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March 10, 2017

Ms. Carlotta Stauffer, Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee FL 32399-0850

RE: Docket No. 160186-EI

Dear Ms. Stauffer:

Attached for official filing in the above-referenced docket is Gulf Power Company's Notice of Intent to Seek Official Recognition.

Sincerely,

A handwritten signature in blue ink that reads "Robert L. McGee, Jr.".

Robert L. McGee, Jr.
Regulatory and Pricing Manager

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Attachments

cc: Beggs & Lane
Jeffrey A. Stone, Esq.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for increase in rates by Gulf Power Company.) Docket No. 160186-EI)
In re: Petition for approval of 2016 depreciation and dismantlement studies, approval of proposed depreciation rates and annual dismantlement accruals and Plant Smith Units 1 and 2 regulatory asset amortization, by Gulf Power Company.) Docket No. 160170-EI)
Date Filed: March 10, 2017)

**GULF POWER COMPANY'S
NOTICE OF INTENT TO SEEK OFFICIAL RECOGNITION**

Gulf Power Company (Gulf), by and through its undersigned counsel, and pursuant to Section 120.569(2)(i), Florida Statutes and Paragraph VI.F of the Order Establishing Procedure (Order No. PSC-16-0473-PCO-EI), hereby gives notice of its intent to seek official recognition of the version of the Florida Electrical Power Plant Siting Act (Sections 403.501 to 403.515, Florida Statutes) that was in effect at the time of the site certification proceeding for Gulf's Caryville site, including generating Units 1 and 2. A copy of the statute is provided as Attachment A.

RESPECTFULLY SUBMITTED THIS 10th day of March, 2017.



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which is not required to be licensed under the provisions of chapter 320.

History.—s. 7, ch. 74-110.

403.4152 Joint departmental study and report.—The Department of ¹[Environmental Regulation] and the Department of Highway Safety and Motor Vehicles shall jointly undertake a study of the effectiveness of this act during the initial 2 years of its implementation and shall report the results of that study to the Legislature no later than 30 days prior to the convening of the 1977 regular session.

History.—s. 6, ch. 74-110.

¹Note.—See Note 1, s. 403.415.

PART II

ELECTRICAL POWER PLANT SITING

- 403.501 Short title.
- 403.502 Legislative intent.
- 403.503 Definitions.
- 403.504 Department of Environmental Regulation; powers enumerated.
- 403.505 Ten-year site plans.
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- 403.507 Detailed studies to be conducted.
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- 403.509 Recommendations to Pollution Control Board.
- 403.510 Superseded laws, regulations, and certification power.
- 403.511 Effect of certification.
- 403.5111 County and municipal authority unaffected by chapter 75-22, Laws of Florida.
- 403.512 Revocation or suspension of certification.
- 403.513 Review.
- 403.514 Enforcement of compliance.
- 403.515 Availability of information.

403.501 Short title.—Sections 403.501-403.515 shall be known and cited as the "Florida Electrical Power Plant Siting Act."

History.—s. 1, ch. 73-33.

403.502 Legislative intent.—The legislature finds that the present and predicted growth in electric power demands in this state requires the development of a procedure for the selection and utilization of sites for electrical generating facilities and the identification of a state position with respect to each proposed site. The legislature recognizes that the selection of sites and the routing of associated transmission lines will have a significant impact upon the welfare of the population, the location and growth of industry, and the use of the natural resources of the state. The legislature finds that the efficiency of the permit application and review process at both the state and local level would be improved with the implementation of a process whereby a permit application would be centrally coordinated and all permit decisions could be reviewed on the basis of standards and recommendations of the deciding agencies. It is the policy of this state that, while recognizing the pressing need for increased power generation facilities, the state shall

ensure through available and reasonable methods that the location and operation of electrical power plants will produce minimal adverse effects on human health, the environment, the ecology of the land and its wildlife, and the ecology of state waters and their aquatic life. It is the intent to seek courses of action that will fully balance the increasing demands for electrical power plant location and operation with the broad interests of the public. Such action will be based on these premises:

(1) To assure the citizens of Florida that operation safeguards are technically sufficient for their welfare and protection.

(2) To effect a reasonable balance between the need for the facility and the environmental impact resulting from construction and operation of the facility, including air and water quality, fish and wildlife, and the water resources and other natural resources of the state.

(3) To provide abundant, low-cost electrical energy.

History.—s. 1, ch. 73-33.

403.503 Definitions.—

(1) "Applicant" means any electric utility which makes application for a site location certification pursuant to the provisions of this act.

(2) "Application" means any request for approval of a particular site or sites filed in accordance with the procedures established pursuant to this act.

(3) "Person" means an individual, partnership, joint venture, private or public corporation, association, firm, public service company, political subdivision, municipal corporation, government agency, public utility district or any other entity, public or private, however organized.

(4) "Electric utility" means cities and towns, counties, public utility districts, regulated electric companies, electric cooperatives, and joint operating agencies, or combinations thereof, engaged in, or authorized to engage in, the business of generating, transmitting, or distributing electric energy.

(5) "Site" means any proposed location wherein a power plant, or power plant alteration or addition resulting in an increase in generating capacity, will be located, including offshore sites within state jurisdiction.

(6) "Certification" means the written order of the ¹board approving an application in whole or with such modification as the ¹board may deem appropriate, which order shall constitute a binding agreement between the applicant and the state requiring compliance with the provisions of the order as conditions to be met prior to, or concurrent with, the construction or operation of any electrical power plant coming under this act.

(7) "Electrical power plant" means, for the purpose of certification, any steam or solar electrical generating facility using any process or fuel, including nuclear materials, and shall include those directly associated transmission lines required to connect the electrical power plant to an existing transmission network.

(8) "Department" means the Department of ²[Environmental Regulation].

¹(9) "Board" means the Pollution Control Board.

(10) "Division" means the Division of State Plan-

ning of the Department of Administration.

(11) "State comprehensive plan" means that plan prepared in accordance with the provisions of part I of chapter 23.

History.—s. 1, ch. 73-33.

Note.—The board was impliedly abolished by s. 26, ch. 75-22. Section 5(2), ch. 75-22, provides that the Governor and Cabinet shall perform the duties of the Pollution Control Board pursuant to the Florida Electrical Power Plant Siting Act, ss. 403.509, 403.511, 403.512, and 403.513.

Note.—Bracketed words substituted by the editors for the words "Pollution Control." See s. 8, ch. 75-22.

403.504 Department of Environmental Regulation; powers enumerated.—The Department of [Environmental Regulation] shall have the following powers in relation to this act:

(1) To adopt, promulgate, or amend reasonable rules to carry out the provisions of this act, including rules setting forth environmental precautions to be followed in relation to the location and operation of electrical power plants.

(2) To prescribe the form, content, and necessary supporting documentation for site certification.

(3) To receive applications for final site locations and to investigate the sufficiency thereof.

(4) To make, and contract for when applicable, studies of electrical power plant sites proposed by the applicant.

(5) To conduct hearings on the proposed location of the electric power plant sites.

(6) To require an application fee not to exceed \$25,000, such fee to be paid upon each application for certification.

(7) To prepare written reports which shall include:

(a) A statement indicating whether the application is in compliance with the department's rules.

(b) The report from the public service commission setting forth the need for electricity in the area to be served, as required by s. 403.507.

(c) The environmental effects of the construction and operation of the electrical power plant.

(d) A recommendation as to the disposition of the application.

(8) To give adequate public notice and to directly notify all concerned state or local agencies and report any comments received from said agencies to the board and the applicant.

(9) To prescribe the means for monitoring the effects arising from the construction and operation of electrical power plants to assure continued compliance with terms of certification.

History.—s. 1, ch. 73-33.

Note.—See Note 2, s. 403.503.

Note.—See Note 1, s. 403.503.

403.505 Ten-year site plans.—

(1) Beginning January 1, 1974, each electric utility shall submit to the Division of State Planning a 10-year site plan which shall estimate its power generating needs and the general location of proposed power plant sites. The 10-year plan shall be reviewed and submitted not less frequently than every 2 years.

(2) Upon receipt of the plan, it shall be the duty of the division to make a preliminary study of each plan within 12 months and to classify each proposed plan as "suitable" or "unsuitable." The division may suggest alternate plans. All findings of the division

shall be made available to the department for its consideration at any subsequent certification proceedings. It is recognized that 10-year site plans submitted by an electric utility are tentative information only and are subject to change at any time at the discretion of the utility. In its preliminary study of each site, the division shall consider:

(a) The need, including the need as determined by the Public Service Commission, for electrical power in the area to be served.

(b) The anticipated environmental impact of an electrical power plant on the area.

(c) Possible alternatives to the proposed plan.

(d) The views of appropriate local, state, and federal agencies.

(e) Whether there is conformance with the state comprehensive plan.

(3) To enable it to carry out its duties under this section, the division may, after hearing, establish a study fee which shall not exceed \$1,000 for each proposed plan studied.

(4) Prior to October 1, 1973, the division shall adopt rules governing the method of submitting, processing and studying the 10-year plans as required by this section.

History.—s. 1, ch. 73-33.

403.506 Applicability and certification.—

(1) Provisions of this chapter shall apply to any electrical power plant as defined herein. No construction of any new electrical power plant or expansion in steam generating capacity of any existing electrical power plant may be undertaken after October 1, 1973, without first obtaining certification in the manner as herein provided, except that this act shall not apply to any such electrical power plant which is presently operating or under construction or which has, upon the effective date of this act, applied for a permit or certification under requirements in force prior to the effective date of this act.

(2) Applications for certification shall be upon forms prescribed by the department and shall be supported by such pertinent information and technical studies as the department may require.

History.—s. 1, ch. 73-33.

403.507 Detailed studies to be conducted.—

(1) It shall be the duty of the department to notify the Division of State Planning and the Public Service Commission within 10 days of receipt of an application for site certification.

(a) The division shall review and update the studies made under the provisions of s. 403.505 and shall present its recommendation to the department within 3 months of receipt of notification.

(b) The Public Service Commission shall prepare a report and recommendation as to the present and future needs for electrical generating capacity in the area to be served by the proposed site and shall submit its findings to the department within 3 months of receipt of notification.

The applicant, at its cost, shall furnish such information, studies, and data as the department, division, or Public Service Commission may direct.

(2) It shall be the duty of the department to conduct, or contract for, a study of the proposed power

generating facility, including, but not limited to, the following site criteria:

- (a) Cooling system requirements;
- (b) Proximity to load centers;
- (c) Proximity to navigable water and other transportation systems;
- (d) Soil and foundation conditions;
- (e) Availability of water;
- (f) Land use;
- (g) Accessibility to transmission; and
- (h) Environmental impact.

(3) All reasonable expenses associated with the studies required by subsections (1) and (2) shall be paid from the application fee required by s. 403.504(6).

History.—s. 1, ch. 73-33.

403.503 Public hearings.—

(1) The department shall conduct an initial public hearing in the county of the proposed site within sixty days of receipt of an application for site certification. The place of such public hearing shall be as close as possible to the proposed site.

(2) The department must determine at the initial public hearing whether or not the proposed site is consistent, and in compliance, with existing land use plans and zoning ordinances. If it is determined that the proposed site does conform with existing land use plans and zoning ordinances in effect as of the date of the application, the responsible zoning or planning authority shall not thereafter change such land use plans or zoning ordinances so as to affect the proposed site. If it is determined that the proposed site does not conform, it shall be the responsibility of the applicant to make the necessary application for rezoning. Should the application for rezoning be denied, the applicant may appeal this decision to the department, which may, if it determines after notice and hearing that it is in the public interest to authorize a nonconforming use of the land as a site for an electrical power plant, authorize a variance to the existing land use plans and zoning ordinances. ¹[In the event no such variance is granted,] no further action may be taken by the department until the proposed site conforms to existing land use plans or zoning ordinances. The initial hearing may consider any other matter appropriate to consideration of the site.

(3) At least one additional public hearing shall be held by the department in the exercise of its functions under this chapter prior to acting upon the application.

(4)(a) The parties to a certification hearing shall include:

- 1. The applicant.
- 2. The Public Service Commission and the Division of State Planning.
- 3. Each county and municipal government and any other state agency which may have an interest in the proposed site, that has filed with the department, not less than 10 days prior to the date set for hearing, a notice of intent to be a party.

4. Any domestic nonprofit corporation or association formed in whole or in part to promote conservation or natural beauty, protect the environment, personal health, or other biological values, preserve historical sites, promote consumer interests, repre-

sent commercial or industrial groups, or promote orderly development of the area in which the site is located, that has filed with the department, not less than 10 days prior to the date set for hearing, a notice of intent to be a party.

5. Such other persons as the department or hearing officer may at any time deem appropriate.

(b) Any person may present written or oral testimony relative to the need for, or the effects of, the proposed electrical power plant.

History.—s. 1, ch. 73-33.

¹Note.—The bracketed language was inserted by the editors.

¹403.509 Recommendations to Pollution Control Board.—

(1) The department shall consider all evidence presented at the hearings as well as information gathered in any studies, and shall report to the board its recommendations for the disposition of an application for certification no later than 12 months after receipt of such an application, or such later time as is mutually agreed by the department and the applicant.

(2) Within 60 days of receipt of the department's report, the board shall act upon the application by written order, approving in whole, approving with such modification as the board may deem appropriate, or denying the issuance of a certificate and stating the reasons for issuance or denial. If the certificate is denied or approved with modifications, the board shall set forth in writing the action the applicant would have to take to secure the board's approval of the application.

(3) The issuance or denial of the certification by the board shall be the final administrative action required as to that application.

History.—s. 1, ch. 73-33.

¹Note.—See Note 1, s. 403.503.

403.510 Superseded laws, regulations, and certification power.—

(1) If any provision of this act is in conflict with any other provision, limitation, or restriction which is now in effect under any law or ordinance of this state or any political subdivision or municipality, or any rule or regulation promulgated thereunder, this act shall govern and control, and such other law or ordinance or rule or regulation promulgated thereunder shall be deemed superseded for the purposes of this act.

(2) The state hereby preempts the regulation and certification of electrical power plant sites and electrical power plants as defined in this act.

History.—s. 1, ch. 73-33.

403.511 Effect of certification.—

(1) Subject to the conditions set forth therein, any certification agreement signed by the ¹chairman of the Pollution Control Board shall bind the state or any of its departments, agencies, divisions, bureaus, commissions, districts, or boards as to the approval of the site and the construction and operation of the proposed electrical power plant and major transmission lines.

(2) The certification agreement shall authorize the electric utility named therein to construct and operate the proposed electrical power plant subject

only to the conditions set forth in such certification. The certification agreement may include conditions which constitute variances from nonprocedural standards or regulations otherwise applicable to the construction and operation of the proposed electrical power plant.

(3) The issuance of a site certification shall be in lieu of any permit, certificate, or similar document required by any other department, agency, division, bureau, commission, district, or board of this state or any local agency, including, but not limited to, those documents, permits, or certificates which may be required under chapters 161, 253, 298, 370, 373, 378, 380, 381, and 387, but shall not affect in any way the rate-making powers of the Public Service Commission under chapter 366, nor shall this act in any way affect the right of any local government to charge appropriate fees or require that construction be in compliance with local building codes, standards, and regulations.

History.—s. 1, ch. 73-33; s. 2, ch. 74-170.

Note.—Section 5(2), ch. 75-22, provides that the Governor shall perform the duties of the chairman of the Pollution Control Board as defined in s. 403.511.

403.5111 County and municipal authority unaffected by chapter 75-22, Laws of Florida.—Except as provided in ss. 403.510 and 403.511, nothing in chapter 75-22, Laws of Florida, shall be construed to have altered the authority of county and municipal governments as provided by law.

History.—s. 22, ch. 75-22.

403.512 Revocation or suspension of certification.—Any certification may be revoked or suspended:

(1) For any material false statement in the application or in the supplemental or additional statements of fact or studies required of the applicant when a true answer would have warranted the board's refusal to recommend a certification in the first instance.

(2) For failure to comply with the terms or conditions of the original certification.

(3) For violation of the provisions of this chapter or regulations or orders issued hereunder.

History.—s. 1, ch. 73-33.

Note.—See Note 1, s. 403.503.

403.513 Review.—

(1) The approval or rejection of an application for certification by the Pollution Control Board shall be subject to judicial review.

(2) Any rules and regulations adopted pursuant to this act shall be subject to judicial review.

History.—s. 1, ch. 73-33.

Note.—See Note 1, s. 403.503.

403.514 Enforcement of compliance.—Violations of this act shall be enforced as provided in ss. 403.121, 403.131, 403.141, and 403.161.

History.—s. 1, ch. 73-33.

403.515 Availability of information.—The department shall make available for public inspection and copying during regular office hours, at the ex-

pense of any person requesting copies, any information filed or submitted pursuant to this act.

History.—s. 1, ch. 73-33.

PART III

INTERSTATE ENVIRONMENTAL CONTROL COMPACT

403.60 Environmental Control Compact; execution authorized.

403.60 Environmental Control Compact; execution authorized.—The Governor on behalf of this state is hereby authorized to execute a compact, in substantially the following form, with any one or more of the states of the United States, and the Legislature hereby signifies in advance its approval and ratification of such compact:

MEMBER JURISDICTION.—The environmental compact is entered into with all jurisdictions legally joining therein and enacted into law in the following form:

INTERSTATE ENVIRONMENTAL COMPACT

ARTICLE I

FINDINGS, PURPOSES AND RESERVATIONS OF POWERS.—

A. Findings.—Signatory states hereby find and declare:

1. The environment of every state is affected with local, state, regional and national interests and its protection, under appropriate arrangements for intergovernmental cooperation, is a public purpose of the respective signatories.

2. Certain environmental pollution problems transcend state boundaries and thereby become common to adjacent states requiring cooperative efforts.

3. The environment of each state is subject to the effective control of the signatories, and coordinated, cooperative or joint exercise of control measures is in their common interests.

B. Purposes.—The purposes of the signatories in enacting this compact are:

1. To assist and participate in the national environment protection programs as set forth in federal legislation; to promote intergovernmental cooperation for multistate action relating to environmental protection through interstate agreements; and to encourage cooperative and coordinated environmental protection by the signatories and the federal government;

2. To preserve and utilize the functions, powers and duties of existing state agencies of government to the maximum extent possible consistent with the purposes of the compact.

C. Powers of the United States.—

1. Nothing contained in this compact shall impair, affect or extend the constitutional authority of the United States.

2. The signatories hereby recognize the power and right of the Congress of the United States at any time by any statute expressly enacted for that purpose to revise the terms and conditions of its consent.

D. Powers of the states.—Nothing contained in

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Petition for Increase in Rates)
By Gulf Power Company)
)

Docket No.: 160186-EI

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished by electronic mail this 10th day of March, 2017 to the following:

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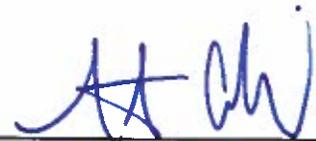
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