

**STATE OF FLORIDA
SITING BOARD**

IN RE:	FLORIDA POWER & LIGHT)	
	COMPANY MANATEE UNIT 3)	OGC CASE NO.: 02-0317
	POWER PLANT SITING)	DOAH CASE NO.: 02-0937EPP
	APPLICATION NO. PA 02-44.)	

FINAL ORDER OF CERTIFICATION

On February 19, 2003, an administrative law judge with the Division of Administrative Hearings (DOAH) submitted his Recommended Order in this electrical power plant certification proceeding. Copies of the Recommended Order were served upon Mansota-88, Inc., and upon counsel for Florida Power & Light Company ("FPL"), Florida Department of Environmental Protection ("DEP"), Manatee County, Southwest Florida Water Management District ("SWFWMD"), Tampa Bay Regional Planning Council ("TBRPC"), and other designated agencies. A copy of the Recommended Order is attached as Exhibit A. The matter is now before the Governor and Cabinet, sitting as the "Siting Board," for final action under the Florida Electrical Power Plant Siting Act ("PPSA"). See §§ 403.501-403.518, Florida Statutes.

BACKGROUND

On February 22, 2002, FPL filed a PPSA application for certification by the Siting Board of a proposed new electrical generating unit to be located at FPL's existing Manatee Plant site. The Manatee Plant site encompasses about 9,500 acres of property situated in a primarily agricultural and rural area of Manatee County, Florida. There are two existing electrical generating units at the Manatee Plant (Units 1 and 2). FPL proposes to construct and operate a new Unit 3 and related structures to be located on a 73-acre parcel within the existing Manatee Plant site (the "Project").

The proposed Unit 3 will be a 1100-megawatt combined-cycle electrical generating unit fueled solely by natural gas. The Project will consist of four combustion turbines, four heat recovery steam generators, one for each combustion turbine, and a new steam turbine. The Project will also involve the expansion of the existing on-site electrical system substation and the construction of several new appurtenant structures. FPL expects to commence construction of the Project in June of 2003. The planned in-service date for Unit 3 is June of 2005.

DOAH PROCEEDINGS

After FPL's application was deemed to be complete, DEP forwarded the matter to DOAH and Administrative Law Judge Charles A. Stampelos ("ALJ") was assigned to the case. The ALJ held a land use hearing on the Project in August of 2002 and entered a subsequent Recommended Order concluding that the site of the Project is consistent and in compliance with the land use plans and zoning ordinances of Manatee County. By order dated December 9, 2002, the Siting Board adopted the ALJ's Recommended Order on land use and determined that the site of the Project is consistent and in compliance with the land use plans and zoning ordinances of Manatee County. On December 10, 2002, the Florida Public Service Commission issued its Final Order determining the need for Manatee Unit 3, pursuant to § 403.519, Florida Statutes.

On December 18, 2002, DEP issued its written Staff Analysis Report (Report) concerning the Project. The Report contained reports from other state, regional, and local agencies. The Report also compiled a set of proposed Conditions of Certification for Manatee Unit 3 proposed by DEP and the other agencies that reviewed the Project. On January 21, 2003, a joint prehearing stipulation was filed with DOAH indicating that no party to this proceeding objected to certification of the Project. During the subsequent certification hearing, DEP submitted a revised Staff Analysis Report (DEP Exhibit 2) updating and correcting various matters in the earlier version of its analysis, and revising the proposed Conditions of Certification.

The ALJ conducted a certification hearing in Manatee County on January 27, 2003, as required by § 403.508(3), Florida Statutes. Evidence was presented at this hearing by various parties, including FPL, DEP, and SWFWMD. Members of the general public were also allowed to offer testimony at the conclusion of the certification hearing. On February 19, 2003, the ALJ entered his Recommended Order on site certification in this case. The ALJ concluded that the competent, substantial evidence at the certification hearing "demonstrates that FPL has met its burden of proof to demonstrate that Manatee Unit 3 meets the criteria for certification under the PPSA." The ALJ recommended that "the Siting Board grant full and final certification" to FPL for the Manatee Unit 3 Project as described in FPL's application and the evidence presented at the certification hearing, and subject to the Conditions of Certification contained in DEP Exhibit 2 appended to the Recommended Order.

CONCLUSION

The record in this case is devoid of objections by any governmental agencies to site certification of the Manatee Unit 3 Project. Furthermore, no Exceptions were filed in this case by any party challenging any of the factual findings, legal conclusions, or recommendation set forth in the ALJ's Recommended Order on site certification. Based on a review of the record and the governing law, the Siting Board concludes that the Manatee Unit 3 Project complies with the certification requirements of the PPSA and that site certification of the Project will fully balance the increasing demand for electrical power plant location and operation in this State with the broad interests of the public that are protected by the PPSA.

It is therefore ORDERED that:

A. The following clerical corrections are made to the Conditions of Certification for Manatee Unit 3 appended to the Recommended Order:¹

1. The second unlabeled paragraph on page 15 is properly labeled as footnote "b." and the remaining four paragraphs on page 15 are relabeled as footnotes c. through f.
2. The table on page 27 is corrected by adding the " $\leq$ " (less than or equal to) sign immediately prior to the "Qriv" symbol for each of the six flow conditions of the Little Manatee River, as shown in the left hand column of the table.

B. The Recommended Order is otherwise adopted and incorporated by reference herein.

C. Certification of the location, construction, and continued operation of the Manatee Unit 3 Project as described in FPL's site certification application and by the evidence presented at the certification hearing is APPROVED, subject to the Conditions of Certification contained in DEP Exhibit 2 appended to the Recommended Order, as corrected in paragraph A above.

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

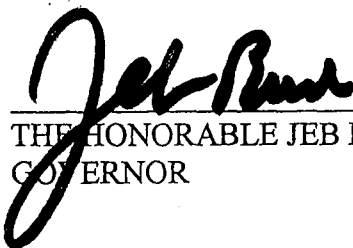
Any party to this proceeding has the right to seek judicial review of the Final Order pursuant to Section 120.68, Florida Statutes, by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, M.S. 35, Tallahassee, Florida 32399-3000; and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the

¹ An unopposed "Notice of Clerical Errors" was filed with the DEP Agency Clerk on behalf of FPL, DEP, and SWFWMD. These clerical corrections to portions of pages 15 and 27 of the Manatee Unit 3 Conditions of Certification are based on this Notice of Clerical Errors.

appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days from the date this Final Order is filed with the clerk of the Department.

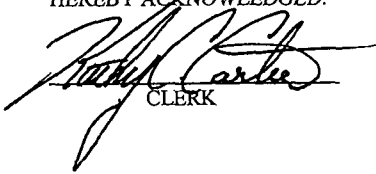
DONE AND ORDERED this 11 day of April, 2003, in Tallahassee, Florida, pursuant to a vote of the Governor and Cabinet, sitting as the Siting Board, at a duly noticed and constituted Cabinet meeting held on April 8, 2003.

THE GOVERNOR AND CABINET
SITTING AS THE SITING BOARD



THE HONORABLE JEB BUSH
GOVERNOR

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



CLERK

4/14/03
DATE

CERTIFICATE OF SERVICE

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

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ManaSota-88, Inc.
c/o Glenn Compton, Chairman
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Ann Cole, Clerk and
Charles A. Stampelos, Administrative Law Judge
Division of Administrative Hearings
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Tallahassee, FL 32399-1550

and by hand delivery to:

Scott A. Goorland, Esquire
Department of Environmental Protection
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Tallahassee, FL 32399-3000

this 14th day of April, 2003.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



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