

Florida Department of Environmental Protection
Office of General Counsel

Memo

To: Jeff Koerner, Trina Vielhauer, and OGC File

From: Ronni Moore, Assistant General Counsel

Date: December 8, 2009 *ab*

Re: Lakeland Electric vs. DEP; DEP Project No. 1050004-027-AC; OGC No. 09-3953

On November 6, 2009, the Department issued a letter to Lakeland Electric (LE) authorizing it to perform initial sulfuric acid mist (SAM) performance testing on Unit 3 of its power plant, project no. 1050004-027-AC. LE timely requested an extension of time to file a petition for hearing on the letter of authorization.

Before the Department acted on the request, the parties reached agreement on the issues LE had with the letter of authorization and on November 25, 2009, the Department issued a Revised Letter of Authorization to LE. LE has since withdrawn its request for extension of time. There being no further matters to consider, the Department's file in this matter is closed.

Gibson, Victoria

From: Phipps, Jessica R.
Sent: Tuesday, December 08, 2009 2:42 PM
To: Koerner, Jeff; Vielhauer, Trina; Gibson, Victoria
Cc: Moore, Ronni
Subject: Lakeland Electric OGC#: 09-3953
Attachments: MEMO CLOSING FILE 12-08-09.pdf

Please find attached the memo closing file regarding Lakeland Electric. Please let me know if you have problems opening the attachment.

Thank you,

Jessica Phipps

*Department of Environmental Protection
Administrative Assistant
850-245-2243*

Florida's Water - Ours to Protect: Check out the latest information on Florida Water Issues at <http://www.protectingourwater.org/> presented by the Florida Department of Environmental Protection.

Gibson, Victoria

From: Phipps, Jessica R.
Sent: Wednesday, December 09, 2009 1:17 PM
To: Gibson, Victoria
Subject: FW: Lakeland Electric - Letter of Authorization Extension Request

Vicki,


This is just an email between Ronni and Mr. Galbraith regarding the withdrawal of their request for extension of time. Let me know if you need more information.

Thank you,
Jessica

From: Moore, Ronni
Sent: Tuesday, December 08, 2009 2:07 PM
To: Phipps, Jessica R.
Subject: FW: Lakeland Electric - Letter of Authorization Extension Request

Jessica, would you please enter this email into ALDOCS for 09-3953? I'll draft up a quick closure memo too. Thanks!

Ronda L. Moore
Assistant General Counsel

 Please consider the environment before printing this email.

Florida's Water - Ours to Protect: Check out the latest information on Florida Water Issues at <http://www.protectingourwater.org/> presented by the Florida Department of Environmental Protection.

From: Galbraith, Bret [mailto:Bret.Galbraith@lakelandelectric.com]
Sent: Tuesday, December 08, 2009 2:01 PM
To: Moore, Ronni
Cc: Doerr, Doug
Subject: RE: Lakeland Electric - Letter of Authorization Extension Request

Good afternoon Ms. Moore:

Lakeland Electric has since the filing of our request for extension resolved all issues over the letter of authorization issued from the Department. The Department issued a revised letter of authorization to Lakeland Electric on November 25, 2009 which addresses our concerns and we feel there is no need to keep the case open. Therefore, Lakeland would like to withdraw our request for extension at this time. Thank you and please feel free to contact me if the Department requires any additional information.

Bret Galbraith, E.I. | Environmental Permitting | Lakeland Electric
501 E. Lemon St. | Lakeland, FL 33810 | office: 863-834-8180 cell: 813-351-0149 | fax: 863-834-8187 | e-mail: bret.galbraith@lakelandelectric.com

From: Moore, Ronni [mailto:Ronni.Moore@dep.state.fl.us]
Sent: Monday, December 07, 2009 4:09 PM
To: Galbraith, Bret
Subject: RE: Lakeland Electric - Letter of Authorization Extension Request

Mr. Galbraith,

Just to follow up with our voicemail exchanges from last week regarding Lakeland Electric's request for extension of time (attached), and the resolution and closure of this case. I understand the Department and Lakeland Electric have resolved the issues with the Department's Nov. 6th letter of authorization issued to Lakeland Electric which is the subject of the attached and that a revised letter of authorization was issued to Lakeland Electric on Nov. 25th.

In order to close our OGC case on the extension of time, please reply to this email with Lakeland Electric's request to withdraw the attached. Should you have any questions, please let me know.

Sincerely,

Ronni Moore

Ronda L. Moore
Assistant General Counsel
Florida Department of Environmental Protection
3900 Commonwealth Blvd., MS 35
Tallahassee, FL 32399-3000
Phone: 850.245.2193
Fax: 850.245.2302
ronni.moore@dep.state.fl.us



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Florida's Water - Ours to Protect: Check out the latest information on Florida Water Issues at <http://www.protectingourwater.org/> presented by the Florida Department of Environmental Protection.

The Department of Environmental Protection values your feedback as a customer. DEP Secretary Michael W. Sole is committed to continuously assessing and improving the level and quality of services provided to you. Please take a few minutes to comment on the quality of service you received. Simply click on [this link to the DEP Customer Survey](#). Thank you in advance for completing the survey.

From: Galbraith, Bret [mailto:Bret.Galbraith@lakelandelectric.com]

Sent: Friday, November 20, 2009 2:27 PM

To: Moore, Ronni

Cc: Vielhauer, Trina; Pichard, Errin; Doerr, Doug; Schroeder, Bill; Crandall, Lea

Subject: Lakeland Electric - Letter of Authorization Extension Request

Good afternoon Mr. Moore,

Lakeland Electric is in the process of receiving a final Letter of Authorization from the Department for permit no. 1050004-027-AC. Because there are a few items which Lakeland is still in discussion with the Department over, Lakeland is requesting a 7 day extension to the petition deadline. Department staff directed me to send your office a copy of my request in order to satisfy this requirement; if additional information is required, please contact me so that I can forward any additional information your office requires.

I have attached two copies (one with original signature) of the authorization extension to this e-mail, and after your confirmation that your office is the correct destination; I will forward a hard copy. I have also attached a copy of the Department's Letter of Authorization for reference purposes. Thank you.

Gibson, Victoria

From: Koerner, Jeff
Sent: Monday, November 23, 2009 12:14 PM
To: Crandall, Lea; Chisolm, Jack; Brown, Lisa L.
Cc: Gibson, Victoria; Vielhauer, Trina
Subject: RE: Request for Extension of Time - Lakeland Electric vs. DEP - OGC 09-3953 (1050004-027-AC)

We were aware that they would file this.

I have a teleconference with them this afternoon, which may resolve the issues.

I'll let you know.

Jeff

From: Crandall, Lea
Sent: Monday, November 23, 2009 12:11 PM
To: Chisolm, Jack; Brown, Lisa L.; Gibson, Victoria; Koerner, Jeff
Subject: Request for Extension of Time - Lakeland Electric vs. DEP - OGC 09-3953 (1050004-027-AC)

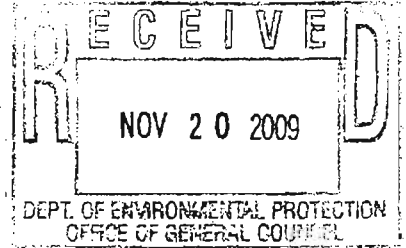
Attached is a Request for Extension of Time - Lakeland Electric vs. DEP - OGC 09-3953 (1050004-027-AC).

Thanks,
Lea

Lea Crandall
Agency Clerk
Office of General Counsel
3900 Commonwealth Blvd., MS 35
Tallahassee, FL 32399-3000
Phone (850) 245-2212
Fax: (850) 245-2303

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STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION



LAKELAND ELECTRIC

Petitioner,

vs.

OGC No.
DEP Draft Letter of Authorization No.
1050004-027-AC

FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION,

Respondent.

REQUEST FOR ENLARGEMENT OF TIME

Lakeland Electric (Lakeland) requests, pursuant to Florida Administrative Code Rule 62-110.106(4), an enlargement of time, to and including November 27, 2009, in which to file a Petition for Administrative Proceedings in the above-styled matter. As good cause for granting this request, Lakeland states the following:

1. On or about November 6, 2009, Lakeland received from the Department of Environmental Protection ("Department") a "Letter of Authorization" regarding an "Authorization for Initial Sulfuric Acid Mist (SAM) Testing", for Lakeland C.D. McIntosh, Jr. Power Plant, which is located at 3030 EAST LAKE PARKER DRIVE, LAKELAND, FL 33801, POLK County, Florida.

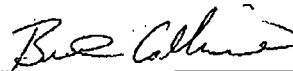
2. This request is simply a protective measure to avoid waiver of Lakeland's right to challenge certain conditions contained in the Letter of Authorization. Lakeland is optimistic that, given time to discuss the letter with DEP, both parties will be able to resolve the outstanding issues.

3. Under these circumstances, it is appropriate to provide additional time for the Department and Lakeland to address the requirements for the C.D. McIntosh, Jr. Power Plant.

4. Grant of this request will not prejudice either party, but will further their mutual interest and hopefully avoid the need to file a Petition and proceed to a formal administrative hearing.

WHEREFORE, Lakeland respectfully requests that the time for filing of a Petition for Administrative Proceedings in regard to the Department's Letter of Authorization No. 1050004-027-AC be formally extended to and including November 27, 2009.

RESPECTIVELY SUBMITTED this 20th day of November, 2009.



Bret Galbraith, E.I.
Lakeland Electric
501 E. Lemon Street
Lakeland, FL 33801
Telephone: (863) 834-8180



Florida Department of Environmental Protection

Bob Martinez Center
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Climate Change
Section

Permitting
Section

Michael W. Sosa
Secretary

November 6, 2009

Electronically Sent – Received Receipt Requested

Mr. Timothy Bachand, P.E., Manager of Engineering
City of Lakeland, Department of Electric Utilities
3030 East Lake Parker Drive
Lakeland, Florida 33805

Re: Project No. 1050004-027-AC
City of Lakeland, C.D. McIntosh, Jr. Power Plant, Unit 3
Installation of Selective Catalytic Reduction (SCR) and Sorbent Injection Systems
Authorization for Initial Sulfuric Acid Mist (SAM) Testing

Dear Mr. Bachand:

Original Permit No. 1050004-019-AC authorized the installation of SCR and sorbent injection systems on existing Unit 3 (EU-006). The SCR catalyst will convert additional sulfur compounds to SAM. Use of the new sorbent injection system is intended to mitigate and maintain SAM emissions below the significant emissions rate (7 tons/year) for the Prevention of Significant Deterioration (PSD) of Air Quality. Specific Condition 15 in Section 3 of this permit requires initial performance tests to determine the amount of SAM control provided by the sorbent injection system. The condition requires a series of tests to be conducted under various operating conditions to establish performance curves and determine the level of SAM control for a given sorbent injection rate under the given conditions. It requires the series of initial tests to be completed within 90 days of completing construction of the SCR system.

On November 4th, Mr. Brett Galbraith, Plant Environmental Engineer, contacted Mr. Jeff Koerner, Administrator of the New Source Review Section, to discuss several ongoing issues related to conducting the required performance testing for Unit 3. This was followed up by a letter from Ms. Farzie Shelton, Assistant General Manager of Technical Support, received by electronic mail on November 4th. In summary, the plant provided a test protocol in September detailing the series of tests that would be conducted to satisfy the requirements of Specific Condition 15 and to determine appropriate sorbent injection rates for the control of SAM emissions. The original test protocol identified nine individual locations for testing: a single location at the stack; and (because of split duct work) dual points before/after the SCR and before/after the electrostatic precipitator (ESP). Preliminary sampling indicated widely varying and inconsistent data. It is possible that the difficulties are due to heavy fly ash loading at some of the sampling points and/or erratic cyclonic flows caused by the arrangement of equipment and flow obstructions. The plant does not believe that this data will be useful in determining appropriate performance levels for the sorbent injection system. Therefore, the plant proposes to conduct the following initial SAM tests at the stack: three, 1-hour runs at full load with no sorbent injection; and three, 1-hour runs at full load with sorbent injection as recommended by the vendor. Controlled sulfur dioxide (SO₂) emissions would be provided by data collected by the continuous emissions monitoring system (CEMS) on the stack.

Letter of Authorization - DRAFT

Based on the information provided, the Department authorizes the following initial SAM performance testing:

1. The permittee shall conduct at least two, 1-hour test runs at each of the following operating scenarios to determine SAM emissions.

Scenario	Load	Sorbent Injection
1A	95% load	Off
1B	95% load	ON
2A	85% load	Off
2B	85% load	ON
3A	75% load	Off
3B	75% load	ON
4A*	65% load	Off
4B*	65% load	ON

The operator shall use best efforts to maintain the designated unit load throughout the test run for each operating scenario.

* For these initial tests, the 65% load condition is optional and should be based on whether the unit will be operated for any significant amount of time at this load level.

2. All test runs shall be conducted while injecting ammonia for the control of nitrogen oxides (NO_x).
3. The sorbent injection rate used for each operating scenario shall be determined by the equipment vendor.
4. For each SAM test run the operator shall:
 - a. Record the ammonia injection rate;
 - b. Record the sorbent injection rate;
 - c. Determine the fuel firing rate and heat input rate;
 - d. Use the stack CEMS to determine controlled NO_x and SO₂ emissions; and
 - e. Attempt to sample uncontrolled SO₂ emissions before the flue gas desulfurization system. If unable to gather meaningful uncontrolled SO₂ data for these initial tests, the permittee shall determine the uncontrolled SO₂ emissions by actual fuel flow and sulfur content.
5. Appropriate reference test methods shall be used to determine SAM and SO₂ emissions as necessary for the given operating conditions.
6. At a minimum, the permittee shall submit a test report within 45 days of completing the initial performance tests to include the following information for each SAM test run: the load; the heat input rate; the test method with any variations noted; the fuel blend fired and the average sulfur content; the actual sorbent injection rate; the controlled SO₂ emissions rate as determined by the CEMS; the uncontrolled SO₂ emissions rate as determined by stack test (if not available, then as determined by fuel flow and sulfur content); the ammonia injection rate for NO_x control by the SCR; the controlled NO_x emissions rate as determined by CEMS; the stack opacity as determined by the continuous opacity monitoring system (COMS). The report shall discuss the relative influence of operating parameters and how the sorbent injection rate will be adjusted for differing operating scenarios.
7. Until the test results are known, the permittee shall continue to operate the sorbent injection system based on the sorbent injection rate recommended by the equipment vendor. Once the tests results are known, the

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permittee may begin to operate the sorbent injection system based on the performance indicated by the data collected during the initial tests such that SAM emissions increases from the project will be less than 7 tons/year. The permittee shall identify and monitor the operating conditions that would result in an adjustment of the sorbent injection rate.

8. The Department requires additional performance tests to satisfy the requirements of Condition 15. Within 60 days of conducting this initial round of performance tests, the permittee shall propose a new schedule and revised test protocol for conducting the originally proposed tests including the determination of the SAM conversion rate across the SCR catalyst.

The Department will clarify the revised testing and reporting requirements in the pending request for an extension of Permit No. 1050004-019-AC.

Nothing in this action waves any federal requirements of the applicable New Source Performance Standards (NSPS) for this unit.

The Department will consider the above-noted action final unless a timely petition for an administrative hearing is filed pursuant to Sections 120.569 and 120.57, of the Florida Statutes (F.S.). Mediation under Section 120.573, F.S., will not be available for this proposed action.

A person whose substantial interests are affected by the proposed decision may petition for an administrative hearing in accordance with Sections 120.569 and 120.57, F.S. The petition must contain the information set forth below and must be filed (received) in the Department's Office of General Counsel, MS #35, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000. Petitions filed by the applicant or any of the parties listed below must be filed within 14 days of receipt of this notice. Petitions filed by any other person must be filed within 14 days of receipt of this proposed action. A petitioner must mail a copy of the petition to the applicant at the address indicated above, at the time of filing. The failure of any person to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention will be only at the approval of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

A petition that disputes the material facts on which the Department's action is based must contain the following information: (a) The name and address of each agency affected and each agency's file or identification number, if known; (b) The name, address, and telephone number of the petitioner, the name, address and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination; (c) A statement of how and when each petitioner received notice of the agency action or proposed action; (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate; (e) A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief; (f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action; and, (g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

A petition that does not dispute the material facts upon which the permitting authority's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by Rule 28-106.301, F.A.C.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the Department's final action may be different from the position taken by it in this notice. Persons whose substantial interests will be affected by any such final decision of the permitting authority on the application have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

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Any party to this order has the right to seek judicial review of it under Section 120.68, F.S., by the filing of a Notice of Appeal, under Rule 9.110 of the 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 days from the date this notice is filed with the Clerk of the permitting authority.

Executed in Tallahassee, Florida.



Trina L. Vielhauer, Chief
Bureau of Air Regulation

TLV/jfk


CERTIFICATE OF SERVICE

The undersigned duly designated deputy agency clerk hereby certifies that this authorization was sent by electronic mail (or a link to this document was made available electronically on a publicly accessible server) with received receipt requested before the close of business on 11/6/09 to the persons listed below.

Mr. Timothy Bachand, Lakeland Electric (timothy.bachand@lakelandelectric.com)
Ms. Farzie Shelton, Lakeland Electric (farzie.shelton@lakelandelectric.com)
Mr. Bret Galbraith, Lakeland Electric (bret.galbraith@lakelandelectric.com)
Mr. Bill Schroeder, DEP Southwest District (bill.schroeder@dep.state.fl.us)
Ms. Cindy Zhang-Torres, DEP Southwest District (cindy.zhang-torres@dep.state.fl.us)
Ms. Vickie Gibson, DEP BAR Reading File (victoria.gibson@dep.state.fl.us)

Clerk Stamp

FILING AND ACKNOWLEDGMENT FILED, on this date, pursuant to §120.52(7), Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.


Clerk

11/6/09
(Date)

Chronology of Activities

OGC Number District County

Style of Case

Program Area Mode

Lead Attorney Status

Forum Name Forum Case Number

Permit Appl Final Order Number

Date *	Code	Activity Description
11/20/2009	REX1	RECEIVED FIRST REQUEST FOR EXTENSION OF TIME
11/23/2009	AA	ASSIGNED TO LEAD ATTORNEY JACK J CHISOLM
11/23/2009	ACO	ADMIN. CASE OPENED IN OGC
11/24/2009	AR	RE-ASSIGNED TO LEAD ATTORNEY RONNI L MOORE
11/25/2009		LETTER OF AUTHORIZATION-REVISED
12/08/2009		WITHDRAW REQUEST FOR EXTENSION OF TIME - ISSUES HAVE BEEN
12/08/2009		RESOLVED.
12/08/2009	CC	CASE CLOSED IN OGC
12/08/2009		REFERENCE OCLUSUS FOR THESE DOCUMENTS (FILE WAS RECYCLED)