

STATE OF FLORIDA
SITING BOARD

IN RE: TAMPA ELECTRIC COMPANY
WILLOW OAK- WHEELER-DAVIS
TRANSMISSION LINE SITING
APPLICATION NO. TA07-15

OGC CASE NO. 07-1858
DOAH CASE NO. 07-4745TL

FILED

2008 AUG 12 A 11:31

DIVISION OF
ADMINISTRATIVE
HEARINGS

FINAL ORDER APPROVING CERTIFICATION OF TRANSMISSION LINE

On May 13, 2008, an Administrative Law Judge ("ALJ") with the Division of Administrative Hearings ("DOAH") submitted his Recommended Order in this certification proceeding. The Recommended Order indicates that copies were served to counsel for Tampa Electric Company ("TECO") and the Department of Environmental Protection ("DEP" or "Department"). The Recommended Order also reflects service to counsel for other designated state, regional and local agencies, as well as Susan Watson, representing the Intervenors pro se. A copy of the Recommended Order is attached hereto as Exhibit A. The matter is now before the Governor and Cabinet, sitting as the Siting Board, for final action under the Transmission Line Siting Act ("TLSA") codified in Sections 403.52 through 403.5365, Florida Statutes.

BACKGROUND

TECO proposes to construct a new 230 kV overhead electrical transmission line and related facilities. The transmission line will connect the planned Willow Oak substation located west of Mulberry in Polk County to the planned Davis substation located in Temple Terrace in Hillsborough County. There will be an intermediate connection to the existing Wheeler substation located in Valrico, Hillsborough County ("the Project"). The transmission line will span approximately thirty miles, within which

TECO will acquire property interests to construct the line along a narrow right-of-way ("ROW"). Much of proposed corridor is collocated beside existing roads and utility facilities, minimizing the need for clearing. The corridor will also run through undeveloped, disturbed land as well as forested lands and wetlands. While its course does pass two bald eagle nests, TECO has expanded the corridor width in those areas to provide maximum flexibility to avoid disturbance during construction, and the overall environmental impact of the Project will be minimal. As an additional safeguard, the Conditions of Certification require extensive surveys and plans for wildlife protection.

The Project will not produce any significant growth in the area, but instead responds to the need, as confirmed by the Public Service Commission ("PSC"), to serve an increasing load and customer base, the need for additional transmission reinforcement for the existing networks, and the need to provide an additional electrical feed via a separate ROW path, thereby reducing the impact of a loss of existing transmission facilities on a common ROW. On June 21, 2007, the PSC issued its final order affirmatively determining the need for the Project as proposed by TECO. The PSC noted that the additional transmission capacity will be needed by 2012 and found that the plan took into account the need for electrical system reliability and integrity and the need to provide abundant, low cost electrical energy to assure the economic well-being of the citizens of the State. The PSC also found that the planned Willow Oak substation and the planned Davis substation constitute the appropriate starting and ending points for the proposed transmission line.

DOAH PROCEEDINGS

On October 12, 2007, TECO filed its Application for Corridor Certification with the DEP and on October 15, 2007, DEP filed a Request for Assignment of ALJ with DOAH. By Notice of Hearing dated October 26, 2007, a certification hearing was scheduled on March 4-7 and 10-14, 2008, in Brandon, Florida.

The TSLA established TECO and the Department as parties to the proceeding, and the following became parties upon their timely filing of a notice of intent to be a party: Florida Department of Transportation, Department of Community Affairs, Southwest Florida Water Management District, and Hillsborough County. On February 21, 2008, the City of Temple Terrace was accepted as a party without objection after the deadline for filing the notice of intent. On February 25, 2008, Tom and Susan Watson, who own property in Dover, Florida, immediately adjacent to the proposed corridor, filed their Petition to Intervene. Although they filed their petition after the deadline established in the prehearing schedule for becoming a party, TECO did not object based upon an agreement to conditions relating to the presentation of witnesses by the Watsons. Intervention was authorized by Order dated February 26, 2008.

On February 4, 2008, the Department issued its Transmission Line Site Certification Staff Analysis Report, incorporating the reports of the various reviewing agencies and proposing a compiled set of Conditions of Certification. During the certification hearing, a revised and updated version of the proposed Conditions of Certification was admitted into the record as Department Exhibit 4.

The certification hearing was held on March 4 and 5, 2008, in Brandon, Florida. All notices required by law were timely published in accordance with Section 403.527,

Florida Statutes, and TECO additionally disseminated information through advertisements, open houses, mass mailings, surveys and meetings with regulatory agencies and local elected officials.

At the certification hearing, TECO and the Department presented expert testimony and numerous exhibits in support of site certification. The Intervenor offered the testimony of two witnesses and a medical doctor and two exhibits were received in evidence. A public hearing was also held at 7:00 p.m. on March 5, 2008, to grant members of the public an opportunity to present evidence and testimony. Thirty-five members of the public testified to their opposition to the Project, and eight public exhibits were received in evidence. The hearing transcript was filed on April 2, 2008, and the ALJ subsequently entered his Recommended Order on May 13, 2008.

RECOMMENDED ORDER

The ALJ concluded that TECO met its burden of proving that the transmission line and related facilities should be certified as proposed, subject to the Conditions of Certification set forth in Department Exhibit 4. The ALJ also concluded that the evidence at the hearing demonstrated compliance with the procedural requirements of the TLSA, including the notice requirements for the certification and public hearings. Specifically, he found that the transmission line in the corridor would ensure the electric power system reliability and integrity; that TECO demonstrated the need for the line by March 2012; that the Project would comply with the non-procedural requirements of all agencies; and that there are no inconsistencies between the proposed transmission line and the comprehensive plans adopted by local governments whose jurisdictions are crossed by the proposed line.

The ALJ further found that the location of the proposed corridor and the construction, operation, and maintenance of the transmission line in that corridor, provide a reasonable balance between the need for the transmission line and the impact of the transmission line upon the public and the environment. In support of that point, he noted that the collocation of the line next to existing linear facilities wherever feasible would cause minimal impacts on the public and the environment. Additionally, the extensive Conditions of Certification imposed by the DEP and other agencies, and the other practices TECO would utilize in clearing, construction and operation activities, would minimize the environmental and social impacts. With regard to alleged health risks posed by expected electric and magnetic field levels, the ALJ concluded that the ROW in reasonable proximity to the Intervenor's residence would pose no greater risk of exposure to electric and magnetic fields beyond that which is already occurring as a result of everyday living.

The ALJ ultimately recommended that the Siting Board enter a Final Order approving Tampa Electric Company's Willow Oak-Wheeler-Davis 230 kV Transmission Line Application for Certification subject to the Conditions of Certification set forth in Department Exhibit 4.

CONCLUSION

No Exceptions were filed in this proceeding challenging any of the ALJ's findings or conclusions in the Recommended Order. Further, the record in this proceeding is devoid of any objections by any governmental agencies to certification of the proposed corridor for the Willow Oak-Wheeler-Davis Transmission Line Project. No party filed any alternate corridors for consideration, and no additional conditions of certification

were proposed by any party at the certification hearing. Based on a review of the record and the governing law, the Siting Board concludes that TECO's Project complies with the certification requirements of the TLSA and that certification of the Project fully balances the need for the transmission line as a means of providing abundant low-cost electrical energy and the impact upon the public and the environment resulting from the location of the transmission line corridor and the maintenance of the transmission lines.

It is therefore ORDERED that:

A. The Recommended Order (Exhibit A) is adopted in its entirety and incorporated by reference herein.

B. Certification of the location, construction, and operation of the Willow Oak-Wheeler-Davis Transmission Line Project as described in TECO's certification application and by the evidence presented at the certification hearing is APPROVED, subject to the Conditions of Certification contained in Department Exhibit 4 and incorporated by reference herein.

C. Authority to assure and enforce compliance by TECO and its agents with all of the Conditions of Certification imposed by this Final Order is hereby delegated to DEP.

Any party to this proceeding has the right to seek judicial review of this final order pursuant to Section 120.68, Florida Statutes, by the filing of a Notice of Appeal pursuant to rules 9.110 and 9.190, 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 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.

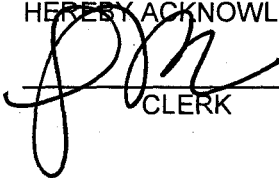
DONE AND ORDERED this 1ST day of AUGUST, 2008, in Tallahassee, Florida, pursuant to a vote of the Governor and Cabinet, sitting as the Siting Board, at a duly noticed and constituted Cabinet meeting held on July 29, 2008.

THE GOVERNOR AND CABINET
SITTING AS THE SITING BOARD



THE HONORABLE CHARLIE CRIST
GOVERNOR

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



CLERK

8/7/08
DATE

CERTIFICATE OF SERVICE

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

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this 7th day of AUGUST, 2008.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



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