

**AGENDA
SITING BOARD
DEPARTMENT OF ENVIRONMENTAL PROTECTION
OCTOBER 28, 2008**

Item 1 Minutes

Submittal of the Minutes from the July 29, 2008 and August 12, 2008 Cabinet Meetings.

(See Attachment 1, Pages 1-4)

RECOMMEND APPROVAL

Item 2 Florida Power & Light Final Order of Certification/Bobwhite-Manatee Transmission Line Project

REQUEST: Consideration of a Final Order, to be executed by the Siting Board, adopting the Administrative Law Judge's Recommended Order recommending the Siting Board grant full and final certification to Florida Power & Light, under section 403, Part II, F.S., for the location, construction, and operation of the Bobwhite-Manatee 230 kilovolt Transmission Line Project pursuant to subsections 403.529, and 403.531(1), F.S.

COUNTIES: Manatee and Sarasota

APPLICANT: Florida Power & Light (FPL)

LOCATION: The transmission line will connect the existing Manatee Energy Center Switchyard at the Manatee Substation near Parrish in Manatee County to the proposed Bobwhite Substation east of Interstate 75 (I-75). The corridor route recommended by the Administrative Law Judge (ALJ) is a combination of the FPL original preferred corridor and the Consensus Corridor. The line is approximately 26 miles in length.

STAFF REMARKS: On January 2, 2007, FPL submitted a Site Certification Application (SCA) to the Department of Environmental Protection (DEP) for certification of its proposed Bobwhite-Manatee 230 kilovolt (kV) Transmission Line Project pursuant to the Florida Transmission Line Siting Act (TLSA), sections 403.52 through 403.539, F.S. The SCA proposes the construction and operation of a new 230kV transmission line extending from the Manatee Energy Center in Manatee County to its planned Bobwhite Substation in Sarasota County.

The Florida Public Service Commission (PSC) issued Final Order PSC-06-0723-FOF-EI approving the Petition for Determination of Need for the transmission line on August 28, 2006. All reviewing agencies (DEP, Department of Community Affairs, Department of Transportation, Fish and Wildlife Conservation Commission, Southwest Florida Water Management District, Manatee County, Sarasota County, Tampa Bay Regional Planning Council, and Southwest Florida Regional Planning Council) recommended certification of the original FPL Corridor and recommended conditions of certification to minimize adverse impacts and to insure compliance with local policies and applicable regulatory standards.

**Siting Board
Department of Environmental Protection
Agenda - October 28, 2008
Page Two**

Item 2, cont.

The certification hearing commenced on October 22, 2007. During the certification hearing, FPL made a motion to continue the hearing at a later date so the parties could attempt to reach a settlement. The motion was granted. The parties conferred and proposed a new schedule to allow them to propose new alternate corridors, which was adopted by the ALJ in early November, 2007. Five alternate corridors were timely filed:

1. Concession Land Development, LLC and the Concession Golf Club, LLC (Concession Corridor)
2. Schroeder-Manatee Ranch, Inc. and Lake Club Investors, LLC (Consensus Corridor)
3. John Falkner (Alternate Corridor A)
4. John Falkner (Alternate Corridor B)
5. Bridle Creek Homeowner Association (Bridle Creek Corridor)

DEP accepted all alternates while FPL accepted the Concession Corridor, the Consensus Corridor, and the Bridle Creek Corridor. Prior to the continuation of the certification hearing, Bridle Creek withdrew its proposed corridor and joined in the Consensus Corridor. FPL deemed Alternate Corridors A and B to be in conflict with the PSC's Determination of Need. The PSC's Final Determination of Need states; "*The cost and reliability benefits of the project (Bobwhite-Manatee) would be enhanced by the construction of the project in a geographically separate ROW*". Alternate Corridors A and B would be in existing rights-of-way and would not enhance the electric system reliability and integrity determined necessary for Sarasota and Manatee Counties.

Notice of the three newly filed accepted alternate corridors and the rescheduled continuation of the certification hearing was published on March 10, 2008 in the Sarasota Herald Tribune and the Bradenton Herald, local newspapers in the vicinity of the project. DEP also published notice in the Florida Administrative Weekly on March 14, 2008. Alternate Corridors A and B were not noticed because they were rejected by FPL, pursuant to 62-17.625(1), F.A.C. which states that; "*Pursuant to Section 403.527(5)(b), F.S., within five days of receipt of a proposed alternate corridor filing, the department and the applicant shall each file with the Division of Administrative Hearings a notice of acceptance or rejection of the alternate corridor proposed for consideration.*".

DEP prepared an addendum to its Staff Analysis Report, which included the agency reports for all the reviewing agencies. DEP recommended consideration of the original FPL Corridor, the Concession Corridor, and the Consensus Corridor proper for certification. Manatee County recommended denial of certification for the Concession Corridor.

The certification hearing resumed May 5-8 and May 12-15, 2008. Consensus Corridor is supported by 15 parties to the proceeding: FPL; Schroeder-Manatee Ranch, Inc.; Lake Club Investors, LLC; Gum Slough Preservation Foundation, Inc.; ManaSota-88, Inc.; Taylor and Fulton, Inc.; Myakka Ranch Holdings, LLC; FC, LLC; Kittie L. Chapman; John Cannon Homes-Eastmoor, LLC; Schwartz Farms, Inc.; Michael D. and Joanne Schwartz; Sarasota One, LLC;

**Siting Board
Department of Environmental Protection
Agenda - October 28, 2008
Page Three**

Item 2, cont.

East County Homeowners Organization, Inc.; and Hi Hat Ranch, LLP. Manatee and Sarasota Counties also joined in support of the Consensus Corridor at the time of the hearing. Pacific Land did not oppose the Consensus Corridor. Mr. Falkner; Concession Land Development, LLC and the Concession Golf Club, LLC; and Michael, David, and Donald Hunsader opposed the Consensus Corridor. Mr. Falkner did not support either the Consensus or the Concession Corridor, as both corridors impacted his land holdings.

Public hearings were held before the ALJ on October 24, 2007 and May 7, 2008 to allow oral and written comments from the public. FPL engaged in an extensive public outreach program, which was integrated with the corridor selection for the application. The public outreach program included open houses, establishment of a Community Advisory Panel, several mass mailings, a community survey, a toll-free telephone line, a website, and numerous meetings with regulatory agencies, community associations, homeowner groups, and individual home and property owners.

The ALJ found that the original FPL Corridor, the Concession Corridor, and the Consensus Corridor met the criteria for certification. However, the ALJ found the corridor with the least overall impacts was composed of segments from the original FPL Corridor and the Consensus Corridor, and recommended that the Siting Board enter a Final Order approving FPL's Bobwhite-Manatee transmission line using those two corridors. Although certain parties have questioned the ALJ's authority to combine portions of the proposed corridors, DEP and the ALJ concluded that the ALJ has the authority under the TLSA to combine portions of the proposed corridors in order to identify the corridor that best satisfies the statutory criteria of the TLSA - namely, whether, and the extent to which, the location of the transmission line corridor and the construction, operation, and maintenance of the transmission line will:

- (a) ensure electric power system reliability and integrity;
- (b) meet the electrical energy needs of the state in an orderly, economical, and timely fashion;
- (c) comply with applicable nonprocedural requirements of agencies;
- (d) be consistent with applicable provisions of local government comprehensive plans, if any; and
- (e) effect a reasonable balance between the need for the transmission line as a means of providing reliable, economically efficient electric energy, as determined by the commission, under section 403.537, F.S., and the impact upon the public and the environment resulting from the location of the transmission line corridor and the construction, operation, and maintenance of the transmission lines.

The line is scheduled to be in service by December 2011.

(See Attachment 2, Pages 1-191)

RECOMMEND APPROVAL