

Oven, Hamilton

From: Johnston, Gordon [Gordon.Johnston@marioncountyfl.org]
Sent: Saturday, May 13, 2006 8:10 PM
To: DOUGLAS S ROBERTS; Wayne Smith; Mark Scruby; Ronald Williams; Kelly Martinson; Goorland, Scott; Sheauching Yu; James Antista; Timothy Keyser; justice@ncfrpc.org; Patrick Gilligan; Martha Brown; Russell Castleberry; Vance Kidder
Cc: Oven, Hamilton
Subject: RE: Seminole Generating Station June 1, 2006 Land Use Hearing -Prehearing Stipulation

Marion county does not intend to participate in these proceedings.

Gordon Johnston
 County Attorney

From: DOUGLAS S ROBERTS [mailto:DOUGR@hgslaw.com]
Sent: Fri 5/12/2006 4:59 PM
To: Wayne Smith; Mark Scruby; Ronald Williams; Kelly Martinson; Scott Goorland; Sheauching Yu; James Antista; Timothy Keyser; Johnston, Gordon; justice@ncfrpc.org; Patrick Gilligan; Martha Brown; Russell Castleberry; Vance Kidder
Cc: Hamilton Oven
Subject: Seminole Generating Station June 1, 2006 Land Use Hearing -Prehearing Stipulation

Attached for your review and comment is the Draft Prehearing Stipulation for the June 1, 2006 land use hearing on the Seminole Generating Station Unit 3 Project. ALJ Johnston has directed that the parties enter into this Prehearing Stipulation. I have included a preliminary statement of position, exhibit list and witness list for Seminole Electric Cooperative; this is subject to revision prior to submittal. We will make available copies of these exhibits upon request.

For the other parties, I have included for several agencies draft position statements based on previous power plant siting cases. All agency parties should review these statements or provide statements of your position, and lists of witnesses and/or exhibits by reply email no later than May 20 for my preparation of the final Stipulation. You should also fax your signature page to me for inclusion in the final Stipulation. My fax number is 850-224-8551 .

I realize several counties may not intend to participate in this site certification proceeding. They are parties because of the 1978-79 site certification proceeding that involved transmission lines that crossed their boundaries. This Unit 3 project does not include such facilities.

Those County agencies may want to consider whether they intend to participate actively in this site certification proceeding and inform the ALJ accordingly.

The Stipulation is due by May 20, 2006 per the ALJ's instructions. Therefore, please provide your response and/or signed signature page in a timely fashion.

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Thank you.

THE STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

In Re: Seminole Electric Cooperative)
Seminole Generating Station Unit 3)
Power Plant Siting Application)
No. PA 78-10A2.)
_____)

DOAH CASE NO. 06-0929EPP

PREHEARING STIPULATION FOR LAND USE HEARING

Pursuant to the instructions of the Administrative Law Judge, counsel for the undersigned parties to this Power Plant Site Certification proceeding have entered into this Stipulation to clarify and simplify issues, to discuss the possibilities of resolution of any disputes, and to resolve other procedural matters related to the land use hearing to be conducted on June 1, 2006. Accordingly, the parties hereto agree and stipulate as follows:

NATURE AND HISTORY OF THE PROCEEDING

Nature of the Proceeding

1. This is a certification proceeding conducted pursuant to the Florida Electrical Power Plant Siting Act ("PPSA"), Section 403.501, et seq., Florida Statutes ("F.S.") to determine, ultimately, whether the Siting Board should approve or deny Seminole Electric Cooperative, Inc.'s ("Seminole") request for certification to authorize construction and operation of the Seminole Generating Station Unit 3 Project ("Project"). This initial phase of the proceeding addresses the issue of land use and zoning consistency for the Project site.

2. On March 9, 2006, Seminole submitted to the Florida Department of Environmental Protection ("FDEP") its Application for Site Certification for the Seminole Generating Station Unit 3. Seminole's application is subject to review under the PPSA. Pursuant to Section 403.508(1), F.S., a land use hearing is required to be held to determine whether the "proposed site for Unit 3 is consistent and in compliance with existing land use plans and zoning

ordinances.” Section 403.508(2), F.S. By order of the designated Administrative Law Judge, a land use hearing on Seminole’s Generating Station Unit 3 is scheduled for June 1, 2006 at the Board of County Commission Chambers in Palatka, Florida beginning at 1 p.m. EST.

3. The proposed Unit 3 will provide an additional 750 megawatts (MW) of electrical generating capacity at Seminole’s existing Generating Station located in unincorporated Putnam County. The Project will consist of a new coal-fired generating unit and ancillary facilities to be located within the existing Generating Station site. Construction and operation of the Unit 3 facilities will occupy approximately 100 acres within the existing Station site. New ancillary facilities include a new cooling tower, pollution control equipment and combustion byproduct handling systems, water pipelines and pumps to be located on the Station site. There will be no new offsite linear facilities, such as electrical transmission lines required for Unit 3.

4. The Seminole Generating Station contains existing Units 1 and 2 which are coal-fired generating units. The Station site and Units 1 and 2 were certified under the PPSA in 1979. In that previous certification proceeding, the Station site, comprised of the 2000-acre parcel containing the generating equipment, an adjacent parcel containing a pump house on the St. Johns River, and a water pipeline easement, was determined by the Siting Board to be consistent and in compliance with land use plans and zoning ordinances of Putnam County, Florida.

STATEMENT OF EACH PARTY’S POSITION

Seminole Electric Cooperative, Inc.

(PRELIMINARY) It is Seminole’s position in this land use hearing portion of this site certification proceeding that the proposed Seminole Generating Station Unit 3 and its proposed site in Putnam County, Florida are consistent and in compliance with the applicable land use plans and zoning ordinances of Putnam County, Florida. In 1979, the lands to be occupied by Unit 3 and its facilities were determined to be consistent and in compliance with the Putnam County land use plans and zoning ordinances, as part of the original site certification proceeding.

Seminole has obtained from Putnam County an amended Planned Unit Development (PUD) zoning approval for Unit 3, its ancillary facilities and the site for these facilities. In granting this amended PUD, the Putnam County Board of County Commissioners determined the Unit 3 Project and its ancillary facilities are in compliance and consistent with the County's future land use plans and zoning ordinances. Based upon these prior determinations, it is Seminole's position that the proposed Unit 3, its ancillary facilities and their site are and remain consistent with the adopted future land use plans and zoning ordinances of Putnam County. The proposed facilities for Unit 3 are compatible with the existing land uses in the area surrounding the Seminole Generating Station site.

Florida Department of Environmental Protection

The Florida Department of Environmental Protection is a party to the site certification proceeding, pursuant to Section 403.508(4), F.S. FDEP intends to participate at the land use hearing. However, zoning and land use issues are not matters over which FDEP has substantive or regulatory jurisdiction. FDEP does not dispute Seminole's assertions that the proposed Seminole Generating Station Unit 3 site and Project are consistent and in compliance with the existing land use plans and zoning ordinances of Putnam County, Florida.

Department of Community Affairs

The Florida Department of Community Affairs ("DCA") is a party to this certification proceeding. DCA does not intend to participate in the land use hearing. DCA agrees that the proposed Seminole Generating Station Unit 3 and its site are consistent and in compliance with the existing land use plans and zoning ordinances.

Department of Transportation

The Florida Department of Transportation ("DOT") is a party to this certification proceeding. DOT does not intend to participate in the land use hearing. DOT does not dispute

Seminole's assertions that the proposed Seminole Generating Station Unit 3 site and Project are consistent and in compliance with the existing land use plans and zoning ordinances of Putnam County, Florida.

Florida Public Service Commission

The Public Service Commission will not attend the land use hearing and takes no position on the issues to be addressed at that hearing.

Florida Fish and Wildlife Conservation Commission

The Florida Fish and Wildlife Conservation Commission is a party to this site certification proceeding. The Commission does not intend to participate in the land use hearing for the Seminole Generating Station Unit 3 Project since it does not have jurisdiction over zoning and land use issues. The Commission takes no position concerning Seminole's assertion that the Unit 3 Project and its site are consistent and in compliance with existing land use plans and zoning ordinances.

St. Johns River Water Management District

North Central Florida Regional Planning Council

City of Ocala

Putnam County

Marion County

Union County

Columbia County

Clay County

Sierra Club

Sierra Club intends to participate in the hearing to insure that Seminole Electric Cooperative meets its burden of proof. Sierra Club does not intend to call any witnesses or present any exhibits at the hearing.

EXHIBITS

Seminole Electric Cooperative, Inc.

(PRELIMINARY)

1. 1979 Land Use and Zoning Order from the Siting Board, and items from the record of that proceeding
2. Portions of Site Certification Application for Seminole Generating Station Unit 3
3. Maps of Seminole member cooperatives
4. General location maps of Project
5. Aerial photographs of Project site and vicinity
6. Photo rendering of Unit 3 Project
7. Project Layouts

8. Putnam County Comprehensive Plan, including future land use element and future land use map
9. Putnam County zoning maps
10. Putnam County amended PUD ordinance for Seminole Generating Station site
11. Published notices of land use hearing by Seminole and FDEP
12. Resumes of expert witnesses
- 13.

Florida Department of Environmental Protection

FDEP does not intend to offer any exhibits or evidence at the land use hearing except for the public notice of this hearing as listed above by Seminole.

Putnam County

Other Agencies

Other agencies signing this Prehearing Stipulation do not intend to participate in the land use hearing and will not offer any exhibits or evidence at the hearing.

Sierra Club

Sierra Club does not intend to call any witnesses or present any exhibits at the hearing.

WITNESSES

Seminole Electric Cooperative, Inc.

Bobby Payne
Seminole Electric Cooperative, Inc.
890 North Highway 17
Palatka, FL 32177

Subject of Testimony

Description of Seminole and
Unit 3 Project

Richard Zwolak, AICP
Golder Associates
5100 W. Lemon Street, Suite 114
Tampa, FL 33609

Land Use Planning and Zoning

Florida Department of Environmental Protection

FDEP does not intend to call any witnesses at the land use hearing.

Putnam County

Other Agencies

The other agencies signing this Prehearing Stipulation do not intend to participate in the hearing and will not call any witnesses.

Sierra Club

Sierra Club does not intend to call any witnesses or present any exhibits at the hearing.

STATEMENT OF ISSUES OF LAW ON WHICH THERE IS AGREEMENT

1. This proceeding is governed by the Florida Electric Power Plant Siting Act, Section 403.501, et seq., F.S., and Chapter 62-17, F.A.C.
2. The land use hearing is being held pursuant to Section 403.508(1)-(2), F.S.
3. The order of presentation of testimony and evidence at the land use hearing shall be the Applicant, followed by any other party or Intervener, if any.
4. Witnesses shall not be sequestered.

5. The public shall be allowed to provide comments on the issues raised during the land use hearing at the conclusion of the presentation of evidence.

6. Legible copies of any exhibit are acceptable in lieu of producing the original document or exhibit.

7. This Stipulation may be executed in multiple counterparts.

ISSUES OF FACT REMAINING TO BE LITIGATED

The parties to this Stipulation are aware of no disputed issues of fact to be litigated at the land use hearing. However, as required pursuant to Section 403.508(1), F.S., the land use hearing must still be conducted.

DISPUTED ISSUES OF LAW

The parties to this Stipulation are aware of no disputed issues of law to be resolved at the land use hearing.

APPLICATION OF RULES OF EVIDENCE

The parties to this Stipulation do not disagree regarding the application of the Florida Rules of Evidence in the land use hearing.

PENDING MOTIONS OR OTHER MATTERS

Seminole and FDEP's Joint Motion to Alter Time for publication of notice of land use hearing is still pending as of the date of submittal of this Prehearing Stipulation.

ESTIMATED LENGTH OF HEARING

The parties estimate that the land use hearing can be completed in less than one day.

Respectfully submitted this _____ day of May, 2006.

DEPARTMENT OF ENVIRONMENTAL
PROTECTION

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the foregoing have been furnished to the following by U.S. Mail on this _____ day of May, 2006:

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