

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**



**Transmission Line Site Certification
Staff Analysis Report**

**Progress Energy Florida
Tampa Electric Company
LAKE AGNES GIFFORD
230 kV TRANSMISSION LINE PROJECT**

**TA07-16
DEP OGC Case No. 07-2216
DOAH Case No. 07-5691TL**

May 30, 2008

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I. Introduction

The Florida Power Corporation doing business as Progress Energy Florida, Inc. (PEF) and Tampa Electric Company (TECo) Lake Agnes-Gifford (Lake Agnes) transmission line project is being reviewed for licensing under the provisions of the Transmission Line Siting Act (the Act), § 403.52-403.536, Florida Statutes. The Act provides a centralized and coordinated environmental licensing process which results in the certification of a corridor for a new transmission line that crosses or affects multiple government jurisdictions. It is the intent of the act to fully balance between;

- the need for the facility as a means of providing reliable, economical, and efficient electric energy and the impact on the public, and;
- the impact on the environment resulting from the location of the transmission line corridor and the construction, operation, and maintenance of the transmission lines.

The Florida Cabinet sitting as the Siting Board ultimately makes the final decision on the transmission line corridor and its included transmission line facilities. The Siting Board's decision will be based on the recommendations of an Administrative Law Judge who has evaluated the testimony and evidence of reviewing agencies, intervening parties and the public.

A. Project Description

On December 12, 2007, PEF and TECo submitted to the Department of Environmental Protection (DEP) an application for certification of their proposed Lake Agnes 230-kV transmission line project. The Lake Agnes to Gifford transmission line will consist of a single circuit 230kV transmission line extending from TECo's existing Lake Agnes substation in Polk County, Florida to PEF's planned Gifford Substation in Orange County, Florida (see Figure 1 – Figure 1.1-2 from PEF-TECo application). The preferred corridor will traverse portions of Polk, Osceola, and Orange Counties with corridor widths ranging from 500 feet (ft) up to 1 mile. The final width of acquired rights-of-way (ROW) will generally not exceed 100 ft, depending upon adjacent land uses, structures and span lengths utilized. Portions of existing transmission ROW that range up to approximately 145 ft. may also be utilized for co-location opportunities. Once property interests have been acquired for the project, the corridor boundaries will narrow to the final acquired ROW and the remaining certified corridor will have no further legal significance to this certification.

The length of the preferred corridor is approximately 27.5 miles with approximately 10.5 miles in TECo's service territory and approximately 17 miles in PEF's service territory (Figure 2 – Figure 1.1-3 from PEF-TECo application). The corridor contains various existing linear facilities, including existing road and utility ROW, parts of which may be used for the Lake Agnes to Gifford transmission line.

The Gifford substation is not part of this certification process and will be permitted separately through the applicable local government and regulatory agencies.

Figure 1: Project Location

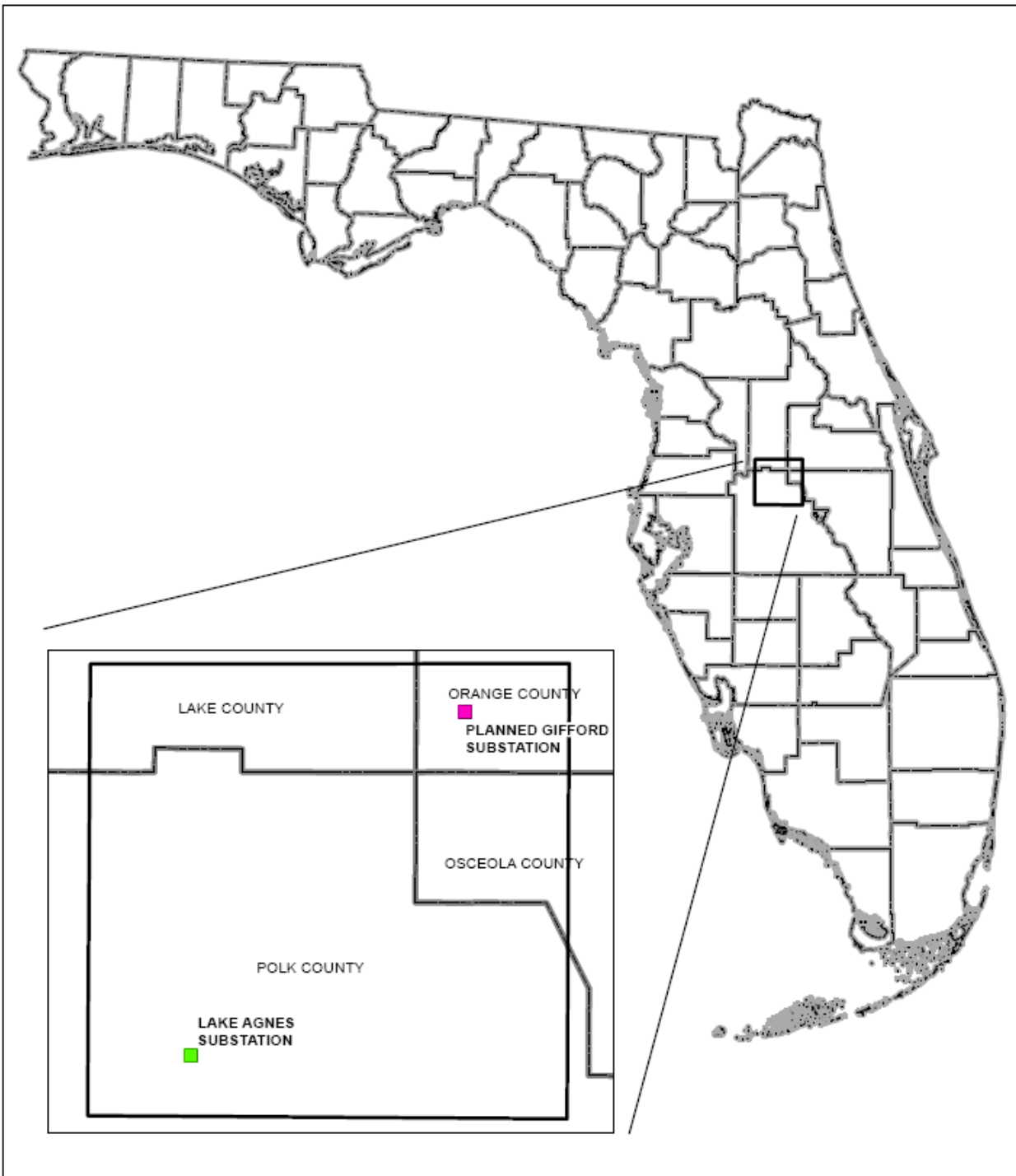
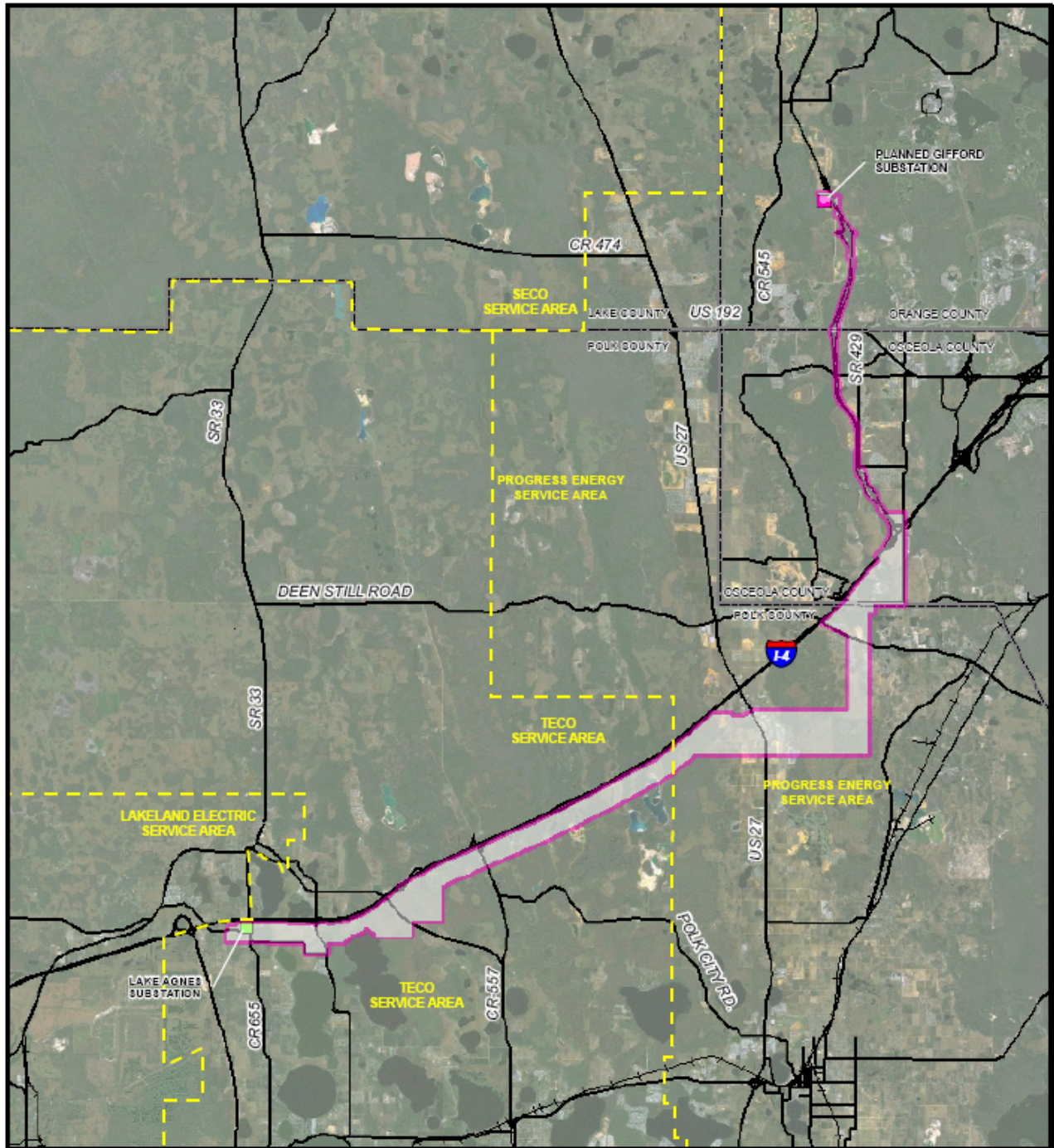


Figure 2: Preferred Corridor Location



The proposed transmission line will most likely be constructed using single shaft tubular steel or spun concrete structures with the capability of accommodating an additional 230kV circuit. The following figures are the structure configurations anticipated for use on the line (from Application).

Figure 3:

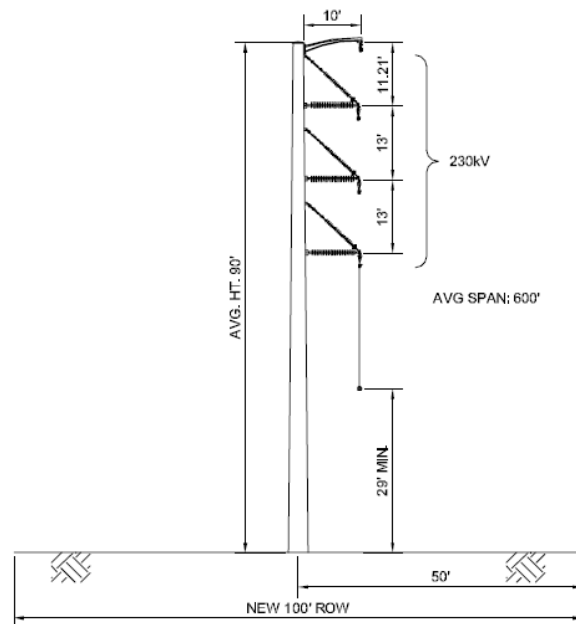
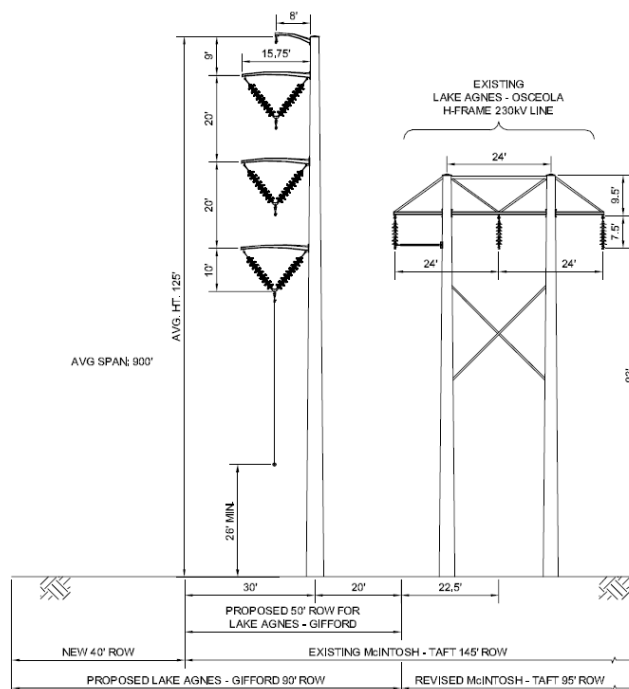


Figure 4:



B. Transmission Line Certification Process

The filing of a complete application triggers an assessment process of environmental, socioeconomic, cultural and land-use impacts resulting from the location of the proposed corridor, construction of the transmission line and maintenance of the transmission line and its associated right-of-way (ROW). The transmission line certification process does not assess impact on private property rights nor issues related to the possible condemnation or other takings of private lands. The Florida Public Service Commission determines the “need” for the proposed transmission line pursuant to §403.537, F.S.

The transmission line certification process includes the reviews and recommendations of the reviewing agencies whose jurisdiction are impacted by the proposed corridor. The reviewing agencies submit to the DEP assessment reports including recommendations and potential conditions of certification based on their areas of jurisdiction. DEP incorporates these agency reports into a compilation as part of its report. The DEP report is guided by Rule 62-17 Part II Transmission Line Siting. The analysis performed by DEP may include the consideration of the following criteria in regards to corridor location impacts; transmission line construction impacts; electric and magnetic field effects; right-of-way and access road maintenance impacts; mitigation measures; potential impacts of transmission line crossings on navigable waters, and submerged lands or wetlands; potential impact on water quality and quantity, including hydrology and surface drainage resulting from construction, clearing, and maintenance; potential impact on terrestrial and aquatic plant and animal life, including endangered or threatened species; commensurate with the level of detail of information provided in the application, a final or preliminary identification of those areas where the Department has environmental resource permit jurisdiction [specific identification and the location of the landward extent of jurisdiction may not occur until after the right-of-way has been defined]. If site specific dredging and filling information has not been provided for all locations in the corridor at the time of application filing the DEP may address an analysis of areas in which the right-of-way, if located, would cause the transmission line not to be certifiable. DEP’s designation of such areas may be premised on the following:

- there are no construction techniques which can reasonably be used in that area to mitigate adverse construction impacts to the extent that permitting requirements can be met, including considerations of cumulative impact as provided for in s.403.919, F.S., and,
- therefore it would be appropriate for this particular location to be excluded from the certified corridor; and other matters relating to dredging and filling which fail to comply with all non-procedural requirements of an agency or fail to comply with the standards set forth in section § 403.529, F.S., e.g., endangered species habitat.

DEP’s analysis may include a review of areas where construction techniques and potential right-of-way locations may exist which will comply with departmental permitting requirements, but the department does not possess sufficient information to make such determination. For example, such an instance might occur when neither the applicant nor

the department has permission to enter property to verify conditions deduced from aerial photography or other remote means.

A recommendation for certification may be made conditional as to location or as to specific construction techniques or as to provision of additional information to be submitted after certification. Post Certification Review (PCR) of a certified corridor can be a direct result of the uncertainty produced by not knowing the exact location of the final right-of-way within a 2600-foot wide corridor. Many site-specific details and site-specific construction and maintenance impacts can not be known until the ROW is selected by the Licensee. In PCR, verification occurs that allows sensitive areas to be avoided, that location and construction of the ROW and the transmission line will have minimal adverse impacts, and that substantive agency regulations are complied with. PCR can apply to endangered species monitoring, wetland impact minimization, wetland mitigation requirements, archaeological assessments, road-crossing limitations, and so on. The procedures and timeframes for PCR conditions of certification are formalized in Florida Administrative Code Rule 62-17.665. DEP or other agencies may request the Siting Board to approve such PCR conditions with respect to the Lake Agnes-Gifford transmission line.

Where the proposed agency conditions of certification are nearly identical in substance, those conditions have been combined where possible to reduce confusion or conflicts. The Conditions of Certification can be found in Appendix I.

II. Agency Reports

The complete text of following agency reports can be found in Appendix II.

A. Public Service Commission

A Determination of Need for this transmission line was issued by the Florida Public Service Commission (PSC) pursuant to §403.537, F.S., on September 26, 2007. The PSC in Docket No. 070393-EI found that “Progress and Tampa Electric have demonstrated the need for the Lake Agnes-Gifford 230kV Transmission Line Project in Polk and Orange Counties by June 2011 to: (a) provide additional transmission transfer capability along the 1-4 corridor to move electricity generated in the Polk County region to load centers in the Greater Orlando area in a reliable manner consistent with the North American Electric Reliability Council (NERC) and the Florida Reliability Coordinating Council (FRCC) and other applicable standards; (b) serve the increasing load and customer base in the projected service area; and (c) potentially provide for another electrical feed via a separate Right of Way (ROW) path, thereby reducing the impact of a loss of the existing transmission facilities on a common ROW”.

Three alternatives to the proposed Lake Agnes-Gifford-Davis Project were evaluated by PEF and TECO. All three alternatives were transmission modifications to the proposed ROW that used a portion of or the entire existing common ROW. PEF AND

TECO rejected the alternatives primarily due to economics and reliability concerns. PEF AND TECO estimates that the project will reduce transmission losses by approximately 4 MW. The cost benefits and the reliability benefits of the project will be enhanced by the construction of the project in a geographically separate ROW. While the final cost of the project is subject to the final routing and conditions of certification required by the Transmission Line Siting Board, the estimated cost of the project is reasonable, the transmission line will assure the economic well-being of the citizens of the state by serving projected new electric load in the region, and improving the region's electric reliability by minimizing exposure to single contingency events.

The Public Service Commission Final Order Determining Need for the Transmission Line is attached in Appendix II-A.

B. Department of Environmental Protection

The Department has concluded that the proposed corridor can be certified so long as the Conditions of Certification are met and, once the ROW is determined, PEF and TECo then supplies the information necessary to meet the informational requirements for an ERP permit as part of post-certification review. An Electric Magnetic Field (EMF) report was submitted with the application and found to be in compliance with DEP Rule 62.814.

	Max EMF within ROW	RULE MAX	Max EMF Edge ROW	RULE MAX	Max MAG Edge ROW	RULE MAX
Segment 1.3-1	3.7 kv/m	8 kv/m	0.4 kv/m	2.00 kv/m	147.1 mG	150 mG
Segment 1.3-2	4.2 kv/m	8 kv/m	0.7 kv/m	2.00 kv/m	111.4 mG	150 mG
Segment 1.3-3	2.2 kv/m	8 kv/m	1.1 kv/m	2.00 kv/m	146.1 mG	150 mG
Segment 1.3-4	1.3 kv/m	8 kv/m	0.4 kv/m	2.00 kv/m	57.3 mG	150 mG

The Departments' agency comments from the Central and Southwest Districts are included in Appendix II-B

C. Department of Transportation

The Department of Transportation recommended certification of the proposed transmission line contingent upon PEF and TECO complying with the DOT's recommended conditions of certification contained in Section VI of their report (see Appendix II-C). DOT's recommended conditions are included in Appendix I.

D. Department of Community Affairs

The Department of Community Affairs had no comments on this application. Their email is filed as Appendix II-D

E. Florida Fish and Wildlife Commission

FWC feels that the applicant has done a good job locating this proposed transmission line adjacent to existing roads and transmission line corridors; however, the stretch proposed along 1-4 would cross the State-owned Hilochee Wildlife Management Area (WMA). The applicant has stated that it may be possible to co-locate portions of this line within the existing McIntosh-Taft right-of-way and FWC strongly recommends that the applicant pursue co-location where the line crosses the WMA. The applicant must comply with the State's linear facilities policy, which requires impact minimization and provides for the payment of the fair market value of the needed land to the State's Internal Improvement Trust Fund. Additionally, the applicant must provide the managing agency, in this case the FWC, with additional money, land or services to offset the actual adverse impacts caused by the construction, operation and maintenance of the facility.

The State's list of protected wildlife species is found in Chapter 68A-27, Florida Administrative Code. Species-specific surveys should follow established survey protocols and guidelines where applicable (Wood 2001). Available survey protocols maybe downloaded from the Fish and Wildlife Research Institute webpage or are available by request. If there is evidence that any individuals of these species are present, then the Licensee must report the findings to the FWC. If impacts to these species cannot be avoided, then the Licensee must contact the FWC before taking any action that might result in an impact to those species.

The Florida Fish and Wildlife Commission does not object to the certification of this transmission line. Proposed conditions of certification addressing their concerns are included in Appendix I. Their Agency report is included in Appendix II-E.

F. South West Florida Water Management District

Under the current operating agreement between the District and DEP, DEP is responsible for conducting the Environmental Resource Permitting-related review of the project area, employing District substantive ERP rules as adopted by DEP. Due to the fact that the actual right-of-way location for the proposed transmission line will not be determined until after a corridor is certified, additional detailed information and review procedures are proposed as post-certification submittals once the acquired right of way is determined. This allows for the District to consult with DEP on the project's compliance with the conditions of certification related to ERP criteria as set forth in Chapter 40D-4, F.A.C., Part B, Basis of Review of the District's Environmental Resource Permitting Information Manual, and applicable provisions of 40D-9, F.A.C., relating to District lands.

Staff recommends approval of the proposed transmission line, subject to the proposed conditions of certification, and recommends forwarding of this Agency Report (see Appendix II-F) to the DEP for inclusion in its project analysis and proposed conditions of certification.

The SWFWMD proposed conditions of certification are included in Appendix I.

G. South Florida Water Management District

The only potential issue identified by District staff is that the final right-of-way may possibly impact previously approved conservation easements within existing permitted projects and these permits may need to be modified. Since DEP is taking the lead in the ERP review, pursuant to the terms of the Operating Agreement between the DEP and the SFWMD, DEP will be taking the lead in drafting appropriate condition language to address this issue. Therefore, the District recommends approval of this project without any Recommended Conditions of Certification.

The SFWMD submitted an email which is attached in Appendix II-G.

H. East Central Florida Regional Planning Council

The Council's recommended conditions concern the environmental impacts of the transmission line. Council staff understands that many of the environmental concerns would be handled through the Environmental Resource Permitting process; however, the Council is currently in the process of finalizing a Natural Resources of Regional Significance Map. The proposed transmission line corridor crosses some designated areas on this map. The Council recommends that on-site verification of the actual extent of such natural resources be conducted as part of the corridor selection. Plans for appropriate avoidance or mitigation should be included as a part of the corridor plan. With consideration of the above conditions, the Council recommends approval of certification (see Appendix II-H). East Central Regional Planning Council conditions are included in Appendix I.

I. Central Florida Regional Planning Council

An agency report was not received from the Central Florida Regional Planning Council.

J. Orange County

Orange County does not have any nonprocedural requirement which is not already listed in the case application from which a variance, exemption, exception, or other relief is necessary in order for the proposed corridor to be certified. Orange County recommends approval of the application proposed by Progress Energy and Tampa Electric. Their agency report is included in Appendix II-I.

K. Osceola County

Osceola County staff review of the application has determined that there is no justification for denial. There are no non-procedural requirements not specifically listed

in the application that the County is aware of; and there are no proposed conditions that Osceola County is seeking. Their agency report is included in Appendix II-J.

L. Polk County

An agency report was not received from Polk County.

M. Department of State

An agency report was not received from the Department of State.

N. Public Comments

The following table shows receipt and response dates of public comments received. Comments are attached as Appendix II-K.

Name	Receipt Date	Response Date	Summary
Steve Harrity	1/08/08	1/08/08	Concerned of how the preferred corridor will affect real estate sales and property values.
Gary von Behren	3/04/08 – phone message	3/07/08	Wanted to understand the Siting Certification process – possibility of filing an alternate corridor

III. Conclusions and Recommendations

Based on the recommendations of the agencies with jurisdiction over the Lake Agnes-Gifford 230 kV electrical transmission line, the Department of Environmental Protection concludes that the transmission line corridor filed by PEF and Teco is proper for certification and can be constructed and operated in compliance with the nonprocedural requirements of the reviewing agencies. The Department recommends that the Lake Agnes-Gifford 230 kV electrical transmission line be certified subject to the Transmission Line Siting Act and the conditions listed in Appendix I.

AGENCY	APPROVAL	DENIAL
DEP	√	
DOT	√	
FWCC	√	
DCA	----	----
SWFWMD	√	

ECFRPC	√	
CFRPC	----	----
Osceola County	√	
Orange County	√	
Polk County	----	----
SFWMD	√	
DOS – Historical Resources	----	----

DONE AND ISSUED this 30th day of May 2008 at Tallahassee

Michael P. Halpin, P.E.

Michael P. Halpin, P.E.
Administrator, Siting Coordination

Appendix I: Conditions of Certification

**STATE OF FLORIDA
DEPARTMENT OF
ENVIRONMENTAL PROTECTION**



**LAKE AGNES-GIFFORD 230-kV TRANSMISSION LINE
PROGRESS ENERGY FLORIDA, Inc.
TAMPA ELECTRIC COMPANY**

CONDITIONS OF CERTIFICATION

Certified XX/XX/XX

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I. CERTIFICATION CONTROL

A. Under the control of these Conditions of Certification, Progress Energy Florida and Tampa Electric Company (PEF/TECO) will construct and operate a 230-kilovolt (kV) transmission line extending approximately 27.5 miles from TECO's existing Lake Agnes substation in Polk County, Florida to PEF's planned Gifford Substation in Orange County, Florida.

B. These Conditions of Certification, unless specifically amended or modified, are binding upon PEF/TECO and shall apply to the construction, operation and maintenance of the certified facility. If a conflict should occur between the design criteria of this project and the Conditions of Certification, the Conditions shall prevail unless amended or modified. In any conflict between any of these Conditions of Certification, the more specific condition governs.

I. Citation: Section 403.531, F.S. (2007).

II. APPLICABLE RULES

The construction and operation of the certified transmission line shall be in accordance with all applicable non-procedural provisions of Florida Statutes and Florida Administrative Code, including, but not limited to, the following regulations, except to the extent a variance, exception, exemption or other relief is granted in the final order of certification: Chapter 403 (Environmental Control), Florida Statutes (F.S.), and Chapters 40D-4 and 40E-4 (Individual Environmental Resource Permits), 40D-9 (District Land Use Rules), 62-4 (Permits), 62-17 Part II (Transmission Line Siting Act), 62-301 (Surface Waters of the State), 62-302 (Surface Water Quality Standards), 62-330 (Environmental Resource Permitting), 62-340 (Delineation of the Landward Extent of Wetlands and Surface Waters), 62-343 (Environmental Resource Permit Procedures), 62-345 (Uniform Mitigation Assessment Method) and 62-814 (Electric and Magnetic Fields), Florida Administrative Code (F.A.C.).

II. Citation: Section 403.531, F.S. (2007).

III. DEFINITIONS

Unless otherwise indicated herein, the meaning of terms used herein shall be governed by the definitions contained in Chapters 373 and 403, Florida Statutes, and any regulation adopted pursuant thereto. In the event of any dispute over the meaning of a term used in these conditions which is not defined in such statutes or regulations, such dispute shall be resolved by reference to the most relevant definitions contained in any other state or federal statute or regulation or, in the alternative by the use of the commonly accepted meaning as determined by the Department. In addition, the following shall apply:

- A. "Application" shall mean the joint Application for Corridor Certification for the Lake Agnes-Gifford transmission line by the Progress Energy Florida and Tampa Electric Company.
- B. "Complete" shall mean the post-certification filing provides the data required by the relevant Condition of Certification.
- C. "DCA" shall mean the Florida Department of Community Affairs.
- D. "DEP" or "Department" shall mean the Florida Department of Environmental Protection.
- E. "DHR" shall mean the Florida Department of State, Division of Historical Resources.
- F. "DOT" shall mean the Florida Department of Transportation.
- G. "Emergency conditions" shall mean urgent circumstances involving potential adverse consequences to human life or property as a result of weather conditions or other calamity, and necessitating new or replacement transmission line components or access facilities.
- H. "Facility" or "Project" shall mean the Lake Agnes-Gifford 230-kV electrical "transmission line" as defined in Section 403.522(21), F.S.
- I. "Feasible" or "practicable" shall mean reasonably achievable considering a balance of land use impacts, environmental impacts, engineering constraints, and costs.
- J. "FWC" shall mean the Florida Fish and Wildlife Conservation Commission.
- K. "Licensee" shall mean PEF/TECO, which has obtained a certification order for the subject electrical transmission line.
- L. "Listed species" shall mean the species listed in Table 2.3-2 or Table 2.3-3 of the Application as endangered, threatened or species of special concern by FWC, the Florida Department of Agriculture and Consumer Services, or the U.S. Fish and Wildlife Service.
- M. "PEF" shall mean Progress Energy Florida, one of the two Applicants/Licensees.
- N. "Post-certification submittal" shall mean a submittal made by PEF and/or TECO pursuant to a Condition of Certification.

O. "ROW" shall mean the transmission line right-of-way to be selected by PEF/TECO within the certified corridor in accordance with the Conditions of Certification.

P. "SWFWMD" shall mean the Southwest Florida Water Management District.

Q. "SFWMD" shall mean the South Florida Water Management District.

R. "State water quality standards" shall mean the numerical and narrative criteria applied to specific water uses or classifications set forth in Chapter 62-302, F.A.C., as revised through December 7, 2006.

S. "TECO" shall mean Tampa Electric Company, one of the two Applicants/Licensees.

T. "Transmission line" shall mean the PEF/TECO Lake Agnes-Gifford 230-kV transmission line.

U. "Wetlands" shall mean those areas meeting the definition set forth in Section 373.019(25), F.S., as delineated pursuant to Chapter 62-340, F.A.C., and ratified by Section 373.4211, F.S.

III. Citation: Section 403.531, F.S. (2007).

IV. DESIGN AND PERFORMANCE CRITERIA

Certification, including these Conditions of Certification, is predicated upon preliminary design ranges and performance criteria. Final engineering design will be within the range described in the Application and explained at the certification hearing. Conformance to those criteria, unless specifically modified in accordance with Section 403.5315, Florida Statutes, and Rule 62-17.680, F.A.C., is binding upon PEF/TECO in the design, construction, operation and maintenance of the certified transmission line. In any instance where a conflict occurs between the Application's design criteria and the Conditions of Certification, the Conditions shall prevail.

IV. Citation: Section 403.531, F.S. (2007).

V. RIGHT OF ENTRY/MONITORING

A. Upon presentation of credentials or other documents as may be required by law, PEF and/or TECO shall allow authorized representatives of DEP or other agencies with jurisdiction over a portion of the ROW:

1. At reasonable times, to enter upon the ROW in order to monitor activities within their respective jurisdictions for purposes of assessing compliance with this certification; or
2. During business hours, to enter PEF and/or TECO's premises in which records are required to be kept under this certification; and to have access to and copy any records required to be kept under this certification.

B. When requested by DEP, on its own behalf or on behalf of another agency with regulatory jurisdiction, PEF/TECO shall within 10 working days or such longer period as may be mutually agreed upon by DEP and the Licensees furnish any information required by law, which is needed to determine compliance with the certification. If PEF/TECO becomes aware that relevant facts were not submitted or were incorrect in the Application or in any report to DEP or other agencies, such facts or information shall be corrected promptly.

V. Citation: Section 403.531, F.S. (2007).

VI. EMERGENCY REPORTING

Replacement of ROW access roads or transmission lines constructed under this certification necessitated by emergency conditions shall not be considered a modification pursuant to Section 403.5315, F.S. (2007). An oral report of the emergency shall be made to DEP as soon as possible. Within 14 calendar days after correction of an emergency, which would require PEF and/or TECO to perform an activity not in accordance with the Conditions of Certification, a report to DEP shall be made outlining the details of the emergency and the steps taken for its temporary relief. The report shall be a written description of all of the work performed and shall set forth any pollution control measures or mitigative measures which were utilized or are being utilized to prevent pollution of waters, harm to sensitive areas, or alteration of archaeological or historical resources.

VI. Citation: Section 403.531, F.S. (2007).

VII. CERTIFIED CORRIDOR

The certified corridor is attached hereto in Attachment 1.

VII. Citation: Section 403.531, F.S. (2007).

VIII. PROCEDURES FOR POST-CERTIFICATION SUBMITTALS

A. Purpose of Submittals

Conditions of Certification which provide for the post-certification submittal of information to DEP or other agencies by PEF/TECO are for the purpose of facilitating the agencies' monitoring of the effects arising from the location of the ROW and the construction and maintenance of the transmission line. This monitoring is for DEP to assure, in consultation with other agencies with applicable regulatory jurisdiction, continued compliance with the Conditions of Certification, without any further agency action.

B. Filings

1. All post-certification submittals of information by PEF/TECO are to be filed with the DEP Siting Coordination Office, the DEP Central and Southwest District Offices, and any other agency that is required to receive a submittal by any Condition of Certification. As required by Section 403.5317, F.S., each post-certification submittal will be reviewed by each agency with regulatory authority over the matters addressed in the submittal on an expedited and priority basis.

2. The Licensee shall provide within 90 days after certification a complete summary of those submittals identified in the Conditions of Certification where due-dates for information required of the Licensee are identified. Such submittals shall include, but are not limited to, monitoring reports, management plans, wildlife surveys, etc. The summary shall be provided to the DEP Siting Coordination Office and any affected agency or agency subunit to which the submittal is required to be provided, in a sortable spreadsheet, via CD and hard copy, in the format identified below or equivalent.

Condition Number	Requirement and timeframe	Due Date	Name of Agency or agency subunit to whom the submittal is required to be provided

C. Completeness

DEP shall promptly review each post-certification submittal for completeness. This review may include consultation with the other agency(ies) receiving the post-certification submittal with regulatory jurisdiction over the matter addressed in the

submittal. DEP's finding of completeness shall specify the area of the right-of-way affected, and shall not delay further processing of the post-certification submittal for non-affected areas. PEF/TECO may request that DEP Siting Coordination Office hold a meeting within 15 days after submittal to discuss any completeness issues. PEF/TECO may continue to supplement the submittal with additional information through the 25th day.

If any portion of a post-certification submittal is found to be incomplete, PEF/TECO shall be so notified. Failure to issue such a notice within 30 days after filing of the submittal shall constitute a finding of completeness. Subsequent findings of incompleteness, if any, shall address only the newly filed information.

D. Interagency Meetings

DEP may conduct an interagency meeting with other agencies, which received a post-certification submittal. The purpose of such an interagency meeting shall be for the agencies with regulatory jurisdiction over the matters addressed in the post-certification submittal to discuss whether reasonable assurance of compliance with the Conditions of Certification has been provided. Failure of DEP to conduct an interagency meeting or any agency to attend an interagency meeting shall not be grounds for DEP to withhold a determination of compliance with these Conditions nor to delay the timeframes for review established by these Conditions. At DEP's request, PEF/TECO shall conduct a field inspection with the agency representative in conjunction with the interagency meeting.

E. Reasonable Assurances of Compliance

DEP shall give written notification on an expedited and priority basis, but in any event within no more than 90 days, to PEF/TECO and the other agency(ies) to which the post-certification information was submitted of its determination whether there is reasonable assurance of compliance with the conditions of certification. If it is determined that reasonable assurance has not been provided, PEF/TECO shall be notified with particularity of the deficiencies and possible corrective measures suggested. Failure to notify PEF/TECO in writing within 90 days of receipt of a complete post-certification submittal shall constitute a compliance determination.

F. Commencement of Construction

If DEP does not object within the time period specified in paragraph E. above, PEF/TECO may begin construction pursuant to the terms of the Conditions of Certification and the subsequently submitted construction details.

G. Water Quality Certification

For each post-certification submittal which addresses matters within DEP's environmental resource permitting jurisdiction, DEP shall provide to the U.S. Army

Corps of Engineers (USCOE) a letter in accordance with DEP Rule 62-17.665(7)(f), F.A.C. This letter shall be sent concurrently with a determination of compliance pursuant to paragraph E. above, or immediately upon request by PEF/TECO more than 90 days after the filing of a complete post-certification submittal addressing matters within DEP's environmental resource permitting jurisdiction.

H. Coastal Zone Consistency

Pursuant to Section 380.23, F.S., DEP's letter to the USCOE under paragraph G above constitutes the state's concurrence that the licensed activity or use is consistent with the federally approved program under the Florida Coastal Management Act.

I. Revisions to Design Previously Reviewed for Compliance

The Licensee shall submit to DEP, for its review, any proposed revisions to the project's site specific design that were previously reviewed for compliance with these Conditions during the post-certification review process. Such submittals shall include the same type of information required for the original submittal and shall be submitted prior to construction/implementation.

J. Variation to Submittal Requirements

DEP, in consultation with the appropriate agencies that have regulatory authority over a matter to be addressed in a post-certification submittal, and PEF/TECO may jointly agree to vary any of the post-certification submittal requirements, provided the information submitted is sufficient to provide reasonable assurances of compliance with these Conditions of Certification.

K. Disputes

Any agency which received a post-certification submittal pursuant to these Conditions may dispute a determination that a submittal provides reasonable assurances of compliance with the Conditions of Certification made by DEP on matters within that agency's jurisdiction by following the procedures set forth in Chapter 120, F.S. The agency's statement disputing DEP's determination shall state with particularity the location to which the agency's dispute relates. Work in areas other than the location to which the agency's dispute relates will not be affected by the agency's dispute.

VIII. Citations: Sections 403.531, 403.5317, 373.413, 373.416, 120.569, and 380.23, F.S. (2007); Rules 62-17.600, 62-17.665, 40D-4.101, and 40E-4.101, F.A.C., 62-17.191, F.A.C.

IX. DISPUTE RESOLUTION

If a situation arises in which mutual agreement cannot be reached between DEP and another agency receiving a post-certification submittal or between DEP and PEF and/or TECO regarding compliance with the Conditions of Certification, then the matter

shall be immediately referred to the Division of Administrative Hearings (DOAH) for disposition in accordance with the provisions of Chapter 120, F.S. PEF/TECO or DEP may request DOAH to establish an expedited schedule for the processing of such a dispute.

IX. Citations: Sections 403.5317, 403.531, and 120.57, F.S. (2007).

X. SEVERABILITY

The provisions of this certification are severable, and if any provision of this certification or the application of any provision of this certification to any circumstance is held invalid, the remainder of the certification or the application or such provision to other circumstances shall not be affected thereby.

X. Citation: Section 403.531, F.S. (2007).

XI. ENFORCEMENT

A. The terms, conditions, requirements, limitations and restrictions set forth in these Conditions of Certification are binding and enforceable pursuant to Sections 403.141, 403.161, and 403.533, F.S. Any noncompliance by PEF and/or TECO with a Condition of Certification constitutes a violation of Chapter 403, F.S., and is grounds for enforcement action, permit termination, permit revocation, or permit revision. The Licensee is placed on notice that the Department will review this certification periodically and may initiate enforcement action for any violation of these Conditions.

B. All records, notes, monitoring data and other information relating to the construction or operation of this certified transmission line which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the certified source arising under the Florida Statutes or Department rules, except where such evidence shall only be used to the extent it is consistent with the Florida Rules of Civil Procedure and appropriate evidentiary rules.

C. If the Licensees build and maintain the proposed Lake Agnes-Gifford Transmission Line segments separately, with each Licensee providing for work in its own service territory, any violation of any condition by one of the Licensees shall not be construed to constitute a violation by the other Licensee for purposes of enforcement.

XI. Citations: Section 403.141, 403.161 and 403.533, F.S. (2007).

XII. REVOCATION OR SUSPENSION

This certification may be suspended or revoked pursuant to Section 403.532, Florida Statutes.

XII. Citation: Section 403.532, F.S. (2007).

XIII. PROPERTY RIGHTS

Except as provided in Section 403.531(3)(b), F.S., the issuance of this certification does not convey any property rights in either real or personal property, or any exclusive privileges thereto. The Licensee shall obtain title, lease, easement, or right of use from the State of Florida to any sovereignty submerged or other state-owned lands occupied by the right-of-way for the transmission line. Section 403.531(3)(b), F.S., provides that, on certification, any license, easement, or other interest in state lands, except those the title of which is vested in the Board of Trustees of the Internal Improvement Trust Fund, shall be issued by the appropriate agency as a ministerial act.

XIII. Citation: Section 403.531, F.S. (2007).

XIV. PROCEDURAL RIGHTS

No term or Condition of Certification shall be interpreted to preclude the post-certification exercise by the Licensee of whatever procedural rights it may have under Chapter 120, F.S.

XIV. Citation: Chapter 120, F.S. (2007).

XV. MODIFICATION OF CERTIFICATION

A. Pursuant to Section 403.5315(1), F.S., Section 120.569(2)(n), F.S., and Rule 62-17.680, F.A.C., the Siting Board hereby delegates the authority to the Secretary of the Department of Environmental Protection to modify these Conditions of Certification, after notice and receipt of no objection by a party or other substantially affected person. In addition, the Secretary of the Department is delegated the authority to modify conditions as follows:

1. The Secretary of the Department may modify any condition of this certification after notice and opportunity for hearing.
2. The Secretary of the Department may grant modifications necessary to meet licensing conditions or requirements imposed on PEF/TECO by any federal regulatory agency. PEF/TECO shall notify DEP at least 30 days prior to the issuance of the federal license that would require such a modification, if known, or in any event, as soon as the federal agency notifies PEF/TECO.
3. The Secretary of the Department may authorize the reconstruction of the ROW or transmission line necessary to avoid or mitigate an emergency condition.

Such a modification shall be obtained only when an emergency replacement of a transmission line pursuant to Rule 62-17.695, F.A.C., is not required or when an emergency replacement must be further modified after the emergency conditions requiring the original reconstruction are no longer present.

B. DEP shall give written notice to the parties to the original certification, at their last address of record, of any requests for modification filed by PEF/TECO.

XV. Citations: Sections 120.569(2)(n) and 403.5315, F.S. (2007); Rules 62-17.680 and 62-17.695, F.A.C.

XVI. SUBMITTALS AND NOTICES REQUIRED BY CONDITIONS

Post-certification submittals and notices shall be sent, as specified in these Conditions, to the agencies specified in these conditions at the following addresses, unless PEF/TECO and DEP are notified in writing of an agency's change in address for such submittals and notices:

Florida Department of Environmental Protection
Siting Coordination Office, MS 48
2600 Blair Stone Road
Tallahassee, FL 32399-2400

Florida Department of Environmental Protection
Southwest District Office
13051 N Telecom Parkway
Temple Terrace, FL 33637-0926

Florida Department of Environmental Protection
Central District Office
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803-3767

Florida Department of Community Affairs
Office of the Secretary
2555 Shumard Oak Blvd.
Tallahassee, FL 32399-2100

Florida Fish & Wildlife Conservation Commission
Office of Policy and Stakeholder Coordination
620 South Meridian Street
Tallahassee, FL 32399-1600

East Central Florida Regional Planning Council

Office of Executive Director
631 North Wymore Road, Suite 100
Maitland, Florida 32751

Central Florida Regional Planning Council
Office of Executive Director
555 East Church Street
Bartow, Florida 33830-3931

Southwest Florida Water Management District
Office of General Counsel
2379 Broad Street
Brooksville, FL 34604-6899

South Florida Water Management District
3301 Gun Club Road
Office of General Counsel
West Palm Beach, Florida 33406

Florida Department of Transportation
Director of Planning and Production, District 1
P. O. Box 1249
Bartow, FL 33831-1249

Orange County Environmental Protection Division
800 Mercy Drive, Suite 4
Orlando, FL 32808

Osceola County Planning Department
1 Courthouse Square
Kissimmee FL, 34741

Polk County Attorney Office
330 W Church St
Bartow, FL 33830

Florida Department of Agriculture and Consumer Services
Division of Forestry
3125 Conner Boulevard
Tallahassee, Florida 32399-1650

U.S. Fish and Wildlife Services
1339 20th Street
Vero Beach, FL 32960

Orlando Utilities Commission
500 South Orange Avenue
Orlando, FL 32801

XVI. Citation: Section 403.531, F.S. (2007).

XVII. TRANSFER OF CERTIFICATION

This certification is transferable, upon Department approval, to an entity determined to be competent to construct, operate and maintain the transmission line in accordance with these Conditions of Certification. A transfer of certification of all or part of a certified facility shall be initiated by the Licensee's filing with the Department and the parties a notice of intent to transfer certification to a new licensee. The notice of intent shall identify the intended new certification holder or licensee and the identity of the entity responsible for compliance with the certification. The provisions of Chapter 120, F.S., will apply to the Department's approval or denial of the transfer.

XVII. Citations: Section 403.531, F.S. (2007); Chapter 120, F.S.; Rule 62-17.211, F.A.C.

XVIII. ROW LOCATION

A. PEF and TECO shall co-locate the transmission line ROW to the extent feasible within or adjacent to existing public rights-of-way for those portions of the corridor which include such existing public rights-of-way. To the extent a widened road right-of-way has been acquired by the appropriate governmental agency at the time of final transmission line design, PEF/TECO's design shall reflect that new widened right-of-way.

B. To the extent feasible PEF/TECO shall locate the transmission line right-of-way so as to avoid the taking of homes.

C. The portions of the transmission line that are located in the Green Swamp Protection Area of Critical Concern shall be constructed and operated in accordance with the terms and conditions of the Green Swamp Protection Area of Critical Concern Program pursuant to Chapter 28-27, F.A.C.

D. The portions of the transmission line that cross the State-owned Hilochee Wildlife Management Area (WMA), outside of the existing OUC right-of-way, shall comply with the State's linear facilities policy, which requires impact minimization and provides for payment consistent with Section 253.02, F.S. (2008).

E. To the extent feasible and consistent with good engineering design and practices, the Licensees shall use best management practices to minimize impacts

to pre-existing natural features and minimize tree removal and trimming of vegetation.

XVIII. Citations: Sections 380.0677, 403.526(2)(b)3, 403.522(18), 403.526(2)(a)5, and 258.007(4), 253.034(10), F.S. (2007)

XIX. PROCESS FOR REVIEW OF ROW LOCATION

A. Prior to the finalization of the ROW location, three copies of the most recent available aerial photographs at a scale of 1" = 400' with wetland locations generally identified shall be submitted to DEP Siting Coordination Office, and one copy each to DEP Southwest and Central District Offices, SFWMD, SWFWMD, ECFRPC, CFRPC, DOT, DCA, Osceola County, Polk County and Orange County, delineating the certified corridor, and the selected transmission line ROW. In addition, PEF/TECO shall note on the aerial photographs new construction within the corridor that has occurred since the photograph was taken. PEF/TECO shall notify all parties of such filing and, if needed, shall meet with DEP to discuss the ROW location. This information may be submitted in segments. The agencies receiving the aerial photographs from PEF/TECO shall have an opportunity to review the photographs and to notify DEP, within 12 days of PEF/TECO's submittal of the aerial photographs to the agencies, of any apparent conflicts with the requirements of the Conditions of Certification. However, this paragraph shall not operate to avoid the need for post-certification submittals and compliance reviews otherwise required by the Conditions of Certification.

B. After review of the aerial photographs and comments from the other reviewing agencies, if DEP Siting Coordination Office has reason to believe that the construction of the transmission line, access roads or pads within PEF/TECO's designated ROW cannot be accomplished in compliance with the Conditions of Certification, PEF/TECO shall be so notified in writing, with copies to other parties to the certification proceeding of the particular basis for DEP's conclusion, and possible corrective measures which would bring the Project into compliance. If such notice is not received within 15 days of PEF/TECO's submittal of the aerial photographs to the agencies, PEF/TECO may proceed with design of the transmission line on the noticed ROW.

C. The acquisition of a particular ROW or the expenditure of funds toward acquisition of a particular ROW prior to the agencies' review pursuant to this condition will be at PEF/TECO's risk, and no party will be estopped by such acquisition to seek disapproval of the construction of the transmission line or access road within the ROW in accordance with these Conditions of Certification.

D. After PEF/TECO has acquired interest in the entire length of the transmission line ROW, PEF/TECO shall:

1. File a statement with the clerk of the circuit court for each county through which the corridor passes certifying that all lands required for the transmission line ROW within the corridor have been acquired. PEF/TECO shall also file with the county Planning Department a map at the scale of 1" = 400' showing the boundaries of the acquired ROW.

2. File with DEP Siting Coordination Office a map at a scale of 1" = 400' showing the boundaries of the acquired ROW, if such boundaries are different from those shown in the filing required by paragraph A above. Such maps shall comply with the requirements of paragraph A. If the boundaries have not changed, PEF/TECO shall file a statement with DEP Siting Coordination Office accordingly.

E. Once the ROW has been determined, PEF/TECO will submit to the Orange and Polk County Planning Departments and County Attorney's Office for Osceola County through which the corridor passes, information that is consistent with information typically submitted for County ROW permits.

XIX. Citations: Sections 403.531 and 403.5312, F.S. (2007); Rule 62-17.600(4), F.A.C.

XX. ROW SURVEYS

A. Listed Species

1. *Listed Species Occurring or Potentially Occurring in the Corridor:*
State-listed species occurring or potentially occurring within the preferred corridor footprint include but are not limited to the wood stork (*Mycteria americana*), which is listed as endangered; the bald eagle (*Haliaeetus leucocephalus*), the eastern indigo snake (*Drymarchon corais couperi*), Florida sandhill crane (*Grus canadensis pratensis*), the gopher tortoise (*Gopherus polyphemus*), and southeastern American kestrel (*Falco sparverius paulus*), all listed as threatened; gopher frog (*Rana capito*), Florida burrowing owl (*Athene cunicularia floridana*), limpkin (*Aramus guarauna*), little blue heron (*Egretta caerulea*), roseate spoonbill (*Platalea ajaja*), snowy egret (*Egretta thula*), tricolored heron (*Egretta tricolor*), white ibis (*Eudocimus albus*), and Sherman's fox squirrel (*Sciurus niger shermani*), all listed as species of special concern.

2. *Listed Species Survey.*
Before land clearing and construction activities within the ROW, where access is available, PEF/TECO shall conduct an assessment for listed species in the final right-of-way which will note all habitat, occurrence or evidence of listed species in the right-of-way. Listed species to be included in this survey shall include those listed as endangered, threatened or of special concern by Florida Fish and Wildlife Conservation Commission or those listed as endangered or threatened by U.S. Fish and Wildlife Service.

a. This survey shall be conducted in accordance with USFWS/FFWCC guidelines and methodologies by a person or firm that is knowledgeable and experienced in conducting flora and fauna surveys for listed species.

b. This survey shall identify any wading bird colonies within one-half mile of the project ROW that may be affected.

c. This survey shall identify locations of breeding locations, nests, and burrows for listed wildlife species. Nests and burrows may be recorded with GPS coordinates, identified on an aerial photograph, and submitted with the final listed species report. Although nests and burrows may be recorded individually with GPS, the FWC prefers that a protection radius surrounding nest sites and burrows be included, rather than individual nests and burrows, and be physically marked so that clearing and construction will avoid impacting them.

d. This survey shall include an estimate of the acreage and percent cover of each existing vegetation community (Florida Land Use, Cover and Forms Classification System, or FLUCFCS, at the third degree of detail) including a wildlife-based habitat classification scheme such as the Comprehensive Wildlife Conservation Strategy (FWC 2005), Descriptions of Vegetation and Land Cover Types (FWC 2004), or Natural Communities Guide (FNAI 1990) of each community that is contained within the final ROW prior to land clearing and construction activities using GIS.

3. *Listed Species Locations*

Where any suitable habitat and evidence is found of the presence of listed species along the ROW, PEF/TECO will report those locations to, and confer with, the appropriate regulatory agencies for possible additional pre-clearing surveys and to identify potential mitigation, or avoidance recommendations. If pre-clearing surveys are required, they shall be timed to be reasonably compatible with the construction schedule, considering the in-service date specified in the Public Service Commission's need determination. PEF/TECO will not construct in areas where evidence of listed species was identified during the initial survey until the particular listed species issues have been resolved.

a. *Listed Wildlife Species:* If listed wildlife species are found, their presence shall be reported to the DEP Siting Coordination Office, the DEP Southwest and Central District Offices, the FFWCC's Office of Policy and Stakeholder Coordination, the SWFWMD, the SFWMD, Osceola County, Orange County, Polk County and U.S. Fish and Wildlife Service.

b. *Listed Vegetation Species:* If listed vegetation species are found on public land or water, their presence shall be reported to the DEP Siting Coordination Office and the Florida Department of Agriculture and Consumer Services.

Listed wildlife species and listed vegetation species on public land or water shall not be disturbed, if practicable.

c. *Species Management Plan:* If avoidance is not practicable, PEF/TECO shall consult with DEP, FFWCC, and, if necessary, the U. S. Fish and Wildlife Service for listed wildlife species, and with the Florida Department of Agriculture and Consumer Services for listed vegetation species on public land or water, to determine the steps appropriate for the species involved which are to be taken to avoid, minimize, mitigate, or otherwise appropriately address impacts within each agency's respective jurisdiction. For wildlife species, these steps shall be memorialized in a Wildlife Management Plan and submitted to DEP, FFWCC, Osceola, Polk and Orange Counties.

B. Cultural Resources

After the ROW has been selected, PEF/TECO shall conduct a survey of sensitive cultural resource areas, as determined in consultation with the Department of State, Division of Historical Resources (DHR). A qualified cultural resources consultant will identify an appropriate work plan for this project based on a thorough review of the certified corridor. Prior to beginning any field work, the work plan will be reviewed in consultation with DHR. Upon completion of the survey, the results will be compiled into a report which shall be submitted to DHR. If practicable, sites considered to be eligible for the National Register shall be avoided during construction of the transmission line and access roads, and subsequently during maintenance of the ROWs. If avoidance by the proposed ROW of any discovered sites is not practicable, impact shall be mitigated through archaeological salvage operations or other methods acceptable to DHR, as appropriate.

If historical or archaeological artifacts are discovered at any time within the project site, PEF/TECO shall notify the DEP Southwest and Central District offices and the Bureau of Historic Preservation, Division of Historical Resources, R.A. Gray Building, Tallahassee, Florida 32399-0250, telephone number (850) 487-2073, and PEF/TECO shall consult with DHR to determine appropriate action.

XX. Citations: Sections 267.061 and 403.531, and Chapter 372, F.S. (2007).

XXI. ACTIVITIES IN WETLANDS

A. Informational Submittals for Activities Within Wetlands or Other Surface Waters

1. Prior to the projected commencement of construction of any portion of the transmission line in wetlands or other surface waters, PEF/TECO shall provide to DEP's Southwest and Central District Environmental Resource Permitting Sections and the U.S. Army Corps of Engineers all information necessary for a complete *Joint*

Environmental Resource Permit application, DEP Form No. 62-343.900(1), with copies to the East Central Florida Regional Planning Council, Osceola and Orange Counties, SFWMD and SWFWMD for informational purposes. Information may be submitted by discrete sections of the ROW; PEF/TECO shall consult with the DEP to identify mutually agreeable sections for purposes of wetlands submittals. The completed form for each section shall be reviewed pursuant to Condition VIII. "Construction" in this context shall include land clearing, excavation, the placement of structure pads, access roads, culverts, fill materials, and related activities. Construction activities shall not include the stringing of conductors.

2. PEF/TECO shall provide reasonable assurance that the joint construction, operation and maintenance of the proposed facilities, including any access roads and structures constructed within wetlands and other surface waters, satisfy the criteria set forth in Rules 40D-4.301, 40D-4.302, 40E-4.301, and 40E-4.302, F.A.C., and the applicable portions of Part B, Basis of Review of SWFWMD's and SFWMD's Environmental Resource Permitting Information Manual. Pursuant to Rule 62-17.665(7)(d), F.A.C., the Licensee shall provide sufficient information on a post-certification basis to demonstrate that there is reasonable assurance of compliance with SWFWMD and SFWMD substantive requirements.

3. The post-certification submittal shall include a signed and sealed Professional Land Surveyors' survey of wetland and surface water areas as defined pursuant to Chapter 62-340, F.A.C., and verified by appropriate agency staff. Available SWFWMD- and SFWMD- approved wetland and surface water verifications within the boundaries of the PEF/TECO ROW may be used and reproduced for this delineation consideration.

4. Upon issuance of this Certification, the SWFWMD and SFWMD will require modification of any permits issued by the SWFWMD and SFWMD to any entities whose activities will be affected by the proposed project to reflect the activities authorized by this Certification.

XXII.A. Citations: Sections 373.414, 373.416, 403.526(2)(b)3., 403.522(18), 403.526(2)(a)5., F.S. (2007); Rules 40D-4.091, 40D-4.101, 40D-4.301, 40D-4.302, 40E-4.091, 40E-4.101, 40E-4.301, 40E-4.302, and 62-17.665(7)(d), F.A.C.; and Chapter 62-340, F.A.C.

B. Consultation with Wetland Agencies

At the request of PEF/TECO, DEP Siting Coordination Office may conduct an interagency meeting for PEF/TECO to consult with the wetlands resource permitting staffs of DEP and SWFWMD, SFWMD and the FWC's staff, prior to the finalization of possible access road locations, transmission line structure locations, and the establishment of water control structure types and general locations in wetlands which are to be reflected in any post-certification submittals. At DEP's request, PEF/TECO shall conduct a field inspection with the agencies' staff representatives in conjunction with the interagency meeting.

C. Reduction and Elimination of Impacts

1. Access Roads, Culverts, and Structures

a. Where the ROW crosses wetlands or other surface waters, PEF/TECO shall utilize adjacent existing access roads and public roads for access to the transmission line ROW for construction, operation and maintenance purposes to the extent practicable.

b. All access roads and structure pads which must be constructed in areas where an existing access road or public road is not available shall be constructed in a manner which reduces or eliminates adverse impacts to on-site and adjacent wetlands to the extent practicable. PEF/TECO shall be deemed to have satisfied this condition if the access and finger roads satisfy the criteria of Rules 40D-4.301, 40D-4.302, 40E-4.301, and 40E-4.302, F.A.C.

c. Where practicable, PEF/TECO shall make an effort to reduce or eliminate impacts to wetlands and other surface waters within the certified corridor except as otherwise provided in section 3.2.1.2 of Part B, Basis of Review of SWFWMD's Environmental Resource Permitting Information Manual and section 4.2.1.2 of the Basis of Review of SFWMD. The length of the span between transmission line structures shall be varied as appropriate and other design changes, which shall include but not be limited to a reduction in pad size, elimination of access roads, use of finger fill from existing ROWs and/or modification of construction techniques shall be considered to eliminate or reduce wetland impacts, except where otherwise provided by sections 3.2.1.2 and 4.2.1.2, respectively.

d. To the extent practicable and utilizing the typical structures shown in the Application, access roads, culverts and structures shall be located to avoid conflict with existing underground utilities properly documented in county records.

e. In the event temporary fill is used to facilitate construction of the transmission line, the temporary fill shall be removed where necessary to minimize impacts to wetlands or habitats of listed species.

2. Wetland Clearing

a. PEF/TECO shall use only restrictive clearing practices during construction and maintenance of the transmission line where it crosses forested wetlands. Restrictive clearing, as used in this condition, is the removal of vegetation by hand, usually with chain saws, or with low-ground-pressure shear or rotary machines to reduce soil compaction and damage to ground cover. These methods may be used alone or in combination, as may be appropriate for specific sites. All cut vegetation must

be removed from wetlands unless other techniques, such as mulching or burning in place, are agreed to by DEP Siting Coordination Office and Orange County (for portions of the line located in Orange County) in the post-certification review process. Restrictive clearing includes the removal of vegetation from areas extending from the transmission line pole centerline to 50 feet on either side, and in the structure pad areas (approximately 64 feet by 150 feet). Removable construction matting in conjunction with best management practices may be used in wetlands to support equipment. The remainder of the ROW in wetland areas, beyond 50 feet on either side of the poles and the structure pads, shall not be cleared; however, vegetation that has an expected mature height greater than 14 feet may be removed. In addition, danger timber (trees or limbs likely to contact a conductor if fallen) within or outside the right-of-way may be removed.

b. Tree stumps under the conductors, within access roads and in the structure pads may be removed, sheared, or ground to 6 inches below the ground line to allow for travel and construction activities. Tree stumps in the area beyond 20 feet on either side of the outer conductors shall be left in place to preserve the root mat.

XXI.C. Citations: Sections 373.414 and 373.416, F.S. (2007); Rules 40D-4.091, 40D-4.101, 40D-4.301, 40D-4.302, 40D-4.381, 40E-4.091, 40E-4.101, 40E-4.301, 40E-4.302, 40E-4.381, F.A.C.

XXII. MITIGATION

A. Mitigation for wetland impacts pursuant to Section 373.414, F.S. shall not be required by DEP if the project is not located within wetlands, is not expected to adversely impact wetlands or complies with the following conditions:

1. All permanent fill shall be at grade. Fill shall be limited to that necessary for the electrical support structures, towers, poles, guy wires, stabilizing backfill, and at-grade access roads limited to 20-foot widths; and

2. The Licensee may utilize access and work areas limited to the following: a linear access area of up to 25 feet wide between electrical support structures, an access area of up to 25 feet wide to electrical support structures from the edge of the right-of-way, and a work area around the electrical support structures, towers, poles, and guy wires. These areas may be cleared to ground, including removal of stumps as necessary; and

3. Vegetation within wetlands may be cut or removed no lower than the soil surface under the conductor, and 20 feet to either side of the outermost conductor, while maintaining the remainder of the project right-of-way within the wetland by selectively clearing vegetation which has an expected mature height above 14 feet. Brazilian pepper, Australian pine, and melaleuca shall be eradicated throughout the wetland portions of the right-of-way; and

4. Erosion control methods shall be implemented as necessary to ensure that state water quality standards for turbidity are met. Diversion and impoundment of surface waters shall be minimized; and

5. The proposed construction and clearing shall not adversely affect threatened and endangered species; and

6. The proposed construction and clearing shall not result in a permanent change in existing ground surface elevation.

7. Where fill is placed in wetlands, the clearing to ground of forested wetlands is restricted to 4.0 acres per 10-mile section of the project, with no more than one impact site exceeding 0.5 acres. The impact site which exceeds 0.5 acres shall not exceed 2.0 acres. The total forested wetland clearing to the ground per 10-mile section shall not exceed 15 acres. The 10-mile sections shall be measured from the beginning to the terminus, or vice versa, and the section shall not end in a wetland.

8. Clearing or fill must not occur within 550 feet from the shoreline of a named waterbody designated as an Outstanding Florida Waterbody (OFW).

B. If the project does not comply with the requirements of paragraph A above, mitigation can be required. For construction in wetlands that does not comply with those requirements, PEF/TECO shall propose a mitigation plan as a post-certification submittal under Condition VIII. The following information shall be provided to the DEP Central and Southwest Districts Environmental Resource Permitting Section for review:

1. detailed description, location map, and recent aerial photograph of each wetland impact area in which the Rule 62-341.620(2)(b)-(i), F.A.C., limitations were not met;

2. acreage of the type and quality of wetland being impacted at each such site;

3. narrative, drawings, location map, and aerial photographs showing and explaining the proposed mitigation, or in the case of a mitigation bank, the name and location of the bank;

4. detailed description of the existing conditions at the impact site and, unless a mitigation bank is proposed, at the mitigation area;

5. acreage and wetland type of the proposed mitigation, or for a Department-approved mitigation bank, the type and number of credits;

6. if not a mitigation bank, documentation providing reasonable assurance that the proposed mitigation will be successful; and

7. an analysis pursuant to Chapter 62-345, F.A.C., to the extent applicable.

8. To the extent mitigation will be provided from a mitigation bank, a credit reservation letter will be provided from the selected bank demonstrating the necessary credits are being set aside to offset project impacts.

C. Mitigation plans must be found to fully offset the functions and values provided by wetlands that will be degraded or eliminated to the abundance and diversity of fish, wildlife and listed species, and the habitat of fish, wildlife and listed species. DEP will work with PEF/TECO in the development of acceptable mitigation plans. The mitigation plans proposed by PEF/TECO shall be submitted for review and compliance monitoring to DEP under Condition VIII.

D. If DEP, upon review of the proposed mitigation plan, determines that the proposed mitigation is inadequate to offset the loss of wetland values described above from this project, PEF/TECO may propose additional or alternative mitigation or dispute the determination pursuant to Condition IX.

E. If the proposed mitigation plan is deemed acceptable by DEP and does not involve the use of a mitigation bank, the construction conditions, success criteria and a monitoring plan will be incorporated into the construction conditions as an Attachment.

F. No construction within wetlands subject to the regulatory jurisdiction of DEP that does not comply with the non-procedural limitations of Rule 62-341.620(2)(b)-(i), F.A.C., or paragraph A above, shall commence until DEP approves a mitigation plan, and, if a bank is not used, mitigation construction conditions, success criteria and a monitoring plan are incorporated into the certification conditions.

G. PEF/TECO shall be deemed to have met the requirements of this condition if PEF/TECO satisfies the criteria of either Section 3.3 or Appendix 4(3) of the SWFWMD's Basis of Review for Environmental Resource Permit Applications (February 2007) and Sections 4.3 and 4.4 of the SWFWMD's Basis of Review for Environmental Resource Permit Applications (March 2008), and Chapter 62-345, F.A.C., if applicable.

XXII. Citations: Sections 373.414, 403.531, and 403.814(6), F.S. (2007); Rules 40D-4.091, 40D-4.301, 40D-4.302, 40E-4.091, 40E-4.301, 40E-4.302, 62-341.620, F.A.C., and Chapter 62-345, F.A.C.

XXIII. DRAINAGE AND EROSION CONTROL

A. Maintenance of Drainage/Hydroperiod

1. PEF/TECO shall employ best management practices, construction techniques, and adequate culverting in order to maintain existing drainage patterns along the transmission line ROW. Within all wetland areas affected, wetland control elevations shall be established and maintained. This condition shall not preclude PEF/TECO from improving preconstruction hydroperiods provided such improvement can be achieved in compliance with the other Conditions of Certification. PEF/TECO shall be deemed to have satisfied this condition if the access and finger roads satisfy the criteria of Rules 40D-4.301, 40D-4.302, 40E-4.301, and 4E-4.302, F.A.C.

2. Access roads and other nonexempt surface water management system facilities constructed in upland areas shall meet the conditions set forth in Rules 40D-4.301, 40D-4.302, 40E-4.301 and 40E-4.302, F.A.C., and applicable provisions of Part B, Basis of Review of SWFWMD's Environmental Resource Permitting Information Manual, including but not limited to Section 4.4, and SFWMD's Basis of Review for Environmental Resource Permit Applications including, but not limited to, Section 6.6.

XXIII.A. Citations: Sections 373.416 and 403.531, F.S. (2007); Rules 40D-4.091, 40D-4.301, 40D-4.302, 40E-4.090, 40E-4.301, and 40E-4.302, F.A.C.

B. Erosion/Runoff Control

1. PEF/TECO shall compact or otherwise stabilize any fill material placed around newly installed structures, to reduce erosion, turbidity, nutrient loading and sedimentation in the receiving waters.

2. Grass seed and mulch or sod must be installed and maintained on exposed slopes prior to finalization of construction, and at all times measures must be taken to prevent erosion, sedimentation or turbid discharges into wetlands and or waters of the state, where the soils have been disturbed during construction.

3. To control runoff which may reach and thereby pollute waters of the state, necessary measures shall be utilized to settle, filter, treat or absorb silt-containing or pollutant-laden storm water to ensure against spillage or discharge of excavated material that may cause turbidity in excess of 29 Nephelometric Turbidity Units (NTU) above background in waters of the state. Control measures may consist of sediment traps, barriers, berms, and vegetation plantings, and must be maintained in effective condition at all locations where sediment has the potential to reach nearby wetlands until construction in the area is completed and disturbed soil areas are stabilized. Exposed or disturbed soil shall be protected and stabilized as soon as possible to minimize silt and sediment-laden runoff. The pH of the runoff shall be kept within the range of 6.0 to 8.5. PEF/TECO shall comply with the applicable nonprocedural requirements in Rules 40D-4 and 40E-4, F.A.C.

4. PEF/TECO shall ensure that adjacent properties are not impacted by wind erosion, or emissions of unconfined particulate matter in accordance with Rule 62-296.320(4)(c)1., F.A.C., by taking appropriate measures to stabilize affected areas.

XXIII.B. Citations: Section 403.531, F.S. (2007); Rules 40D-4.381, 40E-4.381, and 62-296.320, F.A.C.

XXIV. CONSTRUCTION PRACTICES

A. Open Burning

Any open burning in connection with initial land clearing shall be in accordance with the non-procedural requirements of Chapter 62-256, F.A.C., Chapter 5I-2, F.A.C., Uniform Fire Code Section 33.101, Addendum. Prior to any burning of construction-generated material, after initial land clearing that is allowed to be burned in accordance with Chapter 62-256, F.A.C., PEF/TECO shall seek approval from the DEP Southwest District Office whose approval may be granted in conjunction with the Division of Forestry. Burning shall not occur if not approved by the appropriate agency or if the Department or the Division of Forestry has issued a ban on burning due to fire safety conditions or due to air pollution conditions.

XXIV.A. Citations: Section 403.531, F.S. (2007); Chapters 5I-2 and 62-256, F.A.C.

B. Solid Wastes

Solid wastes resulting from construction shall be disposed of in accordance with the non-procedural requirements of applicable regulations of Chapter 62-701, F.A.C.

XXIV.B. Citations: Section 403.531, F.S. (2007); Chapter 62-701, F.A.C.

C. Hazardous Substances and Spills

1. If hazardous substances are used in the construction or maintenance of the transmission line, PEF/TECO shall provide the DEP with reasonable assurances that such hazardous substances will not enter stormwater drains or waterbodies.

2. Fuel and other petroleum product spills that enter stormwater drains or waterbodies, or fuel and other petroleum product spills that are in excess of 25 gallons shall be contained, cleaned up, and immediately reported to DEP Water Resources (ph: 813-632-7600; fax: 813-632-7662). Smaller ground surface spills shall be cleaned up as soon as practical.

XXIV.C. Citations: Sections 403.531 and 373.414, F.S. (2007); Chapters 40D-4 and 40E-4, F.A.C.

XXV. ELECTRIC AND MAGNETIC FIELD EFFECTS

A. Bee Hives

PEF/TECO shall advise beekeepers, known at the time the ROW is established or acquired, having bee hives within or near the ROW of the potential effect of the transmission line on bee hives.

XXV.A. Citation: Section 403.531, F.S. (2007).

B. Radio and Television Interference

PEF/TECO shall investigate all complaints and take appropriate corrective action for impacts to radio or television reception caused by the proposed transmission line.

XXV.B. Citation: Section 403.531, F.S. (2007).

C. Electric and Magnetic Fields

The Lake Agnes-Gifford 230-kV transmission line shall comply with the applicable electric and magnetic field standards set forth in Chapter 62-814, F.A.C. The electric and magnetic fields associated with any configuration developed during the final design of this project that is not shown in the Application shall be provided to DEP on DEP Form 62-814.900 at least 90 days prior to the start of construction, or such shorter time period to which the DEP Siting Coordination Office agrees, as required by Rule 62-814.520(3), F.A.C.

XXV.C. Citations: Section 403.523(10), F.S. (2007); Chapter 62-814, F.A.C.

XXVI. HERBICIDES

Herbicides applied in the ROW shall only be those registered by the U.S. Environmental Protection Agency and which have state approval. Herbicide application rates and concentrations will be in accordance with label directions and will be carried out by a licensed applicator, meeting all federal, state and local regulations. Herbicide applications shall be selectively applied to targeted vegetation. Broadcast application of herbicide shall not be used in the ROW unless effects on non-targeted vegetation are minimized.

XXVI. Citations: Sections 403.061, 403.088, 487.031 and 487.041, F.S. (2007).

XXVII. OPERATION AND MAINTENANCE OF FACILITIES

PEF/TECO shall properly operate and maintain the transmission line to achieve compliance with the Conditions of Certification.

XXVII. Citation: Section 403.531, F.S. (2007).

XXVIII.SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT (SWFWMD)

A. The proposed transmission line will be co-located within existing rights-of-way and other impacted areas wherever feasible.

B. TECO/PEF shall provide to SWFWMD a copy of all post-certification filings for finalization of the right-of-way location and the construction and operation of the transmission line facilities including any access roads or surface water management system facilities, for those portions located within the SWFWMD.

C. A copy of the aerial photographs provided to DEP to show the boundaries of the acquired right-of-way within the SWFWMD will also be provided to SWFWMD. SWFWMD shall have an opportunity to review the photographs and notify DEP of any apparent conflicts with the requirements of the Conditions of Certification.

D. TECO/PEF shall provide reasonable assurance that the construction, operation and maintenance of the proposed facilities, including any access roads and structures constructed within wetlands or other surface waters, satisfy the criteria set forth in Rules 40D-4.301 and 40D-4.302, F.A.C., and applicable provisions of Part B, Basis of Review of SWFWMD's Environmental Resource Permitting Information Manual. Pursuant to Rule 62-17.665(7)(d), F.A.C., TECO/PEF shall provide sufficient information on a postcertification basis to demonstrate that there is reasonable assurance of compliance with SWFWMD substantive permitting requirements, including avoidance of floodplain impacts and provision of compensation where appropriate to achieve no net loss in floodplain storage capabilities and avoidance of secondary wetland dredging and/or filling impacts.

E. To the extent practicable, access roads, culverts and structures shall be located to avoid conflict with existing or permitted surface water management systems, permitted water withdrawal facilities or agricultural ground and surface water management projects as documented in SWFWMD records.

XXIII. Citations: Sections 403.526(2)(a)2., 373.085, 373.089, 373.093, 373.099, 373.414 and 373.416, F.S. (2007); Chapter 62-17.665(7)(d), Chapter 40D-4, Rules 40D-4 .301 and 40D-4.302, and Chapter 40D-9, F.A.C.

XXIX. FLORIDA DEPARTMENT OF TRANSPORTATION

A. Post-Certification Reviews of FDOT Matters

1. Access Management to the State Highway System:

Any access to the State Highway System will be subject to the requirements of Rule Chapters 14-96, State Highway System Connection Permits, and 14-97, Access Management Classification System and Standards, F.A.C.

2. *Overweight or Overdimensional Loads:*

Operation of overweight or overdimensional loads by PEF/TECO on State transportation facilities during construction and operation of the transmission line will be subject to safety and permitting requirements of Chapter 316, F.S., and Rule Chapter 14-26, Safety Regulations and Permit Fees for Overweight and Overdimensional Vehicles, F.A.C.

3. *Use of State of Florida Right-of-Way or Transportation Facilities:*

All usage and crossing of State of Florida right-of-way or transportation facilities will be subject to Rule Chapter 14-46, Utilities Installation or Adjustment, F.A.C.; Florida Department of Transportation's Utility Accommodation Manual (Document 710-020-001); Design Standards for Design, Construction, Maintenance and Utility Operation on the State Highway System; Standard Specifications for Road and Bridge Construction; and pertinent sections of the Florida Department of Transportation's Project Development and Environmental Manual. US27, State Road 429, and Interstate 4 (I-4) have been identified as a Florida Intrastate Highway System (FIHS) and an emerging Strategic Intermodal System's (SIS) facility. The placement of the transmission line should take into consideration the possible widening of this facility to the extent practicable. If future widening should be required, the cost of relocating or reconstructing the transmission line will be borne by PEF/TECO to the extent required by Section 337.403, F.S., and Rule Chapter 14-46, F.A.C.

4. *Standards:*

The Manual on Uniform Traffic Control Devices; Florida Department of Transportation's Design Standards for Design, Construction, Maintenance and Utility Operation on the State Highway System; Florida Department of Transportation's Standard Specifications for Road and Bridge Construction; Florida Department of Transportation's Utility Accommodation Manual; and pertinent sections of the Department of Transportation's Project Development and Environmental Manual will be adhered to in all circumstances involving the State Highway System and other transportation facilities.

5. *Drainage:*

Any drainage onto State of Florida right-of-way and transportation facilities will be subject to the requirements of Rule Chapter 14-86, Drainage Connections, F.A.C., including the attainment of any permit required thereby.

6. *Use of Air Space:*

Any newly proposed structure or alteration of an existing structure will be subject to the requirements of Chapter 333, F.S., and Rule 14-60.009, Airspace Protection, F.A.C. Additionally, notification to the Federal Aviation Administration (FAA) is required prior to beginning construction, if the structure exceeds notification requirements of 14 CFR Part 77, Objects Affecting Navigable Airspace, Subpart B, Notice of Construction or Alteration. Notification will be provided to FAA Southern Region Headquarters using FAA Form 7460-1, Notice of Proposed Construction or

Alteration in accordance with instructions therein. A subsequent Determination by the FAA stating that the structure exceeds any federal obstruction standard of 14 CFR Part 77, Subpart C for any structure that is located within a 10-nautical-mile radius of the geographic center of a public-use airport or military airfield in Florida will be required to submit information for an Airspace Obstruction Permit from the Florida Department of Transportation or variance from local government depending on the entity with jurisdictional authority over the site of the proposed structure. The FAA Determination regarding the structure serves only as a review of its impact on federal airspace and is not an authorization to proceed with any construction. However, FAA recommendations for marking and/or lighting of the proposed structure are made mandatory by Florida law. For a site under Florida Department of Transportation jurisdiction, application will be made by submitting Florida Department of Transportation Form 725-040-11, Airspace Obstruction Permit Application, in accordance with the instructions therein.

B. Best Management Practices

1. Traffic control during facility construction and maintenance will be subject to the standards contained in the Manual on Uniform Traffic Control Devices; Rule Chapter 14-94, Statewide Minimum Level of Service Standards, F.A.C.; Florida Department of Transportation's Design Standards for Design, Construction, Maintenance and Utility Operation on the State Highway System; Florida Department of Transportation's Standard Specifications for Road and Bridge Construction; and Florida Department of Transportation's Utility Accommodation Manual, whichever is more stringent.

2. It is recommended that PEF/TECO encourage transportation demand management techniques by doing the following:

- a. Placing a bulletin board on site for car pooling advertisements.
- b. Requiring that heavy construction vehicles remain onsite for the duration of construction to the extent practicable.

3. If PEF/TECO uses contractors for the delivery of any overweight or overdimensional loads to the site during construction, PEF/TECO should ensure that its contractors adhere to the necessary standards and receive the necessary permits required under Chapter 316, F.S., and Rule Chapter 14-26, Safety Regulations and Permit Fees for Overweight and Overdimensional Vehicles, F.A.C.

XXIX. Citations: Chapters 14-26, 14-46, 14-86, 14-94, 14-96, and 14-97, F.A.C.; Chapter 316, F.S. (2007); Sections 337.401-404, F.S. (2007); 14 C.F.R. Part 77.

Attachment 1: Certified Corridor Location Map

DRAFT

Appendix II: Agency Reports

- A Public Service Commission
- B Department of Environmental Protection
- C Department of Transportation
- D Department of Community Affairs
- E Florida Fish and Wildlife Commission
- F Southwest Florida Water Management District
- G South Florida Water Management District
- H East Florida Regional Planning Council
- I Orange County
- J Osceola County
- K Public Comments

Appendix II–A: Public Service Determination of Need

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for determination of need for
Lake Agnes-Gifford 230 kV transmission line
in Polk and Orange Counties, by Progress
Energy Florida, Inc., and Tampa Electric
Company.

DOCKET NO. 070393-EI
ORDER NO. PSC-07-0784-FOF-EI
ISSUED: September 26, 2007

The following Commissioners participated in the disposition of this matter:

MATTHEW M. CARTER II
KATRINA J. McMURRIAN
NANCY ARGENZIANO

FINAL ORDER DETERMINING THE NEED
FOR AN ELECTRICAL TRANSMISSION LINE

APPEARANCES:

LEE L. WILLIS, ESQUIRE, and JAMES D. BEASLEY, ESQUIRE, Ausley &
McMullen, Post Office Box 391, Tallahassee, Florida 32302
On behalf of Tampa Electric Company (TECO).

KENNETH HOFFMAN, ESQUIRE, Rutledge Law Firm, Post Office Box 551,
Tallahassee, Florida 32302
On behalf of Progress Energy Florida (PEF).

R. ALEXANDER GLENN, ESQUIRE, and JOHN BURNETT, ESQUIRE,
Progress Energy Florida, Inc., Post Office Box 14042, Saint Petersburg, Florida
33733
On behalf of Progress Energy Florida (PEF).

KEINO YOUNG, ESQUIRE and MARTHA C. BROWN, ESQUIRE, Florida
Public Service Commission, 2540
Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Florida Public Service Commission (Staff).

BY THE COMMISSION:

CASE BACKGROUND

On August 1, 2007, Progress Energy Florida (Progress) and Tampa Electric Company
(Tampa Electric) filed a Petition for a Determination of Need for a proposed Lake Agnes-Gifford
230kV transmission line in Polk and Orange Counties, pursuant to Section 403.537, Florida

DOCUMENT NUMBER-DATE

08826 SEP 26 07

FPSC-COMMISSION CLERK

Statutes (F.S.), and Rule 25-22.080, Florida Administrative Code (F.A.C.). We held an administrative hearing on Progress and Tampa Electric's petition on September 12, 2007. Notice of the filing of Progress and Tampa Electric's petition and of the September 12, 2007, public hearing was provided in accordance with applicable statutes and rules to those persons requesting notice and to counties and regional planning councils in whose jurisdiction the transmission line could be placed.

No other parties intervened in the proceeding. At the hearing, the testimony and exhibits were stipulated into the hearing record and stipulated positions were proposed to all the issues in the case. We issued a bench decision at the hearing approving the proposed stipulations and thereby determining the need for the transmission line. Our decision, explained in more detail below, determined the need and the beginning and end points for the transmission line. The Transmission Line Siting Board will make the final determination concerning the length and route of the line.

DECISION

As provided in section 403.537, F.S., we are required to take the following into account in determining the need for a proposed transmission line subject to our review under Florida's Transmission Line Siting Act (sections 403.52-403.5365, F.S.):

[T]he need for electric system reliability and integrity; the need for abundant, low-cost electrical energy to assure the economic well-being of the citizens of this state; the appropriate starting and ending point of the line; and other matters within [our] jurisdiction deemed relevant to the determination of need.

Need for Electric System Reliability and Integrity

Progress and Tampa Electric's proposed new 32.4 miles 230 kV transmission line, extending from Tampa Electric's existing Lake Agnes Substation in Polk County to Progress' planned Gifford Substation in Orange County, is scheduled to be in service by June 2011. The project meets area load requirements by serving proposed future distribution substations along the Interstate 4 (I-4) corridor from existing and planned generation in the Polk/Hardee County area to the greater Orlando area load center while maximizing system reliability and minimizing cost to customers.

Transmission assessment studies, the Florida Central Coordinated Study (FCCS) and the FCCS Re-Study, issued in 2006, identified regional transmission system limitations in the I-4 corridor between Polk County and the greater Orlando area. These studies show that the transmission limitations on the existing 230kV transmission network between the Polk County area and the Greater Orlando area are due to projected load growth in the 2008-2011 timeframe. Progress and Tampa Electric's study of transmission improvements for the area evaluated various alternatives and resulted in the selection of the Lake Agnes to Gifford Project as the most cost-effective and efficient means to both increase the capability of the existing 230 kV network and serve the increasing load and customer base in the Central Florida region.

Progress and Tampa Electric have demonstrated the need for the Lake Agnes-Gifford 230 kV Transmission Line Project in Polk and Orange Counties by June 2011 to: (a) provide additional transmission transfer capability along the I-4 corridor to move electricity generated in the Polk County region to load centers in the Greater Orlando area in a reliable manner consistent with the North American Electric Reliability Council (NERC) and the Florida Reliability Coordinating Council (FRCC) and other applicable standards; (b) serve the increasing load and customer base in the projected service area; and (c) potentially provide for another electrical feed via a separate Right of Way (ROW) path, thereby reducing the impact of a loss of the existing transmission facilities on a common ROW.

For these reasons, we find that Progress and Tampa Electric's proposed Lake Agnes-Gifford Project is needed to preserve electric system reliability and integrity.

Need for Abundant, Low-Cost Electrical Energy to Assure the Economic Well-Being of the Citizens of this State

Progress and Tampa Electric evaluated four alternatives to the proposed Lake Agnes-Gifford Project. All four alternatives were transmission modifications to the proposed ROW that used a portion of or the entire existing common ROW. Progress and Tampa Electric rejected the alternatives primarily due to economics and reliability concerns. The estimated capital cost of the Lake Agnes-Gifford Project is \$67.5 million, excluding right-of-way. Progress and Tampa Electric will reduce transmission losses by approximately 18.5 MW for the FRCC region, which includes a 10.8 MW reduction for Progress and a 1.9 MW increase for Tampa Electric. The cost benefits and the reliability benefits of the project will be enhanced by the construction of the project in a geographically separate ROW. While the final cost of the project is subject to the final routing and conditions of certification required by the Transmission Line Siting Board, we find that the estimated cost of the project is reasonable, and we find that the transmission line will assure the economic well-being of the citizens of the state by serving projected new electric load in the region, and improving the region's electric reliability by minimizing exposure to single contingency events.

Appropriate Starting and Ending Points

We find that the existing Lake Agnes Substation and the planned Gifford Substation, as described and analyzed in the exhibit of the joint prefiled testimony of Progress' witness Brantley Tillis and Tampa Electric's witness Thomas J. Szelistowski, are the appropriate starting and ending points of the proposed Lake Agnes-Gifford 230 kV electrical transmission line. As stated above, the Transmission Line Siting Board will make the final determination concerning the length and route of the transmission line.

Conclusion

We approve Progress and Tampa Electric's Petition for determination of need for the Lake Agnes-Gifford 230 kV transmission line in Polk and Orange Counties. Progress and

Tampa Electric have adequately demonstrated the need for the proposed project according to the criteria prescribed in section 403.537, F.S. This Order memorializing our decision will serve as our report to the Department of Environmental Protection.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Progress Energy Florida, Inc., and Tampa Electric Company's Petition for determination of need for the Lake Agnes-Gifford 230 kV transmission line in Polk and Orange Counties is granted. It is further

ORDERED that Progress Energy Florida, Inc., and Tampa Electric Company's Lake Agnes-Gifford 230 kV transmission line project is needed, taking into account the criteria set forth in section 403.537, Florida Statutes. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 26th day of September, 2007.



ANN COLE
Commission Clerk

(S E A L)

KY

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request:

- 1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within five (5) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or
- 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

Appendix II-B: Department of Environmental Protection



Central District

Interoffice Memorandum

TO: Mike Halpin, Program Administrator
Office of Siting Coordination – Tallahassee

FROM: James N. Bradner, P.E.
Air Program Administrator

DATE: April 29, 2008

SUBJECT: Agency Report – PEF/TECo Lake Agnes-Gifford TA07-16

The Florida Department of Environmental Protection, Central District, recommends certification of the proposed transmission line project. This recommendation is made contingent upon the following conditions being addressed/met:

1. At least 90 days prior to any construction associated with the subject project, the applicant shall submit all information required for a complete Environmental Resource Permit application. The submitted information shall clearly define all proposed wetland impacts through appropriate engineering drawings (plan and cross-section views), and include an accurate surveyed jurisdictional wetland boundary line defined by 62-340 F.A.C. The submitted information shall also include engineering drawings and supporting documentation necessary to demonstrate that the stormwater runoff from the proposed project will be treated and attenuated in accordance with rules adopted by the Department. The engineering drawings and documentation shall be signed, sealed, and dated by a professional engineer licensed in the state of Florida.
2. The applicant shall provide a complete mitigation plan that is satisfactory to the Department, which will fully offset the proposed impacts. The Department will recommend using an approved mitigation bank to offset the proposed impacts.
3. The applicant shall provide information necessary to demonstrate that compensation will be provided for all proposed fill impacts to the regulated floodplain in accordance with rules adopted by the Department. The applicant shall also demonstrate that the project, as proposed, will not cause a reduction in flood conveyance.
4. The applicant will be required to comply with all General and Specific ERP conditions typical of similar subject projects, and such conditions will be specifically defined once the items in 1, 2, and 3 (above) are provided to the satisfaction of the Department.
5. The items required in 1, 2, 3, and 4 (above) shall be fully provided to the satisfaction of the Department, and approved by the Department prior to commencement of any construction activities. The Department shall review the submitted information in accordance to ERP procedures as outlined in 62-343 F.A.C.

State of Florida
Department of Environmental Protection

Intraoffice Memorandum

TO: Mike Halpin
Program Administrator
Office of Siting Coordination
Tallahassee

THROUGH: Albert A. Gagne Jr.
Environmental Manager
Southwest District

FROM: Greg Nieboer
Environmental Specialist II
Environmental Resource Management Program
Southwest District

Date: February 27, 2008

Date Due: March 11, 2008

Subject: Lake Agnes – Gifford 230 kV Transmission Line Project
Recommendation for approval or denial of the application and proposed
conditions of certification

Comments:

The Florida Department of Environmental Protection recommends the certification of the proposed transmission line project. This recommendation is made contingent upon the following conditions being addressed/met.

The Department's conditions of certification are as follows:

1. A minimum of 90 days prior to the commencement of construction, provide all information necessary for a complete Environmental Resource Permit application including the engineering drawings and supporting documentation necessary to demonstrate that any temporary or permanent impacts to wetlands will be avoided or mitigated for. The drawings and documentation shall be signed, sealed and dated by a professional engineer registered in the State of Florida. Refer to Chapter 62-343.900(1)(Section E and C).
2. Prior to the commencement of construction, the Department shall conduct a timely review of the submitted information and request the correction of any errors and omissions and any additional information necessary to complete the application. This shall be done in accordance with timeframes established in Chapter 120.60, F.S. and Rule 62-4.055, F.A.C.
3. The Department shall notify the licensee in writing that the information is complete upon review of all requested information and the correction of any errors or omissions. Construction shall not begin until the Department has provided written notification of approval of the project including the wetland mitigation plan as applicable. Such approval or denial shall be provided within 30 days following completeness of the information.

4. Turbidity and sediments must be controlled to prevent violations of water quality pursuant to Rule 62-302.500, 62-302.530(70) and 62-4.242 Florida Administrative Code (FAC). Best Management Practices, as specified in the *Florida Stormwater, Erosion and Sedimentation Control Inspectors Manual*, shall be installed and maintained at all locations where there is the possibility of transferring suspended solids into wetlands and/or surface waters due to the permitted activity. If site-specific conditions require additional measures, then the Applicant shall implement them as necessary to prevent adverse impacts to wetlands and/or surface waters. The location of erosion control barriers must be shown on plan view drawings and the specific soil stabilization methods to be used at each site must be described. Erosion control and soil stabilization methods should be included on the plan and cross sectional view drawings required in condition number one. Refer to Chapter 3.2.4.1 of the B.O.R.,

5. A minimum of 90 days prior to the commencement of construction, clearly delineate the location of the existing wetlands and surface waters within the preferred corridor on aerial photographs and flag the wetland jurisdictional line for field verification. Include the types of wetlands and surface waters using FLUCCS codes. Refer to Chapter 62-343.900(1)(Section E)(Part III) Florida Administrative Code (F.A.C.).

6. A minimum of 90 days prior to the commencement of construction, provide reasonable assurance that impacts to wetlands and surface waters have been avoided or minimized. If impacts are unavoidable, a UMAM form must be completed and a mitigation plan must be proposed by the applicant that will offset all wetland or surface water impacts associated with the project. Refer to Chapter 3 of the Southwest Florida Water Management District (SWFWMD) Basis of Review (B.O.R.), and Chapter 62.345 F.A.C.

7. If wetland or surface water impacts are proposed, prior to construction, provide an aerial survey that clearly shows the impact areas. The survey should include the square footage of impacts, identification of the types of wetlands and surface waters to be impacted using FLUCCS codes, and whether the impacts will be temporary or permanent. Refer to Chapter 62-343.900(1)(Section E)(Part) F.A.C.

8. A minimum of 90 days prior to the commencement of construction, provide a state lands title determination from the Division of State Lands Title and Land Records Section indicating whether any portion of the project is located on or over state owned, sovereign submerged lands, or within an aquatic preserve. If any portion of the project is located on sovereign submerged lands or within an aquatic preserve then the project must comply with Chapter 18-20 and 18-21 F.A.C. and Chapter 253 and 258 Florida Statutes (F.S.) and section G of the Joint Application for Environmental Resource Permits must be completed and submitted to the Department prior to construction. Refer to Chapter 62-343.900(1), Section G

9. A minimum of 90 days prior to the commencement of construction please provide reasonable assurance that the construction of the transmission line is not contrary to the public interest. Or, if this project significantly degrades or is within an Outstanding Florida Waterbody (OFW), provide reasonable assurance the project is clearly in the public interest. Refer to Chapter 3.2.3 of the SWFWMD B.O.R.

10. The portions of the preferred transmission line that are located in the Green Swamp Protection Area of Critical Concern must be constructed and operated in accordance with the terms and conditions of the Green Swamp Land Authority. Refer to Chapter 380.0677 Florida Statutes.

Appendix II-C: Department of Transportation



Florida Department of Transportation

CHARLIE CRIST
GOVERNOR

605 Suwannee Street
Tallahassee, FL 32399-0458

STEPHANIE C. KOPELOUSOS
SECRETARY

April 30, 2008

Mr. Mike Halpin, Program Administrator
Siting Coordination Office
Division of Air Resources Management
Department of Environmental Protection
2600 Blair Stone Road, MS 48
Tallahassee, Florida 32399-2400

Re: Tampa Electric Company and Progress Energy of Florida, Inc.,
Lake Agnes-Gifford Transmission Line Siting Application No. TA 07-16
DEP OGC Case No. Pending
DOAH 07-5691

Dear Mr. Halpin:

Enclosed is the Florida Department of Transportation's Corrected Agency Report for the Tampa Electric Company and Progress Energy, Lake-Agnes-Gifford Transmission Line Siting Application.

If there are any questions, please call either me at (850) 414-5286 or Connie Mitchell, Siting Coordinator, at (850) 414-4572. Thank you.

Sincerely,

Leon M. Biegalski
Assistant General Counsel

cc: All Parties of Record
Connie Mitchell
Bob Crawley, District 1
Jon Weiss, District 5

**FLORIDA DEPARTMENT OF TRANSPORTATION
LAKE AGNES
APRIL 2008**

SECTION I. CORRIDOR LOCATION ISSUES

No outstanding issues.

SECTION II. OUTSTANDING SUFFICIENCY ISSUES

No outstanding issues.

SECTION III. VARIANCES TO STANDARDS

No variances requested.

SECTION IV. SPECIAL USE PERMISSIONS

No special use permissions requested.

SECTION V. RECOMMENDATION FOR CERTIFICATION

The Florida Department of Transportation recommends the certification of the proposed transmission line siting. This recommendation is made contingent upon the conditions of Section VI being addressed/met.

SECTION VI. PROPOSED CONDITIONS OF CERTIFICATION

6.1 REQUEST FOR RESTRICTED AREAS

No requests for restricted areas are necessary.

6.2 POST CERTIFICATION REVIEW ITEMS

Access Management to the State Highway System: Any access to the State Highway System will be subject to the requirements of Rule Chapters 14-96, State Highway System Connection Permits, and 14-97, Access Management Classification System and Standards, Florida Administrative Code.

Overweight or Overdimensional Loads: Operation of overweight or overdimensional loads by the applicant on State transportation facilities during construction and operation of the utility facility will be subject to safety and permitting requirements of Chapter 316, Florida Statutes,

and Rule Chapter 14-26, Safety Regulations and Permit Fees for Overweight and Overdimensional Vehicles, Florida Administrative Code.

Use of State of Florida Right of Way or Transportation Facilities: All usage and crossing of State of Florida right of way or transportation facilities will be subject to Rule Chapter 14-46, Utilities Installation or Adjustment, Florida Administrative Code; Florida Department of Transportation's Utility Accommodation Manual (Document 710-020-001); Design Standards for Design, Construction, Maintenance and Utility Operation on the State Highway System; Standard Specifications for Road and Bridge Construction; and pertinent sections of the Florida Department of Transportation's Project Development and Environmental Manual. U.S. 27, State Road 429, and Interstate 4 have been identified as Florida Intrastate Highway System (FIHS) and Strategic Intermodal System's (SIS) facilities. The placement of the transmission line and pipeline should take into consideration the planned widening of these facilities. The cost of relocating or reconstructing the transmission line and pipeline will be borne by the applicant to the extent required by Section 337.403, Florida Statutes, and Rule Chapter 14-46, Florida Administrative Code.

Standards: The Manual on Uniform Traffic Control Devices; Florida Department of Transportation's Design Standards for Design, Construction, Maintenance and Utility Operation on the State Highway System; Florida Department of Transportation's Standard Specifications for Road and Bridge Construction; Florida Department of Transportation's Utility Accommodation Manual; and pertinent sections of the Department of Transportation's Project Development and Environmental Manual will be adhered to in all circumstances involving the State Highway System and other transportation facilities.

Drainage: Any drainage onto State of Florida right of way and transportation facilities will be subject to the requirements of Rule Chapter 14-86, Drainage Connections, Florida Administrative Code, including the attainment of any permit required thereby.

Use of Air Space: Any newly proposed structure or alteration of an existing structure will be subject to the requirements of Chapter 333, F.S., and Rule 14-60.009, Airspace Protection, F.A.C. Additionally, notification to the Federal Aviation Administration (FAA) is required prior to beginning construction, if the structure exceeds notification requirements of 14 CFR Part 77, Objects Affecting Navigable Airspace, Subpart B, Notice of Construction or Alteration. Notification will be provided to FAA Southern Region Headquarters using FAA Form 7460-1, Notice of Proposed Construction or Alteration in accordance with instructions therein. A subsequent Determination by the FAA stating that the structure exceeds any federal obstruction standard of 14 CFR Part 77, Subpart C for any structure that is located within a 10-nautical-mile radius of the geographical center of a public-use airport or military airfield in Florida will be required to submit information for an Airspace Obstruction Permit from the Florida Department of Transportation or variance from local government depending on the entity with jurisdictional authority over the site of the proposed structure. The FAA Determination regarding the structure serves only as a review of its impact on federal airspace and is not an authorization to proceed with any construction. However, FAA recommendations for marking and/or lighting of the proposed structure are made mandatory by Florida law. For a site under Florida Department of Transportation jurisdiction, application will be made by submitting Florida Department

Transportation Form 725-040-11, Airspace Obstruction Permit Application, in accordance with the instructions therein.

Level of Service on State Roadway Facilities: All traffic impacts to State roadway facilities on the FIHS or the SIS, or funded by Section 339.2819, Florida Statutes, will be subject to the requirements of the level of service standards adopted by local governments pursuant to Rule Chapter 14-94, Statewide Minimum Level of Service Standards, Florida Administrative Code, in accordance with Section 163.3180(10), Florida Statutes. All traffic impacts to State roadway facilities not on the FIHS, the SIS, or funded by Section 339.2819, Florida Statutes, will be subject to adequate level of service standards established by the local governments.

SECTION VII BEST MANAGEMENT PRACTICES

Traffic control during facility construction and maintenance will be subject to the standards contained in the Manual on Uniform Traffic Control Devices; Rule Chapter 14-94, Statewide Minimum Level of Service Standards, Florida Administrative Code; Florida Department of Transportation's Design Standards for Design, Construction, Maintenance and Utility Operation on the State Highway; Florida Department of Transportation's Standard Specifications for Road and Bridge Construction; and Florida Department of Transportation's Utility Accommodation Manual, whichever is more stringent.

It is recommended that the applicant encourage transportation demand management techniques by doing the following:

Placing a bulletin board on site for car pooling advertisements.

Requiring that heavy construction vehicles remain onsite for the duration of construction to the extent practicable.

If the applicant uses contractors for the delivery of any overweight or overdimensional loads to the site during construction, the applicant should ensure that its contractors adhere to the necessary standards and receive the necessary permits required under Chapter 316, Florida Statutes, and Rule Chapter 14-26, Safety Regulations and Permit Fees for Overweight and Overdimensional Vehicles, Florida Administrative Code.

Appendix II-D: Department of Community Affairs

Seiler, Ann

From: Vicki.Morrison@dca.state.fl.us
Sent: Tuesday, April 29, 2008 3:58 PM
To: Seiler, Ann
Cc: Barbara.Lenczewski@dca.state.fl.us
Subject: Agency Comments

The Department has no comments concerning the PEF-TECO Lake Agnes-Gifford Transmission Line.

Vicki Morrison, Principal Planner
Department of Community Affairs
Division of Community Planning
2555 Shumard Oak Blvd.
Tallahassee, FL 32399
850/921-3775, FAX 850/488-3309
vicki.morrison@dca.state.fl.us
<http://www.dca.state.fl.us>

The Florida Discount Drug Card is designed to lower the cost of prescriptions for certain Florida residents. To learn more, visit <http://www.FloridaDiscountDrugCard.com> or call toll-free 1-966-341-8894 or TTY 1-866-763-9630.

Florida has a broad public records law and all correspondence, including email addresses, may be subject to disclosure.

Appendix II-E: Florida Fish and Wildlife Commission



**Florida Fish
and Wildlife
Conservation
Commission**

Commissioners

Rodney Barreto
Chair
Miami

Brian S. Yablonski
Vice-Chair
Tallahassee

Kathy Barco
Jacksonville

Ronald M. Bergeron
Fort Lauderdale

Richard A. Corbett
Tampa

Dwight Stephenson
Delray Beach

Kenneth W. Wright
Winter Park

Executive Staff

Kenneth D. Haddad
Executive Director

Victor J. Heller
Assistant Executive
Director

Karen Ventimiglia
Deputy Chief of Staff

**Office of Policy and
Stakeholder
Coordination**

Mary Ann Poole
Director

(850) 410-5272
(850) 922-5679 FAX

*Managing fish and wildlife
resources for their long-
term well-being and the
benefit of people.*

620 South Meridian Street
Tallahassee, Florida
32399-1600
Voice: (850) 488-4676

Hearing/speech impaired:
(800) 955-8771 (T)
(800) 955-8770 (V)

MyFWC.com

April 29, 2008

DEPARTMENT OF
ENVIRONMENTAL PROTECTION

MAY 01 2008

SITING COORDINATION

Mr. Mike Halpin, Administrator
Siting Coordination Office
Florida Department of Environmental Protection
2600 Blair Stone Road, MS 48
Tallahassee, Florida 32399

RE: Progress Energy Florida – Tampa Electric Company Lake Agnes to Gifford
Transmission Line, Polk, Osceola, and Orange Counties

Dear Mr. Halpin:

The Division of Habitat and Species Conservation, Habitat Conservation Scientific Services Section, of the Florida Fish and Wildlife Conservation Commission (FWC) has coordinated agency review of the Lake Agnes to Gifford 230-kV transmission line project and provides the following comments for consideration in the application completeness review.

Progress Energy Florida and Tampa Electric Company propose to construct a 230-kV transmission line from Tampa Electric's Lake Agnes Substation in Polk County to Progress Energy's Gifford Substation in southwest Orange County. The preferred corridor would extend east northeast from the Lake Agnes Substation for approximately 18.9 miles with, adjacent to, or in the proximity of the McIntosh – Taft transmission line right-of-way, which generally parallels Interstate 4 (I-4). The preferred corridor then turns north and crosses Loughman Road (Polk County Road 54), Old Lake Wilson Road, and I-4, and continues north along State Road 429 (SR 429), co-locating in the SR 429 right-of-way for approximately 8.6 miles. The preferred corridor then turns west and exits the SR 429 right-of-way just north of Western Way and enters into Progress Energy's existing easement, crossing Hartzog Road into the planned Gifford Substation.

Overall, the applicant has done a good job locating this proposed transmission line adjacent to existing roads and transmission line corridors; however, the stretch proposed along I-4 would cross the State-owned Hilochee Wildlife Management Area (WMA). The applicant has stated that it may be possible to co-locate portions of this line within the existing McIntosh – Taft right-of-way and we strongly recommend that the applicant pursue co-location where the line crosses the WMA. The applicant must comply with the State's linear facilities policy, which requires impact minimization and provides for the payment of the fair market value of the needed land to the State's Internal Improvement Trust Fund. Additionally, the applicant must provide the managing agency, in this case the FWC, with additional money, land or services to offset the actual adverse impacts caused by the construction, operation and maintenance of the facility.

Many wildlife species build new nests each year within a core nesting area due to changing environmental and hydrological regimes; therefore, we recommend that the Licensee complete species-specific nesting surveys during the nesting season immediately preceding all clearing or construction activities for each potentially affected

listed species. The State's list of protected wildlife species is found in Chapter 68A-27, Florida Administrative Code, which is available online at <http://www.flrules.org/gateway/RuleNo.asp?ID=68A-27.003> for Endangered species; at <http://www.flrules.org/gateway/RuleNo.asp?ID=68A-27.004> for Threatened species; and at <http://www.flrules.org/gateway/RuleNo.asp?ID=68A-27.005> for Species of Special Concern. Species-specific surveys should follow established survey protocols and guidelines where applicable (Wood 2001). Available survey protocols may be downloaded from the Fish and Wildlife Research Institute webpage (<http://research.myfwc.com/publications/>) or are available by request. If there is evidence that any individuals of these species are present, then the Licensee must report the findings to the FWC. If impacts to these species cannot be avoided, then the Licensee must contact the FWC before taking any action that might result in an impact to those species.

Finally, in addition to the above, we do not object to certification of the Project. If you or your staff would like to coordinate further on the recommendations contained in this report, please contact Steve Lau by telephone at 772-778-6354 or by email at steve.lau@MyFWC.com. For information on the requirements on crossing state lands, the applicant should contact Richard Mospens at 850-488-3831 or by e-mail at richard.mospens@MyFWC.com.

Sincerely,



Mary Ann Poole, Director
Office of Policy and Stakeholder Coordination

mp/sl

ENV 2-11-2/3

PEF_TECOLakeAgnes_Gifford_1178_01-02-08

cc: Trisha Brabbs, Progress Energy Florida, Lake Mary
Christopher A. Steele, Tampa Electric, Tampa
Lisa Gregg, FWC, Tallahassee

References Cited:

Wood, D. A. 2001. Florida's Fragile Wildlife; Conservation and Management.
University Press of Florida, Gainesville.

Appendix II-F: Southwest Florida Water Management District

SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT – AGENCY REPORT

**Tampa Electric Company and Progress Energy Florida, Inc.
Lake Agnes – Gifford – 230 kV Transmission Line Siting Application No. TA07-16
DOAH Case No. 07-005691TL
SWFWMD OGC Case No. 2007140**

STAFF RECOMMENDATION – APPROVAL WITH CONDITIONS

Procedural Overview

The Florida Electric Transmission Line Siting Act (TLSA), Sections 403.52 – 403.5365, Florida Statutes (F.S.), establishes a regulatory review and approval process very similar to that of the Florida Electrical Power Plant Siting Act, Sections 403.501 – 403.518, F.S. Once a transmission line corridor is certified by the Governor and Cabinet sitting as the Siting Board, the conditions of certification constitute the only regulatory permitting requirements for certified transmission lines. The Florida Department of Environmental Protection (DEP) is the processing agency for all TLSA certifications. The Southwest Florida Water Management District is one of several statutory reviewing agencies that participate in the certification process. Reviewing agencies do not take final agency action on the application. As a reviewing agency, the District is required to submit an Agency Report concerning matters within its substantive jurisdiction and recommend conditions of certification where appropriate. DEP issues a combined report with proposed conditions for certification, which is presented at an administrative hearing, along with any proposed alternative corridors, to an Administrative Law Judge who issues a Recommended Order on the certification application, with the Final Order certifying the selected transmission line corridor issued by the Siting Board. The schedule for processing of the joint application submitted by Tampa Electric Company (TECO) and Progress Energy Florida, Inc. (PEF) for the proposed Lake Agnes – Gifford 230 kV Transmission Line requires the District to submit its Agency Report or a draft report by March 11, 2008. Alternative corridors must be proposed no later than March 21, 2008. The administrative hearing is presently scheduled for May 5, 2008. Following certification of a transmission line corridor, rights-of-way will be acquired by the utilities, which will allow the certified corridor to be narrowed accordingly.

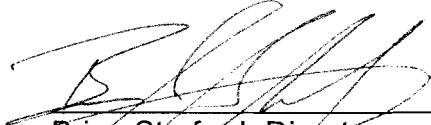
TECO/PEF Lake Agnes-Gifford Transmission Line

TECO and PEF propose to construct a new 230 kV transmission line that will originate at TECO's existing Lake Agnes substation located on County Road 655 in Polk County and end at a proposed substation to be located in Gifford, Orange County, which is within the South Florida Water Management District. The proposed transmission line extends approximately 27.5 miles. The utilities will construct, operate and maintain the transmission line based upon their respective service territories. A portion of the preferred corridor will cut through the Green Swamp, an Area of Critical State Concern.

It is proposed that the segment of the corridor through this area be as narrow as possible. Possible co-location or adjacent location with an existing Orlando Utilities Commission-McIntosh (City of Lakeland) right-of-way is being considered to minimize potential environmental impacts. Orlando Utilities Commission has intervened in this proceeding, due to the proximity of the proposed Lake Agnes-Gifford line to its existing and recently upgraded transmission line. In other areas of the proposed route, existing roadways, rights-of-way and other disturbed areas will be used for co-locating the proposed transmission line wherever feasible. No District lands are located within the proposed corridor. District staff review of the application has determined that the proposed corridor is acceptable, provided conditions recommended by the District to minimize environmental impacts, address any loss of historic basin storage and ensure no net loss of floodplains are included to ensure no adverse impacts affecting surface water conveyance, storage, water quality or affecting adjacent lands result from the project.

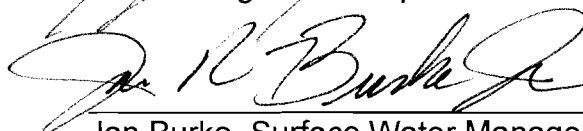
Staff Recommendation

This report contains the District's recommendations to DEP regarding conditions for certification of the proposed TECO – PEF Lake Agnes-Gifford 230 kV Transmission Line, to be included in DEP's Report required by Section 403.526(2)(a), F.S., and Rule 62-17.590, F.A.C. Under the current operating agreement between the District and DEP, DEP is responsible for conducting the Environmental Resource Permitting-related review of the project area, employing District substantive ERP rules as adopted by DEP. Due to the fact that the actual right-of-way location for the proposed transmission line will not be determined until after a corridor is certified, additional detailed information and review procedures are proposed as post-certification submittals once the acquired right-of-way is determined. This allows for District verification of compliance with the substantive conditions set forth in Chapter 40D-4, F.A.C., Part B, Basis of Review of the District's ERP Information Manual. No conditions are proposed relating to Chapter 40D-9, F.A.C., as no District lands are involved. Staff recommends approval of the proposed transmission line corridor, subject to the recommended conditions of certification attached hereto and incorporated herein as Exhibit "A," and recommends forwarding of this Agency Report to DEP for inclusion in its project analysis and proposed conditions of certification for this transmission line.



Brian Starford, Director
Bartow Regulation Department

Date: 2/29/08



Jan Burke, Surface Water Manager
Bartow Regulation Department

Date: 2/29/08

EXHIBIT A

SWFWMD PROPOSED CONDITIONS OF CERTIFICATION FOR TECO- PEF LAKE AGNES-GIFFORD 230 KV TRANSMISSION LINE Transmission Line Siting Application No. TA07-16

1. The proposed transmission line will be co-located within existing rights-of-way and other impacted areas wherever feasible.
2. TECO/PEF shall provide to SWFWMD a copy of all post-certification filings for finalization of the right-of-way location and the construction and operation of the transmission line facilities including any access roads or surface water management system facilities, for those portions located within the SWFWMD.
3. A copy of the aerial photographs provided to DEP to show the boundaries of the acquired right-of-way within the SWFWMD will also be provided to SWFWMD. SWFWMD shall have an opportunity to review the photographs and notify DEP of any apparent conflicts with the requirements of the Conditions of Certification.
4. TECO/PEF shall provide reasonable assurance that the construction, operation and maintenance of the proposed facilities, including any access roads and structures constructed within wetlands or other surface waters, satisfy the criteria set forth in Rules 40D-4.301 and 40D-4.302, F.A.C., and applicable provisions of Part B, Basis of Review of SWFWMD's Environmental Resource Permitting Information Manual. Pursuant to Rule 62-17.665(7)(d), F.A.C., TECO/PEF shall provide sufficient information on a post-certification basis to demonstrate that there is reasonable assurance of compliance with SWFWMD substantive permitting requirements, including avoidance of floodplain impacts and provision of compensation where appropriate to achieve no net loss in floodplain storage capabilities and avoidance of secondary wetland dredging and/or filling impacts.
5. To the extent practicable, access roads, culverts and structures shall be located to avoid conflict with existing or permitted surface water management systems, permitted water withdrawal facilities or agricultural ground and surface water management projects as documented in SWFWMD records.

Appendix II-G: South Florida Water Management District

SFWMD_agency report email

From: Golden, James [jgolden@sfwmd.gov]
Sent: Friday, April 18, 2008 11:34 AM
To: Seiler, Ann
Cc: Holmes, Ruth
Subject: Submittal of Final Agency Reports

Regarding your request for final agency reports on the preferred corridor in your e-mail below, the only potential issue identified by District staff is that the final right-of-way may possibly impact previously approved conservation easements within existing permitted projects and these permits may need to be modified. Since DEP is taking the lead in the ERP review, pursuant to the terms of the Operating Agreement between the DEP and the SFWMD, DEP will be taking the lead in drafting appropriate condition language to address this issue. Therefore, the District recommends approval of this project without any Recommended Conditions of Certification.

James J. Golden, AICP
Lead Planner
South Florida Water Management District
Environmental Resource Regulation Department
(561) 682-6862

From: Seiler, Ann [mailto:Ann.Seiler@dep.state.fl.us]
Sent: Friday, April 18, 2008 11:10 AM
To: Allen G. Erickson; Angulo, Yanisa; Barbara Lenczewski; Bess, Barbara; Bradner, James; connie.mitchell@dot.state.fl.us; LCURTIN@HKLAW.COM; emily.norton@myfwc.com; Gagne, Albert; Gary von Behren; Gary von Behren; Golden, James; Hamp Pridgen; Herbst, Dave; james.antista@fwc.state.fl.us; jan.burke@swfwmd.state.fl.us; Jennifer Brubaker; Jo Thacker; John Kasper; josephjarret@polk-county.net; kelly.martinson@dca.state.fl.us; Laura Kammerer; Leon.Biegalski@dot.state.fl.us; Marti Moore; Maryann.poole@myfwc.com; Nasca, Mara; Nieboer, Greg; psteed@cfrcpc.org; Pelz, Susan; plaurien@ecfrpc.org; Prather, Lisa; CRAepple@hgslaw.com; Shine, Caroline; Zahm, Alan
Subject: FW: Maps and Exhibits for Lake Agnes-Gifford

Hi everyone, the link that I sent yesterday for the Notice of filing an Alternate is a large pdf file.(7 MB) so I have put it on the ftp site as well. Try looking at the exhibits and maps here

<ftp://ftp.dep.state.fl.us/pub/siting/Outgoing/Lake%20Agnes%20TA07-16/>

Please remember however that this is a Notice of Filing and not the complete data for which you will be conducting a completeness review. The proponent for the alternate has until May 2nd to file data to potentially complete their filing.

Also, your agency reports are due on the PREFERRED CORRIDOR that was originally filed with PEF and TECO's application. Hope this helps with any questions, if not please contact me. Thank you, Ann

Ann Seiler
Florida Energy and Siting Office
2600 Blair Stone Rd.
Tallahassee, FL 32399
(850) 245-8008
ann.seiler@dep.state.fl.us

Life isn't about how to survive the storm, but how to dance in the rain.

Appendix II-H: East Central Regional Planning Council



East Central Florida Regional Planning Council

631 North Wymore Road, Suite 100 • Maitland, FL 32751
Phone 407.623.1075 • Fax 407.623.1084 • www.ecfrpc.org

Philip Laurien, AICP
Executive Director

March 7, 2008

Ann Seiler
Florida Department of Environmental Protection
Florida Energy and Siting Office
2600 Blair Stone Rd.
Tallahassee, FL 32399

RE: Agency Report, Tampa Electric Company and Progress Energy, Lake Agnes to
Gifford Transmission Line, Joint Transmission Line Siting Application

Dear Ms. Seiler,

The East Central Florida Regional Planning Council has completed the Agency Report
for the Lake Agnes to Gifford Transmission Line application pursuant to
62-17.590, F.A.C.

The Council's recommended conditions concern the environmental impacts of the
transmission line. Council staff understands that many of the environmental concerns
will be handled through the Environmental Resource Permitting process; however, the
Council is currently in the process of finalizing a Natural Resources of Regional
Significance Map. The proposed transmission line corridor crosses some designated
areas on this map. Therefore, the Council recommends that on-site verification of the
actual extent of such natural resources be conducted as part of the corridor selection.
Plans for appropriate avoidance or mitigation should be included as a part of the
corridor plan.

With consideration of the above conditions, the Council recommends approval of
certification.

The Council reserves the right to present any further issues on this project as
additional information becomes available.

Sincerely,

Phil Laurien
Executive Director

Executive Committee

Chair

Teresa Jacobs
Commissioner
Orange County

Vice Chair

Malcolm McLouth
Governor's Appointee
Brevard County

Treasurer

Mary Martin
Vice Mayor of Port Orange
Volusia County League of Cities

Secretary

Atlee Mercer
Property Appraiser
Osceola County

Former Chair

Jon B. Rawlson
Governor's Appointee
Orange County

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Appendix II-I: Orange County



COUNTY ATTORNEY'S OFFICE
THOMAS B. DRAGE, JR. County Attorney

201 South Rosalind Avenue - 3rd Floor
Reply To: Post Office Box 1393
Orlando, Florida 32802-1393
407-836-7320 ■ Fax 407-836-5888
<http://www.ocfl.net>

April 30, 2008

Deputy County Attorney
Joel D. Prinsell

Senior Assistant County Attorneys
Robert D. Guthrie
Edward M. Chew

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Tara L. Gould
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Legal Administrative Supervisor
Anna M. Caban

Sr. Paralegal
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Joann Darnell, CP
Cathy Saravanja, CP
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Ms. Ann Seiler
Florida Energy and Siting Office
2600 Blair Stone Road
Tallahassee, Florida 32399

RE: ORANGE COUNTY'S AGENCY REPORT on
Lake Agnes – Gifford 230 KV Transmission Line Project

Dear Ms. Seiler:

1. As per F.S. 403.526(2)(a) Orange County herewith files its agency report in subject case:

(a) Orange County does not have any nonprocedural requirement not already listed in the case application from which a variance, exemption, exception, or other relief is necessary in order for the proposed corridor to be certified.

(b) Orange County recommends approval of the application proposed by Progress Energy and Tampa Electric.

(c) Orange County does not have proposed conditions of certification for the proposed corridor of Progress Energy and Tampa Electric.

2. Please direct any questions or inquiries on this agency report to the undersigned at (407) 836-5686.

Very truly yours,

Allen G. Erickson
Assistant County Attorney
Orange County

AGE/js

Appendix II-J: Osceola County

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

IN RE: TAMPA ELECTRIC COMPANY and
PROGRESS ENERGY FLORIDA, INC.,
LAKE AGNES-GIFFORD TRANSMISSION
LINE SITING APPLICATION NO. TA07-16

DOAH CASE NO. 07-5691
DEP OGC CASE NO. 07-1858

OSCEOLA COUNTY, FLORIDA'S NOTICE OF FILING

Osceola County, Florida, by and through its undersigned attorney, hereby gives notice of the filing of Agency Report attached hereto and furnished to the parties named below on April 30, 2008.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished this 30th day of April, 2008, to the parties named below by regular U.S. Mail and also by e-mail to Ann Seiler, Florida Energy and Siting Office at ann.seiler@dep.state.fl.us.


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Osceola County Attorney
Florida Bar No. 706213
Counsel for Osceola County, Florida
1 Courthouse Square, Suite 4200
Kissimmee, FL, 34741
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CERTIFICATE OF SERVICE LIST

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Tallahassee, FL 32399

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Tallahassee, FL 32399

Mr. Forrest Watson
Department of Agriculture
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Tallahassee, FL 32399

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Assistant General Counsel
Fish and Wildlife Conservation Commission
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Planning Council
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Maitland, FL 32751-4229

Ray Maxwell, District Administrator
Reedy Creek Improvement District
1900 Hotel Plaza Blvd.
Lake Buena Vista, FL 32830

Donald R. Alexander
Administrative Law Judge
Division of Administrative Hearings
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Tallahassee, FL 32399

Mitchell B. Kirschner, Esquire
1515 North Federal Highway
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Boca Raton, FL 33432

Gary von Behren, President
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2872 Blooming Alamanda Loop
Kissimmee, FL 34747-2252

Ann S. Seiler, Environmental Specialist
Florida Energy and Siting Office
Department of Environmental Protection
2600 Blair Stone Road MS 48
Tallahassee, FL 32399

OSCEOLA COUNTY, FLORIDA - AGENCY REPORT

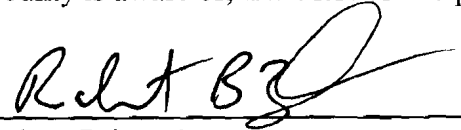
Tampa Electric Company and Progress Energy Florida, Inc.
Lake Agnes - Gifford - 230 kV Transmission Line Siting Application No. TA07-16
DOAH Case No. 07-005691TL

TECO/PEF Lake Agnes-Gifford Transmission Line

TECO and PEF propose to construct a new 230 kV transmission line that will originate at TECO's existing Lake Agnes substation located on County Road 655 in Polk County, and end at a proposed substation to be located in Gifford, Orange County. The proposed transmission line extends approximately 27.5 miles. The utilities will construct, operate and maintain the transmission line based upon their respective service territories. Osceola County staff review of the application has determined that there is no justification for denial.

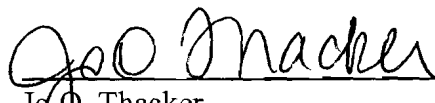
Staff Recommendation

There are no non-procedural requirements not specifically listed in the application that the County is aware of; and there are no proposed conditions that Osceola County is seeking.



Robert Zaitooni
Deputy Transportation Director

Date: 4-30-08



Jo O. Thacker
Osceola County Attorney

Date: 4-30-08

Appendix II-K: Public Comments

1. Harritty Email

RE Links for TECo transmission lines_Harrity
From: Steve Harrity [SHarrity@stanpac.com]
Sent: Tuesday, January 08, 2008 3:17 PM
To: Seiler, Ann
Subject: RE: Links for TECo transmission lines

Thank you very much, now I can at least show future buyers what might be up around us.

Thank you

Steve Harrity
Standard Pacific homes
Crosby Crossing
813-655-3586 office
813-655-3950 fax
sharrity@stanpac.com

From: Seiler, Ann [mailto:Ann.Seiler@dep.state.fl.us]
Sent: Tuesday, January 08, 2008 1:50 PM
To: Steve Harrity
Subject: Links for TECo transmission lines

Hi Steve,

I am not sure which TECo line you may be talking about so here are the links for the two that I am currently working on. Please contact me if you need further information. Links to the application, applicant and case processing are located here;

http://www.dep.state.fl.us/siting/Highlights/applications.htm#Tampa_Electric_Willow_Oak-Davis_230KV_Line

http://www.dep.state.fl.us/siting/Highlights/applications.htm#.__Progress_Energy/Tampa_Electric_Lake_Agnes_-_Gifford_230kV_Line

Thank you, Ann

Ann Seiler
Florida Energy and Siting Office
2600 Blair Stone Rd.
Tallahassee, FL 32399
(850) 245-8008
ann.seiler@dep.state.fl.us

The Department of Environmental Protection values your feedback as a customer. DEP Secretary Michael W. Sole is committed to continuously assessing and improving the level and quality of services provided to you. Please take a few minutes to comment on the quality of service you received. Simply click on this link to the DEP Customer Survey. Thank you in advance for completing the survey.

2. Email Response to Voice Message - VonBehren

From: Seiler, Ann
Sent: Friday, March 07, 2008 1:50 PM
To: 'oakislecovehoa@aol.com'
Cc: Sturtevant, Toni
Subject: Lake Agnes-Gifford TLSA

Hi Mr. Von Baron,

My apologies for not returning your call sooner, I have been on travel and just returned this morning. The Transmission Line Siting Act is a some what confusing process. I will do my best to explain it and where the opportunities are for you and the Home Owners Association to weigh in your opinions. If you would like to learn more than I have attempted to explain please go to our website.
http://www.dep.state.fl.us/siting/Programs/Transmission_Lines.htm

This flow chart

http://www.dep.state.fl.us/siting/Programs/Flow_Charts/TLSA-Flowchart-5Aug07-with%20alternates.pdf shows the process of how the application proceeds through the Transmission Line Siting Act. All the blue areas are where the public can give input. The yellow areas are where affected person/groups can become a party to the proceeding. Usually it is recommended that the person/group obtain an attorney at this point. If your HOA decides to intervene as a party, I strongly encourage you to consider retaining an attorney. The deadline to file your intent to become a party with the Administrative Law Judge is June 16th. If the TLSA process is not followed, then it may be grounds for your concerns to not be addressed properly.

At this time, TECO/PEF have filed an application with a preferred corridor. Usually the applicant, in this case, applicants, have conducted at least a year long study on balancing environmental and public impacts for the entire corridor and have selected a preferred corridor based on those studies.

The Transmission Line Siting Act (TLSA) is invoked when a transmission line crosses more than one county line and is 15 miles or greater in length. The Corridor may be up to a mile wide, within which a right-of-way will eventually be located. The right-of-way shrinks down to approximately 75 feet in width which is where the actual poles and line are located.

Once the application has been filed, the TLSA process then continues through a completeness review (is there enough information provided for an agency to fully review the application) with other agencies that have jurisdiction over certain aspects such as Dept. of Transportation, Dept. of Environmental Protection, Fish & Wildlife Conservation Commission, Dept. of Community Affairs, Water Management Districts, Regional Planning Councils, and Local Governments. All the jurisdictional agencies prepare reports discussing any issues associated with the proposed project, and citizens can provide comments to those agencies about the concerns they have related to that particular agencies' jurisdiction.

My office, which is within DEP, the Siting Coordination Office, makes sure that the TLSA is followed. We coordinate with all the agencies and then prepare a Staff Analysis that includes the agency reports and includes the 'permit' - Conditions of Certification that the applicant must follow if the line is approved. A certification hearing is held before an Administrative Law Judge (ALJ). The ALJ prepares a Recommended Order along with the other agencies that have been involved which is submitted to a non-partisan attorney who prepares a proposed Final Order. The proposed Final Order recommends approval or denial of the Transmission Line, and is then submitted to the Siting Board which is made up of the Governor and Cabinet. They ultimately will certify a line or deny its certification. Along with this process is the Determination of Need that the applicant must receive from the Public

Lake Agnes-Gifford TLSA_VonBaron

Service Commission. Once the Public Service Commission has determined the need for power in this area, which in this particular case they have, then the application continues through the TLSA process.

I encourage you to contact your County attorney's office and ask that they contact the ALJ before March 14, 2008 and request a public hearing as per s. 403.527(4)(a), Florida Statutes.

If I have not addressed your questions adequately, then please let me know. I will try and help more. For this case, here is the site to follow what has happened to date as well as the ALJ contact information.

<http://www.doah.state.fl.us/internet/search/docket.cfm?RequestTimeout=500&CaseNo=07-005691&Petitioner=IN%20RE:%20%20TAMPA%20ELECTRIC%20COMPANY%20AND%20PROGRESS%20ENERGY%20COMPANY`S%20LAKE%20AGNES-GIFFORD%20TRANSMISSION%20LINE%20SITING%20APPLICATION%2>

Thank you, Ann

Ann Seiler

Florida Energy and Siting Office

2600 Blair Stone Rd.

Tallahassee, FL 32399

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ann.seiler@dep.state.fl.us

If you can't see the light at the end of the tunnel...go down and turn it on!