

STATE OF FLORIDA
SITING BOARD

FILED
03 APR 15 PM 2:05
DIVISION OF
ADMINISTRATIVE
HEARINGS

IN RE: FLORIDA POWER & LIGHT)
COMPANY MARTIN UNIT 8)
POWER PLANT SITING)
APPLICATION NO. PA89-27A.)

DOAH CASE NO. 02-0573EPP
OGC CASE NO. 02-0197

CAS-Closed

FINAL ORDER OF CERTIFICATION

On March 5, 2003, an administrative law judge with the Division of Administrative Hearings ("DOAH") submitted his Recommended Order on site certification in this administrative proceeding. The Recommended Order indicates that copies were served upon counsel for Florida Power & Light Company ("FPL"), Florida Department of Environmental Protection ("DEP"), Martin County, and upon other designated state and regional agencies. A copy of the Recommended Order is attached as Exhibit A. The matter is now before the Governor and Cabinet, sitting as the "Siting Board," for final action under the Florida Electrical Power Plant Siting Act ("PPSA") embodied in §§ 403.501-403.518, Florida Statutes.

BACKGROUND

FPL operates several electrical power plants in this state, including its existing Martin Plant located in an unincorporated area in the western portion of Martin County, Florida (the "Martin Site"). The Martin Site encompasses approximately 11,300 acres of property, a portion of which (2,192 acres) has been previously certified under the PPSA. The area surrounding the Martin Site is primarily agricultural and includes croplands, pastures, groves, wetlands, undeveloped lands, and scattered rural residences. The nearest residence is approximately two miles away from the portion of the Martin Site proposed for site certification in this proceeding.

The existing Martin Plant includes two 800 megawatt (nominal) steam-electric generating units known as Units 1 and 2, two 450 megawatt (nominal) combined cycle generating units known as Units 3 and 4, and two 170 megawatt (nominal) simple cycle combustion turbines known as Units 8A and 8B. FPL applied for permits for Martin Units 1 and 2 prior to 1973. Martin Units 1 and 2, which use residual fuel oil and natural gas, began commercial operation in 1980 and 1981, respectively. Martin Units 3 and 4, which use natural gas and are permitted to burn distillate or "light" oil, were certified under the PPSA in 1991 and began operation in 1994.

Units 8A and 8B, which use natural gas and light oil, were approved through modifications of the original site certification in 2000, and began operation in 2001.

On February 1, 2002, FPL filed an application with DEP for site certification with respect to a proposed expansion of the existing Martin Units 8A and 8B ("Unit 8 Project") located at the Martin Site. The Unit 8 Project will utilize approximately 110 acres in the aggregate, all of which acreage is located within the portion of the Martin Site previously certified under the PPSA. However, only approximately 15.5 acres will be occupied by the Unit 8 power block. The Unit 8 Project proposes to combine the two existing combustion turbines (Units 8A and 8B) at the Martin Site, add two new combustion turbines, four heat recovery steam generators (one for each combustion turbine), and one new steam turbine electric generator. The Unit 8 Project also includes two new electrical transmission lines and an optional cooling tower. Natural gas will be the primary fuel for the Unit 8 generating facilities, and light oil will be used as an alternate fuel. When completed and placed in operation, the Unit 8 generating facilities will increase the total installed generating capacity of the Martin Plant by approximately 800 megawatts. The Florida Public Service Commission ("PSC") issued an order on December 10, 2002, determining the need for the Unit 8 Project.

DOAH PROCEEDINGS

DEP forwarded the matter of FPL's requested site certification for the Unit 8 Project to DOAH for formal administrative proceedings, and Administrative Law Judge Charles A. Stampelos ("ALJ") was assigned to the case. In May of 2002, the ALJ conducted a land use hearing in this case as required by the PPSA. The ALJ entered a subsequent Recommended Land Use Order concluding that the site of the Unit 8 Project is consistent and in compliance with the land use plans and zoning ordinances of Martin County. On August 13, 2002, the Siting Board entered an order adopting the ALJ's Recommended Land Use Order and determining that the site of the Unit 8 Project is consistent and in compliance with the land use plans and zoning ordinances of Martin County.

On December 20, 2002, DEP issued its written Staff Analysis Report concerning the Unit 8 Project. DEP's Report contained a compilation of proposed Conditions of Certification for the Unit 8 Project. DEP's Report also included reports from other state, regional, and local agencies. On February 10, 2003, a Joint Prehearing Stipulation was submitted to the ALJ indicating that no party to this administrative proceeding objected to certification of the Unit 8 Project. The parties

joining in the Prehearing Stipulation included FPL, DEP, Martin County, the PSC, the Florida Department of Community Affairs, the Florida Fish and Wildlife Conservation Commission, the Florida Department of Transportation, and the South Florida Water Management District. Pursuant to § 403.508(3), Florida Statutes, the ALJ held a formal administrative hearing on site certification of the Unit 8 Project in Indiantown on February 17, 2003. Expert testimony and other evidence in support of site certification were presented at this hearing by FPL and DEP. Three members of the general public also testified at the certification hearing, but none of them spoke in opposition to the Unit 8 Project.

RECOMMENDED ORDER

On March 5, 2003, the ALJ entered his Recommended Order on site certification of the Unit 8 Project. Included in the Recommended Order, is the ALJ's basic conclusion that FPL met its burden of proof of demonstrating at the certification hearing that the Unit 8 Project, including the proposed transmission line corridor, complies with all the criteria for certification under the PPSA. The ALJ specifically concluded that the unrebutted evidence at the hearing demonstrated that the Unit 8 construction and operation safeguards are sufficient to protect the public welfare. The ALJ further concluded that the Project will result in minimal adverse affects on human health, the environment, the ecology of the land and its wildlife, and the ecology of state waters and their aquatic life. The ALJ ultimately recommended that the Siting Board "grant full and final certification" of the Martin Unit 8 Project.

CONCLUSION

No Exceptions were filed in this administrative proceeding challenging any of the ALJ's findings or conclusions in the Recommended Order on site certification. Furthermore, the record in this proceeding is devoid of objections by any governmental agencies to site certification of the Unit 8 Project. Based on a review of the record and the governing law, the Siting Board concludes that FPL's Unit 8 Project complies with the certification requirements of the PPSA and that site certification of the Project, including the associated transmission line facility, will fully balance the increasing demand for electrical power plant location and operation in this State with the broad interests of the public that are protected by the PPSA.

It is therefore ORDERED that:

A. The following clarifying corrections are made to the Conditions of Certification for the Martin Expansion Project incorporated by reference in the Recommended Order:

1. Condition of Certification I.A. is revised to read as follows:

A. Pursuant to s. 403.501-518, F.S., the Florida Electrical Power Plant Siting Act, this certification is issued to Florida Power and Light Company (FPL) owner/operator of the Martin Power Plant. Under the control of these Conditions of Certification, FPL will operate the Martin Expansion Project consisting of two natural gas-fired Combined Cycle Units No. 3 and No. 4 (each 450 MW nominal), and two simple cycle Units 8A and 8B (each 170 MW nominal) which will be incorporated into Unit 8, a "4 on 1" Combined Cycle Gas Turbine facility (total 1100 MW nominal) and ancillary equipment. The Martin Expansion Project includes future facilities, namely two gas-fired Combined Cycle Units No. 5 and No. 6, and a coal gasification facility; those future facilities will require approval in subsequent proceedings under the Act. These units are located on an 11,300-acre site located in Sections 29 & 30/Township 39 South/Range 37 East in southwestern Martin County.

2. Condition of Certification III.8 is revised to read as follows:

8. "Project" shall mean the Martin Expansion Project and all associated facilities, including: Units 3 and 4, Units 8A and 8B, Combined Cycle Unit 8, coal and limestone handling and related facilities, the cooling pond, gas pipeline, supplemental cooling tower, transmission lines and related facilities. The project consists of four phases. Phase I involved natural gas-fired, combined cycle Units 3 and 4 with distillate fuel oil as backup and an associated natural gas pipeline and transmission line upgrade. Phase II involves incorporation of Units 8A and 8B into combined-cycle Unit 8. Phase III involves Units 5 and 6 fueled by natural gas or onsite coal gasification facilities, with distillate fuel oil and natural gas as backup. Phase IV consists of coal gasification facilities. Phases III and IV will require approval in subsequent proceedings under the Act.

B. The Recommended Order on site certification (Exhibit A) is adopted and incorporated by reference herein.

C. Certification of the location, construction, and continued operation of the Martin Unit 8 Project as described in FPL's site certification application and by the evidence presented at the certification hearing is APPROVED, subject to the Conditions of Certification contained in DEP Exhibit 2, as revised in Paragraph A above.

D. Authority to assure and enforce compliance by FPL 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 light oil shall be reviewed by the Siting Board.

Any party to this proceeding has the right to seek judicial review of the Final Order pursuant to Section 120.68, Florida Statutes, by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, M.S. 35, Tallahassee, Florida 32399-3000; and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days from the date this Final Order is filed with the clerk of the Department.

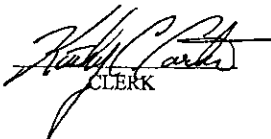
DONE AND ORDERED this 11 day of April, 2003, in Tallahassee, Florida, pursuant to a vote of the Governor and Cabinet, sitting as the Siting Board, at a duly noticed and constituted Cabinet meeting held on April 8, 2003.

THE GOVERNOR AND CABINET
SITTING AS THE SITING BOARD



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

 4/14/03
CLERK DATE

CERTIFICATE OF SERVICE

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

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and by hand delivery to:

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this 14th day of April, 2003.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



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