

BEFORE THE GOVERNOR AND CABINET
OF THE STATE OF FLORIDA

In the Matter of:)
)
LAKE WORTH UTILITIES AUTHORITY) CASE NO. 75-1774
Application for Power Plant)
Site Certification, Lake Worth,)
Palm Beach County, Florida;)
Application No. PA-74-05.)
)
)
)

The following persons were present and participated
in the disposition of this matter:

Honorable Reubin O'D. Askew
Governor

Honorable Bruce A. Smathers
Secretary of State

Honorable Robert L. Shevin
Attorney General

Honorable Philip F. Ashler
Treasurer and Insurance Commissioner

Honorable Gerald A. Lewis
Comptroller

Honorable Doyle Conner
Commissioner of Agriculture

Honorable Ralph D. Turlington
Commissioner of Education

ORDER ADOPTING HEARING OFFICER'S ORDER
RECOMMENDING CERTIFICATION SUBJECT TO CONDITIONS

BY THE GOVERNOR AND CABINET:

The Governor and Cabinet having heard statements by
the parties, reviewed the recommended order dated March 17, 1976,
(attached and incorporated by reference as Exhibit "A") and
order dated March 26, 1976, (attached and incorporated by
reference as Exhibit "B") as well as copies of the general and
special conditions (attached and incorporated by reference as

Exhibit "C") and having been otherwise advised in the premises of said order by their respective staffs, it is,

ORDERED:

1. The March 17, 1976 recommended order and March 26, 1976 order are adopted.

2. The general and special conditions submitted by the Department of Environmental Regulation are adopted.

ORDERED this 18th day of May, 1976 at Tallahassee, Florida at a duly constituted meeting of the Governor and Cabinet.

FOR THE GOVERNOR AND FLORIDA
CABINET:



REUBIN O'D. ASKEW
Governor

VOTE:

FOR

AGAINST

Honorable Reubin O'D. Askew
Honorable Bruce A. Smathers
Honorable Robert L. Shevin
Honorable Philip F. Ashler
Honorable Gerald A. Lewis
Honorable Doyle Conner
Honorable Ralph D. Turlington

Copies Furnished To:

All Parties of Record

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

In re: Lake Worth Utilities	)	
Authority Application for	)	
Power Plant Site Certification,	)	Case No. 75-1774
Lake Worth, Palm Beach County,	)	
Florida, Application No. PA-74-05.	)	
	)	

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND RECOMMENDED ORDER

This proceeding is held pursuant to the Florida Electrical Power Plant Siting Law, Chapter 403, Florida Statutes, to consider the application for site certification of Unit S-5 of the Lake Worth Utilities Authority, City of Lake Worth, Florida, known as the "Tom G. Smith Municipal Power Plant, Unit S-5."

Pursuant to proper notice, the additional public hearing required in this matter by Section 403.508(3), Florida Statutes, was held in Lake Worth, Florida, on December 9, 1975, at 9:00 a.m. and ending at 10:45 a.m. The purpose of this hearing was to take testimony and evidence concerning whether the location and operation of the proposed facility will produce minimal adverse effects on human health, the environment, the ecology of the land and its wildlife and the ecology of state waters and their aquatic life.

The hearing included an examination of the following: the necessity for expanded electrical generation; the expected environmental impact of the facility; the operational safeguards of the facility; the availability of abundant, low-cost electrical energy; and other public interests and issues relevant to certification of the proposed site.

The following parties entered appearances at and participated in the hearing through counsel or representatives:

1. Department of Environmental Regulation.
2. Lake Worth Utilities Authority, City of Lake Worth, Florida.
3. Florida Public Service Commission.
4. State of Florida, Department of Administration, Division of State Planning.

After consideration of all pleadings, memoranda of law, and proposed findings, conclusions and recommendations, as well as all

testimony and evidence properly admitted herein, the following Findings of Fact, Conclusions of Law and Recommended Order are entered. All proposed findings, conclusions and recommendations not incorporated directly or inferentially herein are rejected as being unsupported in law or in fact or unnecessary to the rendering of this Recommended Order.

FINDINGS OF FACT

1. The site for the proposed combined cycle generating facility, hereinafter referred to as Unit S-5, is part of the existing 22-acre utility complex located near the western edge of the City of Lake Worth, Florida. This site, which has been used by the Lake Worth Utilities Authority for electrical power generation for over 25 years, is shared by the power plant, water treatment plant, public works department and various other municipal agencies. The site is bounded by public use areas, such as the Lake Worth Senior and Junior High School and athletic field on the north and east, the Seaboard Coast Line Railroad right-of-way and Interstate Highway 95 on the west and the Lake Worth Utilities Authority water treatment plant on the south. The most significant visual change to be caused by the addition of Unit S-5 to this site will be the addition of a 75 foot high exhaust stack and the mechanical draft cooling tower. Both of these structures will be, in large part, masked by the I-95 elevated roadway, which dominates the skyline in the area of the site.

2. Unit S-5, as proposed, will be of the combined cycle type, nominally rated at 29.5 megawatts. The unit will basically consist of a gas turbine-generator unit, unfired heat recovery steam generator, and steam turbine-generator unit and auxiliaries. The unit will utilize a cooling tower as is presently being done for the four existing steam units already on site.

3. Operating at designed capacity, Unit S-5 will use an estimated 346,000 gallons of water per day through 1982. It is similarly estimated that, operating at designed capacity, 28,000 gallons of water per day would be discharged as cooling tower blow-down, boiler blow-down and demineralizer backwash. The applicant estimates that the average

water use of Unit S-5 will be 201,000 gallons per day, which is approximately 3.8 percent of the 1978 projected average daily output of the Lake Worth Utilities Authority water plant, from which the water will be taken. The Lake Worth Utilities Authority water plant has a total design capacity of 25 million gallons per day.

4. The design of Unit S-5 will allow operation on both gaseous and/or liquid fuels. Natural gas and number two diesel oil will be the fuels fired in this unit. The presently existing fuel facilities and supply arrangements are sufficient to provide the fuel needs of Unit S-5.

5. Unit S-5, as designed, will be a highly efficient generator of electricity. It would allow the Lake Worth Utilities Authority to produce electricity at a lower cost by consuming less fuel per unit of electricity produced. According to the applicant's projections, the net savings in system operating costs would range from \$70,000 to \$500,000 per year depending upon fuel costs and fuel availability. The applicant presented un rebutted testimony showing that, because of the efficiency of the proposed unit, annual fuel savings could be as high as the equivalent of 860,000,000 cubic feet of natural gas or 5,370,000 gallons of oil. Further, operation of Unit S-5 would result in a substantial reduction in power plant water consumption.

6. The applicant, Lake Worth Utilities Authority, has shown, by un rebutted testimony, that Unit S-5 will be highly efficient in operation and result in a substantial savings in operating costs should it come on line in 1978.

7. As shown by the staff report of the Department of Environmental Regulation, Composite Exhibit 3, the construction of Unit S-5 will have minimal impact on the environment because of the previous impact of construction of the existing units already on site. Further, normal operation of the unit, as proposed, at worst, will cause a minimal increase in environmental impact over that caused by existing units. When displacement of older, less efficient units occur, Unit S-5 may reduce the overall environmental impact of the plant site. The unit is designed to operate in compliance with all applicable state and federal environmental standards and regulations.

8. The Florida Public Service Commission is required by Section 403.57, Florida Statutes, to prepare a report and recommendation as to the present and future needs for electrical generating capacity in the area to be served by the proposed site. Such a report and recommendation was prepared and submitted as required by statute in this proceeding.

9. The Public Service Commission found the area to be served by Unit S-5 to be an area containing approximately 11 square miles, which includes the City of Lake Worth and vicinity, as defined in the territorial agreement dated March 6, 1972, between Florida Power and Light Company and the Lake Worth Utilities Authority.

10. Due primarily to the severe depression of the state economy and the price increases in the cost of fuel oil, the Florida Public Service Commission report finds that the annual growth rates in demand for electricity have been reduced. Using what it termed a "realistic" growth rate of 7.5 percent annually and a minimal growth rate of 5.75 percent annually, the Florida Public Service Commission concluded that a need for the additional generating capacity to be provided by Unit S-5 would not exist until 1982 to 1984. Consequently, the Commission concluded that a need for the generating capacity for Unit S-5 will not exist in 1978, the year in which the applicant proposes to bring the unit on line. However, the Commission's report notes that they have considered summaries of an economic analysis submitted by the Lake Worth Utilities Authority which showed that, due to the greater efficiency of the proposed unit, the savings in operating the system with this new unit would more than offset the cost to build it. Noting that the Commission staff reviewed these summaries and performed an analysis of their own for a range of generating efficiencies and fuel costs, the report concludes that the assumptions for this analysis were reasonable and that, based on these assumptions, there is an economic advantage when operating with the proposed Unit S-5, even though a need to meet demand may not exist at the time the unit is to come on line.

11. A need for the generating capacity of Unit S-5 will not exist until 1982 to 1984.

12. The Division of State Planning of the Department of Administration has reviewed the 1975 ten-year site plan of the Lake Worth Utilities Authority with regard to proposed Unit S-5. The report of the Division of State Planning notes that the Division concurs with the Public Service Commission in its assessment that need for the generating capacity will not exist in 1978. However, the report notes that it has no basis for disagreement with the applicant's calculations that bringing Unit S-5 on line would provide power cheaper than can the present system. Therefore, the Division's report concludes that the ten-year site plan of the Lake Worth Utilities Authority, as amended by the final version of its site certification request, is suitable, and recommends that the proposed plan be certified.

13. There will be no new associated transmission facilities involved in the construction and operation of Unit S-5. Existing transmission facilities will be utilized.

14. The staff report of the Department of Environmental Regulation concludes that if Unit S-5 can produce electricity at a significantly lower cost and thereby justify that the unit is necessary environmentally, Unit S-5 appears acceptable. It further concludes that if Unit S-5 is needed, and considering the slight environmental impacts of Unit S-5, the site is suitable at present and certification could be granted subject to proper conditions.

15. Composite Exhibit 3 includes a statement of General Conditions of Certification and Special Conditions of Certification, which the Department of Environmental Regulation have proposed be made applicable to this facility if certified. The applicant, Lake Worth Utilities Authority, has stipulated and agreed that the General and Special Conditions of Certification, as proposed, should be imposed if certification is granted.

16. As shown by Florida Pollution Control Board Order No. 75-2, dated February 10, 1975, Exhibit 7, the Florida Pollution Control Board, pursuant to Chapter 403, Florida Statutes, found that the proposed site for Unit S-5 is consistent and in compliance with existing land use plans and zoning ordinances.

17. At the conclusion of the presentation by the parties to this proceeding, opportunity was given to the general public to comment

upon the application for site certification. No one appeared to make comment.

CONCLUSIONS OF LAW

18. This proceeding was held pursuant to the Florida Electrical Power Plant Siting Law, Chapter 403, Florida Statutes, and Chapter 17-17, Florida Administrative Code, to consider the Lake Worth Utilities Authority application for power plant site certification of Unit S-5, located in Lake Worth, Palm Beach County, Florida.

19. Notice, in accordance with Chapter 403 and 120, Florida Statutes, and Chapter 17-17, Florida Administrative Code, has been given to all persons and parties entitled thereto, as well as to the general public.

20. The purpose of this proceeding was to take testimony and evidence concerning whether the location and operation of the proposed facility will produce minimal adverse effects on human health, the environment, the ecology of the land and its wildlife, and the ecology of state waters and their aquatic life and to fully balance the increasing demands for electrical power plant location and operation with the broad interests of the public, as provided in Chapter 403, Florida Statutes.

21. The record of this hearing consists of all pleadings and papers filed herein, the transcript of the Final Hearing, all Orders entered by the Hearing Officer, and all evidence and exhibits admitted to the record.

22. After this proceeding was initiated, the Florida State Legislature enacted the Florida Environmental Reorganization Act of 1975, Chapter 75-22, Laws of Florida, 1975, which took effect on July 1, 1975. This Act affected the nature and authority of the following parties to this proceeding as follows:

(1) The Department of Pollution Control was transferred to the Department of Environmental Regulation, except for certain powers, duties and functions vested in the Governor and Cabinet.

The Act provides that the Governor and Cabinet shall perform the duties previously vested in the Pollution Control Board of the Department of Pollution Control, pursuant to the Florida Electrical

Power Plant Siting Act, Sections 403.59, 403.511, 403.512 and 403.513, Florida Statutes. For those purposes, the Governor shall perform the duties of the Chairman of the Pollution Control Board, as defined in Section 403.511, Florida Statutes. Therefore, these findings of Fact, Conclusions of Law, and the Recommended Order are directed to the Governor and the Cabinet for final decision.

Section 24 of Chapter 75-22, Laws of Florida, 1975, provides that:

"No legal or administrative proceeding pending as of the effective date of this act shall be abated or delayed because of any transfer made in this act, and any department to which are transferred the powers, duties, and functions of an agency relating to a pending proceeding shall be substituted as a party in interest in such proceeding."

This administrative proceeding was pending as of the effective date of Chapter 75-22, and substitution of parties was made, as provided in Section 24 of the Act.

23. Section 403.55, Florida Statutes, provides that the Division of State Planning of the Department of Administration shall make a study of each ten-year site plan required to be submitted by each electric utility and that the Division shall classify each such plan as "suitable" or "unsuitable." The Division of State Planning has made such a study and has found that the ten-year site plan of the Lake Worth Utilities Authority, as amended by the final version of its site certification request, is suitable.

24. Section 403.507, Florida Statutes, requires that, upon application for site certification, the Florida Public Service Commission shall prepare a report and recommendation as to the present and future needs for electrical generating capacity in the area to be served by the proposed site and shall submit its findings to the Department of Environmental Regulation. Such a report and recommendation has been submitted and introduced into evidence in this proceeding.

25. The Lake Worth Utilities Authority has made a valid application for site certification pursuant to the Florida Electrical Power Plant Siting Law, Chapter 403, Florida Statutes.

26. The location and operation of Unit S-5, as proposed, will produce minimal adverse effects on human health, the environment,

the ecology of the land and its wildlife and the ecology of state waters and their aquatic life.

27. The operational safeguards for the proposed unit are technically sufficient for the welfare and protection of the citizens of Florida.

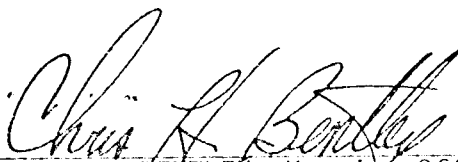
28. The unit, as proposed, is consonant with the premise of abundant, low-cost electrical energy.

29. The testimony and evidence shows that a need will exist for the generating capacity of Unit S-5 by 1982 to 1984. The construction, as proposed, of Unit S-5 for operation in 1978 will result in substantial operational cost savings during the four or more years the unit would operate prior to the existence of a definite need for its generating capacity. Therefore, it is concluded that, considering the sufficiency of the operational safeguards, the provision by Unit S-5 of abundant, low-cost electrical energy, and the minimal environmental impact to result from the construction and operation of Unit S-5, a reasonable balance is effected between the environmental impact of construction of Unit S-5 for operation in 1978, and the need for the facility which will not exist until 1982 to 1984.

RECOMMENDED ORDER

Having reviewed the record of this proceeding, and based upon the Findings of Fact and Conclusions of Law set forth herein, it is hereby RECOMMENDED that certification, pursuant to Chapter 403, Florida Statutes, be granted the Lake Worth Utilities Authority, for the construction and operation of Unit S-5 in Lake Worth, Palm Beach County, Florida. It is further recommended that this certification be made subject to the General and Special Conditions of Certification as set forth in Composite Exhibit 3.

Entered this 17 day of March, 1976, in Tallahassee, Florida.


CHRIS H. BENTLEY, Hearing Officer
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