

STATE OF FLORIDA  
SITING BOARD

DEP 0 2-0 2 5 0

IN RE: JEA BRANDY BRANCH COMBINED )  
CYCLE CONVERSION POWER PLANT )  
SITING APPLICATION NO. PA00-43. )  
/

OGC CASE NO. 00-2321  
DOAH CASE NO. 00-5120EPP

**FINAL ORDER ON LAND USE AND SITE CERTIFICATION**

On January 15, 2002, an administrative law judge with the Division of Administrative Hearings ("DOAH") submitted a Recommended Order on Land Use Following Remand and a Recommended Order on Certification in this administrative proceeding. The two Recommended Orders indicate that copies were served upon counsel for the Applicant, JEA Brandy Branch Combined Cycle Conversion Plant ("JEA"), the Department of Environmental Protection ("DEP"), the City of Jacksonville ("City"), the St. Johns River Water Management District ("SJRWMD"), and other designated agencies. Copies of the Recommended Order on Land Use Following Remand and the Recommended Order on Certification are attached hereto as Exhibits A and B, respectively. The matter is now before the Governor and Cabinet, sitting as the "Siting Board," for final agency action under the Florida Electrical Power Plant Siting Act ("PPSA") embodied in §§ 403.501-403.518, Florida Statutes.

**BACKGROUND**

JEA is a municipally-owned utility providing electric service to approximately 350,000 customers in Duval County and surrounding counties. On December 8, 2000, JEA filed an application with DEP for site certification for the Brandy Branch Combined Cycle Conversion Project (the "Project"). JEA's Brandy Branch facility is located in western Duval County near the town of Baldwin, Florida. The entire Project site covers approximately 153 acres, and approximately 45 acres have already been developed in connection with an existing power plant consisting of three simple-cycle combustion turbines and supporting facilities. These three simple-cycle combustion turbines are now in operation at the Project site.

In this PPSA proceeding, JEA is proposing to convert two of the existing simple-cycle combustion turbines (Units 2 and 3) into a combined cycle unit by adding a new 190 megawatt steam turbine generating unit. This steam turbine unit will be powered by two new heat recovery generators located behind the two combustion turbines. These two heat recovery generators will supply steam to the steam turbine by capturing exhaust gases from the two combustion turbines.

The new steam turbine generator will be installed to the west of existing Unit 3. A new cooling tower will also be constructed at the Project site to cool the steam turbine condenser. The conversion of Units 2 and 3 into a combined cycle unit would create a 530 megawatt unit, which is projected to be placed into operation in the year 2004. Unit 1 will continue as a 170 megawatt simple-cycle combustion turbine. Consequently, the total plant output at the Project site will be approximately 700 megawatts when the new steam turbine generating unit begins operation.

DEP forwarded JEA's application to DOAH for formal proceedings and Administrative Law Judge, J. Lawrence Johnston (the "ALJ"), was assigned to preside over the case. Pursuant to § 403.508(2), Florida Statutes, land use hearings were held by the ALJ on April 24 and December 4, 2001, for the purpose of determining whether the Project site is "consistent and in compliance with existing land use plans and zoning ordinances" of the City.<sup>1</sup> In compliance with § 403.508(3), Florida Statutes, the ALJ also received evidence at the final hearing on the issue of whether the Project will comply with the criteria for site certification set forth in the PPSA.

#### RECOMMENDED ORDERS ON LAND USE

In his initial Recommended Order on Land Use, the ALJ concluded that the Project site "is consistent and in compliance with the City of Jacksonville's land use plans and is generally consistent with the applicable zoning ordinances for the site." However, the ALJ found that the heights of the emissions stacks at the Project site as finally approved in DEP's air permit would probably exceed the stack heights represented in JEA's Planned Unit Development ("PUD") application approved by the City of Jacksonville. The ALJ observed that the parties had entered into an agreement that, as soon as DEP issues an air permit for the Project determining the actual air emissions limits and stack heights, JEA would seek a revision to its PUD zoning approval to accommodate any necessary revisions to the air emissions limits and stack heights.

The Recommended Order on Land Use Following Remand contains an additional finding by the ALJ that, on August 30, 2001, the City Planning Commission granted JEA's request that the PUD zoning for the Project site be modified to allow a maximum structure height of 199 feet and to provide that the Project must comply with the conditions of any air emissions permit issued by DEP. The ALJ further found that the maximum height of any Project structure at the site will be 190 feet.

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<sup>1</sup> The ALJ entered his initial Recommended Order on Land Use in this PPSA proceeding on July 5, 2001. However, on September 18, 2001, the Siting Board entered an Order of Remand for Further Proceedings. In its Order of Remand to DOAH, the Siting Board directed that further evidence be taken

### RECOMMENDED ORDER ON CERTIFICATION

The ALJ recommended that the Siting Board enter a final order granting “full and final certification” of the Project. Included in the Recommended Order on Certification are the following significant findings of fact of the ALJ:

1. The primary fuel to power the Project generating units is and will continue to be natural gas, and the burning of this natural gas will not generate solid or hazardous waste through the combustion process. Low sulfur fuel oil will continue to be used as a “backup” fuel only, limited to use for a maximum of 288 hours per unit on an annual basis.
2. The planned withdrawal of ground water in the operation of the Project is not expected to have an adverse impact on the ground water resources at the site or on adjacent properties. In addition, the operation of the Project is not expected to have any adverse impacts on surface waters.
3. Emissions from operation of the Project are not expected to have any significant adverse impacts on air quality, vegetation, soils, or visibility in the area surrounding the Project or in the nearest Class I area.
4. The Project construction and operation will result in significant economic benefits to Duval County, the region, and the State of Florida, and no significant permanent adverse socioeconomic impacts are expected.

### CONCLUSION

No Exceptions were filed by any party to this PPSA proceeding objecting to any of the factual findings, legal conclusions, or recommendations of the ALJ in the two Recommended Orders now on review before the Siting Board. Furthermore, the record in this case does not contain any requests by governmental agencies or members of the general public that site certification of the Project should be denied. Having reviewed the matters of record and being otherwise duly advised, the Siting Board concludes that site certification of the Project will serve and protect the broad interests of the public and should be approved.

It is therefore ORDERED:

A. The Recommended Order on Land Use Following Remand and the Recommended Order on Certification entered by the ALJ in this PPSA proceeding are adopted and incorporated by reference herein.

B. The site of the proposed Project is determined to be consistent and in compliance with existing land use plans and zoning ordinances of the City of Jacksonville.

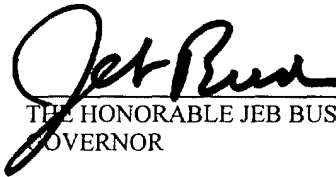
C. Site Certification of the JEA Brandy Combined Cycle Conversion Project as proposed in the Applicant’s Site Certification Application is APPROVED, subject to the

Conditions of Certification set forth in "DEP Exhibit 2," which Conditions of Certification are incorporated by reference herein.

D. Authority to assure and enforce compliance by JEA and its agents with all of the Conditions of Certification imposed by this Final Order is hereby delegated to DEP, except that any proposed modification to burn a fuel other than natural gas or fuel oil shall be reviewed by the Siting Board.

DONE AND ORDERED this 22<sup>ND</sup> day of MARCH, 2002, in Tallahassee, Florida, pursuant to a vote of the Governor and Cabinet, sitting as the Siting Board, at a duly noticed and constituted Cabinet meeting held on MARCH 12, 2002.

THE GOVERNOR AND CABINET  
SITTING AS THE SITING BOARD

  
\_\_\_\_\_  
THE HONORABLE JEB BUSH  
GOVERNOR

FILING IS ACKNOWLEDGED ON THIS  
DATE, PURSUANT TO § 120.52 FLORIDA  
STATUTES, WITH THE DESIGNATED  
DEPARTMENT CLERK, RECEIPT OF  
WHICH IS HEREBY ACKNOWLEDGED

  
\_\_\_\_\_  
CLERK

3/25/02  
DATE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Land Use Order has been sent by United States Postal Service to:

Douglas S. Roberts, Esquire  
Hopping, Green, Sams & Smith  
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Tallahassee, FL 32314

Cathy Bedell, Esquire  
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Commission  
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Ann Cole, Clerk and  
P. Michael Ruff  
Division of Administrative Hearings  
The DeSoto Building  
1230 Apalachee Parkway  
Tallahassee, FL 32399-1550

and by hand delivery to:


Hamilton Oven, Administrator  
Department of Environmental Protection  
Office of Siting Coordination  
2600 Blair Stone Road  
Mail Station 48  
Tallahassee, FL 32399-2400

and

Scott A. Goorland, Esquire  
Department of Environmental Protection  
3900 Commonwealth Blvd., M.S. 35  
Tallahassee, FL 32399-3000

this 25<sup>th</sup> day of MARCH, 2002.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

  
\_\_\_\_\_  
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STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

IN RE: JEA BRANDY BRANCH           )  
      COMBINED CYCLE                )  
      CONVERSION POWER PLANT        ) Case No. 00-5120EPP  
      SITING APPLICATION             )  
      NO. PA00-43.                    )  
\_\_\_\_\_)

RECOMMENDED ORDER ON LAND USE FOLLOWING REMAND

Pursuant to notice, the Division of Administrative Hearings, by its duly-designated Administrative Law Judge, J. Lawrence Johnston, held a formal hearing in Baldwin, Florida, on land use issues in the above-styled case on April 24, 2001, and on December 4, 2001, following the Order of Remand by the Siting Board.

APPEARANCES

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For Department of Environmental Protection:

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Tallahassee, Florida 32399

For City of Jacksonville:

Gregory K. Radlinski, Esquire  
City Hall at St. James  
117 West Duval Street, Suite 480  
Jacksonville, Florida 32202

\_\_\_\_\_  
EXHIBIT "A"      \_\_\_\_\_

#### STATEMENT OF THE ISSUE

The issue to be resolved in this portion of this power plant siting proceeding is whether the site for the proposed JEA Brandy Branch Combined Cycle Conversion Project is consistent and in compliance with the applicable land use plans and zoning ordinances of the City of Jacksonville, pursuant to Section 403.508(2), Florida Statutes.

#### PRELIMINARY STATEMENT

This proceeding was conducted pursuant to the Florida Electrical Power Plant Siting Act (PPSA), Chapter 403, Part II, Florida Statutes, and Chapter 62-17, Florida Administrative Code, to consider JEA's application for power plant site certification of the Brandy Branch Combined Cycle Conversion Project. On December 8, 2000, JEA filed with the Florida Department of Environmental Protection (FDEP) an application for site certification for the Brandy Branch Combined Cycle Conversion Project. By agreement among the parties, this land use hearing, held pursuant to Section 403.508(2), Florida Statutes, was scheduled to be held on April 24, 2001.

After proper notice by the Applicant and by FDEP, the land use hearing was held in Baldwin, Florida, on April 24, 2001, as required by the PPSA. The hearing was conducted for the purpose of receiving evidence as to whether the Project site was in compliance with the local land use plans and zoning regulations of the City of Jacksonville.

JEA presented the testimony of two witnesses and had JEA Exhibits numbered 1 through 8 admitted into evidence. FDEP did not present any testimony. The City of Jacksonville presented the testimony of Mr. Coen Purvis and offered no exhibits. No other agency or party appeared at the hearing. No member of the general public testified at the public hearing.

Following the conclusion of the land use hearing, a transcript was filed. Citations to the transcript of the land use hearing will be indicated by the name of the witness, followed by "T." and the page number; citations to exhibits admitted at this hearing will be indicated by "Ex." and the exhibit number.

The Joint Proposed Recommended Order of JEA, FDEP, and the City of Jacksonville was timely submitted. A Recommended Order on Land Use was entered on July 5, 2001.

On September 18, 2001, the Siting Board entered an Order of Remand for Further Proceedings, directing that further evidence be taken on the issue of the Project's consistency and compliance of the PUD zoning approval for the Project site with the air permit for the Project.

On December 4, 2001, as part of the scheduled certification hearing, additional evidence was received on the issue of the Project's compliance with the PUD zoning for the Brandy Branch site.



Following the conclusion of the certification hearing, a transcript of the certification hearing was filed. Citations to the transcript of the certification hearing in this Recommended Order on Land Use Following Remand will be indicated by the name of the witness, the symbol "T(2)." and the page number; citations to exhibits admitted at the certification hearing will be indicated by "Ex(2)." and the exhibit number.

A Joint Proposed Recommended Order on Land Use Following Remand was timely submitted and forms the basis of this Recommended Order on Land Use Following Remand.

#### FINDINGS OF FACT<sup>1</sup>

1. JEA is a municipally-owned utility that provides electric service in Duval County and surrounding areas. JEA serves approximately 350,000 customers. (Mims, T. 6-7) JEA has been providing electric service in the Jacksonville area since 1895. JEA currently operates four generating stations along with a power plant jointly-owned with Florida Power & Light Company. These existing plants burn a range of fuels, including coal, oil and natural gas. (Mims, T. 6-7) In October 2001, JEA will decommission its existing Southside station. (Mims, T. 8)

2. JEA's Brandy Branch facility is located west of Jacksonville, north of U.S. Highway 90, and approximately one mile to the east of the town of Baldwin, Florida. The Brandy Branch site is approximately 153 acres, with 45 acres containing the electrical generating facilities units. JEA is currently

constructing three combustion turbines to operate in the simple cycle mode at its Brandy Branch site. The combustion turbines are in commercial operation. (Mims, T. 8; Mims, T.(2). 19-20) In addition to the simple cycle units, raw water tanks, fuel tanks and stormwater ponds have been constructed on the project site. (Mims, T. 9; JEA Ex. 8A)

3. The simple cycle combustion turbines at the site operate like a large version of a jet engine. Air is compressed and mixed with either gas or oil, which is converted into mechanical power that turns an electrical generator to create electric power. This power is then distributed out over the electrical transmission grid. This includes the 230 KV transmission lines that currently serve the Brandy Branch site. (Mims, T. 10)

4. The site is currently served by an existing natural gas pipeline that connects to the Florida Gas Transmission system. In addition, JEA is negotiating for a second gas pipeline that may connect the project site to a new line that will come into Florida from Georgia. That second line will be separately owned and operated by the gas pipeline company. (Mims, T. 11-12)

5. JEA is now proposing to convert two of the simple cycle combustion turbines into a combined cycle unit by installing heat recovery steam generators onto the exhaust system of the gas turbines. A new steam turbine generator will also be installed to the west of the existing units. The combined cycle configuration involves capturing the exhaust gas from the

combustion turbine through a heat recovery steam generator that in turn supplies steam to a steam turbine. The steam turbine drives an additional electrical generator. (Mims, T. 12-13; JEA Exs. 7A and 7B)

6. A new cooling tower will be constructed within the project site as part of the conversion project. The cooling tower will cool the steam that goes through the condenser. Addition of the cooling tower will involve an additional 2.5 acres within the 153 acre JEA Brandy Branch site. No modifications to the existing transmission system will be required as part of the project. (Mims, T. 13-15; JEA Exs. 7A and 7B)

7. The three simple cycle combustion turbines at the Brandy Branch site will have a generating capacity of approximately 520 megawatts (MW). The conversion of the Brandy Branch site to combined cycle operation will add an additional 190 MW of generating capacity. This will result in approximately 700 MW of total generating capacity at the site after the conversion. (Mims, T. 14)

8. The original development plan for the Brandy Branch site anticipated four simple cycle combustion turbines. After the initial three units were brought into operation, JEA planned to add a fourth combustion turbine as demand for electricity increased on JEA's system. However, JEA decided to convert two of the CTs to combined cycle operation in lieu of constructing

the fourth CT because the capacity factor on the units was increasing faster than originally anticipated. JEA found it more economically feasible to add the combined cycle unit rather than adding an additional combustion turbine. (Mims, T. 16-17)

9. The JEA Brandy Branch site is located in the incorporated area of the City of Jacksonville. The Brandy Branch site is surrounded by pasture and timber land on all sides, with a large dairy farm located to the east. (Kilgo, T. 20; Purvis, T. 33; JEA Ex. 8B) The nearest occupied residence is approximately one-half to three-quarters of a mile to the northwest of the generating station. There are no significant environmental resources on the site. An existing rails-to-trails facility is adjacent to the southeast corner of the site. (Kilgo, T. 21)

10. The City of Jacksonville's Comprehensive Plan and Future Land Use Map designate the JEA Brandy Branch site as Public Buildings and Facilities, or PBF. (Kilgo, T. 22-23; JEA Ex. 10) That land use category permits electric power plants as an allowed use. (Kilgo, T. 23; Purvis, T. 33; JEA Ex. 9, at page 41 of 58) Surrounding land use designations generally include Agriculture or AGR-III. (JEA Ex. 10)

11. In September 1999, at JEA's request, the Jacksonville City Council rezoned the Brandy Branch site from PBF-1 to PUD for the entire 153 acre site. (JEA Ex. 13) The PUD approval accommodates the combined cycle project for the most part.

Construction of the additional facilities will be covered by the existing PUD. (Kilgo, T. 24) The PUD zoning application for the Brandy Branch site contained information on air emission limits and on the height of the emissions stacks at the site. The air emissions information concerning the Brandy Branch site contained in the zoning application was incorporated by reference into the PUD approval. (Purvis, T. 35)

12. On July 27, 2001, JEA requested that the City of Jacksonville modify the PUD zoning for the Project site to provide that the Project must comply with any air emissions permit issued by the FDEP and to allow a maximum structure height of 199 feet. On August 30, 2001, the City of Jacksonville Planning Commission granted the requested modification, following a recommendation from the City of Jacksonville's planning staff in support of the modification. (Kilgo, T(2). 13-15 ; JEA Exs(2). 8 and 12) The Project as designed will be able to comply with the FDEP air permit and Conditions of Certification, including those related to air emissions. The maximum height structure will be 190 feet. (Mims, T(2). 21; Hillman, JEA Ex(2). 1C pp.5-17; Holscher, JEA Ex(2). 1C, pp. 8-13)

#### CONCLUSIONS OF LAW

13. The Division of Administrative Hearings has jurisdiction of the parties to and the subject matter of this proceeding. The proceeding was conducted in accordance with Section 403.508(2), Florida Statutes, addressing the consistency

of the site with local land use plans and zoning ordinances of the City of Jacksonville.

14. In accordance with Chapter 403, Part II, Florida Statutes and Chapter 62-17, Florida Administrative Code, proper public notice was accorded all persons, entities and parties entitled to such notice. All necessary and required governmental agencies participated in or had the opportunity to participate in the land use hearing.

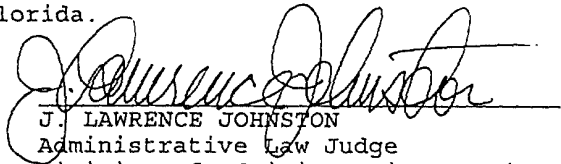
15. Unrebutted evidence at the hearings on April 24, 2001 and December 4, 2001, demonstrates that the Brandy Branch combined cycle conversion project and its site are consistent and in compliance with the City of Jacksonville's land use plans and are consistent and in compliance with the applicable zoning ordinances for the site.

#### RECOMMENDATION

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

RECOMMENDED that the Siting Board find that the site of the JEA Brandy Branch Combined Cycle Conversion Project as described by the evidence presented at the hearing, is consistent and in compliance with existing land use plans and zoning ordinances of the City of Jacksonville as they apply to the site, pursuant to Section 403.508(2), Florida Statutes.

DONE AND ENTERED this 15<sup>th</sup> day of January, 2002, in  
Tallahassee, Leon County, Florida.

  
J. LAWRENCE JOHNSTON  
Administrative Law Judge  
Division of Administrative Hearings  
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Filed with the Clerk of the  
Division of Administrative Hearings  
this 15<sup>th</sup> day of January, 2002.

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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 on Land Use Following Remand. Any exceptions to this Recommended Order on Land Use Following Remand should be filed with the agency that will issue the Final Order in this case.



STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

IN RE: JEA BRANDY BRANCH )  
COMBINED CYCLE )  
CONVERSION POWER PLANT ) Case No. 00-5120EPP  
SITING APPLICATION )  
NO. PA00-43. )  
\_\_\_\_\_ )

RECOMMENDED ORDER ON CERTIFICATION

Pursuant to notice, the Division of Administrative Hearings, by its duly-designated Administrative Law Judge, J. Lawrence Johnston, held a formal hearing in the above-styled case on December 4, 2001, in Baldwin, Florida.

APPEARANCES

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STATEMENT OF THE ISSUE

The issue to be resolved in this proceeding is whether the Governor and Cabinet, sitting as the Siting Board, should issue certification to JEA to construct and operate the steam electric equipment needed to create a nominal 530 megawatt combined cycle generating unit located at JEA's Brandy Branch generating station, in accordance with the provisions of Section 403.501, et seq., Florida Statutes.

PRELIMINARY STATEMENT

This proceeding was conducted pursuant to the Florida Electrical Power Plant Siting Act (PPSA), Chapter 403, Part II, Florida Statutes, and Chapter 62-17, Florida Administrative Code, to consider JEA's Site Certification Application for the proposed Brandy Branch Combined Cycle Conversion Project.

On December 8, 2000, JEA filed with the Florida Department of Environmental Protection (Department or FDEP) its application for site certification for the Brandy Branch Combined Cycle Conversion Project.

On February 28, 2001, the Florida Public Service Commission issued its order determining the need for JEA's Brandy Branch

Combined Cycle Conversion Project, pursuant to Section 403.519, Florida Statutes.

As required by Section 403.508(1) and (2), Florida Statutes, a land use hearing was held near the Project site on April 24, 2001. By Order of Remand for Further Proceedings, dated September 18, 2001, the Siting Board remanded the Recommended Land Use Order back to the ALJ requesting he take further evidence and enter additional factual findings and conclusions of law on the "consistency and compliance of the PUD zoning approval with the air permit" for the Project as part of the final certification hearing for the Project.

On November 2, 2001, the Department issued its written analysis concerning the Project, as required by Section 403.507(4), Florida Statutes, which contained reports from other agencies, along with a compiled set of proposed conditions of certification for the Brandy Branch Combined Cycle Conversion Project proposed by FDEP and various agencies. On December 4, 2001, during the certification hearing, FDEP submitted its revised written analysis as an exhibit and on December 7, 2001, filed a Revised Staff Analysis (FDEP Exhibit 2) to update and correct various matters in the earlier version of its analysis.

After proper notice by both the Applicant and by FDEP, a certification hearing was held in Baldwin, Florida, on December 4, 2001, as required by the PPSA. The general purpose of this certification hearing was to receive oral, written, and

documentary evidence concerning whether, through available and reasonable methods, the location and operation of the proposed Brandy Branch Conversion Project would produce minimal adverse effects on human health, the environment, the ecology of the land and its wildlife, and the ecology of State waters and their aquatic life, in an effort to fully balance the increasing demands for an electrical power plant location and operation with the broad interests of the public. See Section 403.502, Florida Statutes.

At this hearing, JEA presented the oral testimony of five witnesses and had JEA Exhibits numbered 1 through 8, and 10 through 14 admitted into evidence. These exhibits included the prefiled written testimony of eight additional witnesses. FDEP presented the testimony of Hamilton S. Oven, the administrator of FDEP's Siting Coordination Office, and had FDEP Exhibits 1 and 2 admitted into evidence. The St. Johns River Water Management District presented the testimony of Jay Lawrence and presented no exhibits. The City of Jacksonville was present at the hearing. The Florida Department of Community Affairs, the Florida Fish and Wildlife Conservation Commission, and the Florida Department of Transportation, all of which were parties to this proceeding, did not enter appearances at the certification hearing. The St. Johns River Water Management District also entered into a stipulation with JEA prior to the hearing which was filed on November 29, 2001. The City of Jacksonville was present at the

hearing and entered into stipulations with JEA that are reflected in the revised staff report and on the record. (T. 6-7) No members of the general public testified at the certification hearing.

Following the conclusion of the December 4, 2001, hearing, a Transcript of the hearing was filed. The Joint Proposed Recommended Order on Certification of JEA, FDEP, SJRWMD and the City of Jacksonville was timely submitted and forms the basis of this Recommended Order on Certification.

#### FINDINGS OF FACT<sup>1</sup>

1. JEA is a municipally-owned utility that supplies electric service in the Duval County area. JEA, which was formerly known as the Jacksonville Electric Authority, is the largest municipal utility in Florida. JEA has been providing electric service in Jacksonville for over 105 years. JEA serves approximately 350,000 electric customers in Duval and surrounding counties. JEA also supplies water and wastewater services to the Jacksonville area. (Boswell, T. 26-27)

2. JEA currently owns and operates four electrical generating facilities and is in joint ventures with Florida Power & Light in two other power plants. JEA owns or operates approximately 2900 MW of electrical generating capacity to serve its electric load. (Boswell, T. 26-27)

3. JEA's Brandy Branch Generating Station is located in western Duval County, near the town of Baldwin, Florida. The

site is approximately one mile north of U.S. 90 and approximately one mile east of U.S. 301. Access to the site is by U.S. 90.

(Mims, T. 18, 20-21; JEA Ex. 1.A, Vol. 1, at p. 2-2, Fig. 2.1-1; JEA Ex. 5) The Brandy Branch site is located within the incorporated area of the City of Jacksonville. (JEA Ex. 1.A, Vol. 1, p. 2-6, § 2.2.1)

4. The Brandy Branch Generating Station includes approximately 153 acres; 45 acres of the site have been developed to support an existing simple cycle power plant, which includes three simple cycle generating units (Units 1, 2 and 3) and support facilities. The three existing combustion turbines have a total electrical capacity of 510 MW, with each CT having a capacity of 170 MW. The other existing facilities on site include a multi-service building, maintenance building, diesel fuel tanks, water tanks, electrical substation, gas metering station and a stormwater pond. The three existing combustion turbines are now in operation. (Mims, T. 18; JEA Ex. 1.A, Vol. 1, p. 3-1, Fig. 3.2-2)

5. The Brandy Branch site is served by existing JEA-owned electrical transmission lines that connect the site to JEA's Normandy Substation, FPL substations and the JEA Steel Mill Substation. An existing natural gas lateral supplies natural gas to the Brandy Branch site, and connects to the existing Florida Gas Transmission gas pipeline. (Boswell, T. 37-38)

6. The balance of the Brandy Branch station is largely undeveloped and is comprised mainly of planted pines and wetland areas. Prior to development, the Brandy Branch site was a combination of open pasture land and forest, with portions of the original uses remaining on site. Cattle had grazed the western portion of the site where vegetation is composed of numerous weedy and introduced plant species. (JEA Ex. 1.A, Vol. 1, p. 2-43, § 2.3.5) The land use in the vicinity of the Brandy Branch Project is anticipated to continue as rural, residential and agricultural. (JEA Ex. 1.A., Vol. 1, p. 2-7)

7. Initial development of the Brandy Branch site required issuance of several federal and state permits. These included a federal-state wetlands permit which authorized filling for 2.2 acres of forested cypress wetlands for the Project and 1.4 acres of herbaceous wetlands for the Site access road. To mitigate for the wetlands impacted, JEA was required to create a 4.4-acre isolated cypress dome within an existing grassed pasture, along with 1.4 acres of herbaceous wetlands around the outside edge of the cypress area. Species planted included pond cypress and various wetland shrubs. JEA is required to monitor the mitigation area for a period of five years. (JEA Ex. 1.A, Vol. 2, § 10.1.2, COE-404 Permit; § 10.3.2, Environmental Resource Permits)

8. In addition, JEA was issued a Prevention of Significant Deterioration (PSD) Permit for air emissions for the simple cycle

projects; a Consumptive Use Permit (CUP) from the St. Johns River Water Management District (SJRWMD) authorizing use of water for power production, domestic and essential uses; and an NPDES Stormwater General Permit from the U.S. Environmental Protection Agency (EPA). (JEA Ex. 1.A, Vol. 2, § 10.1 and § 10.3) A review by the State of Florida Division of Historical Resources determined that no significant archaeological or historical sites are recorded or likely to be present within the Brandy Branch site. (JEA Ex. 1.A, Vol. 2, § 10.5.3)

9. JEA is now proposing to convert simple cycle combustion turbine Units 2 and 3 into a combined cycle unit by adding a new 190 MW steam turbine generating unit, powered by two new heat recovery steam generators (HRSGs). The HRSGs will capture the exhaust gases from the combustion turbines and produce steam that will be used to drive the new steam turbine. The HRSGs will be located behind the two combustion turbines, and the new steam turbine will be located west of Unit 3. A new cooling tower, used to cool the steam turbine condenser, will be located in the northeast portion of the Project site. The conversion to combined cycle operation will create a 530 MW unit when placed into service in 2004. Unit 1 will continue as a 170 MW simple cycle combustion turbine. The total plant output will therefore be approximately 700 MWs. (Mims, T. 21-22; JEA Ex. 1.A, § 2.1.2, § 3.2; JEA Ex. 7)



10. The existing simple cycle CTs have heat rates of approximately 10,500 BTUs per kilowatt hour (Kw/hr). This combined cycle conversion will result in a heat rate of approximately 7,300 BTUs per Kw/hr. This represents a 30 percent improvement in the energy efficiency of the facility. (Boswell, T. 36)

11. JEA considered a number of options before selecting the combined cycle conversion project to meet JEA's projected growth in electrical demand, which is forecasted to grow approximately 3.3 percent per year over the next five years. JEA also maintains a 15 percent planning reserve margin, which represents additional generating capacity available to meet peak electrical demand. Therefore, JEA needs new electrical capacity in the 2004 time frame. (Boswell, T. 30) Before selecting the combined cycle conversion project, JEA evaluated conservation and renewable energy alternatives. These were found to be insufficient or not cost-effective to meet JEA's needs. JEA also considered purchasing power from other electrical suppliers but rejected that option. JEA also considered other electrical generating alternatives, including pulverized coal, fluidized bed and other simple cycle and combustion turbine projects. (Boswell, T. 31-32)

12. Several strategic factors led JEA to select the Brandy Branch conversion project. The conversion project will add fuel diversity to JEA's electrical system. JEA currently uses a

significant amount of coal to meet its base load-generating requirements. Addition of the efficient natural gas fired units that can operate as base load units will provide a measure of fuel diversity on JEA's system. By controlling its generating capacity, JEA can maximize its operating flexibility in dispatching the units as needed and scheduling maintenance of the unit to meet its system needs. Use of an existing site minimizes environmental impacts and reduces the time and effort required for licensing. Use of the Brandy Branch site and its transmission lines and gas pipelines avoids the cost of those facilities and the time required to extend those facilities to a new site. (Boswell, T. 32-34; JEA Ex. 4)

13. JEA also considered a number of other power plant sites before selecting the Brandy Branch site for installation of the existing combustion turbines. Those sites, which are located in and near the downtown urban area, were found not to be suitable for expansion due to limitations on electrical transmission and natural gas pipeline service. JEA also considered a site at Cecil Field, a recently closed military base that is being transferred into public ownership. However, there was not sufficient time for JEA to acquire the land in order to construct and operate a new power plant in the time needed. JEA found Brandy Branch site to be the most suitable location at the time it installed the simple cycle combustion turbines. (Boswell, T. 27-30)

14. The primary fuel for the Brandy Branch Project is and will continue to be natural gas supplied by the existing natural gas lateral. Low sulfur fuel oil will continue to be used as a backup fuel. Oil operations will be limited to 288 hours per year, per unit. Approximately two million gallons of oil will be stored on site. Fuel oil will be delivered by truck. No additional fuel oil facilities will be required for the conversion project, as the existing fuel oil storage and delivery systems will continue to supply needed fuel oil. (Boswell, T. 37-38; JEA Ex. 1A, Vol. 1, § 3.3)

15. An onsite mechanical draft cooling tower will be used to reject waste heat from the steam turbine condenser to the atmosphere. The cooling tower will occupy approximately 2.5 acres of additional land within the Brandy Branch site. This represents the only expansion in developed areas of the Project for the conversion project. Cooling water makeup will be supplied from onsite wells. Cooling tower blowdown will be directed to a JEA-owned force main that will route that and other wastewaters to a JEA wastewater treatment plant. Other wastewaters resulting from cooling tower blowdown and wastewater from onsite chemical drains will be discharged to the new wastewater force main. Effluent from oil/water separators will be routed to an onsite percolation pond. (Mims, T. 21-23; JEA Ex. 1A, Vol. 1., § 3.5)

16. Service and process water will be provided for evaporative cooler makeup, for washdown purposes, and for pump and equipment seal water and flushing. High quality demineralized water will be required for makeup to the steam condensate feed water cycle associated with the HRSGs and steam turbine generators. This makeup is necessary to replace cycle losses and boiler blowdown. Demineralized water is also used to control Nitrogen Oxide (NOx) emissions when firing fuel oil. Portable demineralizer facilities are used to produce demineralized water, which is stored in onsite storage tanks before use. (JEA Ex. 1.A, Vol. 1, § 3.5, at pp. 3-9 to 3-13)

17. Potable water for the site is provided by the Town of Baldwin. The existing septic tank disposal system will be discontinued following conversion to combined cycle operation. Sanitary waste will now be discharged into the new wastewater force main for treatment in the JEA wastewater treatment system. (Mims, T. 22-23; JEA Ex. 1.A, Vol. 1, § 3.5.2 at p. 3-12)

18. Plant water use is expected to average 2.75 million gallons per day, based upon annual average conditions and at a 100 percent load factor. The high-volume water use in the plant is the cooling tower system, which uses approximately 2.5 million gallons per day on an average annual basis. Most of this water is evaporated to the atmosphere in the cooling process. Lower volume water uses include the plant surface water system, which includes fire water, miscellaneous process uses and makeup to the

demineralizer system. Maximum process water demand occurs when the Units burn fuel oil on hot days, as water needs increase due to the additional demineralized water requirements for use in nitrogen oxide controls. Under these conditions, water use would increase to approximately 3.72 million gallons per day. (Weiss, JEA Ex. 1e, p. 5-6; JEA Ex. 1.A, Vol. 1, § 3.5)

19. Several conservation measures have been included in the plant design to reduce the use of water. Cooling water will be recirculated and treated to allow operation at 8 cycles of concentration, which is considered the maximum practical limit to preclude scaling of heat transfer surfaces. High efficiency drift eliminators will be used in the cooling tower to reduce water losses. Use of mobile demineralizer treatment systems which are regenerated offsite, minimizes onsite water requirements and wastewater production. Blowdown from the HRSGs will be pumped to the cooling towers, further reducing groundwater use. There is no onsite landscape irrigation. There are no extraneous uses of water at the plant. (Weiss, JEA Ex. 1.E at pp. 6-7; FDEP Ex. 2, App. II-4, p. 7)

20. JEA investigated alternatives to minimize the consumptive use of groundwater as part of the Project. These alternatives included reclaimed water from the Town of Baldwin's Wastewater Treatment Plant, reclaimed water from JEA's Southwest Water Treatment Plant, and reuse of the Brandy Branch Project's wastewater. These studies concluded that the use of reclaimed

water at the Brandy Branch site was not justified. Due to JEA's lack of control over the quality of the discharge from the town of Baldwin's wastewater treatment plant, reuse from that source was deemed unavailable. Use of wastewater from JEA's existing wastewater treatment plants and reuse of project wastewaters are not economically feasible at this time. (Weiss, JEA Ex. 1.E, pp. 5, 7; JEA Ex. 1.B SJRWMD, pp. 55-76, A-2 to A-5; FDEP Ex. 2, App. II-4, pp. 5,7) There are no other sources of surface water or groundwater in the Project area that could provide sufficient quantities and quality of water to meet the Project's needs. (Lehnen, T. 70-72)

21. Water required for the Project will be withdrawn from the Upper and Lower Floridan Aquifers. Based upon an onsite aquifer performance test and detailed hydrogeologic modeling, pumping of groundwater for the Project was demonstrated to comply with applicable SJRWMD rules regarding consumptive use of water. The planned withdrawal is not expected to have an adverse impact on the groundwater resources at the site or on adjacent properties. The evaluation demonstrated there would be no interference with existing legal uses of water or unacceptable impacts to wetlands as a result of groundwater withdrawals. Further, no effects on salinity in groundwater are expected to result from these withdrawals. (Lehnen, T. 60-70, 72, 75-76, 78-79; Lawrence, T. 99-100) As part of the Project, JEA will undertake monitoring of wetlands and groundwater levels to

determine that there are no unexpected adverse impacts from the proposed withdrawals. (Lehnen, T. 66-67, 70, 76-77) These would include unexpected significant saline intrusion, which SJRWMD's consumptive use permitting handbook define as "saline water encroachment which detrimentally affects the applicant or other legal existing users of water or is otherwise detrimental to the public interest." (Unnecessary to resolve in this case is the question raised by the City of Jacksonville of whether an effect "detrimental to the public interest" can result from a hypothetical saline intrusion which increases chlorides from current levels of 8 mg/l to over the 250 mg/l drinking water standard for chlorides when no existing legal use of the aquifer as a drinking water source will be affected.)

22. JEA will be required to evaluate alternative water sources for the Project every five years after commercial operation of the facility begins. (Lawrence, T. 101-104; Lehnen, T. 78; FDEP Ex. 2, App. I, pp. 38-39, Condition of Certification XXIX, W., Five Year Compliance Reports)

23. In addition to providing electric service, JEA also provides wastewater treatment and reclaimed water to its customers. JEA is developing and implementing three major wastewater reuse projects which will provide reclaimed water both to JEA's other power plants and to other customers for industrial and irrigation uses. JEA is seeking to use 3 million gallons per day at its Northside and Power Park generating stations. JEA has

or will soon have upwards of 13 million gallons per day of reuse water available from three of its wastewater treatment facilities. JEA is focusing its efforts to develop water reuse projects in areas where there are large industrial operations that can utilize reclaimed water or where there are water resource issues related to water quality in the aquifer. The planned reuse water by JEA will reduce the local demand for groundwater. The planned reuse water facilities would represent about 11 percent of JEA's current water system demand. (Perkins, T. 40-46; JEA Ex. 11)

24. The nearest JEA wastewater facility to the Brandy Branch project is over 24 miles away. At its peak capacity, the water use for the Brandy Branch Project of 2.7 million gallons per day to supply electricity to 350,000 residences would represent about 8 gallons per day per residential customer. This is about 4 percent of the residential use of water for domestic purposes. Reuse water may become available to the Brandy Branch facility in the future as JEA develops additional wastewater treatment facilities closer to the Brandy Branch Project. The most likely project is the Cecil Field redevelopment project at a former naval air station near Jacksonville. (Perkins, T. 45-48)

25. Operation of the facility burning primarily natural gas will not generate solid or hazardous waste through the combustion process. Miscellaneous office trash and maintenance wastes will be collected in dumpsters and removed from the site by a licensed



contractor. Waste oil is the only potentially hazardous substance generated by plant operation. These waste oils are generated through oil changing of the combustion turbines and other equipment, cleaning of the combustion turbines, false starts of the combustion turbines and oil/water separator operation. Waste oil is collected in drain tanks in the oil/water separator and will be hauled off site as needed by a licensed contractor for ultimate disposal. (JEA Ex. 1.A, Vol. 1, § 3.7 at pp. 3-14 to 3-15; § 5.4 at p. 5-33)

26. There will be no impacts to surface waters from operation of the Brandy Branch combined cycle facility. The Project will not withdraw or discharge wastewaters to surface waters. The Plant drainage system will be designed to comply with all applicable federal, state and local regulations regarding discharge into surface waters. Runoff from areas not disturbed by construction or operation will be directed to natural drainage systems. Runoff from disturbed areas of the Project site will be collected and directed into a drainage system of ditches, swales and runoff basins for treatment. Stormwater is ultimately directed to the existing onsite stormwater pond. That stormwater pond serves as a wet detention basin and provides both quality and quantity treatment of the stormwater. The stormwater management system is designed to maintain existing drainage patterns wherever possible and to ensure that post-development peak discharge will not exceed that

of the pre-development peak discharge at the Project site boundary. (Serafin, T. 5-7; JEA Ex. 1.A, Vol. 1, §§ 3.8, 5.3.1)

27. The Brandy Branch conversion project construction and operation will not change the existing stormwater management system, although adjustments to some existing facilities will be required. These adjustments include additional stormwater conveyance and collection around the cooling tower to route runoff to the existing onsite stormwater pond. Runoff that flows from potentially contaminated areas such as plant drains and drainage from oil containment areas will be routed through an oil/water separator to remove oil and grease before the water is discharged to the onsite percolation pond. (JEA Ex. 1.A, § 3.8; § 5.3.1; Serafin, JEA Ex. 1.E, pp. 5-7)

28. During construction of the combined cycle conversion project, erosion and sediment control systems will be installed early in the construction process. This will consist primarily of establishing vegetation, surfacing and concrete-lined ditches and culverts. These measures will control and minimize such impacts beyond the construction zone. The existing stormwater pond and drainage ditches will serve as the conversion project's construction drainage system, providing both quality and quantity treatment of stormwaters. There will be no construction or construction-related activities permitted within onsite wetland areas. A buffer zone around onsite wetlands will be staked and roped off prior to construction to prevent encroachment. A silk

screen barrier will be installed down gradient from any fill construction activities and upgradient from adjacent wetlands to limit infiltration of eroded materials into adjacent wetlands. (JEA Ex. 1.A, Vol. 1, § 3.8.5, § 4.2.1; Serafin, JEA Ex. 1.E at pp. 7-8)

29. Noise impacts from the facility will be below the established levels for neighboring residential areas. Noise regulations established by the City of Jacksonville require facility noise levels to not exceed 65 dBA during the daytime and 60 dBA during the nighttime at the nearest residential property. The nearest residence is approximately three-quarters of a mile from the Project's construction site. Noise emissions from the combined cycle facility were projected through use of a computer modeling program to calculate facility noise propagation, including natural reduction and absorption of noise by the atmosphere and onsite barriers and equipment. Full facility operation at base load was predicted to have a sound pressure level of 46 dBA at the nearest residence. This is well below the applicable noise regulation, even for nighttime. (Ferren, JEA Ex. 1.E, pp 10-13; JEA Ex. 1.A. Vol. 1, § 5.7, at pp. 5-33 to 5-35)

30. Construction of the combined cycle facility will occur entirely within the existing site boundaries. Development of the new cooling tower will result in the loss of 2.5 acres of upland pine forest, which is common to the area. This loss is not

expected to cause any changes in species, diversity or composition. There will be no wetlands impacts due to construction of the conversion project. There will be no permanent significant impacts on resident wildlife, species diversity or composition of local wildlife populations. Wildlife may be temporarily displaced from areas adjacent to construction due to noise and construction activities. No federal or state protected species are known or expected to occur in the project vicinity or the additionally cleared area of the Project site. (Soltys, JEA Ex. 1.E, pp. 10-11; JEA Ex. 1.A, Vol. 1, § 4.4; § 5.8.1)

31. Air emissions from the JEA Project are subject to federal and state regulations, principally under the Prevention of Significant Deterioration (PSD) program. The PSD regulations are designed to ensure that the air quality within existing attainment areas does not significantly deteriorate or exceed the ambient air quality standards (AAQS) while also providing a margin for future industrial and commercial growth. The PSD regulations apply to major stationary sources and major modifications at existing major sources that are undergoing construction in areas designated as attainment or unclassifiable. The Brandy Branch simple cycle facility is a major source, having the potential to emit more than 250 tons per year of at least one regulated air pollutant. The estimated emissions increases from the combined cycle conversion project of nitrogen oxides (NOx),

carbon monoxide (CO) and particulate matter (PM/PM10), resulting from the proposed conversion to combined cycle operation for Units 2 and 3, exceed the PSD significant emission levels for those pollutants. Therefore, the Project's emissions of NOx, CO and PM/PM10 are subject to PSD review as a modification to an existing major source. The PSD review includes an analysis of Best Available Control Technology (BACT), air quality impact analysis, and an assessment of the Project's impact on general industrial, residential and commercial growth, on soils and vegetation, and on visibility, as well as analysis of impacts to Class I air quality areas. (Hillman, JEA Ex. 1.E, pp. 8-9; JEA Ex. 1.A, Vol. 3, p. 2-8)

32. The Federal Clean Air Act requires that the best available control technology be installed to control air pollutants regulated under the Act which are emitted in significant amounts. BACT is defined as an emission limitation established based on the maximum degree of pollutant reduction determined on a case-by-case basis considering technical, economic, energy and environmental considerations. Major air pollution sources at the Project subject to BACT review include the two combined cycle combustion turbines and the cooling tower. A BACT analysis was performed for those emission sources. (Holscher, JEA Ex. 1.E, pp. 9-10) Using the federal Environment Protection Agency's (EPA's) "top down" approach to BACT determinations, the BACT analysis considers first the most

stringent control technology and emission limit available for a similar source of air emissions. If it can be shown that this level of control is infeasible on the basis of technical, economic, energy and environmental impacts for the source in question, then the next most stringent level of control is identified and similarly evaluated. This process continues until the BACT level under consideration cannot be eliminated by any technical, economic, energy or environmental consideration. (JEA Ex. 1.A., Vol. 3, pp. 3-3 to 3-4)

33. Based upon this analysis, BACT for controlling NOx emissions from the Brandy Branch Combined Cycle Conversion Project was determined to be the use of dry low NOx burners with selected catalytic reduction (SCR) to achieve an emission limit of 3.5 parts per million (ppm) when burning natural gas. While burning fuel oil, BACT for NOx emissions was established to be the use of water injection with SCR to achieve an emission limit of 15 ppm. For CO emissions, BACT was determined to be good combustion controls to achieve 12.21 ppm of CO emissions while firing natural gas and 14.17 ppm while firing fuel oil. For PM, BACT was determined to be good combustion controls during firing of both natural gas and fuel oil. Particulate emissions from the cooling tower, resulting primarily from the presence of dissolved and suspended solids in the cooling tower circulation water, was determined to be controlled by the use of drift eliminators to minimize drift losses from the cooling tower. (Holscher, JEA Ex.

1.E, pp. 10-13) The FDEP determined that these emission levels and controls represented BACT. (DEP Ex. 2, pp. 19, 23; Owen, T. 90)

34. An air quality impact analysis was also conducted for Project air emissions, in accordance with EPA's air dispersion modeling guidelines. The ambient air quality impact analysis conducted for the Brandy Branch Project, including operations in the combined cycle mode, demonstrated that the Project will not have a significant impact on air quality near the Brandy Branch site or in the nearest Class I area. There were no predicted air quality impacts greater than the PSD significant impact levels. Therefore, under the PSD program, no further air quality impact analysis was required for the JEA Project. (DEP Ex. 2, p. 21; Hillman, JEA Ex. 1.E, pp 12-13)

35. JEA's Brandy Branch Project is not expected to cause any adverse impacts on vegetation, soils, or visibility in the Project area or at the nearest Class I area. (Hillman, JEA Ex. 1.E, pp. 15-16; DEP Ex. 2, p. 22)

36. Construction activities can generate air emissions during the construction of buildings and from construction equipment exhaust. The generation of suspended particulate matter (or fugitive dust) will be the dominant type of air pollutant during construction. These emissions will vary substantially from day to day, depending on the level of construction activity, the specific operations, and the

prevailing weather and soil conditions. However, much of this activity will be intermittent and of short duration. The large dust particles generated during construction tend to settle out quickly and will not generally leave the Project site. Fugitive dust will be controlled by watering and application of dust suppressants, as necessary, in active work areas. (Hillman, JEA Ex. 1.E, pp. 16-17; JEA Ex. 1.A, Vol. 1, § 4.5.1)

37. Construction and operation of the Project will result in significant economic benefits to Duval County, the region, and the State of Florida, and no significant permanent adverse socioeconomic impacts are expected. The anticipated benefits of the Project include primarily the direct and indirect employment and earnings impacts that will be realized in the area from construction and operation. Conversion of the Brandy Branch facilities to combined cycle will create approximately 385 temporary jobs, with an estimated payroll of \$19.7 million over a two-year period. It is expected that most of these jobs will be filled by workers already residing in the Duval, Nassau, Clay and Baker County area. The influx of construction work force will be minimal and should not increase the demand for services from local governments and nearby service providers. Information gathered for the Project indicates that more than enough service capacity is available to accommodate the construction work force. Individuals temporarily relocating to the area during construction should not have a problem securing affordable



housing. The indirect socioeconomic impacts from construction of the conversion project include the creation of service jobs in the area to accommodate construction workers. Using an accepted economic multiplier, it is expected that 270 full-time service jobs may be created as a result of the construction. Expenditure of the construction payroll in the local economy will be passed along to local businesses through spending by construction workers and the governments in the form of taxes. Benefits from operation of the Project will occur from the additional 18 operational personnel needed to operate the combined cycle units. The annual payroll for these employees is estimated to be \$1.6 million in 2004. It is expected that these additional employees will come from the existing JEA work force. Since operational personnel tend to live near the facility they operate, the majority of the annual payroll will remain within the local economy. Indirect socioeconomic impacts from Project operation are not expected to be significant. The impacts will include the creation of up to 14 additional full-time service jobs as a result of the operation of the combined cycle project. (Wynne, JEA Ex. 1.E, pp. 8-13; JEA Ex. 1.A, Vol. 1, § 7.1.1 and 7.1.2)

38. The FDEP, the Florida Department of Community Affairs, the Public Service Commission, the St. Johns River Water Management District, the Florida Department of Transportation, the Fish and Wildlife Conservation Commission, the Northeast Florida Regional Planning Council, and the City of Jacksonville

each prepared written reports on the Project. (Oven, T. 86-87; FDEP Ex. 2) FDEP has proposed Conditions of Certification for the Project, which JEA has agreed to accept and comply with in construction and operation of the Project. (Mims, T. 24) No state, regional or local agency has recommended denial of certification of the Project.

#### CONCLUSIONS OF LAW

39. The Division of Administrative Hearings has jurisdiction of the parties to and the subject matter of this proceeding. The proceeding was conducted in accordance with the Florida Electrical Power Plant Siting Act; Chapter 403, Part II, Florida Statutes; and Chapter 62-17, Part I, Florida Administrative Code, which set out the procedures for power plant siting reviews.

40. In accordance with Chapters 120 and 403, Part II, Florida Statutes, and Chapter 62-17, Florida Administrative Code, proper notice was accorded to all persons, entities and parties entitled to such notice, and appropriate notice was provided to the general public by both the Department and by JEA. All necessary and required governmental agencies participated in or otherwise had the opportunity to participate in the certification hearing. Reports and studies were issued by FDEP, the Department of Community Affairs, the Public Service Commission, the Florida Department of Transportation, the Fish and Wildlife Conservation Commission, the St. Johns River Water Management District, the

Northeast Florida Regional Planning Council, and the City of Jacksonville, in accordance with their various statutory duties under the Siting Act.

41. The Florida Public Service Commission has issued its affirmative determination that a need exists for the electrical generating facility and the electricity it will produce, in accord with Section 403.519, Florida Statutes.

42. Competent and substantial evidence and testimony produced by JEA and by other parties at the certification hearing demonstrates that JEA has met its burden of proof that the Brandy Branch Combined Cycle Conversion Project is entitled to certification under the PPSA. Unrebutted testimony produced at the hearing demonstrates that the safeguards for construction and operation of the Brandy Branch Combined Cycle Project are technically sufficient to protect the public welfare of the citizens of Florida and are otherwise reasonable and available methods to achieve that protection of the public. The Brandy Branch Combined Cycle Conversion Project will result in minimal adverse effects on human health, the environment, the ecology of the land and its wildlife, and the ecology of state waters and their aquatic life. If operated and maintained in accordance with this Recommended Order and the FDEP's proposed Conditions of Certification, JEA's Brandy Branch Combined Cycle Conversion Project will comply with the applicable non-procedural requirements of all agencies. Further, certification of the

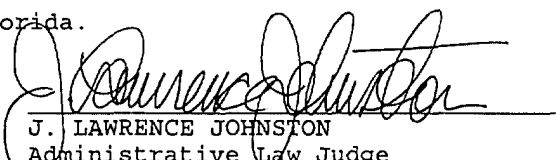
Project will fully balance the demand for electrical power plant location and operation in this State with the broad interests of the public that are protected by the PPSA.

RECOMMENDATION

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

RECOMMENDED that the Siting Board grant full and final certification to JEA, under Section 403, Part II, Florida Statutes, for the location, construction and operation of the JEA's Brandy Branch Combined Cycle Project, representing an expansion of 190 megawatts of steam electrical generating capacity, as described in the Site Certification Application and the evidence presented at the certification hearing, and subject to the Conditions of Certification contained in FDEP Exhibit 2.

DONE AND ENTERED this 15<sup>th</sup> day of January, 2002, in Tallahassee, Leon County, Florida.

  
J. LAWRENCE JOHNSTON  
Administrative Law Judge  
Division of Administrative Hearings  
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Filed with the Clerk of the  
Division of Administrative Hearings  
this 15<sup>th</sup> day of January, 2002.

ENDNOTE

1/ Reference to testimony and exhibits follow the following format: Kilgo, T. 22 - Refers to witness and page number in hearing transcript for December 4, 2001, hearing; Ferrin, JEA Ex. 1.e, p. 13 - Refers to Prefiled Testimony contained in JEA Ex. 1.e. JEA Ex. 6 - refers to exhibits received at hearing; JEA Ex. 1. A. is the Site Certification Application for the Brady Branch Combined Cycle Conversion Project.

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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 on Certification. Any exceptions to this Recommended Order on Certification should be filed with the agency that will issue the Final Order in this case.