



Florida Department of Environmental Protection

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3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Rick Scott
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Lt. Governor

Herschel T. Vinyard, Jr.
Secretary

December 28, 2011

Sent by Electronic Mail – Received Receipt Requested

Barbara P. Linkiewicz
Director of Environmental Licensing
Florida Power & Light Company
700 Universe Blvd.
Juno Beach, Florida 33408

Re: Riviera Beach Energy Center
Modification to Conditions of Certification
DEP Case Number PA 09-54B
OGC Case Number 11-1566

FINAL ORDER MODIFYING CONDITIONS OF CERTIFICATION

Dear Ms. Linkiewicz:

On October 27, 2011 the Florida Department of Environmental Protection (Department) received a request from the Florida Fish and Wildlife Conservation Commission (FWC) to modify the Conditions of Certification (Conditions) for the Florida Power & Light (FPL) Riviera Beach Energy Center (RBEC). The request included changes to the biological monitoring requirements set forth in the Conditions of Certification (Conditions) for manatees at the facility. Pursuant to Section 403.516(1)(c), Florida Statutes, (F.S.), the Department has initiated a modification to the CCEC Conditions to incorporate the changes requested by the FWC.

On November 8, 2011, all parties to the certification proceeding were provided notice by electronic mail (received receipt requested) of the Department's intent to modify the Conditions for RBEC, along with a draft copy of the proposed order modifying the Conditions. On November 23, 2011, notice of the Department's intent to modify RBEC's Conditions was also published in the Florida Administrative Weekly (FAW).

Pursuant to Section 403.516, Florida Statutes ("F.S."), and Rule 62-17.211, Florida Administrative Code ("F.A.C."), all parties to the certification proceeding have **45 days** from the issuance of notice by mail to such party's last address of record in which to file a written objection to the modification. Pursuant Section 403.516, F.S., and Rule 62-17.211, Florida Administrative Code (F.A.C.), any person who is not already a party to the certification proceeding and whose substantial interests will be affected by the requested modification has **30 days** from the date of publication of the public notice in the FAW to object in writing. Failure to act within the 30 day time frame constitutes a waiver of the right to become a party. The

Department will issue an order modifying the Conditions for this facility if no written objections are received by the Department.

These timeframes have expired and no objections to the modification have been received by the Department. Therefore, the Conditions of Certification for the RBEC are hereby modified as follows:

Section B. Specific Conditions

I. through III. No Change

IV. FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION

A. West Indian Manatee

1. – 2. NO CHANGE

3. Biological Monitoring

a. – b. NO CHANGE

c. The manatee observer will be required to conduct a ~~daily~~ visual assessment of the condition and general distribution of manatees using the interim warm-water refuge during the winter months. Visual assessments will be done once per week from November 15 through November 30 and daily from December 1 through March 31 ~~(November 15 through March 31)~~ during the interim period. The visual assessments shall be conducted for a sufficient length of time to assess most of the manatees present at the plant and accessible to the observer on that day. If an approved observer is not available, licensee shall notify FWC as soon as possible, but no later than 48 hours, to coordinate actions necessary to resume the observation program.

No further changes.

A complete set of the Conditions of Certification (including attachments) can be viewed and downloaded from the following website:

http://www.dep.state.fl.us/siting/files/certification/pa09_54_2011_B.pdf

Copies of the Conditions of Certification and/or attachments may also be obtained by contacting the Siting Coordination Office, Department of Environmental Protection, 3900 Commonwealth Blvd., MS 48, Tallahassee, Florida 32399-3000, (850) 245-2002.

Any party to this Order has a right to seek judicial review of it pursuant to Section 120.68, F.S., by filing a Notice of Appeal, pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the Department of Environmental Protection in the Office of General Counsel, 3900 Commonwealth Boulevard, MS 35, Tallahassee, Florida 32399-3000, and by filing a copy of the Notice of Appeal, accompanied by the applicable filing fees, with the appropriate District Court of Appeal. The Notice of Appeal must be filed within thirty days from the date this Order is filed with the Clerk of the Department of Environmental Protection.

Executed in Tallahassee, Florida.

Sincerely,



Cindy Mulkey
Administrator
Siting Coordination Office

FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to §120.52
Florida Statutes, with the designated
Department Clerk, receipt of which is
hereby acknowledged.

 12-28-11
Clerk Date

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