

Shawna Senko

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Sent: Friday, June 27, 2014 4:05 PM
To: Filings@psc.state.fl.us
Cc: Mendez, Victoria; Greco, John A.
Subject: Stipulation in Final Order on Certification: FPL Turkey Point Units 6 & 7, Application no. PA 03-45A3 (OGC 09-3107)
Attachments: City of Miami - FPL Transmission Line Stipulation.pdf

Hello,

Attached, please find a letter, addressed to the Commission's Chairman, reporting a precondition to the construction of a specific segment of the eastern transmission lines associated with Florida Power & Light Company's (FPL) Turkey Point Units 6 & 7 project.

This is in reference to docket no. 140009.

The letter is from Victoria Mendez, City Attorney for the City of Miami.

Thank you,

Matt Haber

City of Miami



Victoria Méndez
City Attorney

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June 27, 2014

Art Graham, Chairman
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Subject: Florida Power & Light Co.
Turkey Point Units 6 & 7
Power Plant Siting
Application No. PA 03-45A3

Dear Mr. Graham:

The purpose of this letter is to report a precondition to the construction of a specific segment of the eastern transmission lines associated with Florida Power & Light Company's (FPL) Turkey Point Units 6 & 7 project.

The Public Service Commission is being notified of this precondition due to its role in approving preconstruction work, preconstruction purchases, and the commencement of construction activities under sections 366.93(3)(c)-(e), Florida Statutes.

According to a stipulation volunteered by FPL on July 18, 2013, during the certification hearing, and formalized by the Power Plant Siting Board in its Final Order on Certification, FPL may not build any portion of its proposed Davis-Miami transmission line until the U.S. Nuclear Regulatory Commission (NRC) issues its license for Turkey Point Units 6 & 7. This precondition appears on page 4 of the Final Order on Certification:

However, FPL voluntarily stipulated that it would not commence construction of the Davis-Miami portion of the eastern transmission line prior to the NRC approval. FPL's stipulation is part of the evidence in the certification hearing; and the Siting Board grants certification of the Project "as described in the Site Certification Application and in the evidence presented at the certification hearing." (RO at page 326). **Thus, FPL cannot build its proposed Davis-Miami transmission line, or any portion of it, under this PPSA certification, unless the NRC license for the Turkey Point Units 6 and 7 is issued.** (Emphasis added).

VM/mh
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This stipulation was made at an administrative hearing held pursuant to the requirements of the Power Plant Siting Act:

MS. RAEPPLE [Counsel for FPL]: “To clear up confusion, this is actually a matter that was addressed repeatedly, clearly, in Mr. Scroggs’ testimony, but I think it’s gotten a little confusing, so I want to offer a stipulation. **Florida Power & Light will stipulate that it will not build its proposed Davis-Miami transmission line** as specified for the Turkey Point 6 & 7 project or any portion of it under any Power Plant Siting Act certification issued by the siting board following this certification hearing **unless all other regulatory approvals for the Turkey Point 6 & 7 project are issued.**”

THE COURT: “Okay. That would be the NRC?”

MS. RAEPPLE: “**That would include the NRC, yes.**”
Hearing transcript vol. 14, 1938:14-1939:14 (emphasis added).

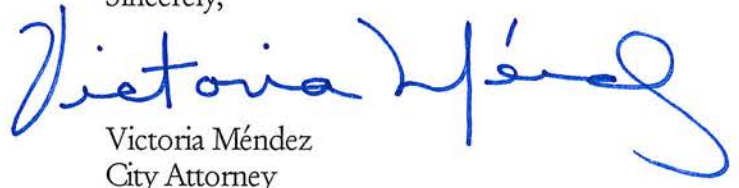
The Davis-Miami transmission line will run through the jurisdictions of several local governments – including the City of Miami, Coral Gables, South Miami, and Pinecrest – and will terminate in the Miami substation at S.W. 2nd Avenue, north of the Miami River.

In light of FPL’s binding stipulation, the City of Miami respectfully requests that the Public Service Commission deny any petitions for approval to begin preconstruction or construction work on the Davis-Miami transmission line until the NRC issues its approval for the Turkey Point Units 6 & 7 project. Moreover, no construction work should begin on the western corridor since this project was appealed to the Third District Court of Appeal.

Attached, please find: 1) an excerpt from the Power Plant Siting Board’s Final Order on Certification that formalizes this precondition, 2) the page of testimony in which the above-quoted stipulation appears, 3) a map depicting the proposed route of the Davis-Miami transmission line, 4) an excerpt from a report commissioned by FPL which describes the proposed Davis-Miami transmission line, 5) an excerpt from the transcript of a Florida Cabinet meeting where the Department of Environmental Protection’s General Counsel stated that this stipulation is a condition of certification, and 6) the first page of the City of Miami’s notice of appeal.

If you have any questions, please feel free to contact me at vmendez@miamigov.com or 305-416-1800.

Sincerely,


Victoria Méndez
City Attorney

Enclosure: As stated
Cc w/encl: See next page

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obtaining the state site certification under the PPSA is separate from the NRC approval process. The ALJ found, and the Siting Board agrees, that certification under the PPSA is not dependent on prior NRC approval; moreover, neither the Siting Board nor any other state agency has any jurisdiction to regulate nuclear safety matters. (RO ¶ 16).

However, FPL voluntarily stipulated that it would not commence construction of the Davis-Miami portion of the eastern transmission line prior to the NRC approval.⁴ FPL's stipulation is part of the evidence in the certification hearing; and the Siting Board grants certification of the Project "as described in the Site Certification Application and in the evidence presented at the certification hearing." (RO at page 326). Thus, FPL cannot build its proposed Davis-Miami transmission line, or any portion of it, under this PPSA certification, unless the NRC license for the Turkey Point Units 6 and 7 is issued.

Additionally, the determination whether there is the need for the additional power in a particular market area – a predicate to the initiation of the entire power plant siting process – is wholly outside the jurisdiction of the Siting Board. It is a decision made by the Florida Public Service Commission ("PSC"). On April 11, 2008, the PSC issued its affirmative need determination for the FPL Project, which found that South Florida had the "need for electric system reliability and integrity; the need for fuel diversity and supply reliability; the need for base load generating capacity; the need for adequate electricity at a reasonable cost . . . In making its determination of need, the PSC also found that there are no renewable energy sources and technologies or conservation measures reasonably available to FPL which might mitigate the need for Units 6 and 7." (RO ¶ 6).

⁴ See Hearing Transcript Volume XIV, pages 1938-1939.

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1 MR. CUNNINGHAM: And I'm not doing this to
2 surprise anyone, but it occurred to us that, in
3 the public comment session last night, several
4 members of the public, including those supporting
5 the FPL project, mentioned issues that really
6 relate to what we would call radiological safety,
7 health and safety, and we anticipate that could
8 come up again tonight. I don't know.
9 I wanted to reiterate a point I made in my
10 opening statement that I think is a matter of
11 settled law, that under federal statutes and the
12 Nuclear Regulatory Commission, under the atomic
13 energy act, basically preempts that area relating
14 to radiological safety. I wanted to offer to your
15 Honor, just to the extent this kept coming up and
16 how you might think about it, the final order of
17 the siting board along with the administrative law
18 judge's recommended order in the relatively recent
19 Levy nuclear siting project case, and the siting
20 board and ALJ recognized that preemption.
21 I'm not arguing a motion, I just wanted --
22 it's a little bit hard to find this through the
23 normal routes, so I wanted you to have it if you
24 will accept it.
25 THE COURT: All right. I assume that

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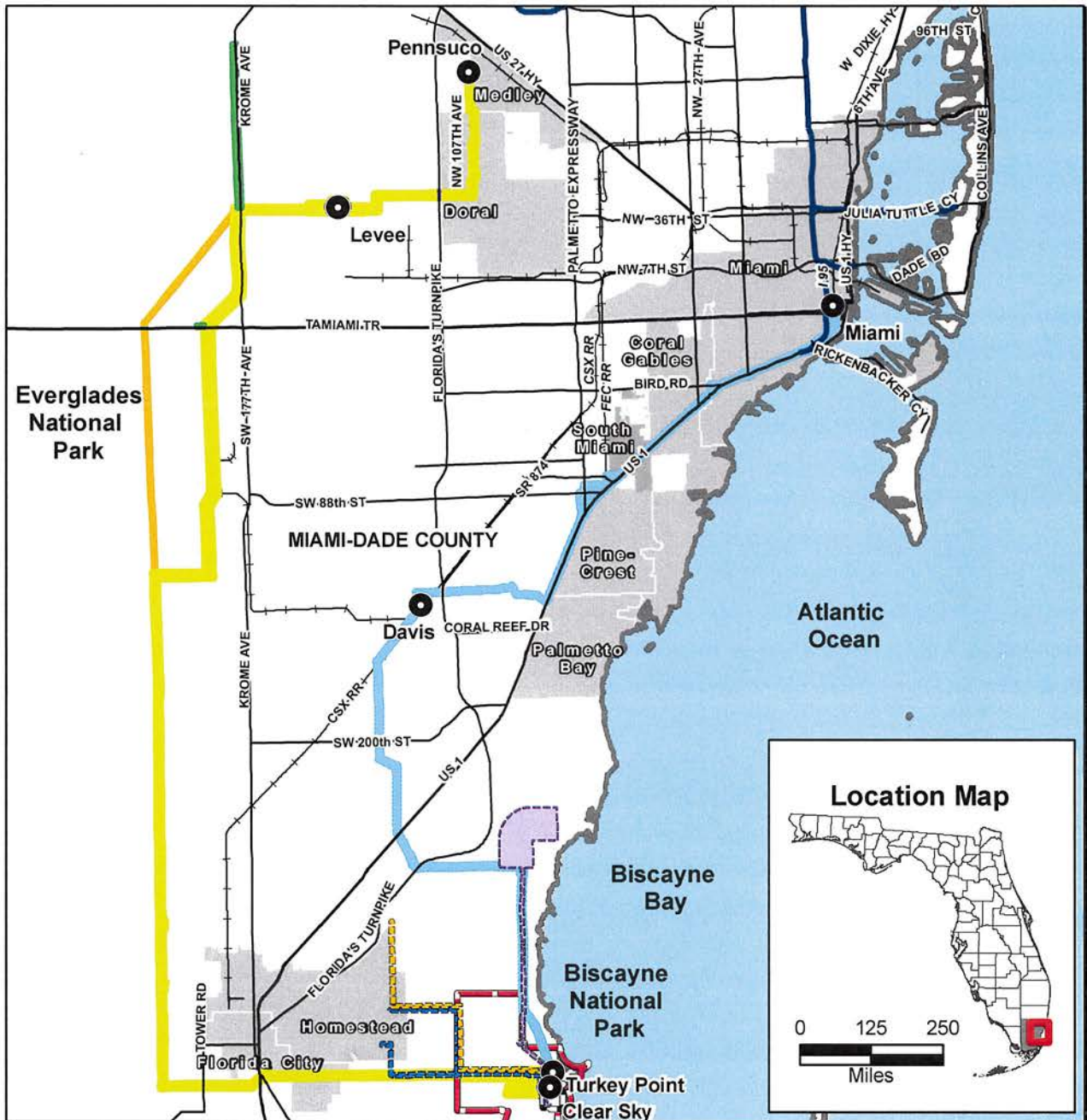
1 probably some of the witnesses are going to talk
2 about it anyway, but --
3 MR. CUNNINGHAM: I'm not going to object
4 to or say anything about that. It's not easy to
5 find, that's why I'm offering this, if I may.
6 MS. HERNANDEZ: Coral Gables has no
7 objection, if I could get a copy of it.
8 MR. CUNNINGHAM: I think we have five
9 copies here.
10 MS. HERNANDEZ: And I think that you were
11 just mentioning, so you wouldn't be crossing 20
12 people.
13 MR. CUNNINGHAM: Yes, or objections.
14 MS. RAEPPLER: I have a preliminary matter.
15 To clear up confusion, this is actually a matter
16 that was addressed repeatedly, clearly, in
17 Mr. Scroggs' testimony, but I think it's gotten a
18 little confusing, so I want to offer a
19 stipulation.
20 Florida Power & Light will stipulate that
21 it will not build its proposed Davis-Miami
22 transmission line as specified for the Turkey
23 Point 6 & 7 project or any portion of it under any
24 Power Plant Siting Act certification issued by the
25 siting board following this certification hearing

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1 unless all other regulatory approvals for the
2 Turkey Point 6 & 7 project are issued.
3 THE COURT: Okay. That would be the NRC?
4 MS. RAEPPLER: That would include the NRC,
5 yes.
6 THE COURT: Any, I guess, other counsel
7 would stipulate or agree to that representation by
8 FPL?
9 MS. HERNANDEZ: We accept that
10 stipulation, thank you.
11 MS. MENDEZ: Could you just read it one
12 more time? I'm sorry, I want to make sure I
13 absorb it.
14 (Off the record.)
15 THE COURT: We will go back on.
16 Are there any other preliminary matters?
17 Okay, Ms. Mendez.
18 MS. MENDEZ: Thank you, your Honor.
19 May I approach the witness? And, counsel,
20 for the record, this is Miami 50, the hardening
21 plan.
22 CONTINUING CROSS EXAMINATION
23 BY MS. MENDEZ:
24 Q. Mr. Hronec, do you recognize this document
25 that I handed you? Do you want a copy? I'm sorry, I

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1 don't know if you have it there.
2 Mr. Hronec, I've handed you what's been
3 marked as City of Miami 50. Do you recognize this
4 document?
5 A. Yes, I believe I do.
6 Q. What is this document?
7 A. It's a document made up of a 7 or 8-page
8 letter to the Public Service Commission entitled
9 "Approval of Florida Power & Light Company's
10 2013-2015 storm constructability plan filed in
11 compliance with Rule 25-6.0342, Florida
12 Administrative Code," and then attached to the letter
13 is the plan submitted by Florida Power & Light with
14 the letter.
15 Q. Is this FPL's hardening plan submitted to
16 the Public Service Commission, I'm sorry?
17 A. I assume so. The cover letter indicates
18 there's seven copies of this particular plan being
19 submitted to the PSC.
20 Q. In your role or duties with Florida Power &
21 Light, do you ever -- do you or anyone from your team
22 have the opportunity to review this documentation
23 with regard to your design and transmission line
24 siting process?
25 A. I personally do not have the opportunity



LEGEND

- FPL Substation
- East Preferred
- Transmission Corridor
- West Preferred
- Transmission Corridor
- West Secondary
- Transmission Corridor
- Access Corridors
- Reclaimed Water
- Pipeline Corridor
- Potable Water Pipeline Corridor
- Roadway Improvement Corridors
- Turkey Point Plant Property
- Turkey Point Units 6 & 7 Site
- Interstate Highway
- US Highway
- Major Road
- Railroad
- Municipalities

REFERENCES

US Census, 2000; FDOT, 2005; Miami-Dade County, 2008.



| | | |
|--|--|----------------|
| PROJECT | TURKEY POINT UNITS 6 & 7 PROJECT | |
| TITLE | LINEAR FACILITIES PROPOSED FOR CERTIFICATION | |
|  | FILE No | 080489-0100 |
| | REV | 0 |
| | PLOT DATE | 05/08/2009 |
| | FIGURE | 9.0.0-1 |

May 25, 2013

FLORIDA POWER AND LIGHT

Davis-Miami 230 kV Line *Overhead Report (FPL East Preferred Route)*

PROJECT NUMBER: 128328

PROJECT CONTACT:

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Overhead Analysis Report (FPL East Preferred Route)

PREPARED FOR: FLORIDA POWER AND LIGHT

PREPARED BY: MARK A. JOHNSON

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AT THE DIRECTION OF:

DANIEL HRONEC

ATTORNEY WORK PRODUCT PREPARED
IN ANTICIPATION OF LITIGATION

| REVISION HISTORY | | |
|------------------|------------|----------|
| DATE | REVISED BY | REVISION |
| 1/20/10 | TO | 0 |
| 4/24/13 | JRN | 1 |
| 5/25/13 | JRN | 2 |

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1.0 Project Description

Florida Power & Light Company (FPL) has identified a need to construct a 230 kilovolt (kV) transmission line connection between the Miami substation and the Davis substation, both in Miami-Dade County. A significant portion of this line is proposed to be constructed as an overhead facility along the Metrorail/Busway Corridor paralleling US1, within the FPL East Preferred Corridor. One end of the line will terminate in the Miami substation at SW 2nd Avenue north of the Miami River. An underground circuit is planned to exit the Miami Substation and cross under the Miami River to an underground riser structure located on the south side of the river, likely near SW 5th Street and SW 3rd Avenue. The overhead line is assumed to begin here and extend southward for approximately 15 miles to the Falls Shopping Center where the line would then move westward within the existing FPL transmission line corridor (as described in the Turkey Point Units 6 & 7 Site Certification Application - SCA). The study corridor for this report ends within this existing corridor, near SW 131st Street. In the SCA, the Study Corridor is referred to as the FPL East Preferred Corridor, in the area between the Miami Substation and the intersection of US1 and SW 131st Street.

FPL assembled a project team (Project Team) of specialists in transmission design, environmental planning, system planning, real estate, and construction, to initiate the studies necessary to determine a study area, identify a permissible corridor and meet the utility's reliability and constructability criteria. The FPL Project Team has included POWER Engineers, Inc. to assist in the analysis of the selected East Preferred Corridor, to prepare a conceptual overhead transmission line design and potential routing within that corridor.

The primary purpose of this report is to provide a description of a potential overhead route alignment within the study corridor based on known 2013 conditions, identify known constructability concerns along that route and present a cost estimate for that route alignment. The majority of the study corridor follows the existing Metrorail/ Busway/ US 1 Corridor.

Section 2 of this report describes the project requirements which include right-of-way, design, construction and safety requirements.

Section 3 of this report discusses the potential overhead routing along the FPL East Preferred Corridor.

Section 4 of this report provides a summary of the cost assumptions, project risks and estimated costs.

1 MR. LEOPOLD: Thank you, General Bondi. And
2 it's an honor to be acting as your lawyer today.

3 ATTORNEY GENERAL BONDI: Thank you.

4 MR. LEOPOLD: So with respect to Mr. Garner's
5 comments, DEP -- what we did in our draft final
6 order is we recognized a ruling of the ALJ which
7 specifically says that all stipulations made on the
8 record are incorporated as conditions of
9 certification to the recommended order. And,
10 you know, our draft order incorporates by reference
11 the Judge's recommended order.

12 So we actually agree with Mr. Garner that it
13 is a requirement of the DEP draft final order, if
14 entered by the Siting Board, and our language
15 simply highlights the most contentious issue with
16 respect to the NRC licensing process which still
17 has a long ways to go and hasn't been concluded
18 yet.

19 With respect to your question about the EMF,
20 DEP separately regulates electromagnetic
21 frequencies; and this project, as proposed, is well
22 within and below the human health standards that
23 DEP has for EMF.

24 Any additional questions?

25 GOVERNOR SCOTT: Any other questions?

RECEIVED

Jun 17, 2014

Dept. of Environmental Protection
Office of General Counsel

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

IN RE: FLORIDA POWER & LIGHT CO.
TURKEY POINT UNITS 6 & 7
POWER PLANT SITING
APPLICATION NO. PA 03-45A3

DOAH CASE NO. 09-3575-EPP
OGC CASE NO. 09-3107

THE CITY OF MIAMI'S NOTICE OF ADMINISTRATIVE APPEAL

NOTICE IS GIVEN that the CITY OF MIAMI, Appellant, appeals under sections 403.513 and 120.68(2)(a), F.S., to the Third District Court of Appeal, the Power Plant Siting Board's Final Order on Certification rendered May 19, 2014, a copy of which is attached hereto. The nature of the Final Order is an approval of Florida Power & Light Company's (FPL) application to construct its Turkey Point Units 6 & 7 project.¹

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¹ The Final Order on Certification may be accessed online at <http://tinyurl.com/DEP-Final-Order>