

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

FLORIDA POWER CORPORATION
(Crystal River Power Plant),

Petitioner,

vs.

OGC No. 09-3888

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION,

Respondent.

**ORDER DENYING REQUEST FOR EXTENSION OF TIME TO FILE
PETITION FOR HEARING WITH LEAVE TO AMEND**

This cause came before the State of Florida Department of Environmental Protection (Department) on receipt of a request for extension of time to file a petition for administrative proceeding (Request) made by Florida Power Corporation (Petitioner) on a draft Title V renewal permit, DEP permit number 0170004-024-AV, issued to Petitioner for its Crystal River Power Plant, located in Citrus County, Florida.

The Petitioner states in the Request that it received notice of the Department's action on October 27, 2009. Rule 62-110.106(3), Florida Administrative Code, and the notice provided to the Petitioner require that persons whose substantial interests are affected by the Department's decision must file a petition for an administrative proceeding in the Department's Office of General Counsel within 14 days of receipt of notice. Rule 62-110.106(3)(b), Florida Administrative Code, provides that the failure to file a petition within the applicable time period constitutes a waiver of any right to request an administrative proceeding under Chapter 120, Florida Statutes.

For good cause shown, pursuant Rule 62-110.106(4), Florida Administrative Code, the Department may grant an extension of time to file a petition for administrative proceeding if the request for such enlargement is made before the expiration of the period to be enlarged, or may allow the extension even if the period has expired, upon motion showing that the failure to act was the result of excusable neglect. The Department received Petitioner's Request on November

11, 2009. The Petitioner's failure to timely file the Request in this proceeding constitutes such a waiver of its right to request an administrative proceeding under Chapter 120, Florida Statutes. Therefore, the Request must be dismissed as required by Section 120.569(2)(c), Florida Statutes.

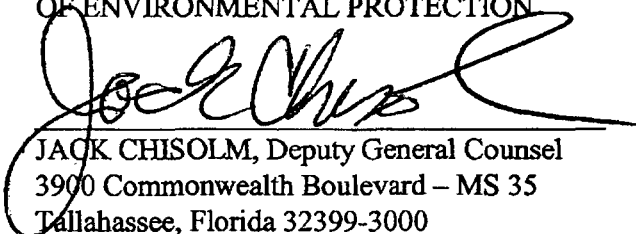
IT IS ORDERED:

- A. The Request is DENIED as being untimely filed.
- B. This denial is without prejudice. The Petitioner may file an amended request for extension of time showing why the Request dismissed in this order should be considered timely.
- C. The amended request must be filed (received) in the Office of General Counsel, Department of Environmental Protection, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, within fifteen (15) days after the date set forth in the certificate of service on the last page of this order.

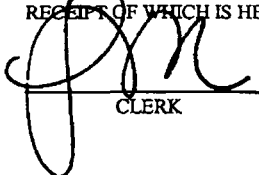
Any party to this proceeding has the right to seek judicial review of this order under Section 120.68, Florida Statutes, by the filing of a notice of appeal under Rules 9.110 and 9.190, Florida Rules of Appellate Procedure, with the clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within thirty (30) days after the date this order is filed with the clerk of the Department.

DONE and ORDERED this 18 day of November, 2009, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION


JACK CHISOLM, Deputy General Counsel
3900 Commonwealth Boulevard – MS 35
Tallahassee, Florida 32399-3000

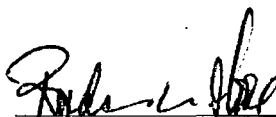
FILED ON THIS DATE PURSUANT TO § 120.52, FLORIDA
STATUTES, WITH THE DESIGNATED DEPARTMENT CLERK,
RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED.


CLERK : 11/18/09
DATE

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing, Order Denying Request for Extension of Time to File Petition for Hearing with Leave to Amend, was furnished via facsimile and electronic mail on this 18th day of November, 2009, to:

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