

**STATE OF FLORIDA
DEPARTMENT
OF
ENVIRONMENTAL PROTECTION**



Conditions of Certification

Progress Energy Florida, Inc.
Tampa Electric Company

Lake Agnes-Gifford 230-kV Transmission Line

TA 07-14A

Modified XX/XX/XX

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ATTACHMENTS

Attachment A	Certified Corridor
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SECTION A: GENERAL CONDITIONS

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I. SCOPE **Replaces Condition I. Certification Control**

A. Pursuant to the Transmission Line Siting Act (TLSA), Sections 403.520-5365, F.S., this certification is issued to Progress Energy Florida (PEF) and Tampa Electric Company (TECO) as owners/operators and Licensees (Licensees) of the Lake Agnes-Gifford Transmission Line. Subject to the requirements contained in these Conditions of Certification (Conditions), Licensees will construct and operate a 27.5 mile 230-kilovolt (kV) transmission line. This transmission line will be located in Polk, Osceola, and Orange Counties, Florida from TECO's existing Lake Agnes substation to PEF's existing Gifford Substation.

B. The Certified Facilities include the following corridor segments shown in Attachment A – (note: substations are not part of the certification);

1. a single circuit 230kV transmission line extending from TECO's existing Lake Agnes Substation in Polk County to the approximate area of the I-4/ SR429 intersection; and
2. a single circuit 230kV transmission line extending from the approximate area of the I-4/SR429 intersection to PEF's existing Gifford Substation in Orange County.

C. These Conditions of Certification, unless specifically amended or modified, are binding upon Licensees and shall apply to the construction, operation and maintenance of the certified facility. If a conflict should occur between the design criteria of this project and the Conditions of Certification, the Conditions shall prevail unless amended or modified. In any conflict between any of these Conditions of Certification, the more specific condition governs.

D. Within 180 days after acquisition of property interests in the entire length of the line as defined by 403.522(10), F.S., and Condition — Process for Review of ROW Location, the Licensees shall provide to the Department in .pdf format and at a scale of at least 1":400' a survey map signed by a professional land surveyor or acceptable equivalent documentation such as an official legal description, delineating the boundaries of the Certified Transmission Line right-of-way (ROW); and an aerial photograph of the specific ROW. The survey map and aerial photographs shall be known as the Delineations of the Certified Transmission Line ROW and to be attached as Attachment B.

E. If construction on, or condemnation or acquisition of the ROW for the transmission line is not commenced within 5 years after the date of certification or such later date as may be authorized by the board, the certification of the ROW for which construction on, or condemnation or acquisition of has not commenced shall become void pursuant to 403.531(1), F.S.

Section 403.531, F.S.

II. DEPARTMENT RULES **Replaces Condition II. Applicable Rules**

The construction, operation and maintenance of the Certified Facility shall be in accordance with all applicable non-procedural provisions of F.S. and Florida Administrative Code (F.A.C.), including, but not limited to, the applicable non-procedural portions of the following regulations, except to the extent a variance, exception, exemption or other relief is

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granted in the final order of certification or in a subsequent modification to the Conditions, under any federal permit or as otherwise provided under Chapter 403:

Florida Administrative Codes:

- 62-4 (Permits)
- 62-17 (Electrical Power Plant and Transmission Line Siting)
- 62-150 (Hazardous Substance Release Notification)
- 62-160 (Quality Assurance)
- 62-256 (Open Burning)
- 62-301 (Surface Waters of the State)
- 62-302 (Surface Water Quality Standards)
- 62-312 (Dredge and Fill Activities)
- 62-330 (Environmental Resource Permitting)
- 62-340 (Delineation of the Landward Extent of Wetlands and Surface Waters)
- 62-341 (Noticed General Environmental Resource Permits)
- 62-343 (Environmental Resource Permit Procedures)
- 62-345 (Uniform Mitigation Assessment Method)
- 62-621 (Generic Permits)
- 62-650 (Water Quality Based Effluent Limitations)
- 62-710 (Used Oil Management)
- 62-730 (Hazardous Waste)
- 62-780 (Contaminated Site Clean-Up Criteria)
- 62-814 (Electric and Magnetic Fields)

Section 403.531, F.S.

III. DEFINITIONS **Replaces Condition III. Definitions**

Unless otherwise indicated herein, the meaning of terms used herein shall be governed by the definitions contained in Chapters 373 and 403, Florida Statutes, and any regulation adopted pursuant thereto. In the event of any dispute over the meaning of a term used in these conditions which is not defined in such statutes or regulations, such dispute shall be resolved by reference to the most relevant definitions contained in any other state or federal statute or regulation or, in the alternative by the use of the commonly accepted meaning as determined by the Department. In addition, the following shall apply:

A. “Application” shall mean the joint Application for Corridor Certification for the Lake Agnes-Gifford transmission line by the Progress Energy Florida and Tampa Electric Company. The Application may be referred to throughout this document as ‘SCA’ or ‘Site Certification Application’.

B. “Complete” shall mean the post-certification filing provides the data required by the relevant Condition of Certification.

C. “DEO” shall mean the Florida Department of Economic Opportunity.

D. “DEP” or “Department” shall mean the Florida Department of Environmental Protection.

E. “DHR” shall mean the Florida Department of State, Division of Historical Resources.

F. “DOT” shall mean the Florida Department of Transportation.

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G. "Emergency conditions" shall mean urgent circumstances involving potential adverse consequences to human life or property as a result of weather conditions or other calamity, and necessitating new or replacement transmission line components or access facilities.

H. "Facility" or "Project" shall mean the Lake Agnes-Gifford 230-kV electrical "transmission line" as defined in Section 403.522(21), F.S.

I. "Feasible" or "practicable" shall mean reasonably achievable considering a balance of land use impacts, environmental impacts, engineering constraints, and costs.

J. "FWC" shall mean the Florida Fish and Wildlife Conservation Commission.

K. "Licensee" shall mean PEF/TECO, which has obtained a certification order for the subject electrical transmission line.

L. "Listed species" shall mean the species listed in Table 2.3-2 or Table 2.3-3 of the Application as endangered, threatened or species of special concern by FWC, the Florida Department of Agriculture and Consumer Services, or the U.S. Fish and Wildlife Service.

M. "PEF" shall mean Progress Energy Florida, one of the two Applicants/Licensees.

N. "Post-certification submittal" shall mean a submittal made by PEF and/or TECO pursuant to a Condition of Certification.

O. "ROW" shall mean the transmission line right-of-way to be selected by Licensee within the certified corridor in accordance with the Conditions of Certification.

P. "SWFWMD" shall mean the Southwest Florida Water Management District.

Q. "SFWMD" shall mean the South Florida Water Management District.

R. "Surface Water Management System" or "System" means a stormwater management system, dam, impoundment, reservoir, appurtenant work, or works, or any combination thereof. The terms "surface water management system" or "system" include areas of dredging or filling, as those terms are defined in Sections 373.403(13) and (14), F.S.

S. "TECO" shall mean Tampa Electric Company, one of the two Applicants/Licensees.

T. "Transmission line" shall mean the Licensee Lake Agnes-Gifford 230-kV transmission line.

U. "Wetlands" shall mean those areas meeting the definition set forth in Section 373.019(25), F.S., as delineated pursuant to Chapter 62-340, F.A.C., and ratified by Section 373.4211, F.S.
Section 403.531, F.S.

IV. DEPARTMENT PERMITS UNDER FEDERAL PROGRAMS **New**

This certification is not a waiver of any other Department approval that may be required under federally delegated or approved programs. The provisions of the following federal permits shall be conditions of this certification to the extent the provisions of those permits apply to the Certified Facility(ies). The Licensee shall comply with the applicable provisions and limitations set forth in the permits listed below, and as those provisions may be modified, amended, or renewed in the future by the Department. The Department may consider a violation of any of these permits as a violation of this license.

1. NPDES Generic Permit for Stormwater Discharge from Large and Small Construction Activities (CGP) Any storm water discharges associated with construction activities on the Site shall be in accordance with all applicable provisions of Chapter 62-621, F.A.C. Prior to commencing construction activities on the site that:

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- contribute to stormwater discharges to surface waters of the State or into a municipal separate storm sewer system (MS4); and
- disturb one or more acres of land (less than one acre if the activity is part of a larger common plan of development);

a Generic Permit for Stormwater Discharge from Large and Small Construction Activities (CGP) must be obtained as applicable.

2. NPDES Generic Permits for Discharge of Produced Ground Water from any Non-Contaminated Site Activity and from Petroleum Contaminated Sites.

Prior to discharge of produced ground water from any non-contaminated site activity which discharges by a point source to surface waters of the State, as defined in Chapter 62-620, F.A.C., the Licensee must first obtain coverage under the Generic Permit for Discharge of Produced Ground Water From any Non-Contaminated Site Activity. Similarly, if the activity involves a point source discharge of ground water from a petroleum contaminated site, the Licensee must obtain coverage under the Generic Permit for discharge from petroleum contaminated sites. Before discharge of ground water can occur from such sites, analytical tests on samples of the proposed untreated discharge water shall be performed as required by Rule 62-621.300, F.A.C., to determine if the activity can be covered by either permit.

If the activity cannot be covered by either generic permit, the Licensee shall apply for an individual wastewater permit at least ninety (90) days prior to the date discharge to surface waters of the State is expected. No discharge to surface water is permissible without an effective permit.

[Section 403.0885, F.S.; Rule 62-621.300, F.A.C.]

V. DESIGN AND PERFORMANCE CRITERIA **Replaces Condition IV. Design and Performance Criteria**

Certification, including these Conditions of Certification, is predicated upon preliminary design ranges and performance criteria. Final engineering design will be within the range described in the Application and explained at the certification hearing. Conformance to those criteria, unless specifically modified in accordance with Section 403.5315, Florida Statutes, and Rule 62-17.680, F.A.C., is binding upon the Licensees in the design, construction, operation and maintenance of the certified transmission line. In any instance where a conflict occurs between the Application's design criteria and the Conditions of Certification, the Conditions shall prevail.

Section 403.531, F.S.

VI. NOTIFICATION **New**

A. If, for any reason, the Licensee does not comply with or will be unable to comply with any condition or limitation specified in this license, the Licensee shall immediately provide the appropriate DEP District and/or Branch Office with the following information:

1. A description of and cause of noncompliance; and
2. The period of noncompliance, including dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance. The Licensee shall be

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responsible for any and all damages which may result and may be subject to enforcement action by the Department for penalties or for revocation of this certification.

All notifications which are made in writing shall additionally be immediately provided to the Siting Coordination Office (SCO) via email to SCO@dep.state.fl.us.

[subsection 62-4.160(8), F.A.C.]

B. The Licensee shall promptly notify the SCO in writing of any previously submitted information concerning the Certified Facility that is later discovered to be inaccurate.

[subsection 62-4.160(15), F.A.C.]

C. Within 60 days after certification of a linear facility the Licensee shall file a notice of the certified corridor with the Department and the clerk of the circuit court for each county through which the corridor will pass.

The notice shall consist of maps or aerial photographs in the scale of 1:24,000 which clearly show the location of the certified corridor and shall state that the certification of the corridor will result in the acquisition of rights-of-way within the corridor. Once all lands necessary for the transmission line rights-of-way have been acquired, the Licensee shall certify to the Department and clerk that all lands required for the transmission line rights-of-way within the corridor have been acquired within such county.

[Section 403.5312, F.S.]

VII. REPLACEMENT FOR RESTORATION OF SYSTEM INTEGRITY AND EMERGENCY CONDITIONS **Replaces Condition VI. Emergency Reporting**

A. Replacement of all or a portion of a transmission line(s) certified under the TLSA that is necessary to restore system integrity following an emergency as defined by Sections 252.34(6), (7) or (9), F.S., and requiring deviation from any condition of certification shall not be considered a modification pursuant to Section 403.5315, F.S. A verbal report of the emergency replacement for restoration of system integrity shall be made to the Department as soon as possible. Within 30 days after correction of the emergency condition requiring a replacement for system integrity, a report to the Department shall be made outlining the details of the emergency condition requiring the replacement and the steps taken for its relief. The report shall be a written description of the work performed and shall set forth any pollution control measures or mitigative measures which were utilized or are being utilized to prevent pollution of waters, harm to sensitive areas or alteration of archaeological or historical resources.

B. The Department will use its enforcement discretion when evaluating violations that result from operating the Certified Facility under emergency conditions. During and after the emergency conditions, the Licensee must use due diligence to bring the facility back into compliance as soon as possible. In addition, the Licensee must use its best efforts and best management practices to minimize adverse environmental impacts. The Licensee shall notify the SCO and the appropriate DEP District Office when the emergency condition has ended. Furthermore, the Licensee must include all monitoring data, which would otherwise be required under normal operating circumstances, recorded during emergency conditions when submitting reports as required by these conditions. Any exceedances and/or violations recorded during emergency conditions shall be reported as such, but the Department acknowledges that it intends to use its enforcement discretion during this timeframe. This acknowledgement by the

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Department does not constitute a waiver or variance from any requirements of any federal permit. Relief from any federal agency must be separately sought.

[Section 403.531, F.S.]

VIII. CONSTRUCTION PRACTICES

A. Open Burning *Replaces Condition XXIV Construction Practices, Paragraph A. Open Burning*

Prior to open burning in connection with land clearing, the Licensee shall seek authorization from the Florida Forest Service in accordance with the requirements of Chapters 62-256 and 51-2, F.A.C.

[Chapters 51-2 and 62-256, F.A.C.]

B. Vegetation *New*

For areas located in any Florida Department of Transportation (DOT) ROW, Chapter 7 of the Florida DOT *Utility Accommodation Manual* available on the DOT website (<http://www2.dot.state.fl.us/proceduraldocuments/procedures/bin/710020001/Chapter-7.pdf>) shall serve as guidelines for best management practices.

[Sections 403.531 and 373.414, F.S.; Chapters 40D-4 and 40E-4, F.A.C.]

C. Existing Underground Utilities *New*

The Licensee must follow all applicable portions of the Underground Facility Damage Prevention and Safety Act, Chapter 556, F.S. The Licensee shall provide the affected local government and the Siting Office with copies of valid tickets obtained from Sunshine State One Call of Florida upon request. Tickets shall be available for request until the underground work is completed for the affected area.

[Chapter 556, F.S.]

D. Electric and Magnetic Fields (EMF) *Replaces Condition XXV Electric and Magnetic Field Effects, Paragraph C. Electric and Magnetic Fields*

Any certified transmission lines shall comply with the applicable requirements of Chapter 62-814, F.A.C. The electric and magnetic fields associated with any configuration developed during the final design of this project that is not shown in the Application shall be provided to DEP on DEP Form 62-814.900.

[Chapter 62-814, F.A.C.]

E. Radio and Television Interference *Replaces Condition XXV Electric and Magnetic Field Effects,, Paragraph B. Radio and Television Interference*

The Licensee shall investigate all complaints and take appropriate corrective action for impacts to radio or television reception caused by the proposed transmission line.

[Section 403.531, F.S.]

F. Existing Wells *New*

Any existing wells to be impacted in the path of construction that will no longer be used shall be abandoned by a licensed well contractor. All abandoned wells shall be filled and sealed in accordance with subsection 62-532.500(5), F.A.C., or with the rules of the authorizing agency, or consistent with these Conditions.

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[subsections 62-532.400 and 62-532.500(5), F.A.C.]

I. Abandonment of Existing Septic Tanks *New*

Any existing septic tanks to be impacted by construction and that will no longer be used shall be abandoned in accordance with Rule 64E-6.011, F.A.C., unless these Conditions provide otherwise.

[Chapter 64E-6, F.A.C.]

IX. RIGHT OF ENTRY *Replaces Condition V. Right of Entry/Monitoring*

A. Upon presentation of credentials or other documents as may be required by law, Licensee shall allow authorized representatives of DEP or other agencies with jurisdiction over a portion of the ROW:

1. At reasonable times, to enter upon the ROW in order to monitor activities within their respective jurisdictions for purposes of assessing compliance with this certification; or

2. During business hours, to enter Licensee's premises in which records are required to be kept under this certification; and to have access to and copy any records required to be kept under this certification.

B. When requested by DEP, on its own behalf or on behalf of another agency with regulatory jurisdiction, Licensee shall within 10 working days or such longer period as may be mutually agreed upon by DEP and the Licensees furnish any information required by law, which is needed to determine compliance with the certification. If Licensee becomes aware that relevant facts were not submitted or were incorrect in the Application or in any report to DEP or other agencies, such facts or information shall be promptly corrected and submitted.

403.531, F.S

X. DISPUTE RESOLUTION *Replaces Condition IX. Dispute Resolution*

A. General

If a situation arises in which mutual agreement between either the Department and the Licensee, or the Department and an agency with substantive regulatory jurisdiction over a matter cannot be reached, the Department can act as a facilitator in an attempt to resolve the issue. If the dispute is not resolved in this initial informal meeting, Licensee may request a second informal meeting in which both Licensee and the agency with substantive regulatory jurisdiction over the matter at issue can participate in an attempt to resolve the issue. If, after such meetings, a mutual agreement cannot be reached between the parties, then the matter shall be referred to the Division of Administrative Hearings (DOAH) for disposition in accordance with the provisions of Chapter 120, F.S. The Licensee or the Department may request DOAH to establish an expedited schedule for the processing of such a dispute. Any filing with DOAH shall state with particularity the specific project and geographic location to which the dispute relates. Work unrelated to the specific project and in areas other than the location to which the dispute relates will not be affected by the dispute.

B. Modifications

If written objections are filed regarding a modification, and the objections address only a portion of a requested modification, then the department shall issue a Final Order approving the portion of the modification to which no objections were filed, unless that portion

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of the requested modification is substantially related to or necessary to implement the portion to which written objections are filed.

C. Post-Certification Submittals

If it is determined, after assessment of a post-certification submittal, that compliance with the conditions will not be achieved for a particular portion of a submittal, the Department may make a separate assessment of other portions of the submittal, unless those portions of the submittal are substantially related to or necessary to implement that portion for which it has been determined that compliance with the conditions will not be achieved.

[Sections 120.57, F.S. and Rule 62-17.211, F.A.C.]

XI. SEVERABILITY Moved from Condition X. Severability

The provisions of this certification are severable, and if any provision of this certification or the application of any provision of this certification to any circumstance is held invalid, the remainder of the certification or the application of such provision to other circumstances shall not be affected thereby.

XII. ENFORCEMENT Replaces Condition XI. Enforcement

A. The terms, conditions, requirements, limitations and restrictions set forth in these Conditions are binding and enforceable pursuant to Sections 403.141, 403.161, 403.533, , F.S., as applicable. Any noncompliance by the Licensee with these Conditions constitutes a violation of Chapter 403, F.S., and is grounds for enforcement action, license termination, license revocation, or license revision. The Licensee is placed on notice that the Department may review this certification periodically and may initiate enforcement action for any violation of these Conditions.

B. All records, notes, monitoring data and other information relating to the construction or operation of the Certified Facility which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the Certified Facility and arising under the Florida Statutes or Department rules, subject to the restrictions in Sections 403.111 and 403.73, F.S. During enforcement actions, the retention period for all records will be extended automatically unless otherwise stipulated by the Department. Such evidence shall only be used to the extent it is consistent with the Florida Rules of Civil Procedure and appropriate evidentiary rules.

[Sections 403.121, 403.131, 403.141, 403.151, 403.161, and 403.533, F.S.; subsections 62-4.160(1) and 62-4.160(9), F.A.C.]

XIII. REVOCATION OR SUSPENSION Replaces Condition XII Revocation or Suspension

The certification shall be final unless revised, revoked or suspended pursuant to law. This certification may be suspended or revoked pursuant to Section 403.532, F.S. This certification is valid only for the specific processes and operations identified in the SCA and approved in the final order of certification and indicated in the testimony and exhibits in support of certification. Any unauthorized deviation from the approved drawings, exhibits, specifications, or conditions of this approval may constitute grounds for revocation and enforcement action by the Department. Any enforcement action, including suspension and

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revocation, shall only affect the portion(s) of the Certified Facility that are the cause of such action, and other portions of the Certified Facility shall remain unaffected by such action.

[Section 403.532, F.S.; subsection 62-4.160(2), F.A.C.]

XIV. REGULATORY COMPLIANCE **New**

The issuance of this license does not authorize any injury to public or private property, nor any infringement of federal, state, or local laws or regulations. . This certification does not relieve the Licensee from liability for harm or injury to human health or welfare, animal, or plant life, or public or private property caused by the construction or operation of this Certified Facility, or from penalties therefore.

[subsections 62-4.160(3) and 62-4.160(5), F.A.C.]

XV. CIVIL AND CRIMINAL LIABILITY **New**

Except to the extent a variance, exception, exemption or other relief is granted in the final order of certification, in a subsequent modification to these Conditions, or as otherwise provided under Chapter 403, F.S, this certification does not relieve the Licensee from civil or criminal penalties for noncompliance with any condition of certification, applicable rules or regulations of the Department, or any other state statutes or regulations which may apply.

[Sections 403.141, 403.161, 403.531, F.S.]

XVI. PROPERTY RIGHTS **Moved from Condition XIII. Property Rights**

Except as provided in Section 403.531(3)(b), F.S., the issuance of this certification does not convey any property rights in either real or personal property, or any exclusive privileges thereto. The Licensee shall obtain title, lease, easement, or right of use from the State of Florida to any sovereignty submerged or other state-owned lands occupied by the right-of-way for the transmission line. Section 403.531(3)(b), F.S., provides that, on certification, any license, easement, or other interest in state lands, except those the title of which is vested in the Board of Trustees of the Internal Improvement Trust Fund, shall be issued by the appropriate agency as a ministerial act.

[Section 403.531, F.S.]

XVII. PROCEDURAL RIGHTS **Replaces Condition XIV. Procedural Rights**

Except as specified in Chapter 403, F.S., or Chapter 62-17, F.A.C., no term or condition of certification shall be interpreted to preclude the post-certification exercise by any party of whatever procedural rights it may have under Chapter 120, F.S., including those related to rule-making proceedings.

[Section 403.531(5), F.S.]

XVIII. TRANSFER OF CERTIFICATION **Moved from Condition XVII. Transfer of Certification**

This certification is transferable, upon Department approval, to an entity determined to be competent to construct, operate and maintain the transmission line in accordance with these

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Conditions of Certification. A transfer of certification of all or part of a certified facility shall be initiated by the Licensee's filing with the Department and the parties a notice of intent to transfer certification to a new licensee. The notice of intent shall identify the intended new certification holder or licensee and the identity of the entity responsible for compliance with the certification. The provisions of Chapter 120, F.S., will apply to the Department's approval or denial of the transfer.

[Section 403.531, F.S. (2007); Chapter 120, F.S.; Rule 62-17.211 , F.A.C.]

XIX. AGENCY ADDRESSES FOR POST-CERTIFICATION SUBMITTALS AND NOTICES **Replaces Condition XVI. Submittals and Notices Required by Conditions**

Where a condition requires post-certification submittals and/or notices to be sent to a specific agency, the following agency addresses shall be used unless the Conditions specify otherwise or unless the Licensee and the Department are notified in writing of an agency's change in address for such submittals and notices:

Florida Department of Environmental Protection
Siting Coordination Office, MS 48
3900 Commonwealth Blvd
Tallahassee, FL 32399-2400

Florida Department of Environmental Protection
Southwest District Office
13051 N Telecom Parkway
Temple Terrace, FL 33637-0926

Florida Department of Environmental Protection
Central District Office
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803-3767

Florida Department of Economic Opportunity
Office of the Secretary
107 East Madison St.
Tallahassee, FL 32399-2100

Florida Fish & Wildlife Conservation Commission
Office of Policy and Stakeholder Coordination
620 South Meridian Street
Tallahassee, FL 32399-1600

East Central Florida Regional Planning Council
Office of Executive Director
631 North Wymore Road, Suite 100
Maitland, Florida 32751

Central Florida Regional Planning Council

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Office of Executive Director
555 East Church Street
Bartow, Florida 33830-3931

Southwest Florida Water Management District
Office of General Counsel
2379 Broad Street
Brooksville, FL 34604-6899

South Florida Water Management District
3301 Gun Club Road
Office of General Counsel
West Palm Beach, Florida 33406

Florida Department of Transportation
Director of Planning and Production, District 1
P. O. Box 1249
Bartow, FL 33831-1249

Orange County Environmental Protection Division
800 Mercy Drive, Suite 4
Orlando, FL 32808

Osceola County Planning Department
1 Courthouse Square
Kissimmee FL, 34741

Polk County Attorney Office
330 W Church St
Bartow, FL 33830

Florida Department of Agriculture and Consumer Services
Division of Forestry
3125 Conner Boulevard
Tallahassee, Florida 32399-1650

U.S. Fish and Wildlife Services
1339 20th Street
Vero Beach, FL 32960

Orlando Utilities Commission
500 South Orange Avenue
Orlando, FL 32801

[Section 403.531, F.S.]

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XX. PROCEDURES FOR POST-CERTIFICATION SUBMITTALS **Replaces Condition VIII. Procedures for Post-Certification Submittals**

A. Purpose of Submittals

Conditions of Certification which provide for the post-certification submittal of information to DEP or other agencies by Licensee are for the purpose of facilitating the agencies' monitoring of the effects arising from the location of the ROW and the construction and maintenance of the transmission line. This monitoring is for DEP to assure, in consultation with other agencies with applicable regulatory jurisdiction, continued compliance with the Conditions of Certification, without any further agency action.

B. Filings

All post-certification submittals of information by Licensee are to be filed with the DEP Siting Coordination Office, the DEP Central and Southwest District Offices, and any other agency that is required to receive a submittal by any Condition of Certification. All filings with the SCO shall be submitted in electronic .pdf format only, unless otherwise requested. Each submittal shall clearly identify the Certified Facility name, PA#, and the condition number/s (i.e. Section X, Condition XX.y.(z)) requiring the submittal. As required by Section 403.5317, F.S., each post-certification submittal will be reviewed by each agency with regulatory authority over the matters addressed in the submittal on an expedited and priority basis. Post-certification submittals may be submitted in segments or Phases as easements for ROW are acquired.

C. Completeness

DEP shall promptly review each post-certification submittal for completeness. This review may include consultation with the other agency(ies) receiving the post-certification submittal with regulatory jurisdiction over the matter addressed in the submittal. DEP's finding of completeness shall specify the area of the right-of-way affected, and shall not delay further processing of the post-certification submittal for non-affected areas. If any portion of a post-certification submittal is found to be incomplete, Licensee shall be so notified. Failure to issue such a notice within 30 days after filing of the submittal shall constitute a finding of completeness. Subsequent findings of incompleteness, if any, shall address only the newly filed information.

D. Interagency Meetings

DEP may conduct an interagency meeting with other agencies, which received a post-certification submittal. The purpose of such an interagency meeting shall be for the agencies with regulatory jurisdiction over the matters addressed in the post-certification submittal to discuss whether reasonable assurance of compliance with the Conditions of Certification has been provided. Failure of DEP to conduct an interagency meeting or any agency to attend an interagency meeting shall not be grounds for DEP to withhold a determination of compliance with these Conditions nor to delay the timeframes for review established by these Conditions. At DEP's request, Licensee shall conduct a field inspection with the agency representative in conjunction with the interagency meeting.

E. Determination of Compliance

DEP shall give written notification within 90 days, to the Licensee and the other agency/ies to which the post-certification information was submitted of DEP's determination of whether there is demonstration of compliance with these Conditions. If it is determined that compliance with the Conditions has not been provided, the Licensee shall be notified with particularity of the deficiencies and possible corrective measures suggested. Failure to notify Licensee in writing within 90 days of receipt of a complete post-certification submittal shall

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constitute a determination of compliance. A postcertification compliance review may be the basis for initiating modifications to the relevant Condition or to other related Conditions.

F. Commencement of Construction

If DEP does not object within the time period specified in paragraph E. above, Licensee may begin construction pursuant to the terms of the Conditions of Certification and the subsequently submitted construction details.

G. Revisions to Design Previously Reviewed for Compliance

If revisions to site-specific designs occur after submittal, the Licensee shall submit revised plans prior to construction for review in accordance with the post-certification process specified in this Condition.

H. Variation to Submittal Requirements

DEP, in consultation with the appropriate agencies that have regulatory authority over a matter to be addressed in a post-certification submittal, and PEF/TECO may jointly agree to vary any of the post-certification submittal requirements, provided the information submitted is sufficient to provide reasonable assurances of compliance with these Conditions of Certification.

[Sections 403.531, 403.5317, 373.413, 373.416, 120.569, and 380.23, F.S.; Rules 62-17.600, 62-17.665, 40D-4.101, and 40E-4.101, F.A.C, 62-17.191, F.A.C.]

XXI. POST-CERTIFICATION SUBMITTAL REQUIREMENTS SUMMARY New

Within 90 days after certification, and within 90 days after any subsequent modification or certification, the Licensee shall provide the Department a complete summary of those post-certification submittals that are identified in these Conditions when due-dates for the information required of the Licensee have been identified. A summary shall be provided as a separate document for each transmission line, if any. Such submittals shall include, but are not limited to, monitoring reports, management plans, wildlife surveys, etc. The summary shall be provided to the SCO, in a sortable spreadsheet, electronically, in the format shown below or equivalent. For subsequent modifications and certifications, a Post-Certification Submittal Requirements Summary shall be required for only those resulting in new or altered post-certification requirements.

<u>Condition Number</u>	<u>Requirement and Timeframe</u>	<u>Due Date</u>	<u>Name of Agency or Agency Subunit to whom the submittal is required to be provided</u>

[Section 403.5113, F.S.; Subsection 62-17.191(3), F.A.C.]

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XXII. POST CERTIFICATION AMENDMENTS **New**

If, subsequent to certification, the Licensee proposes any material change to the SCA and revisions or amendments thereto, as certified, the Licensee shall submit a written request for amendment and a description of the proposed change to the SCA to the Department. Within 30 days after the receipt of a complete request for an amendment, the Department shall determine whether the proposed change to the application requires a modification to the Conditions.

A. If the Department concludes that the change would not require a modification to the Conditions, the Department shall provide written notification of the approval of the proposed amendment to the Licensee, all agencies, and all other parties to the Certification.

B. If the Department concludes that the change would require a modification to the Conditions, the Department shall provide written notification to the Licensee that the proposed change to the SCA requires a request for modification pursuant to Sections 403.5315, F.S.

[Section 403.5317, F.S.]

XXIII. MODIFICATION OF CERTIFICATION **Replaces Condition XV. Modification of Certification**

A. Pursuant to Section 403.5315(1), F.S., Section 120.569(2)(n), F.S., and Rule 62-17.680, F.A.C., the Siting Board hereby delegates the authority to the Department to modify any Condition which would not otherwise require approval by the Siting Board, after notice and receipt of no objection by a party to the certification within 45 days after notice by mail to the party's last address of record, and if no other person whose substantial interests will be affected by the modification objects in writing within 30 days of public notice.

B. Except as otherwise provided in the conditions of certification, the licensee shall petition to modify certification for all changes in transmission line corridor alignment.

C. Expansions in right-of-way width following the narrowing of the certified area pursuant to Section 403.522(10), F.S., will be considered modifications pursuant to Section 403.5315, F.S. If such a modification occurs the Licensee shall submit a revised ROW map to replace Attachment B.

D. Once all property interests required for the right-of-way have been acquired by the licensee, the area of the corridor certified narrows to only that land within the boundaries of the right-of-way, unless specified otherwise by the conditions of certification. Under the provisions of Section 403.522(10), F.S., this shall not be construed to require a modification or further agency review.

[Sections 120.569(2)(n) and 403.5315, F.S.: Rules 62-17.680 and 62-17.695, F.A.C.]

XXIV. COASTAL ZONE CONSISTENCY **Moved from Condition VIII. Procedures for post-Certification Submittals, Paragraph H.**

Pursuant to Sections 373.428 and 403.531, F.S., certification of the facility constitutes the State's concurrence that the licensed activity or use is consistent with the federally approved program under the Florida Coastal Management Act.

[Sections 373.428, 380.23 and 403.511(7), F.S.]

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XXV. WATER QUALITY CERTIFICATION **Moved from Condition VIII. Procedures for post-Certification Submittals, Paragraph G.**

For each post-certification submittal which addresses matters within DEP's environmental resource permitting jurisdiction, DEP shall provide to the U.S. Army Corps of Engineers (USCOE) a letter in accordance with DEP Rule 62-17.665(7)(f), F.A.C. This letter shall be sent concurrently with a determination of compliance pursuant to paragraph E. above, or immediately upon request by more than 90 days after the filing of a complete post-certification submittal addressing matters within DEP's environmental resource permitting jurisdiction

XXVI. ROW LOCATION **Moved from Condition XVIII. ROW Location.**

A. PEF and TECO shall co-locate the transmission line ROW to the extent feasible within or adjacent to existing public rights-of-way for those portions of the corridor which include such existing public rights-of-way. To the extent a widened road right-of-way has been acquired by the appropriate governmental agency at the time of final transmission line design, Licensee's design shall reflect that new widened right-of-way.

B. To the extent feasible Licensee shall locate the transmission line right-of-way so as to avoid the taking of homes.

C. To the extent feasible and consistent with good engineering design and practices, the Licensees shall use best management practices to minimize impacts to pre-existing natural features and minimize tree removal and trimming of vegetation.

[Sections 380.0677, 403.526(2)(b)3, 403.522(18), 403.526(2)(a)5, and 258.007(4), 253.034(10), F.S.]

XXVII. PROCESS FOR REVIEW OF ROW LOCATION **Moved from Condition XIX Process for Review of ROW Location**

A. Prior to the finalization of the ROW location, three copies of the most recent available aerial photographs at a scale of 1" = 400' with wetland locations generally identified shall be submitted to DEP Siting Coordination Office, and one copy each to DEP Southwest and Central District Offices, SFWMD, SWFWMD, ECFRPC, CFRPC, DOT, DCA, Osceola County, Polk County and Orange County, delineating the certified corridor, and the selected transmission line ROW. In addition, Licensee shall note on the aerial photographs new construction within the corridor that has occurred since the photograph was taken. Licensee shall notify all parties of such filing and, if needed, shall meet with DEP to discuss the ROW location. This information may be submitted in segments. The agencies receiving the aerial photographs from Licensee shall have an opportunity to review the photographs and to notify DEP, within 12 days of Licensee's submittal of the aerial photographs to the agencies, of any apparent conflicts with the requirements of the Conditions of Certification. However, this paragraph shall not operate to avoid the need for post-certification submittals and compliance reviews otherwise required by the Conditions of Certification.

B. After review of the aerial photographs and comments from the other reviewing agencies, if DEP Siting Coordination Office has reason to believe that the construction of the transmission line, access roads or pads within Licensee's designated ROW cannot be

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accomplished in compliance with the Conditions of Certification, Licensee shall be so notified in writing, with copies to other parties to the certification proceeding of the particular basis for DEP's conclusion, and possible corrective measures which would bring the Project into compliance. If such notice is not received within 15 days of Licensee's submittal of the aerial photographs to the agencies, Licensee may proceed with design of the transmission line on the noticed ROW.

C. The acquisition of a particular ROW or the expenditure of funds toward acquisition of a particular ROW prior to the agencies' review pursuant to this condition will be at Licensee's risk, and no party will be estopped by such acquisition to seek disapproval of the construction of the transmission line or access road within the ROW in accordance with these Conditions of Certification.

D. After Licensee has acquired interest in the entire length of the transmission line ROW, Licensee shall:

1. File a statement with the clerk of the circuit court for each county through which the corridor passes certifying that all lands required for the transmission line ROW within the corridor have been acquired. Licensee shall also file with the county Planning Department a map at the scale of 1" = 400' showing the boundaries of the acquired ROW.

2. File with DEP Siting Coordination Office a map at a scale of 1" = 400' showing the boundaries of the acquired ROW, if such boundaries are different from those shown in the filing required by paragraph A above. Such maps shall comply with the requirements of paragraph A. If the boundaries have not changed, Licensee shall file a statement with DEP Siting Coordination Office accordingly.

E. Once the ROW has been determined, Licensee will submit, to the Orange and Polk County Planning Departments and the County Attorney's Office for Osceola County, information that is consistent with County ROW permits for the portions of the line which pass through each affected county.

[Sections 403.531 and 403.5312, F.S.; Rule 62-17.600(4), F.A.C.]

XXVIII.ENVIRONMENTAL RESOURCES Replaces Condition XXI. Activities in Wetlands, Condition XXII. Mitigation and Condition XXIII. Drainage and Erosion Control

A. General

1. Submittals for Construction Activities

a. Prior to the commencement of construction of new facilities and/or associated facilities the Licensee shall provide to the appropriate DEP District's Environmental Resource Permitting Section(s) for review, all information necessary for a complete *Joint Application for Environmental Resource Permit* (ERP), DEP Forms 62-343.900(1), as applicable.

This form may: a) have been submitted concurrently with a SCA; b) be submitted as part of an amendment request or a petition for modification; or c) be submitted as a post-certification submittal following approval of a project through certification, modification or amendment. Such ERP submittals, once received, shall be reviewed in accordance with the non-procedural standards and criteria for issuance of an ERP, including all the provisions related to reduction and elimination of impacts, conditions for issuance, additional

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conditions for issuance, and mitigation contained in Chapters 62-330, 62-341, 62-343, and 62-346, F.A.C., as applicable unless otherwise stated in these Conditions.

Those forms submitted as part of a site certification application, an amendment, or modification, shall be processed concurrently with, and under the respective certification, amendment, or modification procedures. Those forms submitted as a post-certification submittal (after certification, modification, or amendment and prior to construction) shall be processed in accordance with Section A. Condition XXII. Procedures for Post-Certification Submittals.

No construction shall commence on a Project feature, or in a particular segment for a linear facility, until the Department has determined that there is a demonstration of compliance with these COC. For post-certification submittal reviews, the Department's determination is governed by Section A., Condition XXII. Procedures for Post-Certification Submittals.

b. Concurrent with submittal of the DEP form required in Subparagraph A.1.a., above, the Licensee shall submit, as applicable, a survey of wetland and surface water areas as delineated in accordance with Chapter 62-340, F.A.C., and verified by appropriate agency staff for Department approval. Available DEP-approved wetland and surface water delineations within the boundaries of a Certified Site or a portion thereof may be used and reproduced for this delineation submittal and verification.

[Chapter 62-340, F.A.C.; Section 373.416, F.S.; subsections 62-312, 62-343.070(2) and 62-346.070(2), paragraph 62-343.090(2)(b), and Forms 62-343.900(1) and 62-346.900(1), F.A.C.]

2. Any delineation of the extent of a wetland or other surface water submitted as part of the DEP ERP Application Form required by Subparagraph A.1.a. above, including plans or other supporting documentation, shall not be considered binding on the Department unless a specific condition of this Certification or a formal wetlands jurisdictional determination under Section 373.421(2), F.S., provides otherwise.

[Sections 373.421, 403.523, F.S.]

B. Surface Water Management

1. Surface water management systems (SWMS) information will be evaluated for consistency with the applicable non-procedural requirements of Part IV of Chapter 373, F.A.C. following submittal of Form 62-343.900(1), as applicable, to the appropriate office of the Department.

2. All construction, operation, and maintenance of the surface water management system(s) for the Certified Facilities shall be as set forth in the plans, specifications and performance criteria contained in the Application and other materials presented during the certification proceeding, post-certification submittals, and as otherwise approved. If specific requirements are necessary for construction, operation and/or maintenance of an approved SWMS, those requirements shall be incorporated into a SWMS Plan for that system and included in Attachment B. Any alteration or modification to the SWMS Plan or the surface water management system as certified requires prior Department review.

3. To allow for stabilization of all disturbed areas, immediately prior to construction, during construction, and for the period of time after construction of the SWMS, the

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Licensee shall implement and maintain erosion and sediment control best management practices, such as silt fences, erosion control blankets, mulch, sediment traps, polyacrylamide (PAM), temporary grass seed, permanent sod, and floating turbidity screens to retain sediment on-site and to prevent violations of State water quality standards. These devices shall be installed, used, and maintained at all locations where the possibility exists of transferring suspended solids into the receiving waterbody due to the licensed work, and shall remain in place at all locations until construction in that location is completed and soils are permanently stabilized. All best management practices shall be in accordance with the guidelines and specifications described in *the State of Florida Erosion and Sediment Control Designer and Reviewer Manual* (Florida Department of Transportation and Florida Department of Environmental Protection, by HydroDynamics Incorporated in cooperation with Stormwater Management Academy, June 2007) unless a project-specific erosion and sediment control plan is approved as part of this License. If project-specific conditions require additional measures during any phase of construction or operation to prevent erosion or control sediments beyond those specified in the approved erosion and sediment control plan, the Licensee shall implement additional best management practices as necessary, in accordance with the guidelines and specifications in *the State of Florida Erosion and Sediment Control Designer and Reviewer Manual*. The Licensee shall correct any erosion or shoaling that causes adverse impacts to the water resources as soon as feasible. Once project construction is complete in an area, including the re-stabilization of all side slopes, embankments and other disturbed areas, and before conversion to the operation and maintenance phase, all silt screens and fences, temporary baffles, and other materials that are no longer required for erosion and sediment control shall be removed.

4. The Licensee shall complete construction of all aspects of the surface water management system described in the ERP Application Form, submitted as part of a postcertification submittal, amendment, modification, or certification application including water quality treatment features, and discharge control facilities prior to use of the portion of the Certified Facility being served by the surface water management system.

5. At least 48 hours prior to the commencement of construction of any new surface water management system authorized by this certification, the Licensee shall submit to the Department a written notification of commencement using an "Environmental Resource Permit Construction Commencement Notice" (DEP Form 62-343.900(3) or 62-346.900(3), F.A.C., as applicable), indicating the actual start date and the expected completion date. When the duration of construction will exceed one year, the Licensee shall submit construction status reports to the Department on an annual basis utilizing an "Annual Status Report Form" (DEP Form No. 62-343.900(4), F.A.C.). Status Report Forms shall be submitted the following June of each year.

6. Each phase or independent portion of the approved system must be completed in accordance with the submitted DEP Form prior to the operation of the portion of the Certified Facility being served by that portion or phase of the system.

7. Within 30 days after completion of construction of any new portions of the surface water management system, the Licensee shall submit to the SCO and DEP District Office a written statement of completion and certification by a registered professional engineer (P.E.), or other appropriate registered professional, as authorized by law, utilizing the required "As-Built Certification by a Registered Professional" (DEP Form 62-343.900(5) or 62-346.900(4), F.A.C., as applicable). Additionally, if deviations from the approved drawings are discovered,

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the As-Built Certification must be accompanied by a copy of the approved drawings with deviations noted.

8. Any substantial deviation from the approved drawings, exhibits, specifications or Conditions, may constitute grounds for revocation or enforcement action by the Department. Examples of substantial deviations may include excavation of ponds, ditches or sump areas deeper than shown on the approved plans.

9. Prior to converting a construction phase surface water management system to an operation phase surface water management system, the Licensee shall submit to the Department a “Request for Transfer of Environmental Resource Permit Construction Phase to Operation Phase” (DEP Form 62-343.900(7), F.A.C.). The operation phase of any new surface water management system approved by the Department shall not become effective until the Licensee has complied with the requirements of the conditions herein, the Department determines the system to be in compliance with the approved plans, and the entity approved by the Department accepts responsibility for operation and maintenance of the system.

10. The DEP District ERP Section must be notified in advance of any proposed construction dewatering. If the dewatering activity is likely to result in offsite discharge or sediment transport into wetlands or surface waters, a written dewatering plan must be submitted to and approved by the Department prior to the dewatering event. Additional authorizations may be required for certain dewatering activities.

[Section 373.414, F.S.; Chapters 62-25, 62-302, 62-330, 62-343 62-346, and Rule 62-4.242, F.A.C.]

C. Wetland and Other Surface Water Impacts

1. All Certified Facilities shall be constructed in a manner which will eliminate or reduce adverse impacts to on-site and/or adjacent wetlands or other surface waters to the extent practicable or otherwise comply with substantive criteria for elimination or reduction. When impacts to wetlands will occur as a result of a future amendment, modification, or certification, and cannot be practicably eliminated or reduced, the Licensee may propose and the Department or Board shall consider mitigation to offset otherwise unpermissible activities under the Environmental Resource Permit review process pursuant to subparagraph.A.1, “Submittal for Construction Activities,” above.

2. Proposed mitigation plans submitted with the DEP ERP Application forms required in Condition subparagraph A.1.a. “Environmental Resources” above, or submitted and approved as part of an amendment, modification, or certification, and that are deemed acceptable by DEP, shall include applicable construction conditions, success criteria and monitoring plans, and shall be incorporated into these Conditions as Attachment C.

[Sections 373.413, 373.414, 373.4145, 403.531, and 403.814(6), F.S.; Chapters 62-330, 62-341 62-342, 62-343, 62-345, and 62-346, F.A.C.]

XXIX.FACILITY OPERATION AND MAINTENANCE Replaces Condition XXVII. Operation and Maintenance of Facilities

The Licensee shall properly operate and maintain the transmission line to achieve compliance with the Conditions of Certification as required by the final order of certification, these Conditions, or a post-certification amendment or modification.

SECTION A: GENERAL CONDITIONS

[subsection 62-4.160(6), F.A.C.]

XXX.RECORDS MAINTAINED AT THE FACILITY **New**

A. These Conditions or a copy thereof shall be kept at the Site or Main Office

B. The Licensee shall hold at the Site or Main Office, or other location designated by these Conditions, records of all information required to be kept by the certification. These materials shall be retained at least three (3) years from the date of the sample, measurement, report, or application unless otherwise specified by Department rule.

[subsection 62-4.160(12) and paragraph 62-4.160(14)(b), F.A.C.]

XXXI.WATER DISCHARGES **New**

A. **Discharges**

1. The Licensee shall not discharge to surface waters wastes which are acutely toxic, or present in concentrations which are carcinogenic, mutagenic, or teratogenic to human beings or to significant locally occurring wildlife or aquatic species. The Licensee shall not discharge to ground waters wastes in concentrations which, alone or in combination with other substances, or components of discharges (whether thermal or non-thermal) are carcinogenic, mutagenic, teratogenic, or toxic to human beings (unless specific criteria are established for such components in Rule 62-520.400, F.A.C.) or are acutely toxic to indigenous species of significance to the aquatic community within surface waters affected by the ground water at the point of contact with surface waters.

2. All discharges and activities must be conducted so as to not cause a violation of the water quality standards set forth in Chapters 62-4, 62-302, 62-520, and 62-550, 62-620, F.A.C., including the provisions of Rules 62-4.243, 62-4.244, and 62-4.246, F.A.C., the antidegradation provisions of paragraphs 62-4.242(1)(a) and (b), F.A.C., subsections 62-4.242(2) and (3), F.A.C., and Rule 62-302.300, F.A.C., and any special standards for Outstanding Florida Waters and Outstanding National Resource Waters set forth in subsections 62-4.242(2) and (3), F.A.C.;

3. All dewatering discharges must be in compliance with Rule 62-621.300, F.A.C.

[Chapters 62-4, 62-302, 62-520, 62-550, and 62-620, F.A.C., and Rule 62-621.300, F.A.C.]

XXXII.SOLID AND HAZARDOUS WASTE

A. **Solid Waste** ***Replaces Condition XXIV. Construction Practices, Paragraph B. Solid Wastes.***

The Licensee shall comply with all applicable non-procedural provisions of Chapter 62-701, F.A.C., for any solid waste generated within the Certified Facility during construction, operation, and maintenance.

[Chapters 62-701, F.A.C.]

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B. Hazardous Waste and Used Oil *Replaces Condition XXIV. Construction Practices, Paragraph C. Hazardous Substances and Spills.*

The Licensee shall comply with all applicable non-procedural provisions of DEP Chapter 62-730, F.A.C., for any hazardous waste generated within the Certified Facility. An EPA identification number must be obtained before beginning hazardous waste activities unless the facility is a Conditionally Exempt Small Quantity Generators (CESQGs). CESQGs generate no more than 100 kg (220 lbs) of hazardous waste in any month.

The Licensee shall comply with all applicable non-procedural provisions of DEP Chapter 62-710, F.A.C., for any used oil and used oil filters generated within the Certified Facility.

The Licensee shall comply with all applicable non-procedural provisions of DEP Chapter 62-737, F.A.C., for any spent mercury-containing lamps and devices generated within the Certified Facility.

[Chapters 62-710, 62-730 and 62-737, F.A.C.]

C. Hazardous Substance Release Notification *Replaces Condition XXIV. Construction Practices, Paragraph C. Hazardous Substances and Spills.*

1. Any owner or operator of a facility who has knowledge of any release of a hazardous substance from a Certified Facility in a quantity equal to or exceeding the reportable quantity in any 24-hour period shall notify the Department by calling the STATE WARNING POINT NUMBER, (800) 320-0519, as soon as possible, but not later than one working day of discovery of the release.

2. Releases of mixtures and solutions are subject to these notification requirements only where a component hazardous substance of the mixture or solution is released in a quantity equal to or greater than its reportable quantity.

3. Notification of the release of a reportable quantity of solid particles of antimony, arsenic, beryllium, cadmium, chromium, copper, lead, nickel, selenium, silver, thallium, or zinc is not required if the mean diameter of the particles released is larger than 100 micrometers (0.004 inches).

[Chapter 62-150, F.A.C.]

D. Contaminated Site Cleanup *New*

The Licensee shall comply with all applicable non-procedural provisions of DEP Chapter 62-780, F.A.C., for any violations of relevant provisions of Chapter 376 or 403, F.S., that result in legal responsibility for site rehabilitation pursuant to those chapters. This responsibility for site rehabilitation does not affect any activity or discharge permitted or exempted pursuant to Chapter 376 or 403, F.S., or rules promulgated pursuant to Chapter 376 or 403, F.S.

[Chapter 62-780, F.A.C.]

SECTION B: SPECIFIC CONDITIONS

SECTION B. SPECIFIC CONDITIONS

I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

A. The portions of the transmission line that are located in the Green Swamp Protection Area of Critical Concern shall be constructed and operated in accordance with the applicable terms and conditions of the Green Swamp Protection Area of Critical Concern Program pursuant to Chapter 28-27, F.A.C. ~~Moved from Condition XVIII. ROW Location, Paragraph C.~~

B. The portions of the transmission line that cross the State-owned Hilochee Wildlife Management Area (WMA), outside of the existing OUC right-of-way, shall comply with the State's linear facilities policy, which requires impact minimization and provides for payment consistent with Section 253.02, F.S. ~~Moved from Condition XVIII. ROW Location, Paragraph D.~~

C. Where practicable, the length of the span between transmission line structures shall be varied as appropriate and other design changes, which shall include but not be limited to a reduction in pad size, elimination of access roads, use of finger fill from existing ROWs and/or modification of construction techniques shall be considered to eliminate or reduce wetland impacts, except where otherwise provided by sections 3.2.1.2 and 4.2.1.2 of the Basis of Review for SFWMD and SWFWMD, respectively. ~~Moved from Condition XXI. Activities in Wetlands, Paragraph C.1.c.~~

D. Licensee shall use only restrictive clearing practices during construction and maintenance of the transmission line where it crosses forested wetlands. Restrictive clearing, as used in this condition, is the removal of vegetation by hand, usually with chain saws, or with low-ground-pressure shear or rotary machines to reduce soil compaction and damage to ground cover. These methods may be used alone or in combination, as may be appropriate for specific sites. Restrictive clearing includes the removal of vegetation from areas extending from the transmission line pole centerline to 50 feet on either side, and in the structure pad areas (approximately 64 feet by 150 feet). Removable construction matting in conjunction with best management practices may be used in wetlands to support equipment. The remainder of the ROW in wetland areas, beyond 50 feet on either side of the poles and the structure pads, shall not be cleared; however, vegetation that has an expected mature height greater than 14 feet may be removed. In addition, danger timber (trees or limbs likely to contact a conductor if fallen) within or outside the right-of-way may be removed. ~~Moved from Condition XXI. Activities in Wetlands, Paragraph C.2.a.~~

E. Where the transmission line crosses forested wetlands, tree stumps under the conductors, within access roads and in the structure pads may be removed, sheared, or ground to 6 inches below the ground line to allow for travel and construction activities. Tree stumps in the area beyond 20 feet on either side of the outer conductors shall be left in place to preserve the root mat. ~~Moved from Condition XXI. Activities in Wetlands, Paragraph C.2.b.~~

F. The Licensees shall build the proposed Lake Agnes-Gifford Transmission Line separately, with each Licensee providing for work in its own service territory. Any violation of any condition by one of the Licensees shall not be construed to constitute a violation by the other Applicant for purposes of enforcement. This does not preclude the Licensees from using the same contracted construction company as long as the construction tasks are managed separately by each Licensee. ~~Moved from Condition XI. Enforcement, Paragraph C.~~

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[Sections 253.02, 373.414 and 373.416, F.S.; Chapter 28-27, 40D-4.091, 40D-4.101, 40D-4.301, 40D-4.302, 40D-4.381, 40E-4.091, 40E-4.101, 40E-4.301, 40E-4.302, 40E-4.381, F.A.C.]

II. SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT (SWFWMD)

Moved from Condition XXVIII. Southwest Florida Water Management District (SWFWMD)

A. The proposed transmission line will be co-located within existing rights-of-way and other impacted areas wherever feasible.

B. TECO/PEF shall provide to SWFWMD a copy of all post-certification filings for finalization of the right-of-way location and the construction and operation of the transmission line facilities including any access roads or surface water management system facilities, for those portions located within the SWFWMD.

C. A copy of the aerial photographs provided to DEP to show the boundaries of the acquired right-of-way within the SWFWMD will also be provided to SWFWMD.

SWFWMD shall have an opportunity to review the photographs and notify DEP of any apparent conflicts with the requirements of the Conditions of Certification.

D. TECO/PEF shall provide reasonable assurance that the construction, operation and maintenance of the proposed facilities, including any access roads and structures constructed within wetlands or other surface waters, satisfy the criteria set forth in Rules 40D-4.301 and 40D-4.302, F.A.C., and applicable provisions of Part B, Basis of Review of SWFWMD's Environmental Resource Permitting Information Manual. Pursuant to Rule 62-17.665(7)(d), F.A.C., TECO/PEF shall provide sufficient information on a postcertification basis to demonstrate that there is reasonable assurance of compliance with SWFWMD substantive permitting requirements, including avoidance of floodplain impacts and provision of compensation where appropriate to achieve no net loss in floodplain storage capabilities and avoidance of secondary wetland dredging and/or filling impacts.

E. To the extent practicable, access roads, culverts and structures shall be located to avoid conflict with existing or permitted surface water management systems, permitted water withdrawal facilities or agricultural ground and surface water management projects as documented in SWFWMD records.

[Sections 403.526(2)(a)2., 373.085, 373.089, 373.093, 373.099, 373.414 and 373.416, F.S.; Chapter 62-17.665(7)(d), Chapter 40D-4, Rules 40D-4.301 and 40D-4.302, and Chapter 40D-9, F.A.C.]

III. SOUTH FLORIDA WATER MANAGEMENT DISTRICT **New**

In the area of Modification Area 2, the transmission ROW shall be located outside of the boundaries of the SFWMD Conservation Easement (Fowler Property 300 on 530 Trust).

IV. FLORIDA DEPARTMENT OF TRANSPORTATION **Moved from Condition XXIX. Florida Department of Transportation**

A. Post-Certification Reviews of FDOT Matters

1. Access Management to the State Highway System:

Any access to the State Highway System will be subject to the requirements of Rule Chapters 14-96, State Highway System Connection Permits, and 14-97, Access Management Classification System and Standards, F.A.C.

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2. Overweight or Overdimensional Loads:

Operation of overweight or overdimensional loads by PEF-TECO on State transportation facilities during construction and operation of the transmission line will be subject to safety and permitting requirements of Chapter 316, F.S., and Rule Chapter 14-26, Safety Regulations and Permit Fees for Overweight and Overdimensional Vehicles, F.A.C.

3. Use of State of Florida Right-of-Way or Transportation Facilities:

All usage and crossing of State of Florida right-of-way or transportation facilities will be subject to Rule Chapter 14-46, Utilities Installation or Adjustment, F.A.C.; Florida Department of Transportation's Utility Accommodation Manual (Document 710-020-001); Design Standards for Design, Construction, Maintenance and Utility Operation on the State Highway System; Standard Specifications for Road and Bridge Construction; and pertinent sections of the Florida Department of Transportation's Project Development and Environmental Manual. US27, State Road 429, and Interstate 4 (I-4) have been identified as a Florida Intrastate Highway System (FIHS) and an emerging Strategic Intermodal System's (SIS) facility. The placement of the transmission line should take into consideration the possible widening of this facility to the extent practicable. If future widening should be required, the cost of relocating or reconstructing the transmission line will be borne by Licensee to the extent required by Section 337.403, F.S., and Rule Chapter 14-46, F.A.C.

PEF-TECO will de-energize the transmission line and cure any interference that negatively impacts the Department's toll collection on SR 429 if the Department provides notice to PEF-TECO that the transmission lines are creating interference that negatively impacts the Department's toll collection. (See 47 CFR 15.3, 15.5, and 15.113.) **New**

4. Standards:

The Manual on Uniform Traffic Control Devices; Florida Department of Transportation's Design Standards for Design, Construction, Maintenance and Utility Operation on the State Highway System; Florida Department of Transportation's Standard Specifications for Road and Bridge Construction; Florida Department of Transportation's Utility Accommodation Manual; Florida Department of Transportation's Plans Preparation Manual; and pertinent sections of the Department of Transportation's Project Development and Environmental Manual will be adhered to in all circumstances involving the State Highway System and other transportation facilities.

5. Drainage:

Any drainage onto State of Florida right-of-way and transportation facilities will be subject to the requirements of Rule Chapter 14-86, Drainage Connections, F.A.C., including the attainment of any permit required thereby.

6. Use of Air Space:

Any newly proposed structure or alteration of an existing structure will be subject to the requirements of Chapter 333, F.S., and Rule 14-60.009, Airspace Protection, F.A.C. Additionally, notification to the Federal Aviation Administration (FAA) is required prior to beginning construction, if the structure exceeds notification requirements of 14 CFR Part 77, Objects Affecting Navigable Airspace, Subpart B, Notice of Construction or Alteration. Notification will be provided to FAA Southern Region Headquarters using FAA Form 7460-1, Notice of Proposed Construction or Alteration in accordance with instructions therein. A subsequent Determination by the FAA stating that the structure exceeds any federal obstruction standard of 14 CFR Part 77, Subpart C, for any structure that is located within a 10-nautical-mile radius of the geographic center of a public-use airport or military airfield in Florida will be

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required to submit information for an Airspace Obstruction Permit from the Florida Department of Transportation or variance from local government depending on the entity with jurisdictional authority over the site of the proposed structure. The FAA Determination regarding the structure serves only as a review of its impact on federal airspace and is not an authorization to proceed with any construction. However, FAA recommendations for marking and/or lighting of the proposed structure are made mandatory by Florida law. For a site under Florida Department of Transportation jurisdiction, application will be made by submitting Florida Department of Transportation Form 725-040-11, Airspace Obstruction Permit Application, in accordance with the instructions therein.

B. Best Management Practices

1. Traffic control during facility construction and maintenance will be subject to the standards contained in the Manual on Uniform Traffic Control Devices; Rule Chapter 14-94, Statewide Minimum Level of Service Standards, F.A.C.; Florida Department of Transportation's Design Standards for Design, Construction, Maintenance and Utility Operation on the State Highway System; Florida Department of Transportation's Standard Specifications for Road and Bridge Construction; Florida Department of Transportation's Plans Preparation Manual; Florida Turnpike Enterprise's Plans Preparation and Practices Handbook; and Florida Department of Transportation's Utility Accommodation Manual, whichever is more stringent.

2. It is recommended that PEF-TECO encourage transportation demand management techniques by doing the following:

- a. Placing a bulletin board on site for car pooling advertisements.
- b. Requiring that heavy construction vehicles remain onsite for the duration of construction to the extent practicable.

3. If PEF-TECO uses contractors for the delivery of any overweight or overdimensional loads to the site during construction, PEF-TECO should ensure that its contractors adhere to the necessary standards and receive the necessary permits required under Chapter 316, F.S., and Rule Chapter 14-26, Safety Regulations and Permit Fees for Overweight and Overdimensional Vehicles, F.A.C.

C. ROW Location Within FDOT Limited-Access ROW New

1. Portions of the proposed transmission line will be located within FDOT limited access ROW pursuant to FDOT Order Granting Request for Waiver (FDOT Case No. 98-0154). PEF-TECO shall submit a complete FDOT utility permit application in compliance with the FDOT Utility Accommodation Manual and FDOT Order Granting Request for Waiver for those portions of the proposed transmission line located in FDOT limited access ROW pursuant to the FDOT Order, prior to working in FDOT ROW.

2. With at least 60 days advance notice from FDOT to PEF, PEF shall agree to de-energize the transmission lines located within FDOT limited-access ROW to accommodate the FDOT's maintenance, improvement, extension, or expansion projects, so long as:

a. The requested de-energization occurs within March, April, May, September October, or other periods as available based on weather and electrical load conditions; and

b. The duration of the requested de-energization will be dependent on the electrical load conditions and will be coordinated at the time of the requested de-energization, but will be no less than two weeks unless a shorter period of time is agreeable to FDOT; and

SECTION B: SPECIFIC CONDITIONS

c. FDOT will provide at the time of its request for de-energization engineering drawings of the maintenance, improvement, extension, or expansion project to be located within the vicinity of the transmission facilities;

d. FDOT will coordinate with PEF's construction maintenance supervisor during the construction activities in the vicinity of the transmission facilities; and

e. Upon request by PEF, FDOT will allow the re-energization of the transmission lines within 24 hours if emergency conditions require it; and

3. Any work undertaken by FDOT, or its contractors or agents, comply with the following safety clearances when working in the vicinity of de-energized transmission lines:

a. No cranes or equipment within five (5) feet of the conductors; and

b. Providing a minimum of ten (10) feet from poles for construction set-up and staging; and

c. Providing that all work within twenty (20) feet of facilities should be reviewed by the PEF construction maintenance supervisor to ensure crew and facility safety.

[Chapters 14-26, 14-46, 14-86, 14-94, 14-96, and 14-97, F.A.C.; Chapter 316, F.S. (2007); Sections 337.401-404, F.S. (2007); 14 C.F.R. Part 77.]

V. ROW SURVEYS FOR FLORIDA FISH AND WILDLIFE COMMISSION AND DEPARTMENT OF STATE – DIVISION OF HISTORICAL RESOURCES **Moved from Condition XX. ROW Surveys**

A. Listed Species

1. Listed Species Occurring or Potentially Occurring in the Corridor: State-listed species occurring or potentially occurring within the preferred corridor footprint include but are not limited to the wood stork (*Mycteria americana*), which is listed as endangered; the bald eagle (*Haliaeetus leucocephalus*), the eastern indigo snake (*Drymarchon corais couperi*), Florida sandhill crane (*Grus canadensis pratensis*), the gopher tortoise (*Gopherus polyphemus*), and southeastern American kestrel (*Falco sparverius paulus*), all listed as threatened; gopher frog (*Rana capito*), Florida burrowing owl (*Athene cunicularia floridana*), limpkin (*Aramus guarauna*), little blue heron (*Egretta caerulea*), roseate spoonbill (*Platalea ajaja*), snowy egret (*Egretta thula*), tricolored heron (*Egretta tricolor*), white ibis (*Eudocimus albus*), and Sherman's fox squirrel (*Sciurus niger shermani*), all listed as species of special concern.

2. Listed Species Survey. Before land clearing and construction activities within the ROW, where access is available, Licensee shall conduct an assessment for listed species in the final right-of-way which will note all habitat, occurrence or evidence of listed species in the right-of-way. Listed species to be included in this survey shall include those listed as endangered, threatened or of special concern by Florida Fish and Wildlife Conservation Commission or those listed as endangered or threatened by U.S. Fish and Wildlife Service.

a. This survey shall be conducted in accordance with USFWS/FFWCC guidelines and methodologies by a person or firm that is knowledgeable and experienced in conducting flora and fauna surveys for listed species.

b. This survey shall identify any wading bird colonies within one-half mile of the project ROW that may be affected.

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c. This survey shall identify locations of breeding locations, nests, and burrows for listed wildlife species. Nests and burrows may be recorded with GPS coordinates, identified on an aerial photograph, and submitted with the final listed species report. Although nests and burrows may be recorded individually with GPS, the FWC prefers that a protection radius surrounding nest sites and burrows be included, rather than individual nests and burrows, and be physically marked so that clearing and construction will avoid impacting them.

d. This survey shall include an estimate of the acreage and percent cover of each existing vegetation community (Florida Land Use, Cover and Forms Classification System, or FLUCFCS, at the third degree of detail) including a wildlife-based habitat classification scheme such as the Comprehensive Wildlife Conservation Strategy (FWC 2005), Descriptions of Vegetation and Land Cover Types (FWC 2004), or Natural Communities Guide (FNAI 1990) of each community that is contained within the final ROW prior to land clearing and construction activities using GIS.

3. Listed Species Locations

Where any suitable habitat and evidence is found of the presence of listed species along the ROW, Licensee will report those locations to, and confer with, the appropriate regulatory agencies for possible additional pre-clearing surveys and to identify potential mitigation, or avoidance recommendations. If pre-clearing surveys are required, they shall be timed to be reasonably compatible with the construction schedule, considering the in-service date specified in the Public Service Commission's need determination. Licensee will not construct in areas where evidence of listed species was identified during the initial survey until the particular listed species issues have been resolved.

a. *Listed Wildlife Species:* If listed wildlife species are found, their presence shall be reported to the DEP Siting Coordination Office, the DEP Southwest and Central District Offices, the FFWCC's Office of Policy and Stakeholder Coordination, the SWFWMD, the SFWMD, Osceola County, Orange County, Polk County and U.S. Fish and Wildlife Service.

b. *Listed Vegetation Species:* If listed vegetation species are found on public land or water, their presence shall be reported to the DEP Siting Coordination Office and the Florida Department of Agriculture and Consumer Services. Listed wildlife species and listed vegetation species on public land or water shall not be disturbed, if practicable.

c. *Species Management Plan:* If avoidance is not practicable, Licensee shall consult with DEP, FFWCC, and, if necessary, the U. S. Fish and Wildlife Service for listed wildlife species, and with the Florida Department of Agriculture and Consumer Services for listed vegetation species on public land or water, to determine the steps appropriate for the species involved which are to be taken to avoid, minimize, mitigate, or otherwise appropriately address impacts within each agency's respective jurisdiction. For wildlife species, these steps shall be memorialized in a Wildlife Management Plan and submitted to DEP, FFWCC, Osceola, Polk and Orange Counties.

B. Cultural Resources

After the ROW has been selected, Licensee shall conduct a survey of sensitive cultural resource areas, as determined in consultation with the Department of State, Division of Historical Resources (DHR). A qualified cultural resources consultant will identify an appropriate work plan for this project based on a thorough review of the certified corridor. Prior to beginning any field work, the work plan will be reviewed in consultation with DHR. Upon

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completion of the survey, the results will be compiled into a report which shall be submitted to DHR. If practicable, sites considered to be eligible for the National Register shall be avoided during construction of the transmission line and access roads, and subsequently during maintenance of the ROWs. If avoidance by the proposed ROW of any discovered sites is not practicable, impact shall be mitigated through archaeological salvage operations or other methods acceptable to DHR, as appropriate.

If historical or archaeological artifacts are discovered at any time within the project site, Licensee shall notify the DEP Southwest and Central District offices and the Bureau of Historic Preservation, Division of Historical Resources, R.A. Gray Building, Tallahassee, Florida 32399-0250, telephone number (850) 487-2073, and Licensee shall consult with DHR to determine appropriate action.

[Sections 267.061 and 403.531, and Chapter 372, F.S.]

VI. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES Replaces Condition XXVI. Herbicides

Only herbicides registered by the U.S. Environmental Protection Agency and the Florida Department of Agriculture and Consumer Services shall be used at certified facilities. Herbicide applications will be in accordance with label directions and will be carried out by a licensed applicator, in compliance with all federal, state and local regulations. Herbicide applications shall be selectively applied to targeted vegetation. Broadcast application of herbicide shall not be used unless effects on non-targeted vegetation are minimized.

[Chapter 487, F.S.]

VII. ORANGE COUNTY Extracted from Condition XXI. Activities in Wetlands, Paragraph C.2.a.

All cut vegetation must be removed from wetlands unless other techniques, such as mulching or burning in place, are agreed to by DEP Siting Coordination Office and Orange County (for portions of the line located in Orange County) in the post-certification review process.

[Section 15 of Orange County Code]

VIII. ROW LOCATION ALONG SR 429 Moved from Condition XXX. ROW Location Along SR 429

A. With respect to the Applicants' Preferred Corridor south of the intersection of Oak Island Road/Funie Steed Road and SR429 and north of the southern edge of the OIC residential development, considering the preliminary engineering reviews undertaken and existing conditions of this area of the corridor, PEF agrees that:

1. PEF shall locate the transmission line ROW so that no existing homes in the OIC residential development will be located within the ROW;
2. PEF shall locate the transmission line ROW on the west side of SR429 unless FDOT objects, unless another regulatory agency with jurisdiction over the project objects because the ROW is not consistent with the conditions of certification, or unless an unforeseen engineering or safety concern arises;

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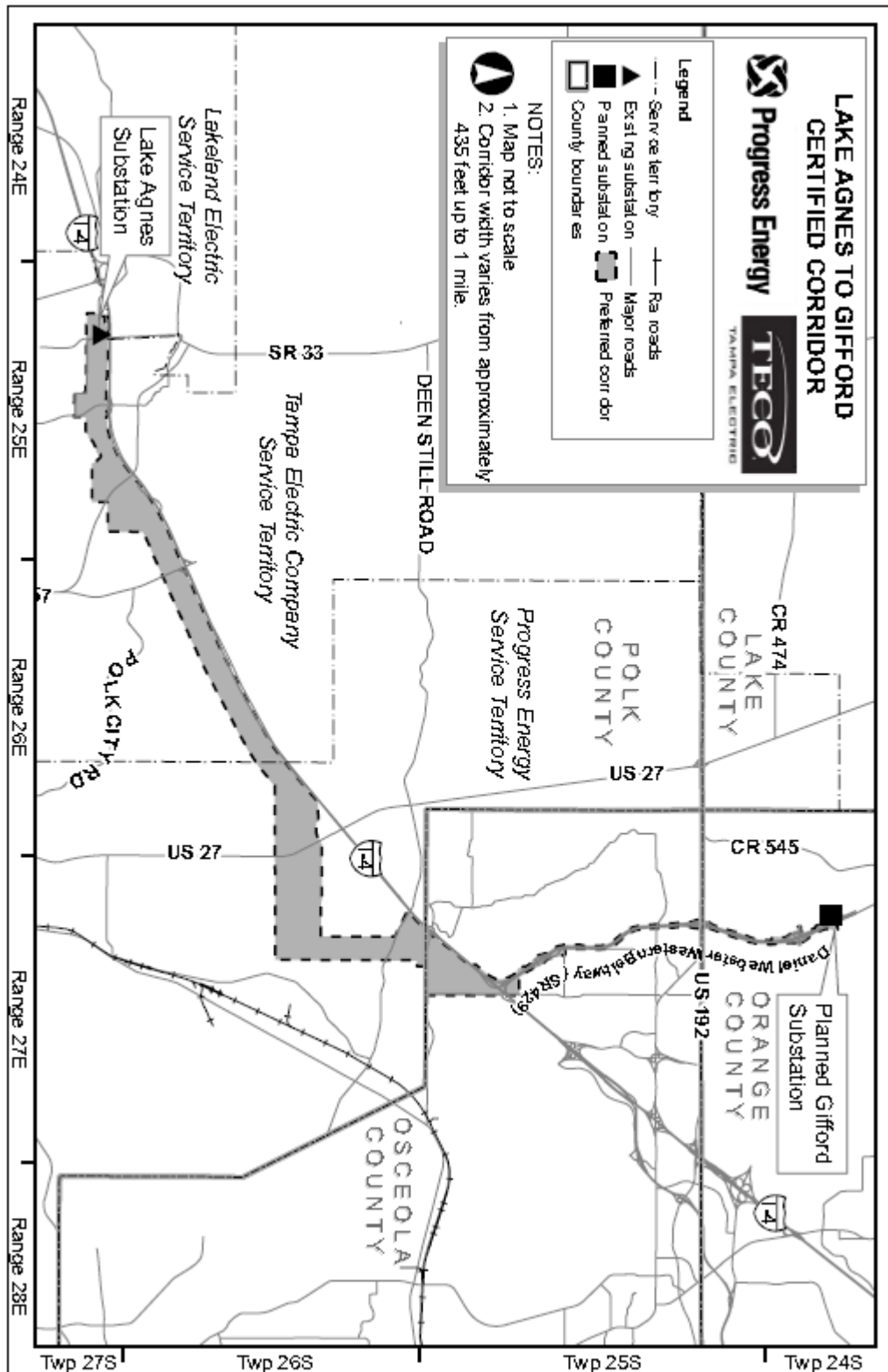
3. If PEF is unable to locate the transmission line ROW on the west side of SR429, PEF shall locate the transmission line ROW on the east side of SR429 with transmission structures located at least 15 feet inside FDOT's ROW for SR429, unless FDOT objects, unless another regulatory agency with jurisdiction over the project objects because the ROW is not consistent with the conditions of certification, or unless an unforeseen engineering or safety concern arises. In addition:

a. In locating the transmission structures consistent with the Conditions of Certification, PEF will make best efforts to maximize the distance between the transmission line structures and existing homes within the OIC residential development; and

b. If the transmission structures are located at least 15 feet inside FDOT's ROW for SR429, PEF will seek property rights outside FDOT's ROW only for access easements and for aerial easements up to 30 feet from the eastern edge of FDOT's ROW.

[Condition as accepted by PEF and Intervener at Siting Board Hearing; incorporated into Final Order, 2/6/9]

Attachment A: Certified Corridor



Attachment B: Certified Transmission Line ROW
(To be attached upon completion of acquisition of easements)