

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

IN RE: FLORIDA POWER & LIGHT)
ST. JOHNS-PELLICER-PRINGLE,)
230 KV PROJECT, TRANSMISSION) Case No. 05-2478TL
LINE SITING APPLICATION NO.)
TA05-13.)
_____)

RECOMMENDED ORDER

Pursuant to notice, a formal hearing was held in this case on January 10, 2006, in St. Augustine, Florida, before the Division of Administrative Hearings, by its assigned Administrative Law Judge, Donald R. Alexander.

APPEARANCES

For Florida Power & Light Company:	Carolyn S. Raepple, Esquire Hopping Green & Sams, P.A. Post Office Box 6526 Tallahassee, Florida 32314-6526
For Department of Environmental Protection:	Scott A. Goorland, Esquire Department of Environmental Protection Mail Station 35 3000 Commonwealth Boulevard Tallahassee, Florida 32399-3000
For St. Johns County:	Michael D. Hunt, Esquire Deputy County Attorney 4020 Lewis Speedway, Suite 1120 St. Augustine, Florida 32084-8637
For St. Johns River Water Management District:	Veronika Thiebach, Esquire St. Johns River Water Management District 4049 Reid Street Palatka, Florida 32177-2529

STATEMENT OF THE ISSUES

The issues for determination are whether and the extent to which the properly proposed corridor (the FPL Corridor) for the St. Johns-Pellicer-Pringle 230-kV transmission line (the SJPP Line) complies with the criteria in Section 403.529(4)(a)-(e), Florida Statutes (2005)¹, and whether Florida Power & Light's (FPL's) application for corridor certification should be approved in whole, with modifications or conditions, or denied.

PRELIMINARY STATEMENT

Pursuant to Section 403.537, Florida Statutes, FPL submitted a Petition to Determine Need for the SJPP Line project to the Public Service Commission (PSC) on March 25, 2005. The PSC issued Order No. PSC-05-0527-FOF-EI, dated May 13, 2005, determining the need for the SJPP Line.

On July 5, 2005, FPL filed its Application for Corridor Certification for the SJPP Line (Application) with the Department of Environmental Protection (Department) and paid the appropriate application fee. The Application was filed under the Transmission Line Siting Act (TLSA), codified in Sections 403.52 through 403.5365, Florida Statutes, for a new 230-kV overhead transmission line and related facilities connecting the existing St. Johns substation near St. Augustine in St. Johns County to the proposed Pringle substation in the City of Palm Coast in Flagler County (the Project).

The various reviewing agencies have submitted reports on the Project and have proposed Conditions of Certification. On December 9, 2005, the Department issued its Summary and Compilation of Agency Reports Including Proposed Conditions of Certification for the Project, incorporating the reports of the reviewing agencies and proposing a compiled set of Conditions of Certification. During the certification hearing, a Revised Summary and Compilation of Agency Reports, including an updated version of the proposed Conditions of Certification, dated December 29, 2005, was admitted into the record as Department Exhibit 1.

The certification hearing was held on January 10, 2006. All notices required by law were timely published in accordance with Section 403.527, Florida Statutes. The final hearing was conducted for the purpose of receiving oral, written, and documentary evidence concerning whether the Project should be approved in whole, or with such modifications and conditions as the Siting Board deems appropriate, or denied under the TLSA. FPL presented one witness and offered composite exhibits numbered FPL 1, which includes the prefiled written testimony of four witnesses, Daniel Hronec, Analee Mayes, Anthony N. Arcuri, and Philip Simpson, and exhibits numbered as DH-1, DH-2, DH-3, AM-1, AM-2, PS-1, and TA-1, and FPL 2, which contains the various notices of publication related to this matter. Also, on

January 20, 2006, FPL submitted late-filed exhibit FPL 3, which includes the public notices from the Department's website. Finally, official recognition of these notices has been taken.

At the hearing, FPL presented the testimony of Daniel Hronec, P.E., an expert in electrical transmission line engineering, who testified and submitted pre-filed written testimony and exhibits. FPL also submitted pre-filed testimony and exhibits from: Analee Mayes, AICP, an expert in land use planning; Anthony N. Arcuri, an expert in botany, vegetative mapping, and listed plant species; and Philip Simpson, an expert in wildlife ecology and transmission line impacts to terrestrial ecological resources. All pre-filed written testimony and exhibits submitted by FPL have been received into evidence without objection.

In addition to presenting the Revised Summary and Compilation of Agency Reports, the Department presented the testimony of Ann Seiler, an Environmental Specialist III who coordinated the processing of the Application, and prepared the Revised Summary and Compilation of Agency Reports.

A public hearing was held at 11:00 a.m. on January 10, 2006, for the purpose of allowing members of the public an opportunity to present evidence and testimony. No member of the public appeared to testify.

The Transcript of the final hearing was filed with the Division of Administrative Hearings on January 18, 2006. On February 16, 2006, FPL filed a Proposed Recommended Order which has been substantially used in the preparation of this Recommended Order.

FINDINGS OF FACT

Based upon all of the evidence the following findings of fact are determined:

I. Parties

1. The TLSA establishes FPL and the Department as parties to this proceeding, and the following became parties upon their timely filing of a notice of intent to be a party, which each has done: Florida Department of Transportation (DOT), Department of Community Affairs (DCA), St. Johns River Water Management District (SJRWMD), St. Johns County, and the City of Palm Coast. See § 403.527(4), Fla. Stat.

II. The Application

A. Project Description

2. Generally, an electrical transmission line's purpose is to transport large amounts of electricity from a generating facility to one or more substations. At the substation, the electricity can be either increased or reduced in voltage through transformers and other electrical equipment for further

safe and practical transportation, or distribution directly to customers.

3. FPL is seeking certification of a corridor between the existing St. Johns substation and the proposed Pringle substation within which it will ultimately construct the SJPP Line on a narrow right-of-way (ROW). Once all property interests in the ROW are acquired, the boundaries of the corridor will shrink to the typical width of the 15 to 60-foot ROW.

4. The service area for the proposed SJPP Line (the Project Service Area) is St. Johns County and Flagler County. The SJPP Line will follow Interstate 95 (I-95) in a north-south direction and will connect to the proposed intermediate Deerwood, Vermont, Anastasia, and Pellicer substations.

5. The Project Service Area includes an area of increasing load and customer base in the area south of St. Johns and north of Pringle substations and to the west of the existing Bunnell-St. Johns 115-kV transmission line.

6. The three objectives of the SJPP Line project are: (1) to address the need, as confirmed by the PSC, to serve FPL's increasing load and customer base in the area south of St. Johns and north of Pringle substations in a reliable manner; (2) to provide additional transmission reinforcement to the existing 115-kV transmission line between the Bunnell and St. Johns

substations; and (3) to efficiently and effectively integrate and serve new distribution substations that are needed to serve projected load growth within Flagler and St. Johns Counties. The primary path for the SJPP transmission line bringing electricity into the Project Service Area will be aligned within or adjacent to existing linear features, such as existing road, transmission line and railroad ROWs. The only exception is a distance of less than half a mile in length between the proposed Vermont substation in the St. Augustine Industrial Park and I-95, where the corridor largely follows property lines.

7. The primary path for the SJPP transmission line bringing electricity into the Project Service Area will be aligned within or adjacent to existing linear features, such as existing road, transmission line, and railroad ROWs. The only exception is a distance of less than half a mile in length between the proposed Vermont substation in the St. Augustine Industrial Park and I-95, where the corridor largely follows the property line.

B. Need for the SJPP Line

8. The PSC determined a new 230-kV transmission line between the St. Johns substation and the proposed Pringle substation is needed, taking into account the need for electric system reliability and integrity in northeast Florida and the need to provide abundant, low-cost electrical energy to assure

the economic well-being of the citizens of the State, particularly those in northeast Florida.

9. The PSC noted that FPL's planning studies indicate this additional transmission capacity will be needed by December 2008 to alleviate potential overloads and low voltage conditions that could result from a single contingency event. Without the addition of this transmission capability by 2008, the PSC found that up to 8,300 electric customers could experience service interruptions.

10. The PSC recognized that the Siting Board will make the final corridor selection upon consideration of the factors and criteria specified in Section 403.529, Florida Statutes.

C. Transmission Line Design

11. The typical design for the SJPP Line will be a single-circuit unguyed concrete pole structure, 90 feet above grade in height, with the conductors framed in a vertical configuration. Each of the three conductors is anticipated to be a 1,431 thousand circular mils, aluminum conductor, steel reinforced alumoweld core. There will also be a smaller overhead ground wire to provide shielding and lightning protection for the conductors and provide communications capability. The maximum current rating for the line will be 1,905 amperes. In some locations, electric distribution lines and communication cables may also be attached to the structures beneath the conductors.

12. In some locations, such as along FPL's St. Johns-Tocoi transmission line right-of-way and along Tocoi Road, a double-circuit configuration, with or without distribution underbuild, may be used.

13. The span length between structures will typically vary between 250 and 750 feet, depending on site-specific conditions, ROW widths, and other design considerations. Both pole height and span length may vary to accommodate such things as locating poles to coincide with property boundaries or existing collocated utility facility poles, to avoid or minimize wetland impacts, to cross other utility lines, and to facilitate wide crossings of water bodies and roadways.

14. Where the transmission line turns large angles or crosses other major linear facilities, the structures may be guyed or anchored to support the differential tension.

15. Access roads and structure pads will be constructed only where necessary to provide access for construction, maintenance, and emergency restoration. Where constructed, the typical road top width will be about 14 feet, with a 2-to-1 side slope, and a minimum elevation of 6 inches over mean or seasonal high water. Structure pads will have variable sizes, depending on site specific requirements, but will be of sufficient size to provide access to structure locations for the large construction equipment. Access roads and structure pads will not be paved.

Culverts will be installed beneath access roads and structure pads with spacing, diameter, and length to maintain preconstruction flows.

16. The design of the SJPP Line complies with good engineering practices. The SJPP Line will be designed in compliance with all applicable design codes, including the National Electrical Safety Code (NESC), the Department's regulations on electric and magnetic fields, the DOT Utility Accommodation Manual, the St. Johns County and City of Palm Coast noise ordinances, and standards of the American Society of Civil Engineers (ASCE), the Institute of Electrical and Electronics Engineers, American Society of Testing Materials, American National Standards Institute, and American Concrete Institute, as well as FPL's own design standards.

17. The Project assures the citizens of Florida that operation safeguards are technically sufficient for their welfare and protection.

D. Transmission Line Construction

18. Surveying the ROW to facilitate acquisition of the necessary property interests is a first step towards construction. After property rights for the ROW have been acquired, the initial phase of construction is to clear the ROW. Since nearly the entire length of the FPL Corridor is collocated with existing roads and utility facilities, the need for

acquisition of private property and the need for clearing have been minimized. Clearing will consist mainly of tree trimming and the removal of trees that exceed or are capable of exceeding 14 feet in height. In wetlands, trees capable of exceeding 14 feet in height that could come in conflict with the line will be removed by hand-clearing or use of very low ground pressure equipment. Low-growing herbaceous vegetation will not be cleared from wetlands.

19. After the ROW is cleared, any necessary access roads and structure pads will be constructed. Typically, access roads and pads are only required in wet and low areas. This enables all subsequent construction activity in those wet areas to remain on the newly constructed access road and pad.

20. The next phases of construction involve the physical transmission line construction. Initially, materials are brought to the jobsite. Next, holes are augered at each pole location and the poles are then erected using cranes or other heavy equipment. The hole is then backfilled with suitable fill. Typically, the pole is embedded into the ground approximately 16 to 20 feet.

21. After the poles are set, the poles are framed, that is, the insulators and hardware are installed on the pole. Then through a wire pulling operation the conductors and overhead ground wires are installed. The conductors are then properly

sagged and tensioned to provide the proper vertical clearances. Next, the conductors are "lipped in" to the insulator assemblies. The final stage of construction is ROW clean-up.

22. During all stages of construction, FPL will maintain traffic on any adjacent county, state, or federal roadways in compliance with applicable DOT and St. Johns County regulations.

23. Throughout construction, sedimentation management techniques, such as the use of silt screens and hay bales, will be employed as necessary to minimize potential impacts from erosion and sedimentation.

24. While each phase of construction will typically take only 1 to 7 days in an area, the entire SJPP Line construction process will last approximately 13 months.

E. Methodology for Choosing FPL Corridor

25. On project initiation, FPL management instructed its multi-disciplinary corridor selection team to identify, if it could, a corridor for the SJPP Line that connects the St. Johns and Pringle substations and allows connections to the proposed intermediate substations.

a. Corridor Selection and Public Involvement

26. FPL established a multi-disciplinary team to identify and evaluate routing alternatives within the Project Study Area. This multi-disciplinary team was comprised of a transmission line engineer, a land use planner, and an ecologist.

27. FPL's multi-disciplinary team gathered data on siting opportunities and constraints within the study area and identified 45 line segments which could be assembled into approximately 630 alternate routes for the SJPP Line.

28. FPL also engaged in an extensive public participation program to gather input for its route evaluation study. This public participation program included an open house, mass mailings, a community survey, a toll-free telephone number and an e-mail address, a website, and meetings with regulatory agencies, community associations, homeowner groups, and individual homeowners and property owners.

29. The public participation program provided substantive input to the route evaluation study in terms of study area boundary, siting opportunities and constraints in the area, identification of route segments to be evaluated, and weights to be assigned to the route evaluation criteria.

30. FPL's multi-disciplinary team evaluated the 630 routes quantitatively, using 11 weighted factors, and then evaluated in more detail, using both quantitative and qualitative criteria, a few distinct routes identified from among the highest-ranking routes.

31. Through this process, FPL's multi-disciplinary team was able to identify a route of the FPL Corridor that, on

balance, is the most appropriate considering environmental, land use, engineering, and cost considerations.

32. Once the preferred alignment was identified, the multi-disciplinary team delineated the boundaries or width of the FPL Corridor to provide flexibility for locating the eventual ROW within that corridor.

b. Agencies' Review of FPL's Application and Resulting Determinations

33. State, regional, and local agencies with regulatory authority over the project reviewed FPL's Application and submitted to the Department a report as to the impact of the proposed SJPP Line on matters within the agency's jurisdiction, as required by Section 403.526(2), Florida Statutes. The Department then compiled these reports and made a recommendation that the SJPP Line be granted approval subject to appropriate conditions.

III. Stipulations Entered Into by Parties

34. All agency parties filed stipulations with FPL in which these parties and FPL agreed to the Conditions of Certification for the SJPP line and the entry into the record of the pre-filed written testimony and exhibits of FPL's witnesses.

IV. Detailed Description of the FPL Corridor

35. Almost the entire length of the FPL Corridor is collocated with existing linear features, such as roads and

transmission lines. This collocation will minimize impacts of the new SJPP Line. The width of the FPL Corridor varies along the route to provide flexibility within the corridor to minimize or avoid impacts to such areas as existing developments and large wetland areas.

A. From the St. Johns Substation to the Deerwood Substation

36. The SJPP line will exit the existing St. Johns substation at SR 207 near Lightsey Boulevard and utilize the existing 110-foot-wide St. Johns-Tocoi 230-kV ROW. The FPL Corridor will be collocated within this existing ROW north and west until the intersection with I-95. Along the existing ROW and in the vicinity of the St. Johns substation, the land use is residential or vacant.

37. At I-95, the preferred corridor will follow the eastern ROW line of the highway south to the intersection with Tocoi Road. The corridor in this stretch is 500 feet wide. Within the corridor in this stretch, the land use is vacant. There is some residential development outside the corridor to the east.

38. At the I-95/Tocoi Road intersection, the FPL Corridor is expanded in all four quadrants following property lines to allow FPL flexibility in traversing the short distance to

Deerwood substation and crossing I-95 to proceed south from Deerwood.

39. The FPL Corridor follows Tocoï Road to enter and exit the proposed Deerwood substation, encompassing 100 feet or less in width on both the north and south sides of the road. The line will be built either on the south or north side of the road. A FPL distribution line currently exists on the south side of Tocoï Road.

B. From the Deerwood Substation to the Vermont Substation

40. The FPL Corridor will leave the Tocoï Road alignment at the I-95 intersection. The FPL Corridor then follows the western ROW edge of I-95 south to the FEC Railroad, where the corridor turns to the southwest for a short distance. In this section, the corridor is 500 feet wide.

41. At the north end of the St. Augustine Industrial Park, the corridor follows property lines to the access road (Deerpark Boulevard) into the industrial park. The corridor is 200 feet wide in this section. From the north end of the access road, the FPL Corridor follows the east edge of the road south to the Vermont substation site, is 100 feet wide in this section, and includes an existing FPL distribution line.

C. From the Vermont Substation to the Anastasia Substation

42. The FPL Corridor exits the Vermont substation heading northeast toward I-95. In this area, the corridor will be of variable width and will include both sides of State Road 207 (SR 207). An existing 115-kV FPL transmission line already occupies the north side of the SR 207, and a distribution line is located on the south side. An existing FPL distribution line traverses north-south in this area and is also included in the corridor. In the area between the Vermont substation and I-95, the corridor is north and east of existing residential subdivisions.

43. The corridor between the Vermont substation and I-95 is widened to allow flexibility in accommodating a number of land use and engineering considerations. These considerations include the crossing of SR 207, the existing transmission line and distribution lines, existing residential development south of SR 207, existing commercial development north of SR 207, and a large borrow pond west of I-95.

44. The corridor will reach I-95 south of SR 207, at which point it will then follow I-95's western boundary southward. The corridor is 500 feet wide in this area where it parallels I-95 south to SR 206.

45. The predominant land use in the area between the Vermont and Anastasia substations is silviculture.

D. From the Anastasia Substation to the Pellicer Substation

46. At the intersection of SR 206 and I-95, the corridor is again widened variably to include the properties on the northwest and southwest quadrants of the interchange to provide flexibility in finalizing the Anastasia substation plans and providing ingress and egress to that substation.

47. The FPL Corridor will exit the Anastasia substation and follow the western boundary of I-95 southward. The corridor is 500 feet wide in this stretch with the exception of the location of a rest area on the west side of I-95, approximately 2.5 miles south of Anastasia substation. The corridor is of variable width around the rest area, but generally 1,000 feet wide to allow flexibility in traversing either the front or rear of the rest area. In this area, the predominant land use is silviculture.

48. Where I-95 intersects the FEC Railroad north of County Road 204 (CR 204), the FPL Corridor turns and follows the railroad southward. The corridor is located along the east side of the railroad and is 500 feet wide. North of CR 204, the corridor is expanded along the road to allow ingress to the Pellicer substation site located south of CR 204 and east of the railroad. Land uses in this area are primarily silviculture.

E. From the Pellicer Substation to the Pringle Substation

49. The FPL Corridor includes the entire Pellicer site, which is already owned by FPL, along the east side of the FEC Railroad south to Pellicer Creek. The corridor in this area crosses lands owned or proposed to be purchased by the SJRWMD for conservation purposes for approximately one mile.

50. From Pellicer Creek south to the Pringle substation, the corridor will follow the east side of the railroad bed and will be variable in width, generally 150 to 300 feet wide.

51. At the Pringle substation site, which is already owned by FPL, the corridor includes the entire substation site. The FPL Corridor for the stretch south of Pellicer Creek falls in a currently undeveloped portion of the Palm Coast Park Development of Regional Impact (DRI) within the City of Palm Coast's jurisdiction. The development order for the Palm Coast Park DRI provides for an easement for the SJPP transmission line within the FPL Corridor.

V. Compliance With Section 403.529(4) Criteria

A. Ensure Electric Power System Reliability and Integrity

52. The PSC found that there are regional transmission system limitations in St. Johns and Flagler Counties. By 2008, the existing 115kV transmission network between the Bunnell substation in Flagler County and the St. Johns substation in St. Johns County will not have sufficient capacity to provide

reliable electric service to the existing and proposed substations in the area. The SJPP Line would be built to alleviate potential overloads and low voltage conditions from a single contingency event, which occurs when a single element such as a generator, transmission circuit or transformer is eliminated from the system. If the SJPP Line is not built, service interruptions affecting up to 8,300 customers could occur.

53. In addition, the PSC found that the FPL North Region (extending from Indian River County to Nassau County) has grown by a compound annual average growth rate of 3.7 percent over the past five years. The SJPP Line is also needed to serve the increasing load and customer base in the area.

54. Operation of the SJPP Line would be consistent with the North American Electric Reliability Council and Florida Reliability Coordinating Council transmission system standards.

55. FPL has a responsibility to provide safe and reliable service to its customers. See § 366.03, Fla. Stat. The provision of reliable electric service is important to FPL and its customers. In the past, FPL has demonstrated the ability to plan a reliable electric system consistent with the NESC and ASCE standards.

B. Meet the Electrical Energy Needs of the State in an Orderly and Timely Fashion

56. The PSC recognized that FPL's planning studies indicate that the SJPP Line is needed by December 2008 to alleviate potential overloads and low voltage conditions from a single contingency event.

57. Location of the SJPP Line on the FPL Corridor would meet the electrical energy needs of the state in a timely fashion.

C. Comply with the Nonprocedural Requirements of Agencies

58. Construction, operation, and maintenance of the SJPP Line in the FPL Corridor will comply with applicable non-procedural requirements of agencies.

59. The Department has concluded that the project as proposed will comply with all applicable Department statutes, rules, policies, and procedures.

D. Be Consistent with Applicable Local Government Comprehensive Plans

60. The Department has concluded that the SJPP Line as proposed would produce a minimal adverse impact on the environment and public health, safety, and welfare without unduly conflicting with local statutes and local comprehensive plans.

61. After certification of this project, FPL will acquire the necessary property interests in a ROW within the certified

corridor for placement of the SJPP Line. Construction of transmission lines on such established ROWs is excepted from the definition of "development" in Section 163.3164(5), Florida Statutes. Accordingly, the provisions of the local comprehensive plans related to "development" that have been adopted by the local governments crossed by the SJPP Line are not applicable to this project.

62. To the extent the comprehensive plans of the local governments crossed by the SJPP Line include provisions applicable to non-development activities, the proposed transmission line in the FPL Corridor would be consistent with them.

63. The City of Palm Coast Comprehensive Plan is essentially silent on transmission lines as a land use, which is consistent with such lines being excepted from the definition of "development" regulated by the Plan.

64. Policy A.1.8.3 of the St. Johns County Comprehensive Plan provides that "future utility facilities shall be located to promote the efficient provision of services, minimize the cost of construction and maintenance, and minimize the impact on the natural environment." Because of the thoroughness of the corridor selection process and criteria, and the appropriateness of the corridor from a land use perspective, the proposed SJPP Line is consistent with that policy.

65. No variances or exemptions from applicable state or local standards or ordinances are needed for the project.

E. Implementation of Legislative Intent in Section 403.521

a. The Need for the SJPP Line as a Means of Providing Abundant Low-Cost Electrical Energy

66. The PSC determined that the SJPP Line is needed taking into account the factors set forth in Section 403.537, Florida Statutes.

67. In the need proceeding, the PSC considered two alternatives, including transmission modifications to the existing 115-kV system. The PSC accepted FPL's rejection of the two alternatives "due to economics and concerns with the ability to serve additional future customers west of the I-95/US-1 corridor." The PSC found that the proposed transmission line would "assure the economic well-being of the citizens of the state by serving projected new electric load in the region, and improving the region's electric reliability by minimizing the region's exposure to single contingency events."

68. The PSC has determined that the estimated cost of the Project is reasonable, and that the SJPP Line will assure the economic well-being of the citizens of the state by serving projected new electric load in the region and improving the region's electric reliability by minimizing the region's exposure to single contingency events.

b. Impact Upon the Public

69. The SJPP Line is appropriate from a land use perspective because this type of transmission line currently exists in all types of land uses in Florida, including residential, commercial, industrial, agricultural, and vacant land. The SJPP Line takes advantage of the opportunity to be collocated with other transmission lines, roadways, and railroad ROWs for almost the entire distance. By following these existing linear features, the FPL Corridor conforms to existing and future development patterns, and minimizes intrusion into residential areas and conservation lands. As a result, the proposed SJPP Line is in proximity to relatively few residences and only one crossing of lands either purchased or proposed for purchase under federal, state, or local land acquisition programs. Further, by collocating with other public and utility ROWs, the amount of land that will be required for the SJPP line is less than if it were not collocated.

70. The FPL Corridor minimizes impacts to existing homes by following a route where there is very little residential development and where planned residential development is very low density.

71. The SJPP Line as proposed will comply with all applicable non-procedural standards, including the noise ordinances of St. Johns County and the City of Palm Coast, and

the standards adopted by the Department limiting the electric and magnetic fields associated with transmission lines.

c. Impact Upon the Environment

72. The SJPP Line Project as proposed will have minimal environmental impact.

73. Construction of the SJPP Line within the FPL Corridor will not adversely affect the conservation of fish and wildlife, including endangered or threatened species, or their habitats. The FPL Corridor avoids or minimizes intrusion into the undisturbed wildlife habitats due to its collocation with existing linear facilities for almost its entire length. The current condition and relative value of function of the habitat in the FPL Corridor is minimal from a wildlife ecology and protected species perspective. Great care was taken in routing the FPL Corridor to avoid or minimize proximity of the corridor to known listed species locations, including routing inputs from wildlife agencies such as the Florida Fish and Wildlife Conservation Commission (FFWCC) and the U.S. Fish and Wildlife Service. Further, due to the presence of existing linear features along much of the route, clearing of additional natural habitats and potential wetland impacts will be minimized.

74. Construction of the SJPP Line within the FPL Corridor will not cause a significant adverse impact to the current condition and relative value of functions of the vegetative

communities within the FPL Corridor. First, nearly the entire length of the FPL Corridor allows placement of the transmission line within or adjacent to existing linear features to take advantage of previous disturbances to vegetation. FPL will also minimize impacts to forested wetland vegetation through the use of restrictive clearing practices during both construction and maintenance. In the forested wetland portions of the ROW, FPL will only take out trees and shrubs that have an expected mature height greater than 14 feet and "danger trees," which are trees that could fall into the conductors and cause an outage. In these areas, vegetation will be removed by hand, usually with chain saws, or with low-ground-pressure shear or rotary machines to reduce soil compaction and damage to ground cover. The removal of vegetation in forested wetlands will not affect the vegetative root mat or soil surface conditions. The non-forested wetlands should not require any clearing.

75. There will be some filling in wetlands associated with the placement of pole pads and access roads. However, FPL will minimize impacts on wetlands vegetation through a careful alignment of the ROW and the varying of span distances between poles. FPL will also install an appropriate number and size of culverts to properly maintain existing wetland hydroperiods along areas of fill in wetlands. Also, any unavoidable wetland

impacts associated with the project will be mitigated in accordance with the Conditions of Certification.

76. FPL has agreed to avoid the removal of listed plant species on public lands and waters, wherever practicable. When removal is necessary on public lands/waters, FPL will consult with the Department, FFWCC, and the Department of Agriculture and Consumer Services to determine the appropriate steps to minimize, mitigate, or otherwise appropriately address potential project related impacts to listed plant species. FPL's commitment to avoid, minimize and/or mitigate potential impacts to listed plant species within public lands and waters will promote the conservation of endangered and threatened plant species populations and their habitats.

77. The SJPP Line Project will comply with all applicable state, regional, and local non-procedural regulations, including the wetland regulatory standards applicable to such projects.

d. Balance of Need versus Impacts

78. The SJPP Line would effect a reasonable balance between the need for a transmission line as a means for providing abundant low cost energy and the impact upon the public and the environment resulting from the location of the transmission line corridor and the construction and maintenance of the transmission line.

VI. Conditions of Certification

79. The design, construction, and operation of the SJPP Line as proposed in the FPL Corridor will comply with the conditions of certification set forth in Department Exhibit 1.

80. The conditions of certification establish a post-certification review process through which the final right-of-way, access road, and structure locations will be reviewed by agencies with regulatory authority over the project for the purpose of monitoring for compliance with the conditions of certification.

81. While the FPL Corridor has few homes in close proximity to it and very limited wetland crossings, FPL has agreed to conditions of certification that further minimize land use and environmental impacts. For example, FPL has agreed that to the extent practicable it will locate its ROW to avoid the taking of homes, to collocate the ROW within or adjacent to existing ROWs, and to vary the length of the span between poles as appropriate to eliminate or reduce wetland impacts.

CONCLUSIONS OF LAW

82. The Division of Administrative Hearings has jurisdiction over the parties to, and the subject matter of, this proceeding. §§ 120.569 and 403.527(2), Fla. Stat.

83. This certification proceeding was held pursuant to the Transmission Line Siting Act, Sections 403.52 through 403.5365,

Florida Statutes, and Florida Administrative Code Chapter 62-17,
Part II. The intent of this licensing process is:

to fully balance the need for the transmission lines with the broad interests of the public in order to effect a reasonable balance between the need for the facility as a means of providing abundant low-cost electrical energy and the impact on the public and the environment resulting from the location of the transmission line corridor and the construction and maintenance of the transmission lines.

§ 403.521, Fla. Stat. To implement this intent, the Legislature has set forth specific requirements for the PSC to determine the need for the proposed transmission line and address other matters within its jurisdiction, for other various agencies to prepare reports and studies regarding matters within their jurisdiction, for publication of notice of the application and certification proceeding, for third parties to have an opportunity to offer alternate corridor routes for consideration, and for criteria to be considered in determining whether an application should be approved in whole, approved with modification or conditions, or denied. See §§ 403.526, 403.527, 403.5271, and 403.529, Fla. Stat.

84. All parties identified in Finding of Fact No. 1 have standing in this proceeding.

85. FPL has the burden of proving that, under the criteria of Section 403.529(4), Florida Statutes, the FPL Corridor for

the SJPP Line should be certified as proposed based upon a preponderance of the evidence presented at the certification hearing. See, e.g., Fla. Dept. of Transp. v. J.W.C Co., Inc., 396 So. 2d 778, 788 (Fla. 1st DCA 1981).

86. The evidence in the record of this proceeding demonstrates compliance with the procedural requirements of the TLSA, including the notice requirements for the certification and public hearings.

87. In deciding whether FPL's Application for Corridor Certification should be approved, approved with conditions, or denied, the Siting Board must determine whether, and the extent to which, the location of the corridor and the construction and maintenance of the transmission line in the corridor will:

(a) Ensure electric power system reliability and integrity;

(b) Meet the electrical energy needs of the state in an orderly and timely fashion;

(c) Comply with nonprocedural requirements of agencies;

(d) Be consistent with applicable local government comprehensive plans; and

(e) Effect a reasonable balance between the need for the transmission line as a means of providing abundant low-cost electrical energy and the impact upon the public and the environment resulting from the location of the transmission line corridor and the maintenance of the transmission lines.

§ 403.529(4), Fla. Stat.

88. Compliance with Section 403.529(4)(a), Florida Statutes. The PSC determined the need for a new 230-kV transmission line between the St. Johns River and Pringle substations in Order No. PSC-05-0527-FOF-EI, issued on May 13, 2005. Among other things, the PSC found that construction of the proposed SJPP Line would "improve the region's electric reliability by minimizing the region's exposure to single contingency events." The PSC also found that if FPL does not add this new transmission capability by 2008, up to 8,300 electric customers could be subject to service interruptions. These findings of the PSC address the extent to which the reliability, integrity, and service restoration of the electric system will be enhanced. The PSC's determination of need for the SJPP Line Project is binding upon all parties to the certification proceeding. § 403.537(1)(c), Fla. Stat. By submitting the PSC Order Determining Need into the record, FPL made a prima facie showing that the FPL Corridor would enhance electric system reliability, integrity, and restoration of service. The PSC found that the FPL Corridor meets the criterion of Section 403.529(a), Florida Statutes.

89. Compliance with Section 403.529(4)(b), Florida Statutes. The PSC acknowledged in its Order Determining Need for the SJPP Line that FPL's planning studies indicate the

proposed transmission line needs to be in service by December 2008 to alleviate potential overloads and low voltage conditions from a single contingency event. Evidence regarding the design of the transmission line, the construction phases for the transmission line, including the projected 13-month construction schedule, and the proposed location of the SJPP Line demonstrates that the SJPP Line will meet the electrical needs of the state in an orderly and timely fashion within the time frames established by the PSC.

90. Compliance with Section 403.529(4)(c), Florida Statutes. The location of the SJPP Line in the FPL Corridor and the construction and maintenance of that SJPP Line in conformance with the recommended Conditions of Certification contained in Department Exhibit 1 will comply appropriately with the non-procedural requirements of all agencies.

91. Compliance with Section 403.529(4)(d), Florida Statutes. There are no inconsistencies between the proposed SJPP Line project and the local government comprehensive plans adopted by local governments whose jurisdictions are crossed by the SJPP Line.

92. Compliance with Section 403.529(4)(e), Florida Statutes. The location of the FPL Corridor and the construction, operation, and maintenance of the SJPP Line in that corridor provide a reasonable balance between the need for

the transmission line and the impact of the transmission line upon the public and the environment. The impact upon the public and the environment will be minimized by the SJPP Line's collocation with existing linear facilities for nearly its entire length. Furthermore, the impact from clearing activities and any other construction and operation activities associated with the SJPP Line will be minimal, particularly when balanced with the significant electrical energy requirements that will be satisfied by the construction and operation of the SJPP transmission line in the FPL Corridor.

93. Based upon a preponderance of the evidence presented at the certification hearing, FPL has met its burden of proving that the SJPP Line and related facilities should be certified as proposed, subject to the Conditions of Certification included in Department Exhibit 1.

RECOMMENDATION

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

RECOMMENDED that the Siting Board enter a Final Order approving FPL's St. Johns-Pellicer-Pringle 230-kV Transmission Line Application for Certification subject to the Conditions of Certification set forth in Department Exhibit 1.

DONE AND ENTERED this 6th day of March, 2006, in
Tallahassee, Leon County, Florida.



DONALD R. ALEXANDER
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 6th day of March, 2006.

ENDNOTE

1/ All subsequent references are to the 2005 version of the
Florida Statutes.

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NOTICE OF RIGHT TO FILE EXCEPTIONS

All parties have the right to submit written exceptions within 15 days of the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will render a final order in this matter.