



MEMORANDUM

AGENDA ITEM #IV.B.1

DATE: AUGUST 11, 2014

TO: COUNCIL MEMBERS

FROM: STAFF

SUBJECT: FPL - TURKEY POINT STIPULATION RESULT

Information Only.

MEMORANDUM

TO: Stacy Ritter, Chair
Council Members

CC: James F. Murley, Executive Director

FROM: Samuel S. Goren, General Counsel *SSG*
Michael D. Cirullo, Jr. *MDC*

DATE: July 16, 2014

RE: South Florida Regional Planning Council ("SFRPC") / Florida Power and Light Company, Turkey Point Units 6 & 7, Power Point Siting Application PA-03-45A3, Florida Department of Administrative Hearing (DOAH) Case No. 09-3575 and OGC Case No. 09-3107

As you may recall, the SFRPC entered into a Stipulation with Florida Power and Light on June 7, 2013, in this matter. We are enclosing a copy for your review. As a result of the Stipulation, the SFRPC avoided the costs and expense of participating in the hearings.

After extended hearings during the period of July through October, 2013, the Hearing Officer issued a Recommended Order on December 5, 2013, certifying the siting application as well as transmission line routes for the project. The Recommended Order, as well as exceptions filed by several local governments, was considered by the Governor and Cabinet of the State of Florida, sitting as the Florida Siting Board. On May 19, 2014, the Siting Board issued its Final Order certifying the siting application, which included the location of transmission lines. The 227 page Order adopted the Recommended Order of the Hearing Officer, with some limited changes, approved the site application for the expansion of Turkey Point, approved the transmission lines to be located in the East Preferred Corridor, and approved the western transmission lines to be located in the West Consensus Corridor with the West Preferred Corridor being the backup location if the rights of way for the West Consensus Corridor cannot be obtained timely and at a reasonable cost.

Several local governments have filed Notices of Appeal to the Third District Court of Appeal, seeking review of the May 19, 2014, Order: Miami-Dade County, City of Miami, Village of Pinecrest and the City of South Miami. The Notice of Appeal filed by Miami-Dade County specifically identifies that the County is appealing the Order as to the certification of the West Preferred Corridor for the transmission lines (presumably the County does not want it permitted at all as it is the alternative corridor pursuant to the Siting Board Order). While the other three Notices of Appeal are not as specific, it appears that the three appealing municipalities are appealing the Siting Board Order as to the location of the transmission lines. All four appeals were recently consolidated into a single appeal by order of the Third District Court of Appeal.

SFRPC / Florida Power and Light Company, Turkey Point Units 6 & 7
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Our office will continue to monitor the progress of the Consolidated Appeal, but will not be actively participating in such. We will update you as warranted. In the meantime, should you have any questions or require any additional information, please contact our office.

Enclosure

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS


IN RE: FLORIDA POWER & LIGHT CO.
TURKEY POINT UNITS 6 & 7
POWER PLANT SITING
APPLICATION NO. PA 03-45A3

DOAH CASE NO. 09-3575EPP
OGC CASE NO. 09-3107

**NOTICE OF FILING STIPULATION BETWEEN SOUTH FLORIDA REGIONAL
PLANNING COUNCIL AND FLORIDA POWER & LIGHT COMPANY**

Florida Power & Light Co. (FPL), by and through undersigned counsel, hereby serves notice of filing the attached "*Stipulation Between South Florida Planning Council and Florida Power & Light Company*," which was executed by counsel for the parties on Thursday, June 6, 2013.

Respectfully submitted this 7th day of June, 2013.



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Attorneys for FLORIDA POWER & LIGHT COMPANY

CERTIFICATE OF SERVICE

I certify that I have served a true and correct copy of the foregoing via electronic mail this 7th day of June, 2013, to the following:

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**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

**IN RE: FLORIDA POWER & LIGHT CO.
TURKEY POINT UNITS 6&7
POWER PLANT SITING
APPLICATION NO. PA 03-45A3**

**DOAH CASE NO. 09-3575EPP
OGC CASE NO. 09-3107**

**STIPULATION BETWEEN
SOUTH FLORIDA REGIONAL PLANNING COUNCIL
AND FLORIDA POWER & LIGHT COMPANY**

By and through undersigned counsel, the South Florida Regional Planning Council (SFRPC) and Florida Power & Light Company (FPL) hereby agree and enter into this Stipulation for the purpose of resolving any and all potential disputes between them relating to the above-captioned certification proceeding for the Turkey Point Units 6&7 Project.

1. WHEREAS, on June 30, 2009, FPL filed its Site Certification Application (SCA) for the Turkey Point Units 6&7 Project (Project) pursuant to the Florida Electrical Power Plant Siting Act (FPSA), Sections 403.501, et seq., Florida Statutes (F.S.).

2. WHEREAS, the SFRPC is a statutory party to this FPSA certification proceeding for the Project pursuant to Section 403.508(3)(a)7., F.S. On April 5, 2013, SFRPC filed its Notice of Intent to be a party, pursuant to section 403.508(3)(b), F.S.

3. WHEREAS, on December 3, 2010, the Florida Department of Environmental Protection (DEP) determined that FPL's SCA for the Project was "complete" relating to the proposed transmission lines, pursuant to Section 403.5066, F.S.

4. WHEREAS, on September 13, 2011, DEP determined that FPL's SCA for the Project was "complete" relating to the plant (non-transmission line) portions of the SCA, pursuant to Section 403.5066, F.S.

5. WHEREAS, on June 15, 2011, the SFRPC submitted its Agency Report and Recommendations for Conditions (Transmission Report) on the proposed transmission lines associated with the Project to the DEP's Siting Coordination Office, pursuant to Sections 403.5064(4), 403.507(2) and 403.526(2), F.S.

6. WHEREAS, on May 15, 2012, the SFRPC submitted its Agency Report and Proposed Conditions (Plant Report) on the plant (non-transmission line) portions of the Project's SCA, to the DEP's Siting Coordination Office, pursuant to Section 403.507(2)(a) & (3), F.S.

7. WHEREAS, on August 7, 2012, FDEP issued its Project Analysis Report (Transmission PAR) for the transmission line portion of the SCA. In that transmission-related PAR, DEP recommended a compilation of conditions of certification addressing numerous transmission-related issues including many of those raised in SFRPC's Transmission Report.

8. WHEREAS, on August 14, 2012, FDEP issued its Supplemental Project Analysis Report for the first set of alternate corridors for the proposed transmission lines (SPAR #1).

9. WHEREAS, on March 4, 2013, FDEP issued its PAR for the plant (non-transmission line) portion of the SCA (Plant PAR). In the Plant PAR, DEP recommended a compilation of conditions of certification proposed by reviewing state agencies, and reviewing local governments including Miami-Dade County and municipalities that have provided reports, addressing numerous plant (non-transmission line)-related issues, as well as transmission line issues, including some of those raised in SFRPC's Plant Report and Transmission Line Report.

10. WHEREAS, on April 15, 2013, FDEP issued its Supplemental Project Analysis Report for the second set of alternate corridors for the proposed transmission lines (SPAR #2).

11. WHEREAS, FPL has agreed to conditions of certification agreed upon with other regulatory agencies that address some of the issues raised by the SFRPC.

12. WHEREAS, the parties agree that entering into this Stipulation is in their best interests, and to avoid the necessity of litigation expenses to be incurred by each party to address issues raised by the SFRPC in its review of the application.

THEREFORE, in order to resolve any and all potential disputes between them as to the SFRPC's concerns regarding the Project pursuant to the Florida Electrical Power Plant Siting Act, and to limit the issues in dispute between them, the SFRPC and FPL hereby stipulate as follows:

1. FPL agrees to accept, and does hereby request, that the Proposed Conditions of Certification included in the Plant PAR, dated March 4, 2013, numbered A(I) through A(XXXII), B(I) through B(VI), and C(I) through C(VI), and any revisions, additions, or deletions thereto agreed upon by FPL and the agency that proposed such condition, or as may be revised by the Administrative Law Judge in the Final Order of Certification Hearing, be included as conditions of certification in any final certification order for the Project.

2. FPL shall use its best efforts to continue to reach stipulations, or agreements on particular issues to narrow issues in dispute, relating to the issues and concerns raised by the affected local governments that have reviewed and provided reports and proposed conditions of approval for the application, including Miami-Dade County and the municipalities listed in the March 4, 2013, Plant PAR.

3. The SFRPC agrees that it does not object to certification of the proposed Project provided that any final certification order includes, as conditions of certification, all of the Proposed Conditions of Certification included in the Plant PAR, numbered A(I) through A(XXXII), B(I) through B(VI), and C(I) through C(VI), any revisions, additions, or deletions thereto agreed upon by FPL and the agency that proposed such condition, or as may be revised

by the Administrative Law Judge as a result of the Final Order of Certification. The SFRPC agrees that these proposed conditions of certification may be deleted, revised or adjusted as appropriate by DEP and the Siting Board, based upon agreement of the party proposing the condition or the Final Order of Certification, as the certification process proceeds toward a Final Order of Certification.

4. FPL acknowledges that the SFRPC supports the efforts of affected local governments that have reviewed the Application to have conditions of approval in the Final Order of Certification that the individual local governments determine are important. To that end, this Stipulation is not to be construed by any party in any way inconsistent with the belief of the SFRPC that such proposed conditions are relevant and deserve review and consideration during the certification process.

5. The parties agree that the issue of sea level rise is an important issue relating to this Application. The SFRPC believes that the Southeast Florida Regional Compact on Climate Change (the "Compact") is an important resource in providing continuing information on the possible effects on Southeast Florida. The Compact is comprised of Broward, Miami-Dade, Monroe and Palm Beach Counties.

6. At the request of the SFRPC, FPL acknowledges that the Compact prepared a "Unified Sea Level Rise Projection for Southeast Florida" Report, dated April 2011 (the "Report"). The Report contains recommendations that were used to develop the Southeast Florida Regional Climate Action Plan, dated October, 2012. The Compact is expected to provide additional reports in the future. The SFRPC believes the Compact recommendations should be considered in the planning, construction and operation of this Project as it progresses. FPL acknowledges the Compact Reports, as its member counties use the information for their

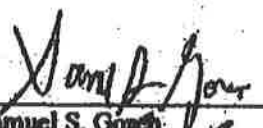
planning purposes. FPL agrees to consider Compact data and reports for its planning purposes as the Project progresses towards final approval, construction and operations.

7. The SFRPC and FPL agree that, with FPL's acceptance of the Proposed Conditions of Certification included in the Plant PAR, numbered A(I) through A(XXXII), B(I) through B(VI), and C(I) through C(VI), and any revisions, additions, or deletions thereto agreed upon by FPL and the agency that proposed such condition, or as may be revised by the Administrative Law Judge as a result of the Final Order of Certification, and subject to the terms and acknowledgments set forth herein, there are no disputed issues of fact or law between them regarding the certification of the Project to be raised at the certification hearing in this proceeding.

Executed on Behalf of:

**SOUTH FLORIDA REGIONAL
PLANNING COUNCIL**

By:


Samuel S. Goyen
Florida Bar No. 205850

By:


Michael D. Cirullo
Florida Bar No. 973180

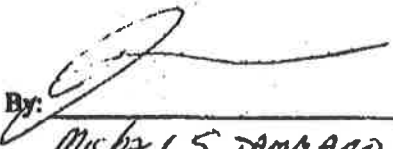
Date:

June 4, 2013

Executed on Behalf of:

FLORIDA POWER & LIGHT CO.

By:


Michael S. TAMARA
FL. BAR # 373881

Date:

JUN 6, 2013

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