

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request to initiate) DOCKET NO. 951273-EI
proceeding to determine need for) ORDER NO. PSC-95-1533-FOF-EI
Florida Power Corporation) ISSUED: December 12, 1995
Higgins-Griffin Transmission)
Line by the Citizens Coalition)
for Responsible Power, Inc. and)
the City of Tampa.)
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman
J. TERRY DEASON
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

ORDER DECLINING TO INITIATE PROCEEDING TO
DETERMINE NEED FOR TRANSMISSION LINE

BY THE COMMISSION:

On October 26, 1995, the Citizens Coalition for Responsible Power, Hillsborough County, and the City of Tampa (hereinafter collectively referred to as the Petitioners) filed a Verified Complaint with the Commission for the purpose of giving the prerequisite notice before initiating an action for injunctive relief in circuit court, pursuant to Section 403.412, Florida Statutes. The Petitioners seek to compel the Public Service Commission to initiate a Determination of Need proceeding, pursuant to Section 403.537, Florida Statutes, for a proposed Florida Power Corporation (FPC) transmission line.

Section 403.412(2), Florida Statutes, the "Environmental Protection Act of 1971", provides in part:

The Department of Legal Affairs, any political subdivision or municipality of the state, or a citizen of the state may maintain an action for injunctive relief against: ...Any governmental agency or authority charged by law with the duty of enforcing laws, rules, and regulations for the protection of the air, water, and other natural resources of the state to compel such governmental authority to enforce such laws, rules, and regulations;

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FPSC-RECORDS/REPORTING

(c) As a condition precedent to the institution of an action pursuant to paragraph (a), the complaining party shall first file with the governmental agencies or authorities charged by law with the duty of regulating or prohibiting the act or conduct complained of a verified complaint setting forth the facts upon which the complaint is based and the manner in which the complaining party is affected.... The agency receiving such complaint shall have 30 days after the receipt thereof within which to take appropriate action.

The instant petition is related to FPC's decision to indefinitely defer its plans to construct a 500 Kv transmission line between its Lake Tarpon and Kathleen (LTK) substations. FPC sought to construct the line to maintain system reliability in the event of a failure on FPC's transmission system south of the Crystal River Energy Complex. As a result of legal challenges to the construction of the line spanning more than a decade, FPC's estimated costs for the line grew from approximately \$30 million to approximately \$85 million. FPC then determined that an alternative plan for assuring system reliability was more cost-effective. By Order No. PSC-95-1230-FOF-EI, issued October 3, 1995, in Docket No. 950270-EI, we approved FPC's request to amortize over four years approximately \$23 million in costs associated with the Lake Tarpon - Kathleen transmission line.

FPC maintains that it can replace the LTK transmission line and assure system reliability with an alternative plan. This plan includes a fast automatic load shedding system (FALS), reactivation and extension of the 115 Kv Higgins-Fort Meade transmission line, and dispatching generating units out of strict economic order.

FPC plans to reactivate a portion of its 115kV Higgins - Fort Meade transmission line and extend the line to a new substation (Griffin) to be constructed in Polk County. The extension to the new substation is approximately 2,000 feet in length. The Higgins - Fort Meade transmission line was constructed during the 1950's and deactivated in 1984. Maps showing the route and planned extension are included in this recommendation as Attachment 1.

We do not believe that this plan requires Determination of Need pursuant to the Transmission Line Siting Act, Sections 403.52 through 403.5365, Florida Statutes.

Section 403.537(1) (a), Florida Statutes, states in part:

Upon request by an applicant or upon its own motion, the Florida Public Service Commission shall schedule a public

hearing, after notice, to determine the need for a transmission line regulated by the Transmission Line Siting Act, ss. 403.52-403.5365.

Section 403.522(21), Florida Statutes, defines "Transmission line" as:

any electrical transmission line extending from, but not including, an existing or proposed substation or power plant to, but not including, an existing or proposed transmission network or rights-of-way or substation to which the applicant intends to connect which defines the end of the proposed project and which is designed to operate at 230 kilovolts or more.

Section 403.524(2)(c), Florida Statutes, provides in pertinent part:

the provisions of this act do not apply to...Transmission line development in which all construction is limited to established rights-of-way.... For transmission line rights-of-way, established rights-of-way include rights-of-way created before October 1, 1983.

Section 403.524(2)(d), Florida Statutes, provides in pertinent part that:

Transmission lines which are less than 15 miles in length or which do not cross a county line, unless the applicant has elected to apply for certification under the act

are not subject to certification under the Transmission Line Siting Act.

We believe that a need determination is not required for the existing portion of the line. As stated above, the Transmission Line Siting Act only applies to transmission lines "designed to operate at 230 kilovolts or more." The reactivated line is designed to operate at 115 kilovolts. Further, the reactivated line will operate in "rights-of-way created before October 1, 1983." Thus, this line is not within the definition of transmission line found in Section 403.522(21), Florida Statutes, and, is excluded from the application of the act by 403.524(2)(c), Florida Statutes.

For the purpose of considering this petition, it has been assumed, though not conceded, that our responsibilities pursuant to Section 403.537, Florida Statutes, are related to the

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"...protection of the air, water, and other natural resources of the state" and thus, within the scope of the Environmental Protection Act of 1971.

We also believe that a need determination is not required for the planned extension of the line. Assuming, that the City of Tampa and Hillsborough County have standing under Section 403.412, Florida Statutes, to maintain an action concerning a new transmission line located outside their geographic borders, our responsibilities associated with the Transmission Line Siting Act exclude the extension of this line for at least three reasons. First, it is designed to operate at 115 kilovolts, thus below the jurisdictional threshold of the act. Second, the extension is located entirely within Polk County. Finally, the extension is less than 15 miles in length. Thus, this line is not within the definition of transmission line found in Section 403.522(21), Florida Statutes, and is exempted from the application of the act by Section 403.524(2)(d), Florida Statutes.

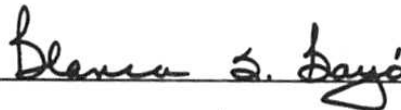
For these reasons, we decline to initiate a Determination of Need proceeding, pursuant to Section 403.537, Florida Statutes, for Florida Power Corporation's Higgins-Griffin transmission line.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that we decline to initiate a Determination of Need proceeding, pursuant to Section 403.537, Florida Statutes, for Florida Power Corporation's Higgins-Griffin transmission line. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 12th day of December, 1995.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.