



MEMORANDUM

AGENDA ITEM #III.G.

DATE: MAY 6, 2013

TO: COUNCIL MEETING

FROM: STAFF

SUBJECT: FPL PROPOSED STIPULATION AGREEMENT - TURKEY POINT UNITS 6 AND 7

Background

Florida Power and Light (FPL) submitted a Site Certification Application to the Florida Department of Environmental Protection (DEP) on June 30, 2009. If approved, the application would allow FPL to expand nuclear energy production at its Turkey Point facility in Miami-Dade County. The proposed project consists of the construction of two new 1,100 megawatts (mw) nuclear units (6 and 7) and supporting facilities, as well as the placement of new transmission lines. The State of Florida would license both the transmission lines and new electrical power plants in one proceeding pursuant to the State Power Plant Siting Act (PPSA), Chapter 403, Part II, Florida Statutes (F.S.). The Council is a statutory party to the proceeding. The final Certification Hearing is scheduled to begin on July 8, 2013, and FPL has approached the Council to enter into a stipulation agreement to resolve outstanding issues.

Project Details

The two nuclear generating units with supporting buildings, facilities and equipment are proposed to be located due south of the existing Turkey Point units, on a parcel currently within the industrial wastewater /cooling canal system. Associated facilities proposed in or around the new or existing plant units include parking areas; a nuclear administration and training building; a reclaimed water treatment facility and treated reclaimed water delivery pipelines; radial collector wells and delivery pipelines for cooling water backup; and an equipment barge unloading area. A new electrical substation (Clear Sky) will be constructed on the Turkey Point site. A 230-kV transmission line also will be needed to connect the new substation to the existing substation on the plant property.

The application proposes transmission corridors within the following communities: unincorporated Miami-Dade County, Miami, Coral Gables, Doral, Homestead, Medley, Palmetto Bay, Pinecrest, and South Miami. FPL may allocate rights-of-way for transmission corridors up to 6.5 miles in width, to accommodate associated facilities. This approach provides broad latitude for the placement of the transmission lines and other system improvements within a corridor. Upon completion of the project, the transmission corridors would retain no more than one mile of right-of-way width. The application also requests the creation or expansion of access roads and bridges (between SW 328 Street and SW 359 Street and east of SW 137 Avenue). The Miami-Dade County Comprehensive Development Master Plan Amendments for these proposed access roadway activities were adopted by the County on April 28, 2010.

FPL has indicated that the existing transmission line infrastructure is insufficient to carry the load that will be generated by the new reactors. New 500 and 230 kilovolt (kV) electric transmission lines are needed to connect the proposed Clear Sky and existing Turkey Point substations to other existing FPL substations in Miami-Dade County. Because of the load requirements, two separate transmission line corridors have been proposed, totaling approximately 88.7 miles. The East Preferred Corridor is a 36.7

mile area proposed by FPL to connect the existing Turkey Point substation to the new Clear Sky and existing Davis and Miami substations. The Davis to Miami portion will run through more urbanized sections of U.S. 1 from Palmetto Bay through Downtown Miami; one 230-kV line will be constructed along this 17.7 mile section of the corridor. The West Preferred Corridor will connect the new Clear Sky substation to the existing Levee substation, with two 500-kV lines; the West Preferred Corridor will also connect the new Clear Sky substation to the existing Pennsuco substation, with one 230-kV line. The Levee to Pennsuco portion will run through Doral and Medley. The full West Preferred Corridor is 52 miles in length; it is 43.6 miles from Clear Sky to Levee and 8.4 miles from Levee to Pennsuco. Three transmission lines are proposed to be constructed within a single right-of-way up to the existing Levee substation.

Opportunities for Public Involvement

Public Informational Meetings

Section 403.50663, F.S., allows Miami-Dade County or the South Florida Regional Planning Council to hold an optional informational public meeting. The South Florida Regional Planning Council and Miami-Dade County Planning and Zoning Department co-hosted two informational public meetings. The meetings were held on Monday, August 31, 2009, at the City of Homestead's Council Chambers, and Wednesday, September 2, 2009, at University of Miami's BankUnited Center. Attendees were given an overview of the project and the review process. The public had an opportunity to provide comment. Information received has been used to formulate Council staff's recommendations regarding the application. Participation at these meetings will not be considered or used by the Administrative Law Judge (ALJ) to make a recommendation to the Governor and Cabinet regarding approval of new generator and transmission lines.

Alternate Transmission Line Corridor Proposals

Section 403.5271, F.S., allows any party the opportunity to propose alternate transmission line corridor routes. The alternate route application fee was \$750 per mile for each mile of the alternate corridor located in an existing right-of-way, and \$1,000 per mile if located outside of the existing right-of-way. In May of 2011, several cities along the US 1 corridor and the Miami-Dade Limestone Products Association proposed alternate corridors for the transmission lines. In its Project Analysis Report on the transmission lines, issued on August 7, 2012, DEP concluded that the preferred corridors for transmission lines submitted by FPL are proper for certification. Additional alternatives for the Western corridor were proposed in December 2012 by the National Parks Conservation Association (NCPA) and the Miami-Dade Limestone Products Association. Final transmission line corridor route approval will be determined by the ALJ during the certification hearing.

Land Use Hearing

Section 403.50665(4), F.S. allows a substantially affected party to file a petition for hearing on a local government's land use determination only as it applies to the Turkey Point Site and Associated Facilities. The hearing provides an opportunity for substantially affected parties to give testimony on how the proposed project is inconsistent the County's land use plan and zoning ordinances. No hearing was requested, and Miami-Dade County submitted its determination of consistency on January 31, 2013: "Subject to compliance with all applicable zoning resolutions including, but not limited to, Resolution Nos. Z-56-07 and Z-1-13, the proposed development of the Turkey Point Units 6 & 7 and associated non-transmission facilities (excluding the Proposed Site of the reclaimed water treatment facility) are consistent with the County's Comprehensive Development Master Plan, local zoning ordinances and zoning approvals."

Certification Hearing

Section 403.508(3)(c), F.S., allowed non-listed agencies and public interest groups to file a notice of intent to become a party to the proceeding. The final certification hearing provides an opportunity for any person to present oral or written communication regarding the project, to the designated ALJ. The Council is a named party to the certification hearing. The Council filed its notice of intent to be a party to the hearing on April 5, 2013. Any communication presented will become official record. The Certification Hearing is currently scheduled to be held from July 8 through August 9, 2013 at the Miami Airport Convention Center. Upon conclusion of the certification hearings, the ALJ will make a

recommendation based on the evidence presented at the Certification Hearing. The recommendation will be forwarded to the Governor and the Cabinet for approval.

Council Review of the Site Certification Application (SCA)

The South Florida Regional Planning Council is one of 17 affected agencies actively involved in the review of the application, as identified in Section 403.507(2)(a), F.S. The site certification process provides the Council the opportunity to assess the project's consistency with the *Strategic Regional Policy Plan for South Florida (SRPP)*.

Although power plant siting and transmission lines are treated as separate processes in Chapter 403, F.S., they were combined into one application by the Applicant. The review process has been conducted on separate but parallel tracks. The transmission lines were reviewed in an earlier timeframe than the power plant, although the transmission lines will only be necessary if the unit 6 and unit 7 installations are approved.

Both the power plant and transmission lines were reviewed by each affected agency for:

- Completeness of information;
- Land use and zoning consistency (Miami-Dade County only);
- Impact of the project on the public; and
- Consistency with applicable regional or local plans and land development regulations.

Completeness Determination

In October 2010, Council staff determined that the information provided by FPL for the transmission line portion of the application was sufficient for review. A preliminary statement of issues pertaining to the transmission lines was also submitted at that time. After six rounds of completeness review, DEP found the transmission portion of the application complete on December 3, 2010.

Council staff found the plant and non-transmission portion of the application incomplete five times and requested additional information from FPL. DEP issued a 5th Completeness Determination on May 23, 2011, which disregarded the request for additional information submitted by Council staff. That request related to Council staff's belief that FPL should revise the analysis of the potential impacts of sea level rise by taking into consideration the planning assumptions adopted by the Miami-Dade Climate Change Advisory Task Force and by the Southeast Florida Regional Climate Change Compact. DEP found the plant and related facilities portion of the SCA to be complete on September 13, 2011, without requiring the additional information requested by Council staff.

Agency Reports

At its May 3, 2011 meeting, the Council reviewed a draft agency report on FPL's proposed transmission lines (available on the Council website at www.sfrpc.com/council/AgendaMay11_IIIJ.pdf). The Council submitted the report to DEP on June 15, 2011. At its May 7, 2012 meeting, the Council reviewed a draft agency report on FPL's proposed power plant and associated facilities (available on the Council website at www.sfrpc.com/council/05-07-12/Agenda%20May12_IIIG.pdf). These reports summarize staff analysis, and recommended conditions of certification if the application is approved.

FPL's Proposed Stipulation Agreement

Florida Power and Light has proposed a stipulation agreement with the Council "for the purpose of resolving any and all potential disputes between them" relating to the Turkey Point SCA. The draft stipulation refers to a set of Conditions of Certification established in Appendix I of the final Project Analysis Report, published by DEP on March 4, 2013. This lengthy document is available on the DEP website at http://publicfiles.dep.state.fl.us/Siting/Outgoing/FPL_Turkey_Point/Units_6_7/PAR/Plant/Appendices/Appendix_I_FPL_TP_6_7_Conditions/FPL_TP_67_Plant_Proposed_COC_Appendix_I.pdf. In that report, the proposed conditions of certification are divided into three parts: (1) Section A - General Conditions (numbered I to XXXII); (2) Section B - Specific Conditions for the Nuclear Power Plant and Associated Facilities (numbered I to VII); and (3) Section C - Specific conditions for the Transmission

Lines (numbered I to XIII). The draft stipulation would commit FPL and the Council to agree to accept all of the general conditions in Section A, and some but not all of the specific conditions in Sections B and C, along with any revisions, additions or deletions included in any final certification order. The conditions excluded from the draft stipulation are (1) the ones proposed by Miami-Dade County for both the plant and the transmission lines; and (2) the ones proposed by the municipalities for the transmission lines. The excluded conditions are the subject of ongoing negotiations between FPL and those local governments. Finally, the draft stipulation would bind FPL and the SFRPC to agree that there are no disputed issues of fact or law between them regarding the certification of the Project to be raised at the Certification Hearing. This would make it unnecessary for the Council to participate in the hearing.

FPL also prepared a letter to the Chair of the Council, dated April 26, 2013, in which it provides responses to each of the conditions and recommendations included in the agency reports submitted by the Council. The letter is included as Attachment 1. A careful review of the letter shows that FPL has restated its decision not to consider the Council's concerns with regard to sea level rise.

Staff discussed the draft stipulation with the Executive Committee at its meeting on May 1, 2013. It was agreed that FPL's exclusion from the stipulation of all conditions proposed by Miami-Dade County and the municipalities affected by the transmission lines, which were included in the DEP Conditions of Certification, make the draft stipulation unacceptable. Recognizing that many current Councilmembers may not be familiar with the 4-year review process and the issues that remain, the Executive Committee requested that staff provide background information at the May 6 meeting, so that the Council would have an opportunity to better understand its choices with regard to participation in the Certification Hearing. This discussion should include an understanding of the potential costs associated with staff and legal counsel participation. Action is not required at this time. Staff anticipates bringing a recommendation to the Council at its June 3 meeting.

Recommendation

For discussion only.

Florida Department of Environmental Protection (DEP)
Florida Power and Light (FPL)
Turkey Point Nuclear Power Plant Expansion, Units 6 and 7
Site Certification Application (SCA) Review - Key Dates

- June 30, 2009 – FPL submits the Turkey Point Units 6 and 7 SCA to DEP
- August 31, 2009 – SFRPC and Miami-Dade County Planning and Zoning Department co-host an informational public meeting in Homestead
- September 2, 2009 – SFRPC and Miami-Dade County Planning and Zoning Department co-host an informational public meeting at University of Miami’s BankUnited Center
- December 3, 2010 – DEP determines the SCA is complete with regard to the proposed transmission lines
- May 3, 2011 – the Council Board reviews the draft Agency Report for transmission lines
- June 15, 2011 – SFRPC submits the Agency Report with recommendations and conditions for the transmission lines to DEP
- September 13, 2011 – DEP determines the SCA is complete with regard to the plant and non-transmission line components
- May 7, 2012 – the Council Board reviews the draft Agency Report for plant and non-transmission line facilities
- May 15, 2012 – SFRPC submits the Agency Report with proposed conditions to DEP
- August 7, 2012 – DEP issues its Project Analysis Report for the transmission lines
- January 31, 2013 – Miami-Dade County issues its determination of land use/zoning consistency for the power plant site and associated facilities
- March 4, 2013 – DEP issues its Project Analysis Report, together with Proposed Conditions of Certification
- March 26, 2013 – the Administrative Law Judge (ALJ) issues pre-hearing instructions and discovery begins
- April 5, 2013 – SFRPC files Notice of Intent to be a party to the Certification Hearing
- May 7, 2013 – Last date for disclosure of witnesses
- July 8, 2013 – Opening of the Certification Hearing at the Miami Airport Convention Center



FPL

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Florida Power & Light Company, P.O. Box 14000, Juno Beach, FL 33408-0420

APRIL 26, 2013

Mr. Paul Wallace
Chairman
South Florida Regional Planning Council
3440 Hollywood Boulevard, Suite 140
Hollywood, FL 33021

Via Email

Dear Chairman Wallace:

We are writing this letter to support the Council's adoption of the proposed stipulation between Florida Power and Light (FPL) and the Council in relation to FPL's proposed Turkey Point Units 6&7 Project (the Project). FPL believes the Project is an essential investment in the critical energy infrastructure needed for Florida and the South Florida Region.

The Council has worked diligently since FPL's proposal of the Project in 2009 to review the Project, gather information relating to the Project, and develop recommendations relating to the Project. The SFRPC proposed the following conditions of approval for the Power Plant and Non-Transmission Associated Facilities of the Site Certification Application. FPL has given consideration to each of the proposals from the Council, and wishes to provide responses to each proposal as outlined below:

Regarding the Power Plant Units and Associated Facilities:

Council Recommendation: Use training and hiring practices for the construction and operational phases of this project that ensure workers from the Region are utilized to the greatest extent possible in order to maximize the economic impacts captured locally and regionally.

FPL intends to promote the use of local workers and create positive local and regional economic impacts. The South Florida Region has seen considerable benefits from FPL's recent electric generation investment projects, and FPL believes such economic benefits will also accrue from the TP6&7 Project. See, for example, the recent articles in the Miami Herald regarding FPL's electric power uprate (EPU) projects.

The Project will generate employment for more than 7,100 direct and indirect workers at the peak of construction activity and will result in a total of \$2.2 billion in wages and salaries being paid over the 120-month construction period. Operation of the Project will support 2,700 full-time direct and indirect jobs annually, resulting in over \$200 million of annual wages and salaries paid to workers over the life of the plants. The Project will generate more property taxes than any other property in Miami-Dade County, providing an average combined total of more than \$100 million to the County and the Miami-Dade Public School District in each of the first 20 years of operation.

Council Recommendation: Apply comprehensive mitigation strategies that work to obtain interagency consensus on addressing impacts and mitigation strategies. These strategies should determine the extent of sensitive wildlife and vegetative communities in the vicinity of the project, protect habitat and mitigate disturbances, and minimize impacts to the natural systems to the greatest extent feasible. In addition, the Applicant should ensure adequate protection of wildlife during the construction phase of the project through the inclusion of crossings, underpasses and fencing.

FPL has agreed to Proposed Conditions of Certification regarding minimization of and mitigation for environmental impacts. See specifically, Conditions A(XXVI), B(II), B(IV), B(VI), C(I), C(III), and C(VI) included in Appendix I of the DEP Project Analysis Report (March 4, 2013). FPL has provided a comprehensive Wetland Mitigation Plan to avoid and minimize wetland impacts to the greatest extent practicable, to replace the loss of wetland functions due to unavoidable wetland impacts. FDEP has determined that Plan meets the state's requirements to offset the expected wetland impacts from the Project. FPL has also provided a comprehensive Threatened & Endangered Species Evaluation and Management Plan to avoid, minimize and mitigate any impacts to listed species or their habitats. This includes, among numerous other things, incorporation of wildlife protection features in the roadway design, including a system of wildlife underpasses, fencing, enlarged culverts, and a 6-foot box culvert. In addition, FPL is currently in discussions with Miami-Dade County relating to conditions of certification to address environmental impact issues.

Council Recommendation: Implement a phased strategy for construction of the radial collector wells, testing and monitoring the impacts on ground and surface waters, prior to approval of full-scale implementation, in order to ensure this approach is scientifically sound and environmentally sustainable.

FPL has agreed to Proposed Conditions of Certification regarding the radial collector wells that provide for conducting tests during construction and monitoring during construction and operation. See specifically, Condition B(I)(A), B(I)(B), and B(I)(C) included in Appendix I of the DEP Project Analysis Report (March 4, 2013). These include extensive monitoring of the radial collector well system pre-construction, during construction, and post-construction to confirm that no adverse impacts occur to ecological and water resources of Biscayne Bay and adjacent nearshore areas resulting from the construction and operation of the radial collector well system. In addition, upon completion of the first radial collector well, FPL will conduct a full scale radial collector well test to confirm values predicted by the modeling conducted in support of the site certification application. The radial collector wells are a back-up source of cooling water; therefore, FPL has agreed to conditions of certification that would limit the use of the radial collector well system to sixty (60) days in any twelve (12) month period and only when reclaimed water is not available from Miami Dade County in the quantity or quality required or for testing and maintenance.

Council Recommendation: Revise the assessment of the site and the surrounding area using the best available data, as well as analysis based on the most current elevation data and Sea, Lake and Overland Surges from Hurricanes (SLOSH) modeling tools. This analysis should include a range of potential sea level rise that incorporates the planning parameters adopted by the Southeast Florida Regional Climate Change Compact (see the US Army Corps of Engineers, July 2009 entry in Table 1 in "A Unified Sea Level Rise Projection for Southeast Florida"). FPL also should agree to participate in an ongoing regional assessment of sea level rise calculations over the life of the project.

FPL has used the best available data and the SLOSH model in the design of the Project to accommodate the potential sea level rise during the life of the Project. FPL has used Nuclear Regulatory Commission (NRC) guidance and National Oceanic and Atmospheric Agency (NOAA) forecast data in the design of the plant elevation. Potential impacts of sea level rise above the level currently anticipated on plant access and support facilities would be accommodated through plant procedures and detailed design considerations focused on nuclear and personnel safety during storms and post-storm recovery

Regarding the Proposed Transmission Lines:

Council Recommendation: Use of existing infrastructure right-of-ways whenever possible and feasible.

Both of FPL's proposed transmission corridors are co-located where possible with existing linear features. For example, the FPL East Preferred Corridor is co-located along existing transmission lines in some areas, and along US1 and the Metrorail in some areas. Further, the FPL West Preferred Corridor is co-located along existing transmission lines, existing rights-of-way, or levees in most areas. FPL is engaged in on-going discussions with local governments on issues relating to the use of their rights-of-way.

Council Recommendation: Consider placing transmission lines underground or co-locate with Metrorail.

FPL has conducted a study of co-locating the proposed transmission line within the FPL East Preferred Corridor on the Metrorail guideway structure. For technical reasons, this arrangement is not recommended. (See Technical Analysis Report, March 2010.) Miami Dade County has indicated objection to the placement of the proposed transmission line on the Metrorail guideway structure. Accordingly, FPL is not further pursuing that design. With respect to placing transmission lines underground, FPL has considered and studied this option and confirmed the higher incremental costs and challenges associated with it. FPL is working with any entities that will commit to funding such incremental costs, so as not to burden all FPL customers with costs that provide only benefit, consistent with Florida Public Service Commission rules.

Council Recommendation: Identify and consider innovative funding initiatives for undergrounding or co-location of transmission lines.

FPL has considered, identified, and discussed innovative funding initiatives for undergrounding of the proposed East transmission line with County and local government officials throughout the agency outreach associated with this project.

Council Recommendation: Coordinate with affected municipalities to ensure the establishment of rights-of-way and the actual placement of transmission lines does not constrain, impede or otherwise limit future development or expansion as outlined in affected communities' comprehensive plans.

FPL is engaged in on-going discussions with local governments on issues relating to the use of their rights-of-way. FPL has coordinated, and will continue to coordinate, with local governments on the community's long-term plans for development or expansion as they relate to the proposed transmission lines.

Council Recommendation: Coordinate construction, improvement and maintenance activities amongst the applicable agencies and municipalities to minimize bicycle/pedestrian, transit and roadway impacts.

The transmission line siting process used by FPL in this Project is designed to ensure its Preferred Corridors appropriately balance the land use, environmental and engineering constraints that must be considered with choosing locations for new transmission lines. In further support of an open and transparent process, FPL agreed to allow other parties to propose alternate transmission line corridors, and alternate corridors have been filed for both the west and east transmission line corridors. From the early stages of the Project, FPL has worked with the various local governments and has agreed to conditions of certification to coordinate with many of those local governments in post-certification review in the final placement or location of the transmission lines within the certified corridor. FPL is continuing to discuss conditions of certification with local governments relating to bicycle, pedestrian, transit and roadway concerns.

Council Recommendation: Coordinate final transmission plans with the affected municipalities, Miami-Dade County, the Miami-Dade Metropolitan Planning Organization and Florida Department of Transportation to ensure transmission line locations will not hinder future transportation planning efforts.

FPL has agreed to Proposed Conditions of Certification on this point. See specifically, Conditions B(III) and C(II) of the DEP Project Analysis Report (March 4, 2013). In addition, FPL has coordinated, and will continue to coordinate, with local governments on the community's long-term plans for development or expansion as they relate to the proposed transmission lines.

Council Recommendation: Impacts of proposed transmission corridors, including alternate routes, should be evaluated and vetted through an Environmental Impact Statement (E.I.S.) and allow for public participation, to the maximum extent feasible.

In addition to the state, regional, and local government reviews of the Project being undertaken pursuant to the Florida Electrical Power Plant Siting Act (PPSA), the Project is also undergoing federal government review. FPL has filed an application with the Nuclear Regulatory Commission for the Combined Operating and Licensing Application (COLA), which will involve the preparation of an Environmental Impact Statement, and will involve the reviews and coordination of multiple federal, state and local government agencies.

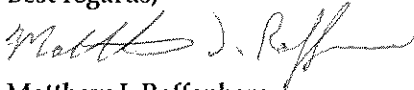
Regarding public participation relating to the Project, FPL has satisfied the numerous requirements for public notice and public participation for the Project, and gone above and beyond those requirements, including:

- Publication of multiple newspaper notices,
- Mailing of multiple written notices to landowners within and adjacent to the project area, and
- Maintaining a project website giving members of the public access to Project information, and the ability to "Find My Home" in relation to the proposed Project features.

In addition, the South Florida Regional Planning Council and local governments hosted public informational meetings, and there will be additional opportunities for the public to provide comment. (Please see attached the Amended Notice of Hearing, outlining the times/dates/ locations where members of the public can provide comments to the Administrative Law Judge.) For more information on these opportunities, members of the public can visit www.fpl.com/nuclear.

We hope this letter provides information useful to your review of the proposed stipulation between FPL and the Council relating to the Project.

Best regards,



Matthew J. Raffenberg
Director, Environmental Licensing and Permitting
FPL