

**RECEIVED**

APR 14 1999

**BEFORE THE STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**BUREAU OF  
AIR REGULATION**

In re:

EMERGENCY AUTHORIZATION FOR OPERATION  
OF INLET AIR FOGGERS AT THE FORT MYERS  
POWER PLANT MADE NECESSARY BY THE  
PROJECTED GENERATING CAPACITY SHORTFALL /

OGC CASE NO.: 99-0569

**EMERGENCY FINAL ORDER**

Under Section 120.569(2)(m) of the Florida Statutes, the State of Florida Department of Environmental Protection (the Department) enters the following Emergency Final Order, including findings of fact and conclusions of law, related to the Fort Myers Power Plant owned by Florida Power and Light (FPL), made necessary by an emergency caused by the early summer weather being experienced in central and south Florida coinciding with the FPL's Martin Power Plant scheduled maintenance outage.

FINDINGS OF FACT

1. Florida Power and Light is an interstate electrical power generator with facilities throughout the State. FPL's Fort Myers Power Plant is located at 10650 SR 80, Fort Myers, Florida.

2. Due to early summer weather being experienced in central and south Florida, combined with FPL's Martin Power Plant scheduled maintenance outage, higher than normal power demand exceeding the energy import capacity of the grid is being experienced in these areas. As a result, changes in operational practices at FPL's Fort Myers Power Plant are necessary to avoid brownouts or blackouts in central and southern Florida.

3. On April 8, 1999, FPL notified the Department that as a result of the shortfall in capacity, an emergency situation exists that will require FPL to operate the inlet air foggers on its

Fort Myers fuel oil fired turbine emission unit numbers 003, 004, 005, 006, 007, 008, 009, 010, 011, 012, 013 and 014 to generate an additional thirty-five megawatts at the facility.

4. The Department finds that the projected generating shortfall has created a state of emergency threatening the public health, safety and welfare throughout the portions of the State supplied by the FPL Fort Myers Plant that would be adversely affected by the curtailment of electrical energy supply.

5. The Department finds that an emergency authorization for the FPL Fort Myers Power Plant to operate the inlet air foggers on its Fort Myers turbine emission unit numbers 003, 004, 005, 006, 007, 008, 009, 010, 011, 012, 013 and 014 to generate an additional thirty-five megawatts at the facility is necessary to avoid brownouts and blackouts in central and southern Florida.

#### CONCLUSIONS OF LAW

1. Section 120.569(2)(m) of the Florida Statutes gives the Department the authority to issue an emergency final order if as agency head, I find that an immediate danger to the public health, safety or welfare so requires and the order recites with particularity the facts underlying that conclusion.

2. Based on the findings recited above, I find and conclude that the emergency caused by the electrical energy generation shortfall requires an immediate order of the Department to protect the public health, safety and welfare.

THEREFORE, IT IS ORDERED:

1. The Florida Power and Light Company may operate the inlet air foggers on its Fort Myers Power Plant turbine emission unit numbers 003, 004, 005, 006, 007, 008, 009, 010, 011, 012, 013 and 014 to produce an additional thirty-five megawatts at the facility.

2. The Department issues this Emergency Final Order solely to address the emergency created by the electrical energy generation shortfall. This order shall not be construed to authorize any activity within the jurisdiction of the Department except in accordance with the express terms of this order. This order will allow the company to produce additional electrical energy for its customers in the State of Florida and thereby minimize the occurrence of blackouts or brownouts.

3. Nothing in this order shall eliminate the necessity for obtaining any other federal, state, or local permits or other authorizations that may be required.

4. FPL shall operate its Fort Myers Power Plant in accordance with all other conditions of its federal, state, or local permits.

5. This Emergency Final Order shall take effect immediately and expire in thirty days from the date of execution set forth below, or whenever the emergency situation is alleviated, whichever occurs first, unless modified or extended by further order.

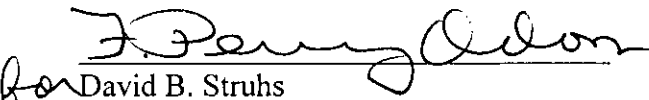
NOTICE OF RIGHTS

Any party adversely affected by this Emergency Final Order is entitled to judicial review under Section 120.68 of the Florida Statutes. The Florida Rules of Appellate Procedure govern the review proceedings. Such proceedings are commenced by filing one copy of a notice of appeal with the Agency Clerk of the Department of Environmental Protection in the Office of General Counsel, 3900 Commonwealth Blvd., MS 35, Tallahassee, Florida 32399-3000 and a

second copy, accompanied by filing fees prescribed by law, with the district court of appeal in the appellate district in which the party resides. The notice of appeal must be filed within thirty days of rendition of the order to be reviewed.

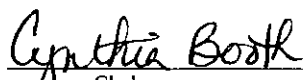
DONE AND ORDERED on this 9<sup>th</sup> day of April 1999 in Tallahassee, Leon County, Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENT PROTECTION

  
for David B. Struhs  
Secretary

3900 Commonwealth Boulevard  
Tallahassee, Florida 32399-3000  
Telephone: (850) 488-1554

**FILING AND ACKNOWLEDGMENT: FILED**, on this date, pursuant to § 120.52, Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

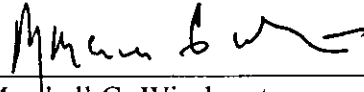
  
Cynthia Booth  
Deputy Clerk  
4/9/99  
Date

**CERTIFICATE OF SERVICE**

I HEREBY certify that a true and correct copy of this EMERGENCY FINAL ORDER was sent by facsimile to the following person this 9 day of April, 1999:

William M. Reichel  
Florida Power and Light Company  
Fort Myers Power Plant  
10650 State Road 80  
Fort Myers, Florida 33905-5903

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION



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Marshall G. Wiseheart  
Assistant General Counsel

TRANSACTION REPORT

Broadcast  
Transaction(s) completed

NO.	TX DATE/TIME	DESTINATION	DURATION	PGS.	RESULT	MODE
745	APR. 9 15:30	FT MYERS PLT	0° 01' 23"	006	OK	N ECM
	15:36	561 691 7070	0° 02' 32"	006	OK	Normal

**STATE OF FLORIDA**  
**DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
**OFFICE OF GENERAL COUNSEL**  
 3900 Commonwealth Boulevard, M.S. 35  
 Marjory Stoneman Douglas Building  
 Tallahassee, Florida 32399-3000

**FACSIMILE TRANSMITTAL**

4/9/99

to: William Reichel / Rich Piper

phone: \_\_\_\_\_

fax: 941-693-4333 / 561-691-7070

from: Perry Odom

phone: 904/488-9314

fax: 904/487-4938

sender: Rachel

pages: 6 including cover

RE: