

STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE

DOCKET NO. 2008-05

**Re: MOTION OF FLORIDA POWER & LIGHT COMPANY FOR A DECLARATORY
RULING REGARDING THE PROPOSED RELIABILITY UPGRADE OF THE
SEABROOK TRANSMISSION SUBSTATION**

**Order Granting Motion For Declaratory Ruling Regarding
Seabrook Transmission Substation Reliability Upgrade**

Background

On October 22, 2008, Florida Power & Light Company (FP&L) filed a motion seeking a declaratory ruling from the Site Evaluation Committee (Committee) pursuant to New Hampshire Code of Administrative Regulations, Site 203.01. The motion requests that the Committee determine that FP&L's planned reliability upgrades to its 345 kV transmission substation located in Seabrook, Rockingham County, do not constitute a sizeable addition to the facility, and do not require a Certificate of Site and Facility pursuant to R.S.A. 162-H: 5. On December 1, 2008, the Committee reviewed and considered the relief requested in the motion.

The Proposed Project

FP&L proposes to upgrade its 345kV transmission substation (Substation) located adjacent to the Seabrook Station nuclear power plant in Seabrook. The Substation interconnects the Seabrook Station nuclear power plant with the New England electric grid. At 1,318 MW, Seabrook Station is the largest single electric generation facility in New England. The Substation is a pool transmission facility that serves to connect three major 345kV transmission lines: the Seabrook to Ward Hill/Tewksbury 394 line; the Seabrook to Scobie 363 line; and the Seabrook to Timber

Swamp/Newington 369 line. The Substation plays an integral role in the North-South and Northern New England electrical interfaces. The Substation plays a critical role in the transmission of electricity throughout the region.

FP&L represents that the proposed upgrade is scheduled to take place entirely within the existing footprint of the Substation and is not projected to result in any increase in voltage carried by the transmission facilities. The Substation is located within the protected area of the Seabrook Station nuclear power plant in an area that is commonly referred to as the "switchyard." As part of the proposed upgrade, the reserve auxiliary transformers presently located at the Substation will be relocated to connect to a dedicated terminal position. The existing generator step-up transformer connections will also be relocated from the current position where they share a breaker and a half bay with the Seabrook-Scobie 363 line to a dedicated double breaker bay. Five new gas insulated substation breakers will be installed: two will be replacements for existing breakers, and three will be new breakers. A new substation structure also will be constructed which will have a roofline slightly higher than the existing substation structure, though lower than adjacent structures. FP&L estimates the cost of the reliability upgrade project to be between Thirty-Eight Million Dollars (\$38,000,000.00) and Forty-Four Million Dollars (\$44,000,000.00). FP&L hopes to commence construction on this project by March 1, 2009 so that construction will coincide with scheduled outages of the Seabrook Station nuclear power facility.

In its Motion, FP&L represents that the proposed upgrade project implicates relatively few regulatory permits or licenses. FP&L asserts that the proposed project will operate under a general construction permit from the United States Environmental

Protection Agency (EPA) under the National Pollutant Discharge Elimination System (NPDES) for storm-water discharges and dewatering activity discharges. The proposed upgrade does not require an individual NPDES permit. FP&L need only file a notice with EPA Region I and comply with the standard regulations that accompany the general construction permit. The proposed upgrade will require a certification of financing for the New Hampshire Public Utilities Commission (PUC) that complies with RSA 374-A:7, II (c) and a waiver from PUC reporting requirements for capital improvements in excess of \$100,000.00. FP&L also represents that it will obtain a building permit from the Town of Seabrook and approval of the independent system operator, ISO-New England (ISO-NE).

FP&L represents that the project does not require a waiver from the New Hampshire Department of Environmental Services (DES) under the Comprehensive Shoreland Protection Act (CSPA), RSA 483-B, because the proposed upgrade will not create additional impervious surfaces within 250 feet of the shoreland protection zone. Similarly, because the proposed upgrade is located outside of the 100-foot upland tidal buffer zone, FP&L asserts that a DES Wetlands Permit is not required. FP&L also represents that a DES Alteration of Terrain Permit is not required because the project is not expected to involve excavation or earth movement with an impact greater than 50,000 square feet. Finally, FP&L represents that the project does not require permits or authorizations from the United States Army Corps of Engineers. FP&L did not file documentation of the foregoing with its motion or at the time of hearing.

The Hearing

A hearing was held on the Motion on December 1, 2008. The hearing was held subsequent to the publication of an Order and Notice of Public Meeting in the Manchester Union Leader on November 10, 2008, and in the Portsmouth Herald on November 11, 2008. The Order and Notice of Public Meeting advised that the Committee may deliberate and rule on the merits of the Motion or order further review.

At the hearing on December 1, 2008, the Applicant made a presentation to the Committee that included the reasons for the proposed upgrade to the Substation, an overview of the expected construction and legal argument as to why the proposed upgrade does not qualify as a sizeable addition under RSA 162-H:5. Although the public was invited to attend, no member of the public sought to speak at the hearing.

Analysis

RSA 162-H:5 prohibits the construction of energy facilities and bulk power facilities without a Certificate of Site and Facility. A Certificate is also required for sizeable additions to existing facilities. However, the statute does not define a "sizeable addition". See, RSA 162-H:5. Nonetheless, the representations made by FP&L satisfy the Committee that the proposed upgrade project is not a sizeable addition requiring a new Certificate pursuant to RSA 162-H:5. Among other things, the proposed upgrade project will occur entirely within the existing footprint of the Seabrook Substation and there should be no impact on the orderly development of the region. Likewise, for the reasons described below, there should be no incremental adverse impacts on aesthetics, historic sites, air quality, water quality, the natural environment or public health and safety. The upgrade project, as proposed by FP&L,

involves the replacement and/or re-alignment of existing substation structure and equipment and will not increase the overall voltage or power transmitted through the facility. The size and appearance of the facility will remain roughly as it exists now with the single exception that the substation roof structure will be somewhat higher than the existing roof; however, the roofline will remain below the nearby buildings that house Turbine Unit 1 and the heater bay. Furthermore, the new structure is not likely to be visible to the public.

The cost of the reliability upgrade project as estimated (\$38,000,000.00 to \$44,000,000.00) represents less than one percent (1%) of the initial cost to construct Seabrook Station. The work to be performed will occur in the switchyard area. The switchyard area comprises only 1.25% of the entire protected area within Seabrook Station. For all of these reasons, the Committee finds that the proposed upgrade project does not constitute a "sizeable addition" requiring a new Certificate of Site and Facility and we will therefore GRANT the Motion for Declaratory Ruling filed by FP&L with the specific conditions set forth below.

Our ruling herein is based upon the representations of FP&L as contained in its motion. The motion did not contain supporting documentation. This Order is specifically conditioned on the filing by FP&L of the following documents:

- Notice of Intent Under NPDES Construction General Permit
- PUC financing certifications and waivers
- Town of Seabrook Building Permit
- ISO-NE approval

- Documentation from DES that a Shoreland Protection Act waiver is not necessary
- Documentation from DES that a Wetlands Permit is not necessary
- Documentation from DES that an Alteration of Terrain Permit is not necessary
- Documentation from the United States Army Corps of Engineers that no permits or licenses are required from that agency.

Copies of each document shall be filed with the Committee and a copy shall be provided to Counsel to the Committee. Counsel to the Committee shall certify to the Committee when all of the documents have been received. Construction may commence, without further order, after Counsel to the Committee has certified receipt. If further study or evidence reveals that the proposed upgrade project is broader in scope than represented, requires additional state or federal permits or if circumstances change substantially, the Committee may require compliance with the certification requirements of RSA 162-H. Additionally, this Order applies only to the specific project referenced within the motion and does not apply to any other project or construction at or near the Substation.

FP&L has also filed a Motion for Protective Order and Confidential Treatment. This Motion pertains to Exhibit B attached to the Motion for Declaratory Ruling and to the two photographs submitted at the hearing. The photographs depict the existing facility as well as the Substation with a three dimensional overlay that demonstrates the proposed construction. FP&L is justifiably concerned about public access to the photographs because public access increases security concerns due to the proximity

of this important infrastructure asset to the Seabrook Station nuclear power facility. These security concerns render the photographs to be commercially sensitive documents that fall within the definition of "commercial information" contained in RSA 91-A:5, VI. The Committee finds that the public interest in disclosure of these commercially sensitive documents is outweighed by the security concerns that pertain to essential electric grid infrastructure that sits in close proximity to a nuclear power plant. Therefore, we will GRANT the Motion for Protective Order and Confidential Treatment.

IT IS HEREBY ORDERED that the Motion for a Declaratory Ruling by Florida Power & Light Company Regarding the Seabrook Substation Reliability Upgrade is GRANTED subject to the filing of the documents referenced in this Order; and,

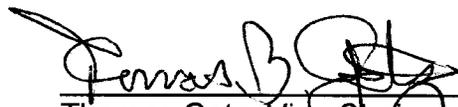
IT IS FURTHER ORDERED that the Seabrook Substation Reliability Upgrade as described in said Motion is not a sizeable addition to the facility and does not require a Certificate of Site and Facility pursuant to RSA 162-H:5; and,

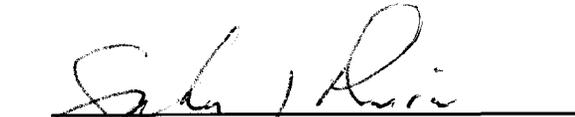
IT IS FURTHER ORDERED that the Motion of Florida Power & Light Company for a Protective Order and Confidential Treatment is GRANTED; and,

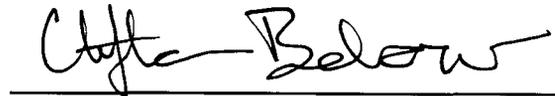
IT IS FURTHER ORDERED that photographs submitted as exhibits shall not become a public record and shall remain within the Committee's records under seal unless otherwise ordered.

BY ORDER of the Site Evaluation Committee, this 17th day of December, 2008.


Thomas Burack, Chairman
Site Evaluation Committee


Thomas Getz, Vice Chairman
Site Evaluation Committee

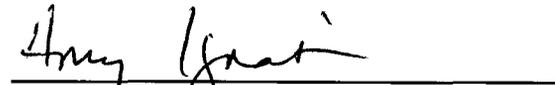

Graham Morrison, Commissioner
NH Public Utilities Commission


Clifton Below, Commissioner
NH Public Utilities Commission


Harry Stewart, Director-Water Div.
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Robert Scott, Director
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