

6-10-03

STATE OF FLORIDA
SITING BOARD

FILED
SEP 15 PM 2:24
DIVISION OF ADMINISTRATIVE SERVICES
TALLAHASSEE, FLORIDA

AT

IN RE: FLORIDA POWER CORPORATION)
HINES ENERGY COMPLEX,)
POWER BLOCK 3, POWER PLANT SITING)
PLANT SITING SUPPLEMENTAL)
APPLICATION NO. PA92-33SA2.)

OGC CASE NO. 02-1544
DOAH CASE NO. 02-3529EPP

CAS-CLOS

FINAL ORDER OF CERTIFICATION

On June 10, 2003, an administrative law judge with the Division of Administrative Hearings ("DOAH") submitted his Recommended Order in this site certification proceeding. The Recommended Order indicates that copies were served upon counsel for the Department of Environmental Protection ("DEP"), and the applicant, Florida Power Corporation, now known as Progress Energy Florida ("PEF").¹ The Recommended Order also reflects service upon counsel for other designated state, regional and local 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

PEF is an electric utility company currently providing electric service to approximately 1.5 million customers in a 32-county region of Florida. PEF's service area extends from the middle of the Florida panhandle through the center part of the State, including the west coast of Florida north of the Tampa Bay area. In September of 2002, PEF filed a Supplemental Site Certification Application with DEP seeking site certification for the proposed Hines Energy Complex Power Block 3 project ("Power Block 3" or "Project"). The site of the proposed Project is within the existing PEF Hines Energy Complex ("Complex") located south of the City of Bartow in Polk County, Florida. The entire Complex encompasses approximately 8,200 acres of reclaimed phosphate mine lands. However, all construction activities for the proposed Power Block 3 unit will occur within an approximate five-acre portion of the existing Complex site. The adjacent land uses surrounding the Complex site consist almost entirely of active phosphate mining or reclaimed phosphate mine lands.

¹ In January of 2003, Florida Power Corporation changed its corporate name to Progress Energy Florida. Throughout the remainder of this Final Order, the name "Progress Energy Florida" or the abbreviation "PEF" will be used to refer to the applicant.

In January of 1993, the Siting Board entered an order determining that the entire Complex site is consistent with the existing land use plans and zoning ordinances of Polk County. In January of 1994, the Siting Board certified the entire Complex for an ultimate site capacity of 3,000 megawatts of electrical generating capacity. In January of 1994, the Siting Board also granted site certification at the Complex for the construction and operation of an initial 470-megawatt combined cycle unit known as Power Block 1. In 2001, the Siting Board granted certification for the construction and operation at the Complex site of Power Block 2, a 530-megawatt combined cycle unit, which is currently under construction.

The proposed Project consists of a new 530-megawatt combined cycle power plant to be located west of Power Blocks 1 and 2 at the Complex site. On February 4, 2003, the Florida Public Service Commission issued a final order determining the need for the Power Block 3 unit pursuant to § 403.519, Florida Statutes. On April 11, 2003, DEP issued its written Staff Analysis of the Project as required by the PPSA. DEP's Staff Analysis contains reports from other agencies, along with proposed Conditions of Certification for the Project

The Power Block 3 unit will be powered by two advanced Siemens Westinghouse combustion turbines designed for dual fuel operation. Natural gas will be the primary fuel for the Power Block 3 plant, and fuel oil will be used as a backup fuel. Each turbine will connect to an electrical generator capable of generating approximately 170 megawatts of electricity. Each turbine will also be paired with a heat recovery steam generator, which will extract heat energy from the turbine's exhaust gas. The steam produced in both of the Power Block 3 heat recovery steam generators will be used to drive a single steam turbine, which will produce an additional 190 megawatts of electricity. If certified by the Siting Board, the Power Block 3 unit is expected to be in service by December 1, 2005.

DOAH PROCEEDINGS

PEF's Supplemental Site Certification Application was forwarded to DOAH for formal proceedings and Administrative Law Judge Charles A. Stampelos ("ALJ") was assigned to preside over the case. On May 7, 2003, a joint prehearing stipulation was submitted to the ALJ indicating that no party to the proceeding objected to certification of the Project. A formal hearing was held by the ALJ in Bartow on May 12, 2003. The purpose of the formal hearing was to receive evidence on the issue of whether the Project site is entitled to certification pursuant to the criteria set forth in § 403.502 of the PPSA. Testimony and exhibits were

presented by PEF and DEP at the certification hearing, including a revised Staff Analysis Report by DEP (DEP Exhibit 2). The South Florida Water Management District and Polk County appeared at the hearing. No other agencies or parties or members of the public appeared or testified at the certification hearing.

The ALJ entered a Recommended Order in this supplemental site certification proceeding on June 10, 2003. The ALJ concluded that the evidence presented at the formal hearing demonstrated that the construction and operational safeguards for the Project are technically sufficient to protect the health and welfare of the citizens of Florida and are reasonable and available methods to achieve that protection. The ALJ further concluded that the Power Block 3 unit (if constructed, maintained, and operated in accordance with the Recommended Order and DEP's proposed Conditions of Certification) will produce minimal adverse effects 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 PEF's Supplemental Site Certification Application, subject to DEP's Conditions of Certification.

CONCLUSION

None of the parties to this proceeding oppose site certification of PEF's proposed Power Block 3 unit. Furthermore, no Exceptions to Recommended Order have been filed challenging any of the ALJ's factual findings, legal conclusions, or recommendation. Based on a review of the record and the provisions of the PPSA, the Siting Board concludes that supplemental site certification of PEF's proposed Power Block 3 unit will fully balance the increasing demands for electrical power with the broad interests of the public and should be approved.

It is therefore ORDERED that:

A. The ALJ's Recommended Order is adopted in its entirety and is incorporated by reference into this Final Order.

B. Site certification of the Power Block 3 unit as proposed in PEF's Supplemental Site Certification Application and described in the Recommended Order is hereby APPROVED, subject to the Conditions of Certification set forth in DEP Exhibit No. 2, which are incorporated by reference herein.

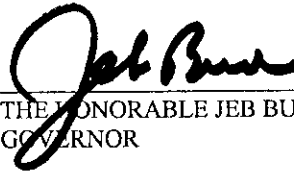
C. Authority to assure and enforce compliance by Progress Energy Florida and its agents with the Conditions of Certification imposed by this Final Order is hereby delegated to DEP,

except that any proposed modification to burn a fuel other than natural gas or fuel oil shall be reviewed by the Siting Board.

Any party to this proceeding has the right to seek judicial review of this 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.

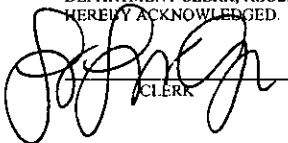
DONE AND ORDERED this 8 day of September, 2003, in Tallahassee, Florida, pursuant to a vote of the Governor and Cabinet, sitting as the Siting Board, at a duly noticed and constituted Cabinet meeting held on September 8th, 2003.

THE GOVERNOR AND CABINET
SITTING AS THE SITING BOARD



THE HONORABLE JEB BUSH
GOVERNOR

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



CLERK

9/11/03
DATE

CERTIFICATE OF SERVICE

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

Ross Stafford Burnaman, Esquire
Florida Fish and Wildlife
Conservation Commission
Bryant Building
620 South Meridian Street
Tallahassee, FL 32399-1600

Michael Duclos, Esquire
Polk County Attorney's Office
Post Office Box 9005
Bartow, FL 33831-9005

James McGee, Esquire
Florida Power Corporation
Post Office Box 14042
St. Petersburg, FL 33733

Harold Mclean, General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Martha A. Moore, Esquire
Southwest Florida Water Management District
2379 Broad Street
Brooksville, Florida 34604-6899

Douglas S. Roberts, Esquire
Hopping Green & Sams, P.A.
123 South Calhoun Street
Post Office Box 6526
Tallahassee, Florida 32314

Norman White, Esquire
Central Florida Regional Planning Council
555 East Church Street
Bartow, Florida 33930

Sheuching Yu, Esquire
Department of Transportation
605 Suwannee Street
Haydon Burns Building, MS 58
Tallahassee, FL 32399-0458

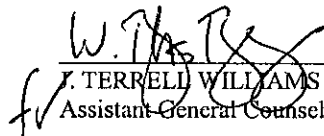
Ann Cole, Clerk and
Charles A. Stampelos, Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, FL 32399-1550

and by hand delivery to:

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

this 12 day of September, 2003.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



J. TERRELL WILLIAMS
Assistant General Counsel

3900 Commonwealth Blvd., M.S. 35
Tallahassee, FL 32399-3000
Telephone 850/245-2242