STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

IN RE: TAMPA ELECTRIC COMPANY,
POLK POWER STATION, POLK 2-5
COMBINED CYCLE CONVERSION PROJECT
_____/

Case No. 12-3369EPP

RECOMMENDED ORDER ON CERTIFICATION

The certification hearing in this case was held on June 25-26, 2013, in Lithia and Bartow, Florida, before Bram D. E. Canter, an Administrative Law Judge of the Division of Administrative Hearings ("DOAH").

APPEARANCES

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STATEMENT OF THE ISSUE

The issue to be determined in this proceeding is whether the Governor and Cabinet, sitting as the Siting Board, should certify the Polk 2-5 Combined Cycle Conversion Project ("Project") of Tampa Electric Company ("TEC"), including its associated electrical transmission lines, subject to the proposed Conditions of Certification.

PRELIMINARY STATEMENT

On October 4, 2012, TEC filed its Application for Site Certification ("Application") with the Florida Department of Environmental Protection ("Department"). The Application was distributed to various agencies for review. The Department determined the Application was complete on December 17, 2012.

On January 28, 2013, following the submittal of reports and proposed conditions for certification from the reviewing agencies, the Department issued its Project Analysis Report for the transmission line portion of the Project and, on April 26, 2013, issued its Project Analysis Report for the power plant portion of the Project. The reports included the Department's recommended Conditions of Certification. On May 21, 2013, the Department filed a revised Project Analysis Report.

Hillsborough County, the Florida Fish and Wildlife Conservation Commission ("FWC"), and the Southwest Florida Water Management District ("SWFWMD") each filed notices of intent to be

parties. Of these agencies, only Hillsborough County appeared at the hearing.

Hillsborough County requested that a public hearing be held within its boundaries so that members of the public who are not parties to the certification hearing would have an opportunity to provide testimony regarding the proposed transmission line corridors. The request was granted and the hearing was held on June 25, 2013, in Lithia. Public testimony was received and Public Testimony Composite Exhibit 1 was received into the record.

On June 26, 2013, the certification hearing was held in Bartow. TEC presented the testimony of eleven witnesses and TEC/Department Joint Exhibits 1-4 and TEC Exhibits 1-55 were admitted into evidence. The Department presented the testimony of two witnesses and Department Exhibits 1-5, 6A, 6B, 7, and 8 were admitted into evidence. No other party presented testimony or exhibits. Following the hearing, TEC requested and was allowed to supplement TEC/Department Joint Exhibit 4.

The Transcripts of the public hearing and certification hearing proceeding were filed with DOAH. TEC and the Department filed a joint proposed recommended order, which has been considered in the preparation of this Recommended Order.

FINDINGS OF FACT

1. The parties stipulated there are no disputed issues of fact.

2. TEC is an investor-owned electric utility regulated by the Florida Public Service Commission. It is headquartered in Tampa and has supplied electricity to customers in the Tampa Bay area since 1899.

3. TEC's electric service territory covers approximately 2,000 square miles and includes all of Hillsborough County and portions of Polk, Pasco, and Pinellas Counties. TEC has five generating stations, Big Bend, HL Culbreath Bayside, JH Phillips, Polk Power Station, and Partnership Station. The Project is proposed for the Polk Power Station.

Existing Facilities

4. The Polk Power Station was certified pursuant to the Power Plant Siting Act in January 1994. It is located in southwest Polk County, 17 miles south of the City of Lakeland and 28 miles southeast of the City of Tampa. The original site consists of 4,348 acres bordered by the Hillsborough County line on the west; County Road 663 (Fort Green Road) on the east; County Road 630, Bethlehem Road, and Albritton Road on the north; and State Road 674 and several former phosphate clay settling ponds on the south.

5. The Polk Power Station has five electric generating units and associated facilities. Polk Unit 1 is 260 megawatt integrated gasification combined cycle facility fired with synthesis gas or "syngas" produced by gasifying coal and other solid fuels. Polk Units 2 through 5 are 165 megawatt simple cycle combustion turbine generators fueled primarily with natural gas.

6. Support facilities at the Polk Power Station include a 755-acre cooling reservoir, oxygen blown gasifier, air separation unit, sulfuric acid plant, slag byproduct storage area, and switchyard. The station is served by four 230 kilovolt ("kV") transmission circuits, a railroad line, and a natural gas pipeline. Water is supplied from four onsite groundwater wells for the cooling water reservoir and other plant processes. Other existing facilities include an administration building, control room, warehouse, and construction management building.

The Proposed Project

Need

7. On January 8, 2013, the Florida Public Service Commission issued its Final Order Granting Certification of Need for Polk 2-5 Combined Cycle Conversion. The Commission determined that the most cost effective and reliable alternative to meet future power needs is the construction of the Project at

the Polk Power Station. The Commission's Final Order is TEC/Department Joint Exhibit 2.

8. Among other findings, the Commission determined that the Project would improve fuel diversity and supply reliability, incorporate renewable energy and conservation factors, and is needed to maintain electric system reliability and integrity.

Power Generation

9. The Project involves the conversion of the four existing simple cycle combustion turbine generator units to combined cycle operation. The Project would be a four-on-one combined cycle unit consisting of the four existing combustion turbine generators, each combined with a new heat recovery steam generator, and a new steam turbine generator.

10. The Project would achieve improved efficiency in electrical power generation. When operated in a simple cycle mode, a combustion turbine generator releases hot gases to the atmosphere. In the proposed combined cycle configuration, this exhaust heat would be routed to the heat recovery steam generators and the steam produced by the heat recovery generators would be routed to the new steam turbine generator to produce additional electricity.

11. The Project is designed to allow the combustion turbine generators to be operated in simple cycle mode when the steam turbine generator is not in service. The combustion turbine

generators may also be operated in simple cycle mode to meet peak power demands.

12. The conversion would increase the nominal net generating capacity of the four existing generators from 660 megawatts to 1,160 megawatts. Total capacity for the Polk Power Station would be increased from 1,150 megawatts to 1,420 megawatts.

13. The proposed generating facilities would be state-of-the-art, incorporating improvements in technology that have occurred over the past 20 years. They are designed by Black & Veatch, an internationally-recognized engineering firm with significant experience in designing similar facilities.

Fuels

14. The four combustion turbine generators would be fired with natural gas as the primary fuel. Ultra-low-sulfur diesel fuel would be the backup fuel. The four heat recovery steam generators would have natural-gas-fired duct burners for peaking operations.

15. The existing onsite natural gas pipeline would provide the natural gas for the Project and the backup ultra-low-sulfur diesel fuel would be stored in existing onsite fuel storage facilities.

Water Use

16. Groundwater withdrawals from four wells are authorized by the current Conditions of Certification for 4.3 million gallons per day ("mgd") on an annual average and 7.6 mgd on a peak monthly average.

17. The Project will require additional water for cooling and plant process water uses. To minimize use of groundwater, TEC would treat and reuse 5.7 mgd of treated reclaimed water from the City of Lakeland. The treated reclaimed water would primarily be used to supply the makeup water for the proposed new cooling tower and the existing 755-acre cooling reservoir, as well as some process water needs. The cooling reservoir would be used for condenser cooling purposes. The new six-cell mechanical draft cooling tower would provide cooling for the Project's auxiliary systems, which would be modified to use the new cooling tower instead of the reservoir.

18. The reclaimed water would be initially provided by the City of Lakeland through a 15-mile pipeline. Later, reclaimed water would be provided by the City of Mulberry and Polk County.

19. The Project systems are designed to maximize water reuse and recycling to reduce groundwater consumption. However, TEC requests that the maximum groundwater withdrawals currently authorized -- 4.3 mgd on an annual average and 7.6 mgd on a peak monthly basis -- be maintained in this certification to ensure

that TEC can reliably and safely operate the facilities and manage water quality and levels in the cooling reservoir during extended periods of low rainfall conditions and in the event there is an interruption in the delivery of reclaimed water.

20. The Project's proposed water uses comply with all applicable agency requirements.

Stormwater and Wastewater Discharges

21. Stormwater and wastewater treatment systems are already in use at the Polk Power Station. These systems would be used for the Project facilities.

22. The proposed facilities will not significantly affect the quantity or quality of stormwater runoff at the Polk Power Station.

23. The current wastewater streams include runoff from industrial areas and process wastewaters. Wastewaters would continue to be collected and treated by the onsite industrial wastewater systems, including the equalization basin, neutralization basin, filtration system, and oil/water separator, and then discharged to the cooling water reservoir.

24. With the addition of the Project, cooling water blowdown from the new cooling tower and treated reclaimed water will be introduced to the cooling reservoir. TEC has a permit for underground injection control wells which it plans to test

for disposal of nonhazardous wastewater such as reverse osmosis reject water from the reclaimed water treatment process.

25. The Project's stormwater and wastewater discharges would comply with all applicable agency requirements.

Air Quality Impacts

26. Construction of the Project facilities at the Polk Power Station would generate fugitive dust emissions. These would be controlled by dust suppression control measures such as watering.

27. The vehicles used by construction workers would release nitrogen oxide, carbon monoxide, and other fuel combustion-related air pollutants. These kinds of emissions from construction equipment would be minimized through the use of ultra-low-sulfur-diesel fuel in various diesel engines.

28. Even under worst-case conditions, the air quality impacts caused by construction activities would be minimal, temporary, and limited to the construction site.

29. The Project qualifies as a major modification to an existing major source. Air quality impacts from plant operations would be primarily nitrogen oxide, sulfur dioxide, and carbon monoxide emissions from the four combined cycle units, particulate emissions from the cooling tower, and various combustion emissions from operation of the emergency diesel generator.

30. Air quality analyses were performed for nitrogen oxides, sulfur dioxide, particulates, and carbon monoxide. The dispersion modeling analyses demonstrate that the Project's air quality impacts would not exceed the applicable regulatory limits and would not cause or contribute to an exceedance of any Prevention of Significant Deterioration Increment or National Ambient Air Quality Standard.

31. For certain air emissions, Best Available Control Technology ("BACT") is required. BACT controls for nitrogen oxide would include the use of dry, low-nitrogen-oxide burners when firing natural gas and water injection when firing ultra-low-sulfur diesel fuel, and the installation of selective catalytic reduction technologies for the combined cycle combustion turbines. For sulfur dioxide emissions and emissions of sulfuric acid mist, BACT controls would include the use of low-sulfur natural gas as a primary fuel and ultra-low-sulfur diesel fuel as a backup fuel.

32. For carbon monoxide and volatile organic compounds, BACT calls for good combustion design and operation. BACT for combustion particulates would be the use of low-ash natural gas as a primary fuel and ultra-low-sulfur diesel fuel as a backup fuel.

33. For the emergency diesel engine, proposed BACT for all pollutants would be compliance with the applicable Standards of

Performance for Stationary Combustion Ignition Internal Combustion Engines, which are federal standards that have been adopted by the Department.

34. Proposed BACT for particulate emissions from the cooling tower is the use of high efficiency drift eliminators.

35. The proposed air quality control technology for the Project and the expected emissions from the Project's construction and operation would comply with all applicable agency requirements.

Transmission Lines and Corridors

36. The Project includes two new transmission line corridors. The proposed "Polk-Pebbledale Corridor" is a 5.5-mile, single-circuit 250 kV transmission line from the Polk Power Station north to the Pebbledale substation in Polk County. The proposed "Polk-Fishhawk Corridor" would be a single-circuit 250 kV transmission line running west from the Polk Power Station to the Mines substation near the intersection of State Road 674 and County Road 39 in Hillsborough County; from there, north and then west again to connect to a new Aspen switching station to be located near the intersection of County Road 672 and Balm-Boyette Road; and from the Aspen station, two separate 230kV transmission lines would run northeast to the existing Fishhawk substation near the intersection of Fishhawk Boulevard and Boyette Road; a total length of 27 miles.

37. TEC exercised its option under section 403.5064(1)(b), Florida Statutes, to allow parties to file alternate transmission line corridors. No alternate corridors were filed or reviewed in this proceeding.

38. TEC used a multidisciplinary team to evaluate alternative corridors for the new transmission lines. The team conducted initial data collection, prepared regional screening maps, identified alternate route segments, developed evaluation criteria, evaluated the routes, and selected the preferred routes. Public participation was a part of this effort.

39. A regional screening map was created to identify existing infrastructure, roads, railroads, rivers and other water bodies, and siting constraints within the study area. TEC has existing transmission line rights-of-way in much of the study area, which together with public road rights-of-way provided co-location opportunities.

40. The Polk-Pebbledale Corridor runs across former phosphate mining lands and follows roads and existing transmission line corridors to a point south of the town of Bradley Junction where it turns to the northeast and follows a transmission line through reclaimed phosphate lands to the intersection with another existing transmission line.

41. In this certification proceeding, no party or non-party expressed opposition to the Polk-Pebbledale transmission line corridor.

42. The Polk-Fishhawk Corridor runs across former and active phosphate mining lands, along road rights-of-way, and agricultural lands. As it approaches the Fishhawk substation, however, it passes through a residential development, referred to as the Fishhawk Community. The portion of the corridor that runs through the Fishhawk Community follows an existing TEC-owned transmission line right-of-way.

43. No developer, agricultural operator, commercial entity, agency, or local government expressed opposition to the Polk to Fishhawk transmission line corridor, but residents of the Fishhawk Community testified in opposition to the corridor at the public hearing held in the Fishhawk community center. Their testimony at the public hearing is discussed later in this Recommended Order.

44. The proposed transmission lines would be installed on steel poles embedded in the ground. Guy wires are generally not needed except where a transmission line makes a large angle turn or guy wires are otherwise necessary for safety and sound engineering. Pole heights would vary from 80 to 135 feet. The typical span length between poles would be 500 to 700 feet, but

it can range up to 1,000 feet, when necessary to avoid natural or manmade obstacles or other siting constraints.

45. The corridors are wider than the rights-of-way that will ultimately be determined in order to allow for flexibility in the final selection of the rights-of-way. The proposed rights-of-way would be reviewed by the agencies to insure compliance with the Conditions of Certification.

46. Each transmission line would be designed, constructed, operated, and maintained in compliance with good engineering practices and all applicable codes, standards, and industry guidelines, including the National Electric Safety Code, the North American Electric Reliability Corporation, the American Society of Civil Engineers, requirements of the Florida Public Service Commission and the Federal Energy Regulatory Commission, the DOT Utility Accommodation Guide, applicable local and state government requirements, and TEC's internal design standards. TEC designs all of its 230 kV transmission lines to withstand a 130-mile-per-hour wind band, which exceeds the criteria in the National Electric Safety Code.

Electric and Magnetic Fields

47. The electric field produced by a transmission line is relatively constant over time. The magnetic field fluctuates over time depending on the load on the line. Electric and magnetic fields have been calculated for each of the

configurations that may be used for the Project, based on the maximum requested voltage and current. The maximum expected levels for the electric and magnetic fields are within the limits in Florida Administrative Code Chapter 62-814.

48. Considerable scientific research has been conducted in the past 30 years to understand the potential health effects associated with electric and magnetic fields. There is general agreement among scientists in national and international health agencies that the available evidence does not show adverse health effects can occur from exposure to the electric and magnetic fields associated with transmission lines.

49. The Department's limits for electric and magnetic fields at the edge of a transmission line right-of-way are lower than the limits recommended by the World Health Organization.

Noise Impacts

50. The noise limits applicable to the Project are those contained in the Polk Land Development Code and the in the rules of the Environmental Protection Commission of Hillsborough County. The Polk County noise limits are 75 decibels, A-weighted measurement ("dBA") from 7:00 a.m. to 9:00 p.m. for non-residential areas and 65 dBA from 7:00 a.m. to 9:00 p.m. for residential areas. The noise requirements applicable to transmission lines in Hillsborough County are 60 dBA from 7:00 a.m. to 10:00 p.m. and 55 dBA from 10:00 p.m. to 7:00 a.m.

51. Noise levels measured at four locations in the vicinity of the Project site varied between 41.9 and 51.1 dBA. Offsite noise levels during construction of Project facilities at the power station would be minimal because of the distance from the construction area to the site boundaries. Noise levels at the power station during operation are not expected to differ significantly from existing levels.

52. Audible noise associated with transmission lines is usually associated with "corona," which is a phenomenon that occurs when there is an irregularity on the surface of the conductors, such as water droplets or other significant particles. If the noise occurs during a rainstorm it is usually masked by the noise of the rain. At other times, corona noise will often be masked by other outdoor noises.

53. Noise calculations were conducted for the proposed transmission lines and ranged from 32.0 to 45.2 dBA. These levels do not exceed the applicable limits.

Wetlands and Terrestrial Ecology

54. The areas proposed for the Project's generating and associated facilities have been altered by the construction and operation of the Polk Power Station. These areas are also surrounded by lands altered by phosphate mining and reclamation. Wildlife habitats have already been destroyed, altered, or

diminished by these activities and no longer have high functional values.

55. Construction activities at the power plant site would not disturb any native or reclaimed wetland or upland habitats.

56. Wildlife species expected to be found onsite would be common species for the region. Only two listed species of special concern were documented at the power station, the American Alligator and Tricolored Heron. They are both found in the reclaimed wetland west of the construction area and would not be affected. Impacts to other wildlife caused by construction at the Polk Power Station would be temporary and insignificant.

57. There are no known threatened or endangered plant species at the Polk Power Station. No reclaimed or natural upland or wetland habitats are proposed to be affected.

58. Wildlife habitats along the proposed transmission line corridors includes pine flat woods, mixed forested uplands, and various wetlands, including cypress forests, mixed hardwood swamps, and marshes. Surrounding land covers are dominated by current or former phosphate mining, farmsteads, or landscaped residential properties. The Balm-Boyette Scrub Preserve, Little Manatee River, Hurrah Creek, Fishhawk Creek, and Little Fishhawk Creek provide the best wildlife habitats along the transmission line corridors, but the corridors would cross these areas where

there are already existing transmission line rights-of-way or roads.

59. Wildlife found along the corridors are species commonly found in the region. No listed species are known to occur. Construction and maintenance of the transmission lines within the corridors would not significantly impact the habitats of fish and wildlife found in these areas.

60. Impacts to vegetation along the transmission line corridors would be minimized by siting the rights-of-way within the most disturbed areas or on existing road and transmission line rights-of-way. TEC would span all open waters such as streams and tributaries. For smaller water crossings and wetlands, the facilities would be co-located with existing linear facilities to minimize impacts. Restrictive clearing practices on forested wetlands would be utilized, removing vegetation selectively. Impacts from filling would be avoided or minimized to the greatest extent practicable through a careful alignment of the transmission line rights-of-way and through the choice of span distances between structures. Where wetland impacts cannot be avoided, the impacts would be minimized and mitigation would be provided.

61. Prior to the final selection of rights-of-way and the beginning of construction, surveys would be conducted to determine the presence of protected plant and animal species and

the results would be shared with the FWC to determine if mitigation may be required in accordance with Conditions of Certification.

Archeological and Historic Sites

62. When the Polk Power Station was first certified and subsequently, archeological surveys were conducted to determine the presence of cultural and historical resources of significance. No such resources were identified.

63. Cultural and historical resources in the study area for the transmission line corridors were evaluated during the corridor selection process. All National Register of Historic Places sites and districts as well as other known cultural resources were mapped and candidate corridors were laid out to avoid those resources. Corridors were laid out to co-locate with other transmission lines and linear facilities that have already disturbed the land to reduce the potential for new disturbances to cultural resources.

64. After the rights-of-way within the corridors have been determined, cultural resource surveys would be conducted to identify the location of any archeological or historical resources and determine potential impacts whether they can be avoided. The surveys would be submitted to the Division of Natural Resources for its review and consideration.

Transportation Impacts

65. No additional transportation impacts are expected from the operation of the Project because there would be no addition to the current Polk Power Station staff of 78 employees to operate all facilities.

66. The construction phase would generate 357 daily trips by construction workers and 50 additional delivery trips. The trip distribution per day is expected to be 228 northbound trips on State Road 37, 82 southbound trips on State Road 37, 75 northbound trips on Fort Green Road, and 22 southbound trips on Fort Green Road. Even at the peak of construction activities, the surrounding roadway network is expected to operate at acceptable levels of service.

Land Use Compatibility

67. The Project facilities would be located within the existing power station site, which is the logical and efficient location for the Project. There are no conflicting land uses in the vicinity of the Project site.

68. Most of the land uses along the corridors are former and active phosphate mining lands, undeveloped lands, agriculture, and rural residences. The key exception is the segment of the Polk-Fishhawk Corridor that runs through the developed Fishhawk Community, which is a suburban residential area. Transmission lines of the types proposed are frequently

located in proximity to all of these affected land uses, including the suburban residential areas.

69. It is officially recognized that many people, if given a choice, would prefer not to have high voltage transmission lines near their homes, primarily based on aesthetic considerations. However, it is also officially recognized that many people are willing to live near transmission lines. Until there is a practical alternative to above-ground transmission lines, they will have to be located in developed areas in order to supply electricity to residences. The proposed transmission lines are not incompatible with residential uses.

70. Polk County and Hillsborough County do not oppose the Project on any basis, including land use compatibility. The Project is consistent with the comprehensive plans and the land development regulations of these counties.

Socioeconomic Impacts

71. The Project would provide additional clean and reliable energy, additional jobs during construction, an increased property tax base, and increased economic activity in the form of purchases of goods and services.

72. Local revenues from property taxes levied on the new plant facilities would primarily benefit Polk County. The estimated additional property tax revenue is between $6 million and $6.5 million annually.

73. Significant revenues are also expected from sales taxes on goods purchased directly for the plant or indirectly from purchases of goods and services by the construction workers. Sales taxes are estimated to be $105,000 per year.

74. Construction of the Project would employ an average of 250 workers, with a peak projected in 2015 of about 500 workers. Most of the construction workers would be drawn from an area within a commuting distance from the Project site. The construction payroll for the overall Project is expected to be $88 million and much of this would likely be spent in Polk County and the region.

Site Boundaries

75. TEC requests that the boundaries of the Polk Power Station site be reduced from 4,348 acres to 2,837 acres to reflect that the original certification required a donation of 1,511 acres to the Board of Trustees of the Internal Improvement Trust Fund as a wildlife management area and recreation area. The donation was completed in 2012.

Construction Schedule

76. Construction of the project is anticipated to begin in January 2014 and be completed in time to allow commercial operation in January 2017.

Public Notice and Participation

77. TEC engaged in extensive public outreach for the Project, using direct mail, a survey, public meetings, newspaper advertisements, a project webpage, a toll-free telephone number for information, and communications with agencies and public officials.

78. TEC used two direct mailings, totaling over 10,000 letters in both English and Spanish. The letters were mailed to landowners and residents within one-quarter mile of the proposed transmission line corridors, all homeowners' associations within one mile, and all landowners and residents within three miles of the plant site boundaries.

79. Three public meetings were held regarding the Project. The first meeting was held on April 10, 2012, at the Little Union Baptist Church. The second was on April 12, 2012, at the Fishhawk Fellowship Church. The third was on April 19, 2012, at the Wimauma Senior Center.

80. TEC held meetings with county commissioners, mayors, state senators, and state representatives to inform them of the Project and the certification process. TEC representatives also met with developers in Hillsborough County who could be affected by the corridors to provide information and answer questions.

81. Copies of the Application were available for inspection at the Polk County Library in Bartow and the John Germany Public

Library in Tampa. A copy was also available for public review at TEC's offices in Tampa.

82. On October 24, 2012, public notice of the filing of the Application was published in The Tampa Tribune and The Ledger. On April 18, 2013, notice of the Certification Hearing was published in The Tampa Tribune and The Ledger and on April 19, 2013, in the Tampa Bay Times. When the certification hearing was rescheduled, TEC published notice of the rescheduling in The Tampa Tribune, The Ledger, and the Tampa Bay Times on June 16, 2013.

83. The Department published notices of the Application, the certification hearing, the public testimony hearing, and rescheduling the certification hearing in the Florida Administrative Register. Hillsborough County published notice of the public testimony portion of the proceeding in The Tampa Tribune on June 19, 2013.

Public Testimony

84. A hearing was held in Lithia, Florida, on June 25, 2013, in the Fishhawk Community to provide members of the public who are not parties to the certification proceeding an opportunity to present sworn testimony concerning the transmission line portion of the Project. Twelve members of the public testified. Eight comment letters were received into the record as Public Testimony Composite Exhibit 1.

85. A number of the residents expressed anger about what they perceived as the failure of the developer who sold them their homes, and TEC, to disclose to them that a transmission line might be constructed near their homes. As previously stated, the corridor is on property owned or controlled by TEC for the installation of transmission lines. The record evidence does not indicate any duty to disclose, any misrepresentation, or any obfuscation by TEC in this regard. If there was a failure to disclose or a misrepresentation by the developer, those are matters between the homeowners and the developer and beyond the scope of this proceeding.

86. Several residents expressed concern about possible adverse health effects from exposure to electric and magnetic fields associated with the transmission lines. However, no speaker referred to personal knowledge or to any study results to support their comments on this subject. It is likely, therefore, that their concerns are based on rumors or speculation. As discussed above, independent scientists have not been able to substantiate the occurrence of adverse health effects from exposure to the electric and magnetic fields associated with transmission lines.

87. There is a tennis court and there are nature trails underneath existing transmission lines located in another part of

the Fishhawk Community, indicating that the fear of electrical and magnetic fields is not universal.

88. Some residents urged that TEC be required to install the portion of the transmission line in the Fishhawk Community underground. There are substantial engineering difficulties associated with underground installation of high voltage transmission lines. TEC has never installed this type of transmission line underground. The cost for underground installation could be as much as 15 times greater than for overhead installation.

Agency Reports

89. Agency reports with proposed conditions of certification were submitted to the Department by SWFWMD, FWC, Florida Department of Transportation, Hillsborough County, and Hillsborough County Environmental Protection Commission.

90. Agency Reports without recommended conditions of certification were submitted by the Florida Department of Economic Opportunity, Central Florida Regional Planning Council, Tampa Bay Regional Planning Council, and Polk County.

91. The Department of State, Division of Historical Resources did not file an agency report, but recommended conditions in its Completeness Review.

92. On January 28, 2013, The Department issued its Project Analysis Report for the transmission line portion of the Project,

incorporating the reports of the reviewing agencies and proposing Conditions of Certification.

93. On April 26, 2013, the Department issued its Project Analysis Report on the power plant and proposed Conditions of Certification. The Report was modified on May 21, 2013.

94. No agency opposes certification of the Project.

Conditions of Certification

95. The Department recommends certification of the Project subject to the revised Conditions of Certification set forth in Department Exhibit 8, which supersedes all prior statements of conditions. The Conditions of Certification address numerous subjects and are designed to ensure that the construction and operation of the Project is protective of the public and the environment.

96. The Conditions of Certification provide for post-certification reviews and investigations to confirm, for example, that sensitive areas will be avoided and that transmission lines structures will avoid or have minimal adverse impacts.

97. TEC has agreed to construct, operate, and maintain the Project in compliance with the Conditions of Certification. No variances or exemptions from applicable state, regional, or local standards or ordinances have been requested or are needed for the construction, operation, and maintenance of the Project.

Certification Considerations

98. In determining whether TEC's application for the Project should be approved, approved with conditions, or denied, the Siting Board must determine whether, and the extent to which, the location, construction, and operation of the Project would:

> (a) Provide reasonable assurance that the operational safeguards are technically sufficient for the public welfare and protection.
>
> (b) Comply with applicable nonprocedural requirements of agencies.
>
> (c) Be consistent with applicable local government comprehensive plans and land development regulations.
>
> (d) Meet the electrical energy needs of the state in an orderly, reliable, and timely fashion.
>
> (e) Effect a reasonable balance between the need for the facility as established pursuant to s. 403.519 and the impacts upon air and water quality, fish and wildlife, water resources, and other natural resources of the state resulting from the construction and operation of the facility.
>
> (f) Minimize, through the use of reasonable and available methods, the adverse affects on human health, the environment, and the ecology of the land and its wildlife and the ecology of state waters and their aquatic life.
>
> (g) Serve and protect the broad interests of the public.

§ 403.509(3), Fla. Stat.

99. The evidence presented demonstrates that the location, construction, and operation of the Project would provide reasonable assurance that the operational safeguards are technically sufficient for the public welfare and protection.

100. The evidence presented demonstrates that the location, construction, and operation of the Project would comply with applicable nonprocedural requirements of agencies.

101. The evidence presented demonstrates that the location, construction, and operation of the Project would be consistent with applicable local comprehensive plans and land development regulations.

102. The evidence presented demonstrates that the location, construction, and operation of the Project would meet the electric energy needs of the state in an orderly, reliable, and timely fashion.

103. The evidence presented demonstrates that the location, construction, and operation of the Project would effect a reasonable balance between the need for the facility as established pursuant to section 403.519 and the impacts upon air and water quality, fish and wildlife, water resources, and other natural resources of the state.

104. The evidence presented demonstrates that the location, construction, and operation of the Project would minimize, through the use of reasonable and available methods, the adverse

effects on human health, the environment, and the ecology of the land and its wildlife and the ecology of state waters and their aquatic life.

105. The evidence presented demonstrates that the location, construction, and operation of the Project would serve and protect the broad interests of the public.

CONCLUSIONS OF LAW

106. The parties stipulated that there are no disputed issues of law.

107. This certification proceeding is governed by the Florida Electrical Power Plant Siting Act, chapter 403, Part II, Florida Statutes, and Florida Administrative Code Chapter 62-17.

108. TEC, the Department, Hillsborough County, SWFWMD, and FWC have standing to participate as parties.

109. Public notice was provided in compliance with the requirements of section 403.515 and other applicable law.

110. The evidence presented in this proceeding demonstrates that the Project favorably satisfies all of the factors in section 403.509(3) that the Siting Board must consider in determining whether to certify the Project.

RECOMMENDATION

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

RECOMMENDED that the Siting Board enter a final order:

a. approving TEC's application for certification to construct, operate, and maintain the Polk 2-5 Combined Cycle Conversion Project, including its associated transmission lines, subject to the Conditions of Certification set forth in Department Exhibit 8;

b. approving the increase in ultimate site capacity for the Polk Power Station site from the previously approved 1150 megawatts to 1420 megawatts; and

c. modifying the Polk Power Station site boundaries from 4,348 acres to 2,837 acres, as depicted in TEC Exhibit 5.

DONE AND ENTERED this 23rd day of August, 2013, in Tallahassee, Leon County, Florida.

BRAM D. E. CANTER
Administrative Law Judge
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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.