and enforce compliance by JEA and its agents with all of the Conditions of Certification imposed by this Final Order is hereby delegated to DEP, except that any proposed modification to burn a fuel other than natural gas or fuel oil shall be reviewed by the Siting Board.

DONE AND ORDERED this 22<sup>ND</sup> day of MARCH, 2002, in Tallahassee, Florida, pursuant to a vote of the Governor and Cabinet, sitting as the Siting Board, at a duly noticed and constituted Cabinet meeting held on MARCH 12, 2002.

THE GOVERNOR AND CABINET  
SITTING AS THE SITING BOARD

  
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THE HONORABLE JEB BUSH  
GOVERNOR

FILING IS ACKNOWLEDGED ON THIS  
DATE, PURSUANT TO § 120.52 FLORIDA  
STATUTES, WITH THE DESIGNATED  
DEPARTMENT CLERK, RECEIPT OF  
WHICH IS HEREBY ACKNOWLEDGED

  
\_\_\_\_\_  
CLERK

3/25/02  
DATE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Land Use Order has been sent by United States Postal Service to:

Douglas S. Roberts, Esquire  
Hopping, Green, Sams & Smith  
Post Office Box 6526  
Tallahassee, FL 32314

Cathy Bedell, Esquire  
Florida Public Service Commission  
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Tallahassee, FL 32399-0850

James V. Antista, Esquire  
Fish and Wildlife Conservation  
Commission  
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Tallahassee, FL 32399-1600

Andrew S. Grayson, Esquire  
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Tallahassee, FL 32399-2100

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Ann Cole, Clerk and  
P. Michael Ruff  
Division of Administrative Hearings  
The DeSoto Building  
1230 Apalachee Parkway  
Tallahassee, FL 32399-1550

and by hand delivery to:

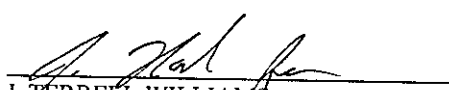
Hamilton Oven, Administrator  
Department of Environmental Protection  
Office of Siting Coordination  
2600 Blair Stone Road  
Mail Station 48  
Tallahassee, FL 32399-2400

and

Scott A. Goorland, Esquire  
Department of Environmental Protection  
3900 Commonwealth Blvd., M.S. 35  
Tallahassee, FL 32399-3000

this 25<sup>th</sup> day of MARCH, 2002.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

  
\_\_\_\_\_  
J. PERRELL WILLIAMS  
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