

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

IN RE: JEA BRANDY BRANCH)
COMBINED CYCLE)
CONVERSION POWER PLANT) Case No. 00-5120EPP
SITING APPLICATION)
NO. PA00-43.)
_____)

RECOMMENDED ORDER ON LAND USE FOLLOWING REMAND

Pursuant to notice, the Division of Administrative Hearings, by its duly-designated Administrative Law Judge, J. Lawrence Johnston, held a formal hearing in Baldwin, Florida, on land use issues in the above-styled case on April 24, 2001, and on December 4, 2001, following the Order of Remand by the Siting Board.

APPEARANCES

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STATEMENT OF THE ISSUE

The issue to be resolved in this portion of this power plant siting proceeding is whether the site for the proposed JEA Brandy Branch Combined Cycle Conversion Project is consistent and in compliance with the applicable land use plans and zoning ordinances of the City of Jacksonville, pursuant to Section 403.508(2), Florida Statutes.

PRELIMINARY STATEMENT

This proceeding was conducted pursuant to the Florida Electrical Power Plant Siting Act (PPSA), Chapter 403, Part II, Florida Statutes, and Chapter 62-17, Florida Administrative Code, to consider JEA's application for power plant site certification of the Brandy Branch Combined Cycle Conversion Project. On December 8, 2000, JEA filed with the Florida Department of Environmental Protection (FDEP) an application for site certification for the Brandy Branch Combined Cycle Conversion Project. By agreement among the parties, this land use hearing, held pursuant to Section 403.508(2), Florida Statutes, was scheduled to be held on April 24, 2001.

After proper notice by the Applicant and by FDEP, the land use hearing was held in Baldwin, Florida, on April 24, 2001, as required by the PPSA. The hearing was conducted for the purpose of receiving evidence as to whether the Project

site was in compliance with the local land use plans and zoning regulations of the City of Jacksonville.

JEA presented the testimony of two witnesses and had JEA Exhibits numbered 1 through 8 admitted into evidence. FDEP did not present any testimony. The City of Jacksonville presented the testimony of Mr. Coen Purvis and offered no exhibits. No other agency or party appeared at the hearing. No member of the general public testified at the public hearing.

Following the conclusion of the land use hearing, a transcript was filed. Citations to the transcript of the land use hearing will be indicated by the name of the witness, followed by "T." and the page number; citations to exhibits admitted at this hearing will be indicated by "Ex." and the exhibit number.

The Joint Proposed Recommended Order of JEA, FDEP, and the City of Jacksonville was timely submitted. A Recommended Order on Land Use was entered on July 5, 2001.

On September 18, 2001, the Siting Board entered an Order of Remand for Further Proceedings, directing that further evidence be taken on the issue of the Project's consistency and compliance of the PUD zoning approval for the Project site with the air permit for the Project.

On December 4, 2001, as part of the scheduled certification hearing, additional evidence was received on the issue of the Project's compliance with the PUD zoning for the Brandy Branch site.

Following the conclusion of the certification hearing, a transcript of the certification hearing was filed. Citations to the transcript of the certification hearing in this Recommended Order on Land Use Following Remand will be indicated by the name of the witness, the symbol "T(2)." and the page number; citations to exhibits admitted at the certification hearing will be indicated by "Ex(2)." and the exhibit number.

A Joint Proposed Recommended Order on Land Use Following Remand was timely submitted and forms the basis of this Recommended Order on Land Use Following Remand.

FINDINGS OF FACT

1. JEA is a municipally-owned utility that provides electric service in Duval County and surrounding areas. JEA serves approximately 350,000 customers. (Mims, T. 6-7) JEA has been providing electric service in the Jacksonville area since 1895. JEA currently operates four generating stations along with a power plant jointly-owned with Florida Power & Light Company. These existing plants burn a range of fuels, including coal, oil and natural gas. (Mims, T. 6-7) In

October 2001, JEA will decommission its existing Southside station. (Mims, T. 8)

2. JEA's Brandy Branch facility is located west of Jacksonville, north of U.S. Highway 90, and approximately one mile to the east of the town of Baldwin, Florida. The Brandy Branch site is approximately 153 acres, with 45 acres containing the electrical generating facilities units. JEA is currently constructing three combustion turbines to operate in the simple cycle mode at its Brandy Branch site. The combustion turbines are in commercial operation. (Mims, T. 8; Mims, T.(2). 19-20) In addition to the simple cycle units, raw water tanks, fuel tanks and stormwater ponds have been constructed on the project site. (Mims, T. 9; JEA Ex. 8A)

3. The simple cycle combustion turbines at the site operate like a large version of a jet engine. Air is compressed and mixed with either gas or oil, which is converted into mechanical power that turns an electrical generator to create electric power. This power is then distributed out over the electrical transmission grid. This includes the 230 KV transmission lines that currently serve the Brandy Branch site. (Mims, T. 10)

4. The site is currently served by an existing natural gas pipeline that connects to the Florida Gas Transmission system. In addition, JEA is negotiating for a second gas

pipeline that may connect the project site to a new line that will come into Florida from Georgia. That second line will be separately owned and operated by the gas pipeline company.

(Mims, T. 11-12)

5. JEA is now proposing to convert two of the simple cycle combustion turbines into a combined cycle unit by installing heat recovery steam generators onto the exhaust system of the gas turbines. A new steam turbine generator will also be installed to the west of the existing units. The combined cycle configuration involves capturing the exhaust gas from the combustion turbine through a heat recovery steam generator that in turn supplies steam to a steam turbine. The steam turbine drives an additional electrical generator.

(Mims, T. 12-13; JEA Exs. 7A and 7B)

6. A new cooling tower will be constructed within the project site as part of the conversion project. The cooling tower will cool the steam that goes through the condenser. Addition of the cooling tower will involve an additional 2.5 acres within the 153 acre JEA Brandy Branch site. No modifications to the existing transmission system will be required as part of the project. (Mims, T. 13-15; JEA Exs. 7A and 7B)

7. The three simple cycle combustion turbines at the Brandy Branch site will have a generating capacity of

approximately 520 megawatts (MW). The conversion of the Brandy Branch site to combined cycle operation will add an additional 190 MW of generating capacity. This will result in approximately 700 MW of total generating capacity at the site after the conversion. (Mims, T. 14)

8. The original development plan for the Brandy Branch site anticipated four simple cycle combustion turbines. After the initial three units were brought into operation, JEA planned to add a fourth combustion turbine as demand for electricity increased on JEA's system. However, JEA decided to convert two of the CTs to combined cycle operation in lieu of constructing the fourth CT because the capacity factor on the units was increasing faster than originally anticipated. JEA found it more economically feasible to add the combined cycle unit rather than adding an additional combustion turbine. (Mims, T. 16-17)

9. The JEA Brandy Branch site is located in the incorporated area of the City of Jacksonville. The Brandy Branch site is surrounded by pasture and timber land on all sides, with a large dairy farm located to the east. (Kilgo, T. 20; Purvis, T. 33; JEA Ex. 8B) The nearest occupied residence is approximately one-half to three-quarters of a mile to the northwest of the generating station. There are no significant environmental resources on the site. An existing

rails-to-trails facility is adjacent to the southeast corner of the site. (Kilgo, T. 21)

10. The City of Jacksonville's Comprehensive Plan and Future Land Use Map designate the JEA Brandy Branch site as Public Buildings and Facilities, or PBF. (Kilgo, T. 22-23; JEA Ex. 10) That land use category permits electric power plants as an allowed use. (Kilgo, T. 23; Purvis, T. 33; JEA Ex. 9, at page 41 of 58) Surrounding land use designations generally include Agriculture or AGR-III. (JEA Ex. 10)

11. In September 1999, at JEA's request, the Jacksonville City Council rezoned the Brandy Branch site from PBF-1 to PUD for the entire 153 acre site. (JEA Ex. 13) The PUD approval accommodates the combined cycle project for the most part. Construction of the additional facilities will be covered by the existing PUD. (Kilgo, T. 24) The PUD zoning application for the Brandy Branch site contained information on air emission limits and on the height of the emissions stacks at the site. The air emissions information concerning the Brandy Branch site contained in the zoning application was incorporated by reference into the PUD approval. (Purvis, T. 35)

12. On July 27, 2001, JEA requested that the City of Jacksonville modify the PUD zoning for the Project site to provide that the Project must comply with any air emissions

permit issued by the FDEP and to allow a maximum structure height of 199 feet. On August 30, 2001, the City of Jacksonville Planning Commission granted the requested modification, following a recommendation from the City of Jacksonville's planning staff in support of the modification. (Kilgo, T(2). 13-15 ; JEA Exs(2). 8 and 12) The Project as designed will be able to comply with the FDEP air permit and Conditions of Certification, including those related to air emissions. The maximum height structure will be 190 feet. (Mims, T(2). 21; Hillman, JEA Ex(2). 1C pp.5-17; Holscher, JEA Ex(2). 1C, pp. 8-13)

CONCLUSIONS OF LAW

13. The Division of Administrative Hearings has jurisdiction of the parties to and the subject matter of this proceeding. The proceeding was conducted in accordance with Section 403.508(2), Florida Statutes, addressing the consistency of the site with local land use plans and zoning ordinances of the City of Jacksonville.

14. In accordance with Chapter 403, Part II, Florida Statutes and Chapter 62-17, Florida Administrative Code, proper public notice was accorded all persons, entities and parties entitled to such notice. All necessary and required governmental agencies participated in or had the opportunity to participate in the land use hearing.

15. Unrebutted evidence at the hearings on April 24, 2001 and December 4, 2001, demonstrates that the Brandy Branch combined cycle conversion project and its site are consistent and in compliance with the City of Jacksonville's land use plans and are consistent and in compliance with the applicable zoning ordinances for the site.

RECOMMENDATION

Based upon the foregoing Findings of Fact and Conclusions of Law, it is

RECOMMENDED that the Siting Board find that the site of the JEA Brandy Branch Combined Cycle Conversion Project as described by the evidence presented at the hearing, is consistent and in compliance with existing land use plans and zoning ordinances of the City of Jacksonville as they apply to the site, pursuant to Section 403.508(2), Florida Statutes.

DONE AND ENTERED this 15th day of January, 2002, in Tallahassee, Leon County, Florida.

J. LAWRENCE JOHNSTON
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 15th day of January, 2002.

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order on Land Use Following Remand. Any exceptions to this Recommended Order on Land Use Following Remand should be filed with the agency that will issue the Final Order in this case.