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Via e-mail to Jeff.Koerner@dep.state.fl.us

Jeffery F. Koerner, Program Administrator
Office of Permitting and Compliance
Division of Air Resource Management
Florida Department of Environmental Protection
2600 Blair Stone Road, MS #5505
Tallahassee, FL 32399-2400

Re: Comments on Draft Title V Air Operation Permit Renewal for Lansing Smith Electric Generating Plant, Permit No. 0050014-025-AV

Dear Mr. Koerner:

On behalf of its more than 28,000 Florida members, Sierra Club respectfully submits these comments on the Draft Title V Air Operation Permit Renewal, Permit No. 0050014-025-AV (“Draft Permit”) published by the Office of Permitting and Compliance in the Division of Air Resource Management of Florida’s Department of Environmental Protection (“Department”) for Gulf Power Company’s Lansing Smith Electric Generating Plant (“Plant Smith” or the “Plant”) in Bay County, Florida.

The Draft Permit fails to require adequate control of air pollution as required by the federal Clean Air Act and by governing Florida law and regulations. Specifically, the Draft Permit does not include an emission limit for sulfur dioxide stringent enough to ensure that the Plant does not cause exceedances of national, primary health-based standard (the one-hour SO₂ National Ambient Air Quality Standard) and does not require that the operation of various air pollution control technology be continuous or in accordance with design specifications.

In addition, the Draft Permit lacks two critical conditions that are needed to ensure Gulf Power’s compliance with new federal rules limiting the release of hazardous air pollutants, the Mercury Air Toxics Standard (“MATS”)—(1) an enforceable deadline of no later than March 31, 2015, for Gulf Power’s submittal of its MATS compliance plan for the Plant to the Department, which Gulf Power has already indicated is feasible; and (2) an enforceable deadline of April 16, 2016, for Gulf Power to complete the required retrofits for Plant Smith’s MATS compliance, if Gulf Power decides to retrofit rather than retire the Plant.

Finally, while the Draft Permit includes a condition limiting Plant operation, absent a reliability issue, to the operation of one of the two units at the minimum level necessary to maintain stable generation, it also allows for continuous operation of both units. These conflicting provisions must be reconciled. Accordingly, Sierra Club urges the Department to correct these defects in a revised draft permit before issuing a final Title V air operation permit for the Plant.

I. Governing Law and Regulations

The Clean Air Act is intended to protect and enhance the public health and public welfare of the nation.¹ To this end, the U.S. Environmental Protection Agency (“EPA”) is required to promulgate primary and secondary National Ambient Air Quality Standards (“NAAQS”) for six “criteria” pollutants—sulfur dioxides, nitrogen oxides, particulate matter, carbon monoxide, ozone, and lead.² Primary NAAQS are health-based standards and must be set at a level adequate to protect the public from the harmful effects of exposure to the criteria pollutants with an adequate margin of safety.³

For sulfur dioxide (“SO₂”) pollution, EPA adopted a one-hour standard set at 75 parts per billion (ppb) (equivalent to 196.2 micrograms per cubic meter), recognizing that the prior 24-hour and annual standards did not adequately protect the public against adverse respiratory effects associated with short term (5-minute to 24-hour) exposure.⁴ Due to both the shorter averaging time and the lower concentration value, the one-hour SO₂ NAAQS is far more protective than the prior standards and is projected to have enormous public health benefits—EPA has estimated that 2,300 to 5,900 premature deaths and 54,000 asthma attacks a year will be prevented by the new standard.⁵

In addition to the national standards for criteria pollutants, EPA must promulgate standards for various air toxics, and sources of such pollution must comply “as expeditiously as practicable, but in no event later than 3 years after the effective date” of those standards.⁶ After decades of delay, EPA finally issued the required Mercury and Air Toxics Standards (“MATS”) for coal- and oil-burning power plants in 2012.⁷ Timely compliance with the MATS is necessary to prevent adverse public health impacts.⁸ For example, uncontrolled releases of mercury from coal-burning power plants can damage children’s developing nervous systems, reducing their

¹ See 42 U.S.C. § 7401(b)(1).

² *Id.* at § 7409.

³ *Id.*

⁴ U.S. EPA, Final Rule, Primary National Ambient Air Quality Standard for Sulfur Dioxide, 75 Fed. Reg. 35,520 (June 22, 2010) (codified at 40 C.F.R. § 50.17(a)).

⁵ U.S. EPA, Final Regulatory Impact Analysis (RIA) for the SO₂ National Ambient Air Quality Standards (NAAQS) tbl. 5.14 (2010), available at <http://www.epa.gov/ttnecas1/regdata/RIAs/fso2ria100602full.pdf>.

⁶ 42 U.S.C. § 7412(i)(3).

⁷ See 77 Fed. Reg. 9,304 (Feb. 16, 2012) (codified at 40 C.F.R. §§ 60, 63).

⁸ U.S. EPA, “Fact Sheet: Mercury and Air Toxics Standards, Benefits and Costs of Cleaning Up Toxic Air Pollution from Power Plants, available at <http://www.epa.gov/mats/pdfs/20111221MATSimactsfs.pdf>.

ability to think and learn.⁹ Releases of other toxic air pollutants from these plants can cause a range of dangerous health problems in adults, from cancer to respiratory illnesses.¹⁰

States that are delegated implementation authority under the Clean Air Act (such as Florida) develop and implement plans—state implementation plans or “SIPs”—by which they ensure attainment of the federal NAAQS and other standards. The air quality standards contained in each SIP are applied to specific major emissions sources through the state’s “Title V” permitting program.¹¹ Major stationary sources of air pollution are prohibited from operating except in compliance with an operating permit issued under Title V of the Act.¹² Title V permits must provide for all federal and state regulations in one legally enforceable document, thereby ensuring that all Clean Air Act requirements are applied to the facility and that the facility is in compliance with those requirements.¹³ These permits must include emission limitations and other conditions necessary to assure a facility’s continuous compliance with all applicable requirements.¹⁴ Title V permits must also contain monitoring, recordkeeping, reporting, and other requirements to assure continuous compliance by sources with emission control requirements.¹⁵

EPA delegated to Florida, through the Department, the authority to administer the Title V operating permit program within the State. Title V permits issued by the Department must include enforceable emission limitations and standards and such other conditions as are necessary to assure compliance with all applicable requirements at the time of permit issuance.¹⁶

Among the applicable requirements for Title V permits in Florida is the pollution prohibition in the State’s primary environmental control statute, Chapter 403, Florida Statutes. Specifically, Florida prohibits “any person [t]o cause pollution . . . so as to harm or injure human health and welfare . . .”¹⁷ Incorporating this pollution prohibition into Title V permits is consistent with documentation that the Department submitted to EPA “demonstrating the correlation between the Section 110(a)(2) infrastructure elements and the Florida Statutes and SIP-approved Florida rules that address each such element.”¹⁸ According to the Department’s own documentation, for authority to perform its Clean Air Act responsibilities the Department relies broadly on Florida Statutes, including provisions that are not yet incorporated into its proposed SO₂ NAAQS Infrastructure SIP.¹⁹ In the same documentation, the Department confirms that Florida Statutes, such as Chapter 403, “are essential to Florida’s implementation of

⁹ *Id.*

¹⁰ *Id.*

¹¹ *See* 42 U.S.C. §§ 7410, 7661.

¹² 42 U.S.C. § 7661a(a); 40 C.F.R. § 70.5(a); Section 403.087(1), F.S.; Rule 62-4.030, F.A.C.

¹³ *See* 42 U.S.C. §§ 7661a(a) and 7661c(a); 40 C.F.R. § 70.6(a)(1).

¹⁴ *See id.*

¹⁵ *See* 40 C.F.R. § 70.

¹⁶ *See* 42 U.S.C. § 7661c(a); 40 C.F.R. § 70.6(a)(1); Rule 62-213.440, F.A.C.

¹⁷ Section 403.161(1)(a), F.S.

¹⁸ FDEP Letter of January 8, 2014, to EPA re Air Program: Addendum to State Implementation Plan Infrastructure Confirmation for the 2010 Revised National Ambient Air Quality Standard for Sulfur Dioxide, at 1.

¹⁹ *Id.*

the SO₂ NAAQS.”²⁰ Indeed, the Department’s duty to control and prohibit pollution stems from the Chapter 403 pollution prohibition, and the same requires the Department and the polluters it regulates to comply with health-based pollution standards such as the federal NAAQS.²¹

Under the Department’s rules, the burden is on polluters to give “reasonable assurance” that their activities will meet all applicable requirements including, again, the provisions of Chapter 403.²² The Department has also adopted and incorporated by reference EPA’s one-hour NAAQS for SO₂, as well as MATS and other federal air pollution standards.²³ Accordingly, Title V permittees in Florida must give the Department reasonable assurances that their power plant operations will not interfere with the attainment and maintenance of the one-hour SO₂ NAAQS and will achieve compliance with the MATS.

In the context of environmental permits, Florida courts and administrative agencies hold that “reasonable assurance” means a demonstration that the installation has a “substantial likelihood” of compliance with applicable standards, or a “substantial likelihood that the project will be successfully implemented.”²⁴ Notably, air dispersion modeling is viewed favorably in Florida cases deciding whether applicants have met the reasonable assurance test for compliance with national ambient air quality standards.²⁵

Indeed, air dispersion modeling is the best way to assess SO₂ concentrations for NAAQS implementation purposes. In its final rule, EPA recognized the “strong source-oriented nature of SO₂ ambient impacts,”²⁶ and concluded that the appropriate methodology for purposes of determining compliance, attainment, and nonattainment with the new NAAQS is air dispersion modeling.²⁷ In promulgating the SO₂ NAAQS, EPA explained further that, for the one-hour standard, “it is more appropriate and efficient to principally use modeling to assess compliance for medium to larger sources.”²⁸ EPA has also used modeling for attainment designations and

²⁰ *Id.* at 4.

²¹ See Section 403.161(1)(b), F.S. (establishing that it is a violation of Florida Statutes “for any person . . . [t]o fail to obtain any permit required by this chapter or by rule or regulation, or to violate or fail to comply with any rule, regulation, order, permit, or certification adopted or issued by the department pursuant to its lawful authority.”)

²² Rule 62-4.030, F.A.C.

²³ See Rule 62-204.800, F.A.C.

²⁴ *Metro. Dade County v. Coscan Fla., Inc.*, 609 So. 2d 644, 648 (Fla. 3d DCA 1992) (“*Coscan*”); see also *City of Newberry v. Watson Constr. Co.*, Case No. 95-0753 (DOAH Aug. 9, 1996) (citing *Coscan*).

²⁵ See, e.g., *Haile Community Ass’n v. Florida Rock Industries, Inc.*, Case No. 95-5531 (DOAH July 23, 1996) ([T]he applicant “provided reasonable assurance through air quality modeling that [it] would meet primary and secondary ambient air quality standards.”); *Arnold R. Di Silvestro v. Medico Emvtl. Servs., Inc.*, Case No. 92-0851 (DOAH Feb. 19, 1993) (“The air model shows that none of the National Ambient Air Quality Standards for any of the criteria pollutants would be exceeded by adding either the impact of the . . . facility [at issue]” or another nearby polluting facility, or both facilities combined).

²⁶ 75 Fed. Reg. at 35,370.

²⁷ *Id.* at 35,551 (describing dispersion modeling as “the most technically appropriate, efficient, and readily available method for assessing short-term ambient SO₂ concentrations in areas with large point sources.”).

²⁸ *Id.* at 35,570; see also *Montana Sulphur & Chemical Co. v. EPA*, 666 F.3d 1174 (9th Cir. 2012) (affirming use of modeling to ascertain SO₂ pollution impacts); U.S. EPA, Final Response to Petition From New Jersey

SIP revisions for decades. And courts have consistently upheld this practice.²⁹ EPA urges states to use modeling, too, given its strengths and the weaknesses of the alternative, monitoring-based approach: “the current monitoring network provides relatively limited geographic coverage, and many monitors in the existing network are not sited with the objective of characterizing source-oriented maximum concentrations.”³⁰ Therefore, we urge the Department to require modeling as the basis for any determination of whether the limits in the Draft Permit provide reasonable assurance that the operation of the Plant would not interfere with the attainment and maintenance of the NAAQS.

II. The Draft Permit Fails to Establish Sufficiently Stringent Numerical Emission Limitations for Sulfur Dioxide.

Despite new federal rules that require stronger protections against the harms posed by exposure to SO₂ pollution, the Draft Permit includes the same emissions limits for SO₂ as the Plant’s previous air permit (which was issued prior to EPA’s promulgation of the one-hour SO₂ NAAQS and the MATS).³¹ These limits are not stringent enough to protect public health from the dangers posed by exposure to SO₂ or to ensure compliance with applicable federal and state requirements. Indeed, there is no indication in the permit record that Gulf Power or the Department assessed these outdated SO₂ emission limits to determine whether they could prevent Plant Smith’s emissions from contributing to exceedances of the SO₂ NAAQS. Thus, the people who breathe the air downwind of the Plant have no reasonable assurance that the Plant’s controls and emission limits are sufficient to protect their health. The Department should modify the Draft Permit to adopt an emission limit that will meet the new, more protective one-hour SO₂ NAAQS—and the corresponding, health-based pollution prohibition in Section 403.161(a), F.S.

The Draft Permit limits SO₂ emissions from Units 1 and 2, together, to 4.5 lbs/MMBtu. Using this rate, air dispersion modeling demonstrates that SO₂ emissions from the Plant alone could cause dramatic exceedances of the one-hour SO₂ NAAQS in downwind areas.³² Sierra Club engaged an expert air modeler, Steven Klafka of Wingra Engineering, to assess Plant

Regarding SO₂ Emissions From the Portland Generating Station, 76 Fed. Reg. 69,052 (Nov. 7, 2011) (using modeling to set emission limits sufficient to prevent air pollution).

²⁹ See *Genon Rema, LLC v. U.S. EPA*, No. 12-1022, slip op. (3rd Cir. July 12, 2013); *In re Florida Power & Light Co., Manatee Ormulsion Project, Application No. 94-35*, Case No. 94-5675EPP (DOAH June 30, 1998); *Haile Community Ass’n*, *supra* n. 21; *Arnold R. DiSilvestro*, *supra* n. 21.

³⁰ U.S. EPA, Next Steps for Designations and Implementation of the Sulfur Dioxide National Ambient Air Quality Standard (Feb. 6, 2013), *available at* <http://www.epa.gov/air/sulfurdioxide/pdfs/20130207SO2StrategyPaper.pdf>.

³¹ Sierra Club has provided detailed comments on the defects in the SO₂ limit (0.74 lb/MMBtu based on a 30-day average) proposed for compliance with the EPA’s Regional Haze Rule and, therefore, does not repeat those arguments here. Instead, in light of the one-hour SO₂ NAAQS these comments focus on tightening the proposed SO₂ limits with the shortest averaging period, currently based on 24-hours, set out in Draft Permit conditions A.8 and A.20.

³² See Steven Klafka, Wingra Engineering, S.C., “Lansing Smith Generating Plant, Bay County, Florida, Evaluation of Compliance with the 1-hour NAAQS for SO₂” (January 16, 2015) (hereinafter “Lansing Smith Modeling Report”), attached hereto as Exhibit 1. The dispersion analysis, described in detail in Exhibit 1, was conducted in adherence to all available EPA modeling guidance for evaluating source impacts on attainment of the one-hour SO₂ NAAQS via aerial dispersion modeling.

Smith's SO₂ pollution using EPA's models and methodology. Mr. Klafka modeled the Plant's allowable emissions—those authorized by the Draft Permit—and determined that pollution from the Plant Based could cause peak SO₂ impacts of 837.5 µg/m³—pollution concentrations more than four times higher than the public health standard set by EPA.

Based on the modeling analysis, a reduction of at least eighty-two percent in permitted SO₂ emissions would be necessary to ensure attainment and maintenance of the one-hour SO₂ NAAQS downwind of the Plant.³³ Given the MATS compliance permit condition limiting operation of the Plant to one unit only and at the minimum level necessary to maintain stable operations³⁴ and the fact that Gulf Power's transmission system upgrades will soon be complete, the company should have no trouble achieving the SO₂ emissions reductions necessary to protect public health.

Therefore, we urge the Department to modify the Draft Permit to include a modeling-based SO₂ emissions limit that is calculated to ensure attainment and maintenance of the one-hour standard. More specifically, because modeling is based on mass emissions, there has to be a pounds-per-hour (lbs/hr) limit to assure that SO₂ emissions from Plant Smith do not contribute to exceedances of the one-hour standard. Sierra Club's modeling shows that the protective installation-wide limit would have to be at least as low as 3,359.6 lbs/hr or 0.80 lbs/MMBtu for the Plant. The Department can assure the required level of public health protection in two ways: either by conditioning the permit on the lbs/hr limit or better, or by conditioning the permit on the lbs/MMBtu limit or better and an enforceable MMBtu/hr limit to ensure no actual exceedances of the lbs/hr rate.

III. The Draft Permit Fails to Include Proper Averaging Periods for the Plant's Sulfur Dioxide Emission Limitations.

In addition to lacking sufficiently stringent numerical SO₂ emission limits, the Draft Permit also fails to set an appropriate averaging period for determining compliance with those limits. Despite the governing one-hour federal standard, the Draft Permit measures compliance on a 24-hour averaging time.³⁵

As discussed above, the SO₂ NAAQS is designed to prevent harm to human health—harm which can be caused by as little as five minutes of exposure—and is based on a one-hour averaging time.³⁶ Attempting to determine compliance with a one-hour permit limit based on a 24-hour average would mean that the facility could violate the standard for numerous hours a day, as long as the day was balanced out with a few hours of operation below the emission limit. Such a result is contrary to the rationale for tightening the SO₂ NAAQS—namely, EPA's recognition that short-term exposure to SO₂ for time periods as low as five minutes can cause

³³ Lansing Smith Modeling Report at 3.

³⁴ Draft Permit at A.47.

³⁵ Draft Permit at A.20.

³⁶ See 40 C.F.R. § 50.17(a).

serious health problems. Accordingly, the Department should ensure that an appropriately stringent SO₂ emissions limit applies at all times by establishing an hourly averaging period.³⁷

Moreover, nothing in the Draft Permit currently requires Gulf Power to operate its controls at all times. The Department should modify the permit terms by including an explicit requirement that all pollution control technology be operated continuously.

IV. The Draft Permit Fails to Require Continuous Operation of Existing Equipment Designed to Control the Emission of Nitrogen Oxides in Accordance with Best Engineering Practices.

Units 1 and 2 at the Plant are equipped with a High Energy Reagent Technology (HERT) selective non-catalytic reduction (“SNCR”) system designed to control the emission of nitrogen oxides (“NO_x”). Following the installation of the SNCR controls, the Plant’s rate of NO_x emissions was reduced. Prior to installation, Gulf Power reported 0.49 lbs/MMBtu NO_x emission rate at Unit 1; after installation, the Unit was able to achieve a 0.25 lbs/MMBtu rate.³⁸ Unit 2 was emitting NO_x at a 0.38 lbs/MMBtu rate before SNCR installation and at a 0.28 lbs/MMBtu rate after.³⁹

However, despite being equipped with the technology necessary to control the emission of this pollution, the Plant Smith units have, in recent years, been emitting NO_x at greater rates than achievable given the SNCR system, suggesting that the SNCR system is not being run continuously or in accordance with best engineering practices. The following table illustrates the higher NO_x emission rates documented in recent years.⁴⁰

	Annual NO_x Emission Rate for 2012	Annual NO_x Emission Rate for 2013
Unit 1	0.364	0.395
Unit 2	0.420	0.411

Applicable Florida rules require that, in order to protect public health, installations must be operated “in accordance with sound professional engineering practices.”⁴¹ Therefore, the

³⁷ EPA guidance has recommended that averaging times in SIP emissions limits, for example, “should not exceed the averaging time of the applicable NAAQS that the limit is intended to help attain.” EPA Memorandum of Apr. 23, 2014, to Regional Air Division Directors, Regions 1 – 10, Guidance for 1-Hour SO₂ NAAQS Nonattainment Area SIP Submissions, at 22. Thus, “emission limits for attaining the 1-hour SO₂ standard should limit emissions for each hour, without any provision for limiting emissions as averaged across multiple hours.” *Id.* In the most recent guidance on point, EPA advises that “any emissions limits based on averaging periods longer than 1 hour should be designed to have comparable stringency to a 1-hour average limit at the critical emission value.” *Id.* Accordingly, if Department chooses to employ an averaging period longer than one-hour here, the numerical limit for Big Bend’s SO₂ emissions must be ratcheted down to provide adequate assurance that the NAAQS, and the State’s pollution prohibition under section 403.161, F.S., will be met. *See id.* Appendix B (detailing EPA’s guidance for setting longer term average emission limits).

³⁸ EPA’s Clean Air Markets Database, Query, Emissions from Lansing Smith, *available at* <http://ampd.epa.gov/ampd/>.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ Rule 62-4.50(3), F.A.C.

Department should modify the Draft Permit to require the operation of the Plant's SNCR system in accordance with best engineering practices, and to require that the system be run continuously.

V. The Extension of the MATS Compliance Deadline Does Not Eliminate the Need for Strong Sulfur Dioxide Emission Limitations.

The Draft Permit documents the Department's grant of an extension of the deadline by which the Gulf Power must comply with federal standards for hazardous air pollutants (the Mercury and Air Toxics Standards, or "MATS"). The one-year extension until April 16, 2016, is conditioned on the completion of certain transmission system upgrades, and Gulf Power represented to the Department, the Florida Public Service Commission ("PSC"), and the public that these upgrades were needed to ensure continued electric system reliability. The Department's decision to grant this extension, however, does not eliminate its duty to ensure that the final Title V air operation permit that it issues includes emissions limits stringent enough to protect the public from the serious dangers associated with exposure to SO₂ pollution. As discussed above, the Department should modify the Draft Permit to include a modeling-based one-hour SO₂ emissions limit that is calculated to avoid interference with the attainment and maintenance of the NAAQS, a requirement that SO₂ controls be operated continuously, and any other conditions necessary to assure compliance with the public health protections of the NAAQS.

VI. Given the Extension of the MATS Compliance Deadline, Gulf Power Must Decide Whether to Retire or Retrofit Plant Smith.

Gulf Power's current plans for compliance with the MATS are premised entirely on the upgrade of its transmission system, which, once complete, would obviate the need to continue operating Plant Smith. Indeed, in a letter to this Department, Gulf Power represented that the transmission system upgrades "will eliminate the need to rely on a level of generation being online at Plant Crist and Plant Smith."⁴²

We applaud the Department for conditioning the Draft Permit on Gulf Power's monthly reporting of its progress on the proposed transmission system upgrades and on limiting operation at the Plant to the minimum level necessary to mitigate or eliminate reliability issues.⁴³ We also agree that the permit condition requiring the cessation of operation at Units 1 and 2 is necessary as well as required by law. However, we urge the Department to modify the Draft Permit to make clear that, if Gulf Power wishes to operate Units 1 and 2 *after* April 16, 2016, it must complete any necessary MATS retrofits *before* that date.

Moreover, in Gulf Power's request for an extension of the MATS compliance deadline, it assured the Department it would determine whether it would retire or retrofit the Plant by

⁴² Gulf Power Company, Letter of July 28, 2014, *available at* <http://arm-permit2k.dep.state.fl.us/psd/0050014/U0001890.pdf>.

⁴³ However, as discussed below, this condition conflicts with the provision of the Draft Permit that allows for continuous operation of both units, *see* Draft Permit at A.4, and the Draft Permit should be modified to eliminate the discrepancy.

March 31, 2015.⁴⁴ The retrofit-or-retire decision is part of the minimum showing that the company must make in order to give the Department and the public reasonable assurance that the operation of Plant Smith will comply with applicable requirements. If, for example, Gulf Power changes course and decides to retrofit the Plant in order to comply with MATS instead of relying on transmission system upgrades, the Department would then need to verify that such retrofits could be completed in time to ensure compliance—*i.e.*, by April 16, 2016. Therefore, the Department should modify the Draft Permit to include a condition that Gulf Power’s final decision on whether or not to retire the Plant must be made by March 31, 2015.

In addition, given the transmission system upgrades that Gulf Power has undertaken in order to address electric system reliability concerns, it is unlikely that retrofitting the Plant would be considered necessary and prudent and, thus, that the company could secure the PSC’s approval to recover retrofit costs from ratepayers. Even if Gulf were to demonstrate the need to continue operating Plant Smith regardless of the transmission system upgrades, alternative ways of maintaining reliability are available. If these alternatives prove less costly than the combination of upgrading transmission system and the Plant’s pollution controls, then the PSC cannot approve cost recovery of Plant retrofit costs. Therefore, the Department should condition any future permit to allow the modification of the Plant for MATS compliance purposes upon Gulf Power providing reasonable assurance that it can secure the PSC’s cost recovery approval by showing that such modification, when considered together with the transmission system upgrades, is necessary and prudent and the least cost option for meeting reliability needs.

VII. The Draft Permit Includes Conflicting Provisions, which Require Reconciliation.

The Draft Permit, in order “[t]o minimize MATS-related emissions during the one-year extension period,” limits the operation of the Plant “to only one affected unit (Unit 1 or 2) . . . at the minimum level necessary to maintain stable generating unit operations in compliance with all other conditions of this permit.”⁴⁵ However, another permit provision—a vestige of the Plant’s prior permit—allows Units 1 and 2 to “operate continuously (8,760 hours/year).”⁴⁶ Given the recognized need to limit Plant operations in light of MATS requirements, the Department should clarify the “Hours of Operation” provision to reflect these MATS-related operational limits.

VIII. Conclusion

For all the reasons discussed above, Sierra Club urges the Department to modify the Draft Permit as follows to:

- (1) establish modeling-based, numerical emissions limits for SO₂ stringent enough to guarantee that pollution from Plant Smith will not cause or contribute to exceedances of the one-hour primary NAAQS for SO₂ downwind of the Plant;
- (2) require a one-hour averaging time for SO₂ emissions limits;

⁴⁴ *Id.*

⁴⁵ Draft Permit at A.47.

⁴⁶ Draft Permit at A.4.

- (3) require that all air pollution technology be operated continuously and in accordance with best engineering practices;
- (4) require Gulf Power to complete its retrofit-or-retire decision for the Plant prior to March 31, 2015;
- (5) require Gulf Power to complete any MATS-related modification of the Plant before April 16, 2016, if the company seeks to operate the Plant after that date, and to provide reasonable assurance that such modifications will achieve the emissions reductions required by MATS and will satisfy the PSC's cost recovery standard; and
- (6) reconcile provisions relating to allowable hours of operation, reflecting the Department's decision to require limited operation of the Plant.

We thank the Department for its attention to and consideration of these comments and would be happy to discuss them at your convenience. Please do not hesitate to contact Sierra Club Associate Attorney Diana Csank at 202-548-4595 or diana.csank@sierraclub.org.

Sincerely,

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