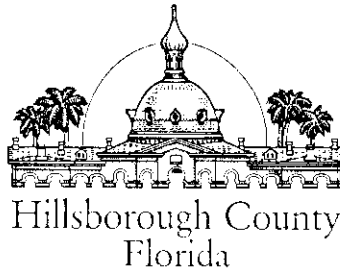


Office of the County Attorney

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September 17, 2008

VIA E-MAIL

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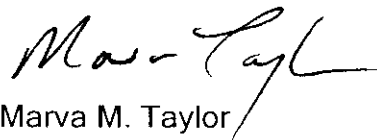
Re: Final Agency Report on the Polk-Hillsborough-Pinellas
Transmission Line
Progress Energy Florida - Levy Nuclear Project
Site Certification Application No. PA08-51
DOAH Case No. 08-2727; DEP Case No. 08-1621

Dear Mrs. Seiler:

In accordance to Section 403.526(2)(d), Florida Statute, enclosed is the Final Agency Report for Hillsborough County (the "County") on Progress Energy Florida's existing Polk-Hillsborough-Pinellas 115 kV transmission line that traverses the County.

Should you have any questions or need further clarification, please call me at (813) 272-5670.

Sincerely,



Marva M. Taylor
Senior Assistant County Attorney

MMT/eh

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HILLSBOROUGH COUNTY FINAL AGENCY REPORT

Hillsborough County (the "County") hereby recommends the approval of the proposed transmission line corridor for Progress Energy Florida, Inc.'s ("Progress Energy") Polk-Hillsborough-Pinellas transmission line as well as its subsequent construction subject to the conditions set forth in this Final Agency Report being addressed and/or met.

I. THE COUNTY'S LARGE FACILITIES ORDINANCE

1. Construction of transmission poles that exceed seventy-five (75) feet in height when installed or poles that are greater than twenty-four (24) inches in diameter are subject to the provisions of the County's Large Facilities Ordinance; therefore, since Progress Energy's transmission poles are expected to range between 80 feet to 145 feet in height and 6 feet to 9 feet in diameter, Progress Energy will be required to adhere to the substantive provisions of said ordinance. *See Ordinance 3 – 29*
2. In order to keep the residents of the County informed of the status of the transmission line project within the County and to address the concerns of the various citizens, groups, and organizations affected by the construction of the transmission line, Progress Energy has agreed to work with the County and conduct regular public meetings during the design and construction phases of the project. *See Ordinance 3 – 29.*

II. PLANNING AND GROWTH MANAGEMENT DEPARTMENT

1. Natural Resources
 - a. In the event that additional property is acquired for the transmission line by Progress Energy, the County will need a determination of the existence, type, and extent of any upland significant wildlife through a formal delineation approved by the Natural Resources Unit of the County's Planning & Growth Management Department. If significant wildlife habitat exists in the newly acquired property, Progress Energy shall minimize the adverse impacts and preserve such significant wildlife habitat to prevent fragmentation of a wildlife corridor as determined by the County. *See County's Land Development Code.*
 - b. The County's concern that suitable habitat to potentially support populations of listed plant and animal species in the preferred corridor is maintained has been addressed by Progress Energy who is willing to agree to a condition of certification that a survey for

significant wildlife habitat within the right-of-way be conducted prior to construction with the survey results provided to the County as a post-certification submittal as authorized by Section 403.5113(2) F.S. and Rule 62-17.191, F.A.C.

- c. During the construction of the new Polk-Hillsborough-Pinellas transmission line, impacts to gopher tortoises should be avoided when practicable. Progress Energy has agreed that if an impact to the burrow of a gopher tortoise cannot be avoided, Progress Energy will relocate the gopher tortoise in accordance with the Florida Fish and Wildlife Conservation Commission's (FWCC) guidelines in place at the time of post-certification submittal of the gopher tortoise information as authorized by Section 403.5113(2) F.S. and Rule 62.17.191, F.A. C. Progress Energy has agreed that as a condition of certification, gopher tortoise survey results and any mitigation required by FWCC will be provided to the County as a post-certification submittal as authorized by Section 403.5113(2), F.S. and Rule 62-17.191, F.A.C.
- d. Active bald eagle nests (HIL-028) indicated on PHP Regional Screening Figure 9-A8.3-2 must be graphically depicted with required buffer zone on any preliminary site plans submitted during the development review process. Progress Energy shall protect the required buffer zone by locating and re-designing proposed improvements to ensure no adverse impact to the active nests. Construction phases consisting of right-of-way clearing, access road construction, line construction, active restoration or any other related activities are required to comply with the National Bald Eagle Management Guidelines (2007).
- e. Should additional property be required for the transmission line, Progress Energy must comply with the requirements of the County Tree Protection Regulations in Section 4.01 of the County's Land Development Code.
- f. One of the emphasis of the County's Land Development Code is to preserve Grand Oaks; therefore, every effort must be made to design proposed improvements around them. If Progress Energy acquires additional property for the transmission line within the County, Progress Energy shall comply with the County's Land Development Code in the preservation of any Grand Oaks located on said property. Failure to demonstrate the preservation of a Grand Oak(s) shall require replacement as specified in Section 4.01.06.A.7 of the Land Development Code.

- g. Progress Energy shall ensure that any newly-disturbed areas in the selected corridor for the transmission line shall be re-vegetated in accordance with the applicable provisions of the County's Land Development Code; therefore, Progress Energy shall submit its right-of-way specific vegetation management plan to the County, if applicable. *See Land Development Code, Hillsborough County Natural resources Regulations Part 4.00.00 et. seq.*

2. Transportation

- a. During the construction of the proposed transmission line, all construction truck traffic going to the construction site is required to adhere to the County's Truck Route Plan. A truck may leave a designated truck route and drive on a County road that is restricted to truck traffic, only if the truck can reach its destination without crossing another truck route. Truck routes can be found on the Truck Route Plan Map and in County Resolution R05-022. Copies of both documents are available on the 20th floor of the County Center at 601 East Kennedy Blvd., Tampa, FL 33601.
- b. The County requests that truck drivers transporting equipment and materials for the new transmission line be respectful of residential neighborhoods and surrounding land uses when traveling to and from the construction site. Construction vehicles must adhere to weight requirements provided in the applicable County ordinance.

3. Community Planning

- a. The County raised concerns about historic resources located within or adjacent to the transmission line corridor; however, Progress Energy agreed that, as a condition of certification, during post-certification, it would coordinate with the County's Historic Resources Review Board to determine the level of coordination required to satisfy Section 03.03.00 of the County's Land Development Code and to minimize any potential effects that the final route may have on these historic resources.
- b. Progress Energy is also willing to agree to a condition of certification requiring the performance of an archaeological survey prior to the construction of the transmission line to avoid any historic resources found to the extent practicable, and if avoidance is not practicable, to mitigate impacts through salvage operations or other methods acceptable to the State of Florida Division of Historical Resources and the County, as appropriate. The results

of the survey and any mitigation plan will be submitted as a post-certification submittal as authorized by Section 403.5113(2), F.S. and Rule 62.17.191, F.A.C. so that agencies with regulatory jurisdiction can monitor for compliance.

4. Neighborhoods

- a. Knights Griffin Road, US Highway 301, Morris Bridge Road, Livingston Avenue, Hanna Road, County Road 685, Gunn Highway, and Race Track Road are designated Rural Scenic Roadways. If additional right-of-way is acquired by Progress Energy, the siting and construction of the proposed transmission line in such additional right-of-way must comply with the Land Development Code, Section 6.06.03.I Scenic Roadways as follows:

“Rural Scenic Roadways. In rural areas, in the AM, A, AR, AE and RES-1 Comprehensive Land Use Plan classifications, there shall be a 30-foot scenic easement provided, which shall be left in a natural state, unless actively used for agricultural purposes. Land in agricultural use may continue in agricultural use.”
- b. The County wants to ensure that the transmission line is compatible with adjacent uses through the use of, but not limited to, screening and buffering along the ground plane, and consistent transmission structure design limited to monopoles except where safety considerations require the erection of other transmission structures. Progress Energy has agreed to work with the communities in the County to consider techniques that can be used to maximize compatibility with adjacent uses, including both existing and planned development, such as screening and buffering. *See County's Land Development Code.*
- c. The County wants to make sure that Progress Energy reduces the negative effects of external impacts resulting from transmission line related factors including, but not limited to, traffic and noise. Progress Energy is willing to comply with all applicable non-procedural conditions of the County's Utility Accommodation Guide and Rights-of-Way Use Procedures Manual related to maintenance of traffic during construction. Progress Energy has also agreed that noise from daytime use of construction equipment will comply with the County's noise restrictions.

- d. The compatibility of any new buildings, accessory structures, and appurtenances with the neighborhoods shall be achieved through controlled access, building orientation, building mass, scale, and height, as well as site planning techniques including screening and buffering. The County's Land Development Code provides that all newly-developed and redeveloped above-ground utility appurtenances visible from the public right-of-way, including, but not limited to, pedestals, utility meters, transformers, back-flow prevention devices shall be screened. Materials and earth tone colors for screening shall be compatible with the natural setting and surrounding structures. Chain link fencing alone shall not be considered to be a screening mechanism. *Section 6.06.06.C.10, Land Development Code.*
- e. Progress Energy shall continue to work with the County's Office of Neighborhood Relations and the Citizen Action Center to coordinate citizen information, updated homeowner associations' and civic groups' contact information and shall notify all local organizations of the proposed transmission line siting project as well as provide them periodic updates on the development process.
- f. Progress Energy shall work with the Planning and Growth Management Department to identify the possible collocation of trails and other compatible opportunities within the transmission line right-of-way.

III. PUBLIC WORKS DEPARTMENT

- 1. Progress Energy shall contact the County departments responsible for managing the design and construction of capital improvement programs, infrastructure projects, and resurfacing programs in order to coordinate permit application issues and the design and construction of the transmission power lines. At a minimum, the following departments, division, sections, and agencies should be contacted: the Water Resource Services Departments, Public Works Department - Engineering Division, Public Works - Transportation Maintenance Division, Right-of-Way Management Office, Design Engineering Services, Projects Management, Stormwater Management Section, Traffic Division, Parks and Recreation Department, Real Estate Department, Planning and Growth Management Department, and any other departments that are involved in the planning, design, and construction of infrastructure projects.
- 2. Progress Energy shall coordinate and resolve any and all known and potential conflicts with the above-mentioned agencies, departments, divisions, sections, not only with the existing infrastructure and utilities,

but also with all of the proposed and future utilities and infrastructure work, capital improvement programs, etc, in order to avoid existing and future conflicts. Progress Energy has agreed that as a condition of certification that, during the design of the transmission line, it will consult with the County and will make best efforts to minimize conflicts with the County's existing infrastructure and utilities, proposed and future utilities and infrastructure work, capital improvement projects, etc., to the extent practicable and in compliance with the National Electric Safety Code and other regulatory requirements.

3. Progress Energy shall contact the Greater Tampa Utilities Group (GTUG) as well as individual private and public utilities located within the County's right-of-way and coordinate the subject permit application issues as well as the design and construction of the proposed transmission lines with such entities. Progress Energy shall provide the County's Right-of-Way Management office with dates of attendance to the GTUG meetings and coordination efforts with GTUG.
4. Upon the determination of the final route for the transmission line, Progress Energy shall contact Sunshine One Call and obtain a listing (design and construction tickets) of all of the existing underground utilities within the route. Progress Energy shall provide the County with a copy of the utility companies with facilities located within the County's right-of-way along the transmission route. Progress Energy must also follow safe digging practices and comply with the Underground Facility Damage Prevention and Safety Act, Chapter 556, Florida Statutes.
5. During post-certification, Progress Energy shall submit to the County the names of the public roadways that it plans to use for the transportation of the transmission poles, the type of carriers and wheel pressures that will be utilized, and the times of day for the transport of said transmission poles. Progress Energy will be subject to safety and permitting requirements of Chapter 316, Florida Statutes.
6. Progress Energy is willing to agree to a condition of certification that, after certification of the corridor and prior to the commencement of construction, if any construction will be within fifteen (15) feet of the edge of the pavement or if other construction activities require temporary lane closures, Progress Energy shall contact the County's Right-of-Way Management office to coordinate the work, and, if applicable, Progress Energy shall obtain a Temporary Traffic Control Permit (TTC) whenever Progress Energy plans to impede traffic in any manner whatsoever. Progress Energy may also need to submit a signed, sealed, site-specific Maintenance of Traffic (MOT) plan to the County for review and approval. Additionally, Progress Energy shall provide the County with a MOT plan for the construction of entrances and exits. This process shall

also apply to all lane or road closure requests from Progress Energy. Notwithstanding the foregoing, Progress Energy shall refrain from closing any lanes or roads in the traffic patterns of schools (while in session), hospitals, emergency facilities, and fire stations.

7. Progress Energy's design and construction plans shall be certified by Professional Engineers registered in the State of Florida for all applicable disciplines required for this project, including, but not limited to, civil, structural, mechanical, and soil. This requirement is inapplicable to Progress Energy's full-time employees who are exempt under Section 471.003(2)(d), Florida Statute (2007).
8. The County needs Progress Energy to minimize the impacts of the transmission line on intersection improvements by locating all proposed transmission line poles outside the ultimate configuration for all current and potential future signalized intersection. Progress Energy is willing to agree to a condition of certification requiring that the transmission line poles be located longitudinally along the right-of-way outside of the ultimate configuration for all currently designed and acquired future traffic infrastructure projects to the extent practicable.

IV. RIGHT-OF-WAY MANAGEMENT

1. Progress Energy shall utilize and adhere to all non-procedural provisions of the County's Utility Accommodation Guide and Rights-of-Way Use Procedure Manuals, including, but not limited to, all County design and construction standards, protection of existing traffic controls, overhead and underground power line installations procedures, permanent restorations for areas beyond the edge of the pavement, and permanent pavement restorations.
2. In the event of any clearing in newly-acquired County rights-of-way, Progress Energy will be required to comply with the substantive provisions of the County's Tree Protection Regulations in Section 4.01.06 of the County's Land Development Code.
3. Any drainage onto County's right-of-way and roads will be subject to the applicable provisions of the County's Land Development Code.
4. The proposed transmission line must comply with Chapter 62.814, Florida Administrative Code. Progress Energy must ensure that the right-of-way for the transmission line is of sufficient width to protect adjacent development from potentially harmful electromagnetic fields generated by the transmission line. *See Section 403.523(10), F.S. (2007), Chapter 62-814, Florida Administrative Code.*

5. Progress Energy shall only use herbicides which have been registered by the U.S. Environmental Protection Agency and which have the approval of the State of Florida in the County's right-of-way. Herbicides shall be selectively applied to targeted vegetation in accordance with the rates and concentrations on the label directions by a licensed applicator meeting all federal, state, and local regulations. Broadcast application of herbicide shall not be used in the County's rights-of-way unless the effects on non-targeted vegetation are minimized. *See Sections 487.031, and 487.041, F.S. (2007).*
6. Prior to finalization of the route for the proposed transmission line during the post-certification period, Progress Energy shall provide the County's Right-of-Way Management office with four (4) reproductions of the most recent blue line drawings showing plan and profile views of the proposed transmission line, all existing utilities, and all existing and proposed County capital improvement projects.

V. REAL ESTATE

In the event that the completion of the corridor for the Polk-Hillsborough-Pinellas transmission line requires that Progress Energy acquire County property and/or property rights not located within County right-of-way, Progress Energy shall comply with Chapters 361, 73 and 74, Florida Statutes, to exercise the power of eminent domain for a public purpose if necessary. Further, Progress Energy shall fully compensate the County for any property and/or property rights taken as required by law.

VI. WATER RESOURCES SERVICES

The County understands that Progress Energy's preferred route is intended to utilize the existing corridor for the most part; however there may be instances where Progress Energy needs to acquire additional property. Once the corridor's boundaries are determined with respect to specific roads and easements, the County reserves the right to review this corridor to ensure that there are no issues such as corrosion of existing (ion) water transmission lines caused by electrical currents from the transmission lines.

VIII. MISCELLANEOUS

Progress Energy shall provide the County with a post-certification submittal final design plan showing:

- a. Progress Energy-owned rights-of-way, existing transmission and distribution easements and road rights-of-way and the location of any facilities on these existing rights-of-way, whether transmission structures, above-ground facilities, underground utilities, sewers, water mains, storm drains, or telephone lines.
- b. Construction time-tables, phasing, and construction traffic to be generated by the transmission line construction.
- c. All flood zone and floodway delineations along the route of the transmission line and, where applicable and practicable, the flood plain management plan.
- d. The location of any proposed school or park sites within one-quarter mile of the transmission line location.
- e. Location of fire hydrants and exterior fire suppression systems supplied by potable and non-potable water sources.
- f. Location, size, and type of all proposed stormwater management facilities.