STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

IN RE: ORLANDO UTILITIES COMMISSION, KISSIMMEE UTILITY AUTHORITY, FLORIDA MUNICIPAL POWER AGENCY, and SOUTHERN COMPANY-FLORIDA, L.L.C., CURTIS H. STANTON ENERGY CENTER COMBINED CYCLE UNIT A POWER PLANT SITING SUPPLEMENTAL APPLICATION NO. PA 81-14SA2	)	Case No. 01-0416EPP

RECOMMENDED ORDER

Pursuant to notice, the Division of Administrative Hearings, by its duly-designated Administrative Law Judge, Charles A. Stampelos, held a final hearing in the above-styled case on June 26, 2001, in Orlando, Florida.

APPEARANCES

For the Orlando Utilities Commission, Kissimmee Utility Authority, and Florida Municipal Power Agency:

Tasha O'Dell Buford, Esquire
Young, van Assenderp,
Varnadoe & Anderson, P.A.
225 South Adams Street
Post Office Box 1833
Tallahassee, Florida 32302-1833

For Orlando Utilities Commission:

Thomas B. Tart, Esquire
Orlando Utilities Commission
500 South Orange Avenue
Orlando, Florida 32801

For Southern-Florida, L.L.C.:

Lawrence N. Curtin, Esquire
Holland & Knight, LLP
315 South Calhoun Street, Suite 600
Tallahassee, FL 32302-0810

For the Department of Environmental Protection:

Scott A. Goorland, Esquire
Department of Environmental Protection
Office of General Counsel
3900 Commonwealth Boulevard
Mail Station 35
Tallahassee, Florida 32399-3000

For the St. Johns River Water Management District:

Kris H. Davis, Esquire
Charles A. Lobdell, III, Esquire
St. Johns River Management District
Post Office Box 1429
Palatka, Florida 32178-1429

For Orange County:

Anthony J. Cotter, Esquire
Assistant County Attorney
Orange County Attorney's Office
Post Office Box 1353
Orlando, Florida 32801-1353

STATEMENT OF THE ISSUE

The issue to be resolved in this proceeding is whether certification should be granted to the Orlando Utilities Commission ("OUC"), Kissimmee Utility Authority ("KUA"), Florida Municipal Power Agency ("FMPA"), and Southern Company – Florida, LLC ("Southern-Florida") for Curtis H. Stanton Unit A at the Stanton Energy Center in Orlando, Florida, in accordance with the

pertinent provisions of Sections 403.501 through 403.518, Florida Statutes.

PRELIMINARY STATEMENT

This proceeding arose on the application by OUC, KUA, FMPA, and Southern-Florida ("the Applicants") for a supplemental power plant site certification for the proposed Stanton Unit A and associated facilities ("the Stanton Unit A project"). The Stanton Unit A Project and the application include construction of a proposed on-site 230 kilovolt ("kV") transmission line to connect to the existing on-site substation. Substation No. 17 (the Stanton Energy Center main substation) will be expanded to the west to accommodate the new transmission line. The Stanton Unit A Project also includes construction of a proposed off-site natural gas pipeline in the existing Stanton Energy Center railroad corridor to connect to the existing Florida Gas Transmission ("FGT") pipeline located approximately two miles south of the Stanton Energy Center site boundary.

The Florida Public Service Commission ("PSC") issued a determination of need for Stanton Unit A on May 14, 2001, in accordance with Section 403.519, Florida Statutes.

The certification hearing was held as noticed on June 26, 2001, in accordance with Section 403.508(3), Florida Statutes. All notices required by law were timely published in accordance with Section 405.501 et seq., Florida Statutes. The final

hearing was conducted for the purpose of receiving evidence concerning whether the proposed project complies with the criteria contained in Sections 403.502 and 403.517, Florida Statutes.

The Applicants presented pre-filed written testimony of thirteen (13) witnesses and ten (10) exhibits numbered OUC-1 through OUC-10, including the Stanton Energy Center Unit A Supplemental Site Certification Application ("SSCA"), identified as OUC-1. A Composite Joint Stipulation between the Parties stipulating to the pre-filed testimony and exhibits, stipulating to acceptance of the expert witnesses, stipulating that there were no facts at issue, and stipulating to the proposed Conditions of Certification was presented by the Applicants and was identified as OUC-9. The Joint Stipulation between the Parties was amended at the hearing, ore tenus, marked as OUC-10 and identified as the Amended Joint Stipulation between the Parties. The parties have agreed to the modification of the Conditions of Certification as stated in the Amended Joint Stipulation between the Parties.

The Applicants' witnesses were accepted as proffered, as were the Applicants' pre-filed testimony, exhibits, and Joint Stipulation between the Parties, all without objection. The Applicants' fact witnesses and the subjects of their testimony included: Frederick F. Haddad, Jr., Orlando Utilities

Commission; Thomas O. Anderson, Southern Company; and J. Michael Soltys, SSCA preparation. The Applicants' expert witnesses and the subjects of their testimony included: Girma Mergia, Groundwater Analysis/Impacts; Andrew P. Dicke, Noise Analysis/Impacts; Tammy Wang, Socioeconomics Analysis/Impacts; Kyle Lucas, Air Quality Analysis/Impacts; Andrew Burr, Ecological Impacts; Kenneth R. Weiss, Water Use & Wastewater Treatment/Impacts; Gregory A. Holscher, Air Pollution Control/SCR; Michael Serafin, Natural Gas Line Site Development; Morris Stover, Transmission Site Development; and Michelle R. French, Stormwater Analysis/Impacts.

The Department of Environmental Protection presented the testimony of Hamilton S. Oven, Jr., Administrator of the Siting Coordination Office of the Department of Environmental Protection ("DEP") and a licensed professional engineer. He was admitted as an expert in electrical power plant siting and the power plant siting process. DEP had two (2) exhibits admitted into evidence, DEP-1, which is Mr. Oven's résumé, and DEP-2, which is the May 25, 2001, Department's Staff Analysis Report.

The St. Johns River Water Management District ("SJRWMD") presented the testimony of James Hollingshead, a hydrologist in charge of water use permitting in central Florida for the SJRWMD. He was admitted as an expert in the fields of hydrogeology and the SJRWMD's Regulatory Permitting Program for Consumptive Use.

The SJRWMD had one exhibit admitted into evidence, SJRWMD-1, which was Mr. Hollingshead's résumé.

Opportunity was afforded for members of the general public to appear; however, no members of the public appeared.

Upon concluding the taking of evidence, OUC, KUA, FMPA and Southern-Florida elected to order a Transcript of the proceedings which was filed with the Division on July 9, 2001. A Jointly Filed Proposed Recommended Order was timely submitted and has been considered in the rendition of this Recommended Order.

FINDINGS OF FACT

1. OUC is a 28 percent owner of Unit A of the Curtis H. Stanton Energy Center. FMPA is a 3.5 percent owner of Unit A of the Curtis H. Stanton Energy Center. KUA is a 3.5 percent owner of Unit A of the Curtis H. Stanton Energy Center. Southern-Florida is a 65 percent owner of Unit A of the Curtis H. Stanton Energy Center.

2. Stanton Unit 1 (net rating of 440 MW) and Unit 2 (net rating of 446 MW), and associated facilities, are existing certified coal-fired units at the site. Stanton Units 1 and 2 operate under Certification Order PA 81-14, originally issued on December 15, 1982, and supplemented on December 17, 1991, for the addition of Stanton Unit 2. The Certification Order has been subsequently modified in April 1993, July 1995, December 1997, and August 1998. These units went into commercial operation in

1987 and 1996, respectively. The Stanton Energy Center site is certified for ultimate certification of 2,000 MW of coal or natural gas-fired capacity.

3. The Stanton Energy Center site, which is located approximately 10 miles southeast of Orlando, encompasses approximately 3,280 acres in eastern Orange County. Of the 3,280 acres, 1,100 acres have been allocated for development of power generation and support facilities. The proposed Stanton Unit A will be constructed on approximately 60 acres of that 1,100 acres.

4. DEP is an agency of the State of Florida designated as the lead agency for the review and evaluation of site certification applications, in accordance with the various provisions of the Florida Electrical Power Plant Siting Act, Sections 403.501-403.518, Florida Statutes, and related rules cited and discussed elsewhere herein.

5. Notice of the certification hearing was accorded to all parties entitled thereto as well as to the general public.

6. The existing Stanton Energy Center began commercial operation in 1987. It currently consists of two coal-fired units known as Units 1 and 2, two natural draft cooling towers, a cooling water supply pond, a solid waste disposal area, an electrical switchyard, transmission lines, a railroad spur, access roads, and a reclaimed water pipeline.

7. The on-site facilities of the Stanton Unit A project will consist of a General Electric 7FA combined cycle unit consisting of two combustion turbines, two heat recovery steam generators ("HRSGs"), a steam turbine generator, cooling tower, wastewater treatment facilities, fuel oil and water storage tanks, and natural gas delivery and metering facilities. Additionally, a new 230 kV transmission line will be constructed to connect Stanton Unit A with OUC's existing on-site Stanton Energy Center Substation No. 17. The connecting line will be totally within the certified site. Stanton Unit A will have a total nameplate rating of 791 mega volt amperes ("MVA") and a nominal rating of approximately 633 MW.

PSC Need Determination

8. On May 14, 2001, the Public Service Commission issued Order No. PSC-01-1103-FOF-EM determining the need for the proposed combined cycle Stanton Unit A to be constructed at Stanton Energy Center.

Scheduling

9. Mobilization and physical construction of Stanton Unit A are scheduled to begin the fourth quarter of 2001, with commercial operation commencing October 2003.

Generating Units

10. Stanton Unit A will be a General Electric 7FA combined cycle unit consisting of two combustion turbines, two HRSGs, and

a steam turbine generator. The unit will burn natural gas as a primary fuel and will be capable of burning low sulfur No. 2 oil as backup fuel.

11. With the addition of Stanton Unit A, the generating capacity at the Stanton Energy Center will be a nominal 1,519 MW.

Transmission Facilities

12. OUC's existing transmission system consists of 26 substations interconnected through approximately 302 miles of 230 kV and 115 kV lines and cables. The addition of Stanton Unit A will require the construction of a new, on-site, 230kV transmission line to connect Stanton Unit A with the existing on-site Stanton Energy Center Substation No. 17. The total length of the transmission line will be approximately 3,000 feet. The transmission line will be a single-circuit, heavy-duty, single-pole transmission line. The transmission line structures will be steel poles with drilled concrete pier foundations or self-supporting concrete poles. Both structure types will be capable of supporting a double-circuit configuration. In conjunction with the proposed transmission line, the existing OUC Substation No. 17 will be expanded to the west to accommodate the new 230 kV transmission line. The proposed transmission line route will be located entirely within the existing Stanton Energy Center property. Construction of a portion of the line will require clearing approximately 0.4 acres of cypress strand and

permanently filling 0.57 acres of herbaceous wetlands. Overall, adverse environmental impacts from the construction of the new transmission line are expected to be minimal. The proposed transmission line has been routed to minimize impacts on wetlands as much as possible. Orange County and OUC have determined that mitigation for such impacts consists of the granting of a conservation easement of in-kind wetlands to offset the wetland impacts.

Natural Gas Pipeline Lateral

13. A 4-1/2 mile long, 16-inch lateral to a FGT line in Orange County will provide the natural gas to fuel Stanton Unit A. The pipeline lateral will originate at the crossing of the 26-inch FGT gas supply line and OUC's railroad corridor, which is 2-1/2 miles south of the Stanton Energy Center, and will terminate at Stanton Unit A. OUC owns a 300-foot wide corridor that contains a railroad spur, unimproved maintenance road, and a 230 kV transmission line. The gas pipeline will be installed within this existing corridor. All fuel handling and metering facilities will meet the applicable requirements as specified in Chapter 25-12, Florida Administrative Code, and will meet all applicable requirements of the United States Department of Transportation ("DOT") (49 Code of Federal Regulations, Part 192) as amended by the Materials Transportation Bureau.

Wastewater Treatment

14. Process wastewaters consist of oil/water separator effluent, chemical wastes, steam cycle (boiler) blowdown, and evaporative cooling tower blowdown. Oil/water separator effluent will be routed to the existing Stanton Energy Center recycle basin where it will be reused in Stanton Units 1 and 2 flue gas desulfurization and ash systems. Cooling tower and evaporative cooler blowdown will be treated in a new brine concentrator system. The brine concentrator system recovers a large amount of the water in the blowdown and recycles it to the cooling towers. Boiler blowdown from the HRSGs will be routed to the Stanton Unit A cooling tower for reuse.

15. Sanitary wastewater produced during normal plant operations will be collected and routed to a new septic system and tile field. The 30 new employees expected to be associated with Stanton Unit A will increase sanitary wastes by approximately 900 gallons per day ("gpd").

Well Field

16. Groundwater withdrawals are currently taken from the two existing on-site, deep wells that serve the Stanton Energy Center. The Stanton Energy Center site is currently authorized to pump up to two million gallons per day ("mgd") for plant service water, demineralization, drinking and sanitary water.

This allocation will also supply Stanton Unit A service water, potable water, and demineralization demands.

17. In lieu of using additional groundwater, the Applicants have agreed to diligently and in good faith pursue an agreement with Orange County to transfer up to 8.0 mgd of surface water (including stormwater/surficial groundwater) from the adjacent Orange County Landfill property for use at the Stanton Energy Center facility.

Fuel Supply and Storage

18. A new 1.68 million gallon, above-ground fuel oil (No. 2) storage tank will be added at the Stanton Energy Center for Stanton Unit A.

19. The construction, materials, installation, and use of the bulk storage tank will conform to American Petroleum Industry ("API") Standard 650, American Institute of Steel Construction ("AISC"), American Society for Testing and Materials ("ASTM"), National Electric Code ("NEC"), and Occupational Safety and Health Administration ("OSHA") standards. The location of the storage tank is indicated on the Site Arrangement, Figure 2.1-3 of the Supplemental Site Certification Application, Volume 2.

20. Fuel will be delivered to the vertical oil storage tanks by tanker truck and/or rail. The containment area for each fuel oil tank is provided by an earthen berm. The berm is designed to meet the DEP requirements to provide containment for

both 110 percent of the storage capacity of the largest tank within the impoundment and a sufficient allowance for the design (10 year, 24 hour) rainfall storm event (approximately 7 inches). In addition, the containment area is constructed with a synthetic liner. The liner is sufficiently impermeable to ensure that no oil can escape by infiltrating through the liner and soil and into surface or groundwaters, as required by DEP regulation.

21. The fuel oil truck unloading station is located northwest of the existing coal units, as indicated on the Site Arrangement. The station spill containment consists of above-ground and double-walled below grade piping running to the storage tanks outside and inside the earthen berm area. The station also includes a manually operated isolation valve and a check valve immediately adjacent to the unloading station. This allows immediate isolation of the piping system from a spill at the delivery truck and prevents backflow spillage of oil from the system.

22. The existing Spill Prevention, Control and Countermeasures Plan and Facility Response Plan will be modified as required to include Stanton Unit A facilities.

Foundation Stability

23. The strata beneath the Stanton Energy Center site to a depth of about 200 feet are divided into five stratigraphic layers: a surficial sand layer, an intermediate cohesive layer,

a lower sand layer, a lower cohesive layer, and limestone bedrock. The surficial sand layer consists of 32 to 71 feet of heterogeneous arrangement of loose to dense, gray to brown sand, silty sand, and clayey sand, with an intermittent thin clay layer. Underlying the surficial layer is 4 to 15 feet of soft to stiff, gray to brown highly plastic clay, sandy clay, and silty clay, with occasional shell fragments. The intermediate cohesive layer varies in thickness from 78 to 81 feet.

24. Foundations for Stanton Unit A are to be similar to the foundation types utilized for Stanton Units 1 and 2. Heavily loaded, settlement sensitive structures within the existing Stanton Energy Center are supported on deep foundations consisting of friction piling. More lightly loaded structures are anticipated to be supported on shallow footings or mats. The existing Stanton Units 1 and 2 foundations have been performing very satisfactorily since installation.

Archeological and Historic Sites

25. In March 1981, the Florida Department of State, Division of Archives, History, and Records Management determined that the existing site did not contain significant archaeological or historical resources. Construction of Stanton Unit A is unlikely to affect any properties listed, or eligible for listing, in the National Register.

Land-Use Compatibility

26. The new construction at Stanton Energy Center will not generate sufficient noise to negatively affect any local residents. Construction noise levels for foundation construction and equipment erection are estimated to be approximately 55 decibels ("dBA") at the north property boundary and approximately 45 dBA at the nearest residence. The site clearing stage noise emissions are anticipated to be 5 dBA less than the equipment erection noise emissions. Noise levels during operation will decrease from that which is expected during site clearing and construction.

27. The construction noise associated with Stanton Unit A is not anticipated to be significant. The undeveloped surrounding area, as well as the vegetative buffer and physical distance to the nearest residences, will all mitigate the intermittent disturbance.

28. Traffic impacts of Stanton Unit A construction are expected to have a slight impact on area roadways. However, this temporary impact will not have any lasting, significant adverse impact on the roadways and intersections in the vicinity of the Stanton Energy Center. During operation of Stanton Unit A, no significant impacts on area traffic are expected and no new off-site roads or road improvements will be required.

Socioeconomic Impacts

29. The construction of Stanton Unit A will have a positive impact on the local economy, providing approximately 300 jobs at the peak of construction during the 24-month construction period. The vast majority of the construction work force is expected to be filled by workers already residing in the study area, which consists of Brevard, Osceola, Orange, Lake, and Seminole Counties. The estimated construction payroll is $28 million (in 2001 dollars).

30. There will be no significant, long-term increase in demand by the Stanton Energy Center for public services, either directly or indirectly, through an increase in population attributable to increased staffing. While the influx of the construction work force may increase the demand for services from local governments and nearby service providers, representatives of these entities have indicated that they have more than enough service capacity to accommodate the construction work force.

Air Quality

31. The Stanton Unit A combustion turbine is subject to pre-construction review requirements under the provisions of Chapter 62-212.400, Florida Administrative Code.

32. The Stanton Energy Center is located in Orange County, an area designated as an attainment area for all criteria

pollutants in accordance with Rule 62-204.360, Florida Administrative Code.

33. The Stanton Unit A combustion turbine is subject to review under Rule 62-212.400, Florida Administrative Code, Prevention of Significant Deterioration ("PSD"), because the potential emission increases for particulate matter/particulate matter less than 10 microns ("PM/PM_{10}"), carbon monoxide ("CO"), volatile organic compounds ("VOC"), sulfur dioxides ("SO_2"), and nitrogen oxides ("NO_X") exceed the significant emission rates given in Chapter 62-212, Table 62-212.400-2, Florida Administrative Code. The PSD review consists of a determination of Best Available Control Technology ("BACT") for PM/PM_{10}, CO, VOC, SO_2 and NO_X, an air quality impact analysis, and an assessment of the Stanton Unit A Project's impact on general commercial and residential growth, soils, vegetation, and visibility.

34. The Stanton Unit A combustion turbine will increase emissions of six pollutants at levels in excess of PSD significant amounts: PM_{10}, CO, SO_2, NO_X, VOC, and sulfuric acid mist ("SAM"). PM_{10}, SO_2, and NO_X are criteria pollutants and have defined national and state ambient air quality standards ("AAQS"), PSD increments, and significant impact levels. CO and VOC are criteria pollutants and have only AAQS and significant impact levels defined.

35. The only Class I area near the Stanton Energy Center is the Chassahowitzka National Wildlife Refuge, located approximately 140 km west-northwest of the site.

36. An air quality analysis, undertaken in accordance with computer modeling procedures approved in advance with the DEP, demonstrated that the Stanton Unit A Project resulted in no significant air quality impacts in the area surrounding the proposed facility. Therefore, further air quality impact studies, which would include AAQS and PSD increment impact analyses for these pollutants, were not required.

37. Under the Clean Air Act, the Stanton Unit A project would be classified as a "process unit" of hazardous air pollutants ("HAP"), thereby requiring an analysis to determine if the Stanton Unit A Project would have a potential to emit 10 tpy of any one HAP or 25 tpy of any combination of HAPs. Maximum Achievable Control Technology ("MACT") applicability calculations were performed and revealed that no individual HAP has a potential to be emitted in excess of 10 tpy and no combination of HAPs has a potential to be emitted in excess of 25 tpy from operation of the Stanton Unit A Project. It was determined that the need to apply MACT is therefore not required pursuant to Section 112 of the Clean Air Act.

38. The Stanton Unit A combustion turbine's air emissions are expected to cause only minimal or insignificant impacts on vegetation, soil, or wildlife.

39. A regional haze analysis was performed which showed that operation of the Stanton Unit A combustion turbine will not result in adverse impacts on visibility in the vicinity of the Chassahowitzka National Wildlife Refuge.

40. Short-term increases in the labor force during the construction phase will not result in permanent or significant commercial and residential growth in the vicinity of the Stanton Unit A Project. Any resulting air emissions from residual growth will not be significant because the increase in population due to the operation of the Stanton Unit A Project will be very small.

BACT and Emission Rates

41. A BACT analysis was required as part of the PSD review. The BACT review for the Stanton Unit A combustion turbine was conducted for PM/PM_{10}, CO, NO_X, SO_2, and VOC.

42. DEP determined that BACT for the Stanton Unit A combustion turbine particulate matter (PM/PM_{10}) emissions was good combustion controls during natural gas and fuel oil firing. The BACT for the particulate emissions from the Stanton Unit A cooling tower is determined to be the use of drift eliminators with a control efficiency of 0.002 percent.

43. DEP determined that BACT for the Stanton Unit A combustion turbine for CO emissions was good combustion controls to achieve an emission limit of 17 ppmvd at 15 percent O_2 on a 24-hour average for normal operation on natural gas and 14 ppmvd at 15 percent O_2 for normal operation on fuel oil. An oxidation catalyst will be installed, if necessary, to meet these emission limits.

44. DEP determined that BACT for the Stanton Unit A combustion turbine for NOx emissions consists of using dry low NO_X burners with selective catalytic reduction ("SCR") to achieve an emission limit of 3.5 ppmvd at 15 percent O_2 when burning natural gas. This limit shall apply whether or not the unit is operating with its duct burner on and/or in power augmentation mode. The emissions of NO_X with the combustion turbine operating on fuel oil shall not exceed 10.0 ppmvd at 15 percent O_2.

45. DEP determined that BACT for the Stanton Unit A combustion turbine for VOC emissions is good combustion controls to achieve an emission limit of 2.7 ppmvd at 15 percent O_2 with the CT firing fuel oil. The emission limit is 3.6 ppmvd at 15 percent O_2 with the CT firing natural gas (without power augmentation) and 6.3 ppmvd at 15 percent O_2 (with power augmentation).

46. DEP determined that BACT for the Stanton Unit A combustion turbine for SO_2 consists of firing natural gas and up to 1,000 hours per consecutive 12-month period of 0.05 percent sulfur fuel oil.

47. DEP determined preliminarily that the Stanton Unit A Project will comply with all applicable state and federal air pollution regulations provided that the BACT determination is implemented.

Industrial Wastewater

48. The Stanton Energy Center has five major sources of wastewater. These are sanitary wastes, oil/water separator effluent, cooling tower blowdown, chemical wastes and boiler blowdown. Oil/water separator effluent will be routed to the existing Stanton Energy Center recycle basin where it will be reused in Stanton Units 1 and 2 flue gas desulfurization and ash systems. Cooling tower and evaporative cooler blowdown will be treated in a new brine concentrator system. Sanitary wastes will be routed to a new septic tank/tile field system. Boiler blowdown from the HRSGs will be routed to the Stanton Unit A cooling tower for reuse. See also Findings of Fact 14 and 15.

49. It is estimated that 0.4 mgd of cooling tower blowdown, resulting from operation of Stanton Unit A, will be returned to the cooling tower as makeup water. Remaining wastewater streams will be reused or recycled at the Stanton site.

50. The HRSGs and pre-boiler piping will be chemically cleaned during commissioning. The steam generators will also be periodically cleaned during the life of the unit. The acid and alkaline cleaning wastes resulting from this process will be immediately neutralized on-site. The treated cleaning wastes will be disposed of off-site by a licensed contractor.

Waste Disposal

51. Stanton Unit A will generate no solid waste from the energy generation process. Stanton Unit A will generate solid waste associated with the brine concentrator treatment of the cooling tower blowdown. This waste is combined with the solid discharge waste produced by the treatment of the blowdown from Stanton Units 1 and 2. Therefore, the addition of Stanton Unit A will require no new landfills or solid waste disposal areas.

52. Waste oil will be generated by Stanton Unit A operation. Three processes generate waste oil: combustion turbine cleaning, false starts of the combustion turbines, and oil/water separator operation. This waste oil is hauled off-site as needed by a licensed contractor for ultimate disposal.

Surface Water Hydrology and Water Quality Impacts

53. The Stanton Unit A project is designed to be a zero discharge facility for industrial wastes. Stanton Unit A will use a mechanical draft cooling tower; makeup water will come from the existing Makeup Water Supply Storage Pond, which receives

treated effluent from the Orange County Easterly Water Reclamation Facility. Stanton Unit A will require an additional 2.91 million gallons of treated wastewater per day for water lost due to evaporation and drift and for blowdown. Cooling tower blowdown will be directed to and treated in a cooling tower blowdown treatment system.

54. There are no sizeable surface water bodies on the Stanton Energy Center site. Small segments of the Cowpen Branch and the Hart Branch extend into the site; however, these small streams are within the buffer zone on the site that will not be affected by construction activities. Runoff from the construction area will be contained in a collection basin.

55. Construction of Stanton Unit A will have no significant impact on the Cowpen Branch, the Hart Branch, or on-site wetlands. Site preparation for construction of the proposed Unit A facilities will occur in an area that was used for construction laydown for Stanton Unit 2 construction.

56. The Stanton Unit A storm water drainage system was designed to comply with all applicable federal, state, and local regulations regarding discharge into surface waters. Runoff from areas not disturbed by construction or operations will be directed to natural drainage systems within the area. Runoff from disturbed areas will be directed to a drainage system and

then routed to the stormwater pond north of the Stanton Unit A location.

Groundwater Hydrology and Impacts from Water Withdrawal

57. During construction, dewatering will be necessary for construction of heavy equipment foundations, underground utilities, circulating water lines, and miscellaneous pits and sumps. Dewatering activity is expected to last no more than 120 days with total withdrawal of less than 1 mgd. Discharge from dewatering activities will be sent to the Stanton Unit A storm water pond. The dewatering effects will be temporary and limited to the power block area. The groundwater system will return to its original state after completion of the dewatering. The proposed Stanton Unit A Project will not cause any saltwater intrusion in the area.

58. The Stanton Energy Center currently uses groundwater withdrawn from two 850 gallon per minute ("gpm") Floridan Aquifer wells. Stanton Units 1 and 2 are currently authorized to use approximately 2 million gpd of groundwater.

59. In lieu of using additional groundwater for Stanton Unit A, the Applicants have agreed to diligently and in good faith pursue an agreement with Orange County to transfer up to 8.0 million gallons per day of surface water (including stormwater/surficial groundwater) from the adjacent Orange County Landfill property for use at the Stanton Energy Center facility.

Ecological Resources

60. The Stanton Energy Center occupies 3,280 acres. Stanton Units 1 and 2 currently occupy approximately 310 acres of land and approximately 1,100 acres have been scheduled for power development.

61. The Stanton Unit A facilities will be constructed on the same area used for construction equipment/materials laydown during construction of Stanton Units 1 and 2; the area was, thus, previously disturbed. This 60-acre area is generally maintained grassland, but will be cleared and grubbed for construction of Stanton Unit A.

62. The proposed new transmission line will connect Stanton Unit A with OUC's existing Stanton Energy Center Substation No. 17. The land between Stanton Unit A and Substation No. 17 is mostly undeveloped/native area dominated by pine flatwoods and cypress wetland vegetative communities. In addition to the undeveloped/native area, there is an access road that was once used as an alternative route to the Stanton Energy Center. The surface water bodies crossed by the transmission line corridor are limited to an artificial surface water (borrow ditch) and isolated cypress strand and herbaceous wetland. The anticipated impacts on these water bodies were minimized to the extent practicable by the siting of the corridor. Approximately 0.57 acres of jurisdictional wetlands will be impacted. An

Environmental Resource Permit application has been submitted to the United States Army Corps of Engineers for construction of the transmission line.

63. The Stanton Energy Center, including the proposed Stanton Unit A, will not discharge effluent from the site into surface waters; no impacts to aquatic life from such discharge are, therefore, expected.

64. A review of potential impacts to threatened and endangered species was conducted based on habitat types that occur at the Stanton Energy Center. Lists of threatened and endangered species obtained from the United States Fish and Wildlife Service and from the Florida Fish and Wildlife Conservation Commission ("FFWCC") were reviewed and field surveys were conducted. No critical habitat for federally listed species occurs on Stanton Energy Center property. Protected species that are known to occur on Stanton Energy Center property include the eastern indigo snake, the gopher tortoise, the Florida pine snake, the Florida scrub jay, the Kirtland's warbler, the American kestrel, the bald eagle, the fox squirrel, the black bear, and the red-cockaded woodpecker. Monitoring of the red-cockaded woodpecker is required by the Conditions of Certification for Stanton Units 1 and 2 and will also be performed for Stanton Unit A.

65. Site preparation will not permanently impact wildlife habitat. However, wildlife species may be temporarily displaced from adjacent communities by the noise, fugitive dust, and activity associated with construction.

Impacts from Flooding and Hurricanes

66. The 100-year flood elevations on the Stanton Energy Center property vary from approximately 60 feet mean sea level ("MSL") at the northeast corner of the property to approximately 90 feet MSL at the southwest corner. All Stanton Unit A facilities will be located above the 100-year flood elevation.

Noise Impacts

67. Noise emissions attributable to construction activities are highly variable, depending upon the location and operating load of the construction equipment. Noise emissions during site clearing and preparation will be dominated by diesel engine noise. Site clearing and facility start-up will generally result in minimal noise emissions. The one significant noise emission associated with facility start-up will be steam blowout of the HRSG and steam lines. Construction activities will be scheduled during daytime and evening periods (7:00 a.m. to 10:00 p.m.) to the fullest extent possible. Any nighttime construction will be limited to low noise activities as much as possible.

68. Noise emissions are regulated under Chapter 15, Article V, of the Orange County Code. The predicted A-weighted noise

emissions will satisfy the code criteria at the nearest residential locations.

Traffic

69. All roadways serving the construction and operational traffic of Stanton Energy Center have adequate capacity to handle the increase in traffic generated by construction and operation of Stanton Unit A. A new paved "loop" road will be constructed around the Stanton Unit A generation building and connected to the Stanton Energy Center road system. During Stanton Unit A construction, there will be some traffic congestion. However, this impact will be temporary and will not have a lasting, significant adverse impact on the existing levels of service on affected local roads or highways. To lessen the impact of the construction traffic congestion, OUC will encourage transportation demand management techniques to reduce the number of temporary, construction-related vehicle trips on the road networks.

70. Since construction of Stanton Unit A is expected to have no greater impacts than those resulting from construction of Stanton Units 1 or 2, no additional improvements to roadways or traffic control systems are deemed necessary.

Consistency with the Local Comprehensive Plans and Land Development Codes

71. The Stanton Energy Center was initially certified by the Siting Board on December 15, 1982 for an ultimate site capacity of 2,000 MW. Stanton Unit A is consistent with the ultimate certification and the applicable zoning and land use plans of Orange County. As a result, no land use hearing was required for the Stanton Unit A Project because the previously certified ultimate site capacity will not be exceeded and the land required for the construction and operation of Stanton Unit A is within the boundaries of the previously certified site. Therefore, the Stanton Energy Center is consistent and in compliance with the applicable sections of the Orange County Comprehensive Plan, the East Central Florida Regional Planning Council Interim Strategic Regional Policy Plan, the State Comprehensive Plan, and the applicable local land use and zoning ordinances.

Solid Waste

72. Solid waste collection and disposal services at the Stanton Energy Center will be coordinated with the appropriate contractors to assure that all applicable regulations are met.

Public Services

73. Public services such as police, fire, and emergency medical services are available and sufficient to meet the needs of Stanton Energy Center.

Variances

74. Orange County will require no variances for operation of the Stanton Unit A and its associated facilities.

Agency Positions and Stipulations

75. In testimony entered at the certification hearing, the DEP, through its expert witness, Hamilton S. Oven, rendered an opinion that the Stanton Unit A Project would comply with all applicable DEP statutes, rules, policies and criteria including, but not limited to, those concerning air quality, water quality, stormwater, wetlands, solid waste, industrial wastewater and domestic wastewater, if the facility is built and operated in accordance with the Department's Conditions of Certification contained in DEP-2. Furthermore, Mr. Oven rendered an opinion that the Stanton Unit A Project can comply with the Conditions of Certification in DEP-2 and recommended that the Stanton Unit A Project be approved.

76. In testimony entered at the certification hearing, the SJRWMD, through its expert witness, James J. Hollingshead, rendered an opinion that the Stanton Unit A Project meets all the standards, rules, and policies of SJRWMD applicable to the

Stanton Unit A Project, including compliance with the SJRWMD's reasonable, beneficial use criteria. Accordingly, SJRWMD's staff and the governing board of the SJRWMD recommend certification and approval of the Stanton Unit A Project.

77. The DEP, DOT, Department of Community Affairs ("DCA"), FFWCC, Orange County, and the SJRWMD have recommended certification of the proposed Stanton Unit A Project, including its associated facilities, subject to recommended Conditions of Certification. Those recommended Conditions of Certification are attached to the DEP Staff Analysis Report as Appendix 1.

78. The East Central Florida Regional Planning Council ("ECFRPC") determined that use of the site for this industrial use is consistent with the ECFRPC's Strategic Regional Policy Plan. No state, regional, or local agency recommended denial of certification.

CONCLUSIONS OF LAW

79. The Division of Administrative Hearings has jurisdiction over the parties to, and the subject matter of, this proceeding. The proceeding was conducted in accordance with Chapter 403.501-518, Part II, Florida Statutes, the "Florida Electrical Power Plant Siting Act," and Chapter 62-17, Florida Administrative Code.

80. In accordance with Chapters 120 and 403, Florida Statutes, and Chapter 62-17, Florida Administrative Code, proper

notice was accorded to all persons, entities, and parties entitled thereto; notice also was provided to the general public. All necessary and required governmental agencies participated in the certification process. Reports and studies were issued by the DEP, DCA, DOT, SJRWMD, South Florida Water Management District ("SFWMD"), ECFRPC, FFWCC, and Orange County, in accordance with their various statutory charges.

81. The PSC has certified the need for the electrical generating capacity, nominally 633 MW, to be supplied by Stanton Unit A as required by Sections 403.508 and 403.519, Florida Statutes.

82. Preponderant evidence produced by OUC, KUA, FMPA, and Southern-Florida in their SSCA, in their pre-filed testimony, in the Joint Stipulation Between the Parties, in the Amended Joint Stipulation Between the Parties, and at the certification hearing demonstrates that the Applicants have met their burden of proving that the proposed Stanton Unit A and its associated facilities should be granted certification as described more particularly herein.

83. Preponderant evidence produced in their SSCA, in their pre-filed testimony, in the Joint Stipulation Between the Parties, in the Amended Joint Stipulation Between the Parties, and at the hearing demonstrates that the construction and operational safeguards for Stanton Unit A are technically

sufficient for the welfare and protection of citizens and are reasonable and available methods to achieve that protection. Stanton Unit A and associated facilities, if constructed, maintained, and operated in accordance with the conditions and parameters recommended and found herein and in the attached Conditions of Certification, will result in minimal environmental impacts compared to the benefits of the new combined cycle unit. Such measures will minimize adverse effects on human health, the environment, the ecology of the land and its wildlife, and the ecology of state waters and their aquatic wildlife through the use of reasonable and available methods. Certification of the construction and operation of Stanton Unit A is consistent with the goal of abundant, low-cost energy and will effect a reasonable balance between minimal environmental impacts and an already determined need for Unit A at the Stanton Energy Center.

84. The proposed Stanton Unit A and its associated facilities, if constructed and operated in accordance with the findings and conclusions herein and in the recommended Conditions of Certification, will be consistent and in compliance with the State Comprehensive Plan and the Orange County Comprehensive Plan.

RECOMMENDATION

Having considered the foregoing, it is, therefore,

RECOMMENDED that the Orlando Utilities Commission, Kissimmee Utility Authority, Florida Municipal Power Agency, and Southern-Florida, LLC, be granted certification, pursuant to Chapter 403, Part II, Florida Statutes, for the location, construction, and operation of proposed Stanton Unit A and its associated facilities, as described in the Supplemental Site Certification Application and as modified by the preponderant evidence of record supportive of the above findings of fact and conclusions of law, and in accordance with the Conditions of Certification, which are incorporated herein and made a part hereof by reference.

DONE AND ENTERED this 23rd day of July, 2001, in Tallahassee, Leon County, Florida.

CHARLES A. STAMPELOS
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675 SUNCOM 278-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 23rd day of July, 2001.

COPIES FURNISHED:

Tasha O'Dell Buford, Esquire
Young, van Assenderp,
  Varnadoe & Anderson, P.A.
225 South Adams Street, Suite 200
Post Office Box 1833
Tallahassee, Florida 32302-1833

Preston T. Robertson, Esquire
Fish and Wildlife Conservation Commission
620 South Meridian Street, Room 108
Bryant Building
Tallahassee, Florida 32399-1600

Cathy Beddell, Esquire
Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399

Lawrence N. Curtin, Esquire
Holland & Knight, LLP
315 South Calhoun Street
Post Office Box 810
Tallahassee, Florida 32302-0810

Ruth A. Holmes, Esquire
South Florida Water Management District
3301 Gun Club Road
West Palm Beach, Florida 33416

Scott A. Goorland, Esquire
Department of Environmental Protection
3900 Commonwealth Boulevard
The Douglas Building, Mail Station 35
Tallahassee, Florida 32399-3000

Charles Lee, Sr., Vice President
Florida Audubon Society
1331 Palmetto Avenue, Suite 110
Winter Park, Florida 32789

Kris H. Davis, Esquire
Charles A. Lobdell, III, Esquire
St. Johns River Water Management District
Post Office Box 1429
Palatka, Florida 32178-1429

Andrew S. Grayson, Esquire
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

Thomas B. Tart, Esquire
Orlando Utilities Commission
500 South Orange Avenue
Orlando, Florida 32801

Anthony J. Cotter, Esquire
Orange County Attorney's Office
201 South Rosalind Avenue, Third Floor
Post Office Box 1353
Orlando, Florida 32801

Sheauching Yu, Esquire
Department of Transportation
605 Suwannee Street
Hayden Burns Building, Mail Station 58
Tallahassee, Florida 32399-0458

Greg Golgowski, Acting Executive Director
East Central Florida Regional
Planning Council
631 North Wymore Road, Suite 100
Maitland, Florida 32751

Frederick M. Bryant, Esquire
Florida Municipal Power Agency
2061-2 Delta Way
Tallahassee, Florida 32303

John J. Fumero, Esquire
South Florida Water Management District
3301 Gun Club Road
West Palm Beach, Florida 33416

Katherine Manella, Esquire
St. Johns River Water Management District
Post Office Box 1429
Palatka, Florida 32178-1429

Hamilton S. Oven
Department of Environmental Protection
2600 Blair Stone Road, Mail Station 48
Tallahassee, Florida 32399

Kathy C. Carter, Agency Clerk
Department of Environmental Protection
3900 Commonwealth Boulevard, Mail Station 35
Tallahassee, Florida 32399-3000

Teri L. Donaldson, General Counsel
Department of Environmental Protection
3900 Commonwealth Boulevard, Mail Station 35
Tallahassee, Florida 32399-3000

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. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.