

STATE OF FLORIDA
SITING BOARD

FILED

2005 JUN -9 P 2:24

IN RE: PROGRESS ENERGY FLORIDA)
HINES ENERGY CENTER POWER,)
BLOCK 4 POWER PLANT SITING)
APPLICATION NO. PA 92-33SA3.)

OGC CASE NO. 04-1449
DOAH CASE NO. 04-2817EPP CAS
AT closed

FINAL ORDER OF CERTIFICATION

On April 5, 2005, 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"), the applicant, Progress Energy Florida ("PEF"), and the Southwest Florida Water Management District ("SWFWMD"). 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, F.S.

BACKGROUND

PEF, formerly known as Florida Power Corporation, is an electric utility company, which operates 14 power plant facilities in the State of Florida. PEF currently provides electric service to approximately 1.5 million customers in a 35-county service area. PEF's service area extends from the Florida panhandle through the center part of the State, including the west coast of Florida north of the Tampa Bay area.

In August of 2004, PEF filed a Supplemental Application with DEP seeking site certification for the proposed Hines Energy Center Power Block 4 project ("Power Block 4" or

“Project”). The site of the proposed Project is within the existing PEF Hines Energy Complex (“Complex”) located southwest of the City of Bartow in Polk County, Florida. The adjacent land uses surrounding the Complex site consist almost entirely of active phosphate mining or reclaimed phosphate mine lands. The entire Complex encompasses approximately 8,200 acres of reclaimed phosphate mine lands, but the existing and future power plant generation facilities are confined to a 704-acre island portion of the Complex.

In January of 1994, the Siting Board certified the entire Complex for an ultimate site capacity of 3,000 megawatts (MW) of electrical generating capacity, and also granted site certification at the Complex for the construction and operation of an initial 470 MW combined cycle unit known as Power Block 1. This 1994 site certification also established that the full 3,000 MW of generating capacity and the Complex site are consistent with the local land use plans and zoning regulations of Polk County.

In 2001, the Siting Board granted certification for the construction and operation at the Complex site of Power Block 2, a 530 MW combined cycle unit, which began operation in 2003. In 2003, the Siting Board granted certification for Power Block 3, another 530 MW combined cycle power plant, which is currently under construction and is expected to be operational in late 2005. The proposed Power Block 4, a 530 MW combined-cycle power plant, is similar to Power Blocks 1, 2 and 3. Power Block 4 is to be fueled primarily with natural gas, and fuel oil will be used as a backup fuel. The Power Block 4 unit will be located west of Power Blocks 1, 2 and 3, and will encompass approximately five acres of the 704-acre power plant island portion of the Complex. Power Block 4 is expected to be mechanically complete by June of 2007.

DOAH PROCEEDINGS

PEF's Supplemental Site Certification Application was forwarded to DOAH for formal administrative proceedings. On February 17, 2005, a joint prehearing stipulation was submitted indicating that no party to the proceeding objected to certification of the Project. Administrative Law Judge, Charles A. Stampelos ("ALJ"), held a formal administrative hearing in Bartow on March 23, 2005. 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 DEP and PEF at the certification hearing, including DEP's revised Staff Analysis Report and Conditions of Certification. The SWFWMD appeared at the hearing through its counsel, but presented no evidence. No other agencies or members of the public appeared at the hearing.

The ALJ entered a Recommended Order in this supplemental site certification proceeding on April 5, 2005. The ALJ concluded that the evidence presented at the 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 4 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 opposed site certification of PEF's proposed Power Block 4 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 4 unit serves and protects 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 4 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 Appendix I to DEP Exhibit 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, F.S., 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.

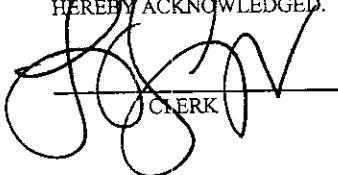
DONE AND ORDERED this 7th day of June, 2005, in Tallahassee, Florida, pursuant to a vote of the Governor and Cabinet, sitting as the Siting Board, at a duly noticed and constituted Cabinet meeting held on May 17th, 2005.

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

6/8/05

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:

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Raquel A. Rodriguez, Esquire
Office of the Governor
The Capitol, Suite 209
Tallahassee, Florida 32399-1001

and by hand delivery to:

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

this 8th day of June, 2005.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION


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