

NOTICE OF FILING APPLICATION FOR ELECTRICAL POWER PLANT SITE CERTIFICATION TO BE LOCATED IN OSCEOLA COUNTY, FLORIDA: CANE ISLAND POWER PARK UNIT 4

1. Application number PA-98-38-A2 for certification to authorize construction and operation of one nominal 300 megawatt (MW) natural gas fired combined cycle combustion turbine generating unit and associated facilities was filed by the Florida Municipal Power Agency (FMPA) and Kissimmee Utility Authority (KUA) with the Florida Department of Environmental Protection (DEP) on April 1, 2008. The project is known as the Cane Island Power Park Unit 4. The approximately 1,027-acre Cane Island Power Park (CIPP) is located at 6075 Old Tampa Highway, near Intercession City, Osceola County, Florida. The CIPP location is shown on the accompanying map. FMPA and KUA are seeking certification of Unit 4 under the Florida Electrical Power Plant Siting Act, Chapter 403, Part II, Sections 403.501 – 403.519, Florida Statutes (F.S.) (2007) (PPSA or Act). The case is now pending before the Florida Division of Administrative Hearings (DOAH), Case No. 08-1629-EPP, prior to action by the Florida Governor and Cabinet as the Siting Board pursuant to the PPSA. The Cane Island Power Park site and three existing units at the site have been previously certified under the PPSA.

2. The new generating unit will consist of a combined cycle combustion turbine, a heat recovery steam generator, a steam turbine generator, a mechanical-draft cooling tower and associated auxiliary systems. The air pollution control equipment will consist of low nitrogen oxide burners and selective catalytic reduction (SCR) to control nitrogen oxides. Unit 4 will burn only natural gas, which will be received by an existing gas pipeline. Approximately 2.8 million gallons per day (mgd) of treated wastewater from the Tohopekaliga Water Authority (TOHO) will be conveyed via an existing pipeline to Unit 4 and used for cooling water makeup. Cooling tower blow down will be returned to TOHO via an existing pipeline. An additional 134,000 gallons per day of groundwater from two existing onsite wells and one proposed well will be used for Unit 4 process water (excluding cooling tower makeup). FMPA and KUA are requesting the use of 2.8 mgd of groundwater as an emergency source of Unit 4 cooling tower makeup from four new proposed wells, for a total of 30 days per year, in the event TOHO is unable to supply the treated wastewater.

3. The PPSA, under which the FMPA/KUA application has been filed, involves several procedural steps. Various state, regional, and local agencies and local governments are reviewing the application for site certification and preparing reports and recommendations on Unit 4. The affected local government, Osceola County, will be issuing a determination on the consistency of the Unit 4 site with land use plans and zoning ordinances. Additional public notice of the local government land use determination will be provided. A land use hearing will be held if that determination is disputed. DEP will prepare a Project Analysis which will contain copies of studies and reports prepared by the reviewing agencies, and the recommendation of the DEP as to the disposition of the application for site certification, along with any proposed or modified conditions of certification. A certification hearing will be held by an administrative law judge from DOAH at a later date at a location in proximity to the Cane Island Power Park site unless the parties to this proceeding agree that there are no disputed issues of fact or law to be raised at the certification hearing. If a hearing is held, the administrative law judge will issue a recommended order for consideration by the Siting Board, which will render the final decision whether to grant certification for Unit 4 under the PPSA. If no certification hearing is required, final action on the application for site certification will be taken by the DEP Secretary.

4. The application for site certification is available for public inspection during normal business hours at the addresses listed below:

Florida Department of Environmental Protection
Office of Siting Coordination
2600 Blair Stone Road, Tallahassee, Florida 32399-2400
(850) 245-8002
<http://www.dep.state.fl.us/siting/Highlights/applications.htm>

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

Bureau of Air Regulation
Florida Department of Environmental Protection
111 South Magnolia Drive, Tallahassee, Florida 32301
(850) 488-1344

Osceola County Public Library
211 East Dakin Street
Kissimmee, Florida 34741

The business addresses of the applicants for the Project are:
Florida Municipal Power Agency
8553 Commodity Circle
Orlando, Florida 32819-9002

Kissimmee Utility Authority
1701 West Carroll Street
Kissimmee, Florida 34741

5. DEP and other state, regional, and local agencies and local governments will be studying the application and preparing reports and recommendations on Unit 4 for the certification hearing. Interested persons should review the application and bring matters of concern to the attention of the appropriate agency and FMPA/KUA as soon as possible. Information regarding the appropriate contact persons in the reviewing agencies may be obtained from Michael P. Halpin, P.E., at the Department of Environmental Protection, Siting Coordination Office, 2600 Blair Stone Road, Tallahassee, Florida 32399, (850) 245-8002, mike.halpin@dep.state.fl.us.

6. (a) Any person wishing to participate in the proceedings, either as a party or without party status, must follow Section 403.508(3) or (4)(b), F.S. Notwithstanding the provisions of Chapter 120, F.S., upon the filing with the administrative law judge of a notice of intent to be a party no later than 75 days after the application was filed on April 1, 2008, the following shall also be parties to the proceeding:

- (i) Any agency not listed in Section 403.508(3)(a), F.S., as to matters within its jurisdiction.
- (ii) Any domestic nonprofit corporation or association formed, in whole or in part, to promote conservation or natural beauty; to protect the environment, personal health, or other biological values; to preserve historical sites; to promote consumer interests; to represent labor, commercial, or industrial groups; or to promote comprehensive planning or orderly development of the area in which the proposed electrical power plant is to be located.

(b) Other parties may include any person, including those persons enumerated in subparagraph 6(a) above who have failed to timely file a notice of intent to be a party, whose substantial interests are affected and being determined by the proceeding and who timely file a motion to intervene pursuant to Chapter 120, F.S., and applicable rules. Intervention pursuant to this paragraph may be granted at the discretion of the designated administrative law judge and upon such conditions as he may prescribe any time prior to 30 days before the commencement of the certification hearing. Those wishing to intervene in this proceeding, unless appearing on their own behalf, must be represented by an attorney or other person who can be determined to be qualified to appear in administrative proceedings pursuant to Chapter 120, F.S., or Rule 28-106.106, Florida Administrative Code (F.A.C.).

(c) When appropriate, any person may be given an opportunity to present oral or written communications to the designated administrative law judge. If the designated administrative law judge proposes to consider such communications, then all parties shall be given an opportunity to cross-examine or challenge or rebut such communications.

7. Any notice of intent to be a party, motion to intervene, or other pleadings must be sent to:

J. Lawrence Johnston
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
Fax filing: (850) 921-6847
www.doah.state.fl.us

and must contain the following: reference to the application and DOAH case numbers (PA-98-38-A2; DOAH Case No. 08-1629-EPP) and the name, address, and telephone number of the agency or person making the filing. A notice of intent to be a party or a motion to intervene must contain allegations sufficient to demonstrate the agency or person is entitled to participate in the proceeding. The notice or motion must be sent by mail to the applicant and to all parties. (A list of parties may be obtained from DEP's Office of Siting Coordination at the address and telephone number listed above in paragraph 4.)

8. (a) Subject to the conditions set forth therein, any certification shall constitute the sole license of the state and any agency as to the approval of the site and the construction and operation of the proposed electrical power plant, except for the issuance of department licenses required under any federally delegated or approved permit program and except as otherwise provided in Subsection 403.511(4), F.S., which relates to certain powers of the Florida Public Service Commission and rights of local government.

(b) The certification shall authorize FMPA and KUA to construct and operate the proposed electrical power plant subject only to the conditions of certification set forth in such certification, except for the issuance of DEP licenses or permits required under any federally delegated or approved permit program.

(c) Except as provided in Subsection 403.511(4), F.S., the certification may include conditions which constitute variances, exemptions, or exceptions from nonprocedural requirements of the department or any agency which were expressly considered during the proceeding, including, but not limited to, any site specific criteria, standards, or limitations under local land use and zoning approvals which affect the proposed electrical power plant or its site, unless waived by the agency and which otherwise would be applicable to the construction and operation of the proposed electrical power plant.

(d) No variance, exemption, exception, or other relief shall be granted from a state statute or rule for the protection of endangered or threatened species, aquatic preserves, Outstanding National Resource Waters, or Outstanding Florida Waters or for the disposal of hazardous waste, except to the extent authorized by the applicable statute or rule or except upon a finding in the certification order that the public interests set forth in Section 403.509(3), F.S., in certifying the electrical power plant at the site proposed by the applicant overrides the public interest protected by the statute or rule from which relief is sought.

(e) In regard to variances or other relief, Section 403.507(3) (a), F.S., and Rule 62-17.133(1), F.A.C., require that agencies identify in their report on Unit 4 any needed variances or other relief from nonprocedural standards of the agencies. Failure to provide such notice shall be treated as a waiver from nonprocedural requirements of DEP or any other agency. However, no variance shall be granted from standards or regulations of the DEP applicable under any federally delegated or approved permit program, except as expressly allowed in such program.

9. FMPA and KUA have also submitted applications to DEP for a prevention of significant deterioration (PSD) air construction permit and a National Pollutant Discharge Elimination System (NPDES) permit. These permit applications are included in the site certification application. These permits will be issued by DEP separately from the site certification.

