



MEMORANDUM

AGENDA ITEM #III.F

DATE: JUNE 3, 2013
TO: COUNCIL MEETING
FROM: STAFF
SUBJECT: FPL TURKEY POINT SITE CERTIFICATION HEARING UPDATE

Background

At the May 6, 2013 Council meeting, staff provided some background information and a summary of the issues raised by the Council in its review of the Site Certification Application (SCA) submitted by Florida Power and Light (FPL) for the proposed expansion of its Turkey Point nuclear power plant (Units 6 and 7). The issues raised by the Council in its agency reports relate to both the transmission lines and the plant and auxiliary facilities. Staff also informed the Council that FPL had approached the Council to enter into a stipulation agreement that would address any outstanding issues, thereby making it unnecessary to litigate those issues at the certification hearing that is scheduled to begin on July 8, 2013.

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. 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.

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; (2) Section B - Specific Conditions for the Nuclear Power Plant and Associated Facilities; and (3) Section C - Specific conditions for the Transmission Lines. 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.

Based on the direction provided by the Council at the May 6 meeting, staff (through Counsel) submitted proposed revisions to the original draft Stipulation Agreement to FPL. Changes accepted by FPL include:

- (1) 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.
- (2) 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.
- (3) 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.

The revised Stipulation Agreement, incorporating these and other changes, is included here as Attachment 1. Council staff believes that these changes address the primary concerns that are outstanding at this time.

Recommendation

Authorize the Chair to execute the proposed Settlement Agreement with FPL.

**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 - SFRPC files its List of Witnesses, which includes only the Executive Director
- July 8, 2013 - Opening of the Certification Hearing at the Miami Airport Convention Center

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 (PPSA), Sections 403.501, et seq., Florida Statutes (F.S.).

2. WHEREAS, the SFRPC is a statutory party to this PPSA 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:

Executed on Behalf of:

SOUTH FLORIDA REGIONAL
PLANNING COUNCIL

FLORIDA POWER & LIGHT CO.

By: _____

By: _____

Date: _____

Date: _____

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