

NH DEPT. OF
ENVIRONMENTAL SERVICES

OCT 22 2008

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October 22, 2008

Thomas S. Burack, Commissioner
NH Department of Environmental Services
Chairman, NH Site Evaluation Committee
29 Hazen Drive
Concord, NH 03302-0095

***Re: Motion for Declaratory Ruling of Florida Power & Light Company
regarding Transmission Substation Reliability Upgrade***

Dear Chairman Burack:

Enclosed are an original and 15 copies of the unredacted Motion for Declaratory Ruling of Florida Power & Light Company regarding the Seabrook Transmission Substation Reliability Upgrade which we are filing with the New Hampshire Site Evaluation Committee ("Committee") on behalf of Florida Power & Light Company ("FPL") in accordance with N.H. Admin. Rule Site 203.01. Also enclosed are five redacted copies of the same Motion. In addition, we have enclosed an original and 15 copies of an Appearance in accordance with N.H. Admin Rule Site 202.04 and the same number of copies of an Un-Assented to Motion for Protective Order and Confidential Treatment.

FPL respectfully requests that the unredacted copies of the Motion for Declaratory Ruling be distributed to Committee members and kept in a secure location, separate from the public record of this matter and that they be accorded confidential treatment (i.e. not disclosed to anyone other than Committee members and counsel) pending the Committee's decision on the enclosed Motion for Protective Order and Confidential Treatment. The redacted copies of the Motion for Declaratory Ruling can be made available to the public and posted on the Committee's website.

As noted in the Motion for Declaratory Ruling, FPL is seeking a ruling that the Seabrook Transmission Substation reliability upgrade project, which will

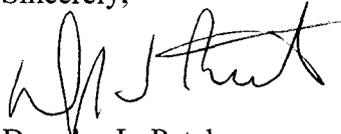
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take place within the existing footprint of a previously certificated facility, is not a “sizeable addition” under RSA 162-H:5 and therefore does not require full review and certification under RSA 162-H. FPL has certain deadlines for the construction schedule for the reliability upgrade that are spelled out in more detail in the Motion for Declaratory Ruling. If necessary, in order to meet the construction schedule, FPL is considering making an additional filing for an exemption from the RSA 162-H review process as provided for in RSA 162-H:4,IV (which requires a decision by the Committee within 60 days of submission). A request for an exemption requires an applicant to put together not just the pleading that requests the exemption, but also what amounts to a full application for review under RSA 162-H. See RSA 162-H:4,IV. If at all possible, FPL is hoping to avoid the necessity of making such a comprehensive filing.

In the hope that FPL could avoid making this additional filing, to the extent that it is possible it would be very helpful to have a preliminary indication from the Committee whether it is inclined to grant the Motion for Declaratory Ruling, which would obviate the need for the second filing. The reason this is important is that FPL can not afford to wait the full 90 days that the Committee has to issue a declaratory ruling under Site 203.02, receive a denial of the motion, and then submit a new filing seeking an exemption under RSA 162-H:4,IV, which the Committee by statute has 60 days to decide. Making the second filing after the declaratory ruling has run a full course of 90 days, thus taking a total of five months for these two decisions by the Committee, could end up delaying the construction schedule in a way that would prevent FPL from completing the upgrade in the fall of 2009 and could put the upgrade off for another 18 months, the next scheduled outage for the Seabrook generating facility. With this in mind, FPL is hoping for some direction from the Committee as to whether it should file the exemption request or just rely on the Motion for Declaratory Ruling.

Please let us know if you have any additional questions. We appreciate the Committee’s consideration of this issue and urge it to approve our request for a determination that the proposed addition would not be considered a “sizeable addition” under RSA 162-H:5,I.

Sincerely,



Douglas L. Patch

cc: Michael Iacopino, Counsel to the Site Evaluation Committee
Senior Assistant Attorney General Peter Roth
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