

Lakeland Electric - CD McIntosh Jr Power Plant 1050004-019-AC
 OGC # 07-1277 (AI)

2007							
16-Jul	AI received in the request for their extension of time through 8/30						
	I forwarded this to Lea and Valerie in OGC						
	AI will grant their request; forwarded this to OGC as well						
26-Jul	checked LCT and it looks like OGC has issued the order granting their request as of 7/20						
	sent a note to Valerie asking her to forward me a copy of the issued order						
	rec'd our copy and forwarded this to Patty, AI and Tom						
8/23	one week notice to AI						
	Expires on August 30th						
8/28	AI gave me final permit to request so where is w/d letter - asked AI & Tom for a copy because it's not on LCT either						
	Tom provided me a copy of Ms Skelton's w/d e-mail						
8/29	Asked Pat if this was ok to use then will forward to Len Crandall also						

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

LAKELAND ELECTRIC –
C.D. MCINTOSH, JR. POWER PLANT,

Petitioner,

v.

OGC No. 7-1277
DEP Permit No. 1050004-019-AC

DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Respondent.

ORDER GRANTING REQUEST FOR
EXTENSION OF TIME TO FILE PETITION FOR HEARING

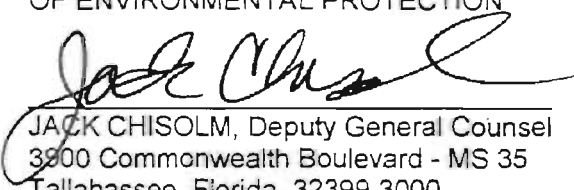
This cause has come before the Florida Department of Environmental Protection (FDEP) upon receipt of a request made by Petitioner, Lakeland Electric – C.D. McIntosh, Jr. Power Plant, to grant an extension of time to file a petition for administrative hearing to allow time to discuss with FDEP several specific permit conditions for its facility in Polk County, Florida. Because the request shows good cause for the extension of time,

IT IS ORDERED:

The request for an extension of time to file a petition for administrative proceeding is granted. Petitioner shall have until August 30, 2007, to file a petition in this matter. Filing shall be complete upon receipt by the Office of General Counsel, Department of Environmental Protection, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000.

DONE AND ORDERED on this 20TH day of July, 2007, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



JACK CHISOLM, Deputy General Counsel
3900 Commonwealth Boulevard - MS 35
Tallahassee, Florida 32399-3000
850/245-2242 facsimile 850/245-2302

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via
 U. S. Mail facsimile only, this 20th day of July, 2007, to:

Tim Bachand, Director, Energy Supply
Lakeland Electric
501 East Lemon Street
Lakeland, FL 33805

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Patricia E. Comer, Assistant General Counsel
FL Bar 0224146
3900 Commonwealth Boulevard - MS 35
Tallahassee, Florida 32399-3000
850/245-2288 facsimile 850/245-2302

with courtesy copies via electronic mail to:

Al Linero – FDEP

Gibson, Victoria

To: Miskelley, Valerie
Subject: RE: Lakeland Electric - McIntosh 1050004-019-AC OGC # 07-1277

From: Miskelley, Valerie
Sent: Thursday, July 26, 2007 3:50 PM
To: Gibson, Victoria
Subject: RE: Lakeland Electric - McIntosh 1050004-019-AC OGC # 07-1277

my apologies...i didn't put you on the cert of service...here it is!

<< File: Ord Granting Lakeland Electric 07-1277.pdf >>

From: Gibson, Victoria
Sent: Thursday, July 26, 2007 3:47 PM
To: Miskelley, Valerie
Subject: Lakeland Electric - McIntosh 1050004-019-AC OGC # 07-1277

Hi,
I noticed on LCT that this order to grant may have gone out on 7/20.....could you send me a copy of that order?
Thanks.

Vickie

Victoria Gibson, Administrative Secretary for
Trina Vielhauer, Chief
Bureau of Air Regulation
Department of Air Resource Management
victoria.gibson@dep.state.fl.us
850-921-9504 fax 850-921-9533

Gibson, Victoria

From: Crandall, Lea
Sent: Monday, July 16, 2007 4:09 PM
To: Gibson, Victoria
Subject: RE: Petition for Additional Time on SCR Drat Permit for Lakeland Electric

Thanks! I had not seen this.

Lea

Lea Crandall

Agency Clerk
Department of Environmental Protection
3900 Commonwealth Boulevard, MS 35
Tallahassee, FL 32399-3000
Phone: (850) 245-2212 SC: 205-2212
Fax: (850) 245-2303

-----Original Message-----

From: Gibson, Victoria
Sent: Monday, July 16, 2007 4:06 PM
To: Crandall, Lea; Miskelley, Valerie
Subject: FW: Petition for Additional Time on SCR Drat Permit for Lakeland Electric

FYI,

Vickie

Victoria Gibson, Administrative Secretary for
Trina Vielhauer, Chief
Bureau of Air Regulation
Department of Air Resource Management
victoria.gibson@dep.state.fl.us
850-921-9504 fax 850-921-9533

From: Linero, Alvaro
Sent: Monday, July 16, 2007 2:58 PM
To: Adams, Patty; Cascio, Tom; Miskelley, Valerie; Gibson, Victoria
Subject: FW: Petition for Additional Time on SCR Drat Permit for Lakeland Electric

This is just a routine extension of time.

7/23/2007

From: Brown, Mary Ann [mailto:MaryAnn.Brown@lakelandelectric.com]
Sent: Monday, July 16, 2007 2:54 PM
To: Linero, Alvaro
Cc: kkosky@golder.com; Shelton, Farzie
Subject: FW: Petition for Additional Time on SCR Drat Permit for Lakeland Electric

Mr. Linero:

Attached is the electronic copy of the above document that was submitted to the Office of General Council on this date by Farzie Shelton. For your information you will also be receiving a hard copy of same.

Mary Ann Brown
Environmental Permitting
Lakeland Electric
863-834-8191
maryann.brown@lakelandelectric.com

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

PETITION FOR ADDITIONAL TIME IN WHICH TO FILE
A PETITION FOR ADMINISTRATIVE HEARING
UNDER SECTIONS 120.569 and 120.57, FLORIDA STATUTES

Applicant: Lakeland Electric

DEP File No.: Air Construction Permit, Draft Permit No.: 1050004-019-AC
C.D. McIntosh, Jr. Power Plant

The undersigned has read Sections 120.569 and 120.57, Florida Statutes (F.S.), and fully understands the applicant's rights under those sections.

With regard to the above referenced draft permit, the applicant hereby requests an extension of time in which to file a petition for an administrative hearing. The applicant has received the draft permit from the Department of Environmental Protection, Bureau of Air Regulation, but needs additional time in which to discuss with the Department several specific conditions regarding the air construction permit issued for the facility. To allow for this process, and protect the right of the applicant to file for an administrative hearing if so desired, this request for additional time is being made. The Bureau of Air Regulation has been contacted and has no objection to this request. This request is made freely and voluntarily by the applicant, is in its self-interest, and is made without any pressure or coercion by anyone employed by the State of Florida Department of Environmental Protection.

This request for extension of time shall expire on August 30, 2007.

The undersigned is authorized to make this request on behalf of the applicant.



Signature/Date

Farzie Shelton, Associate GM Technical Support

Gibson, Victoria

From: Gibson, Victoria
Sent: Monday, July 16, 2007 4:05 PM
To: Comer, Patricia; Miskelley, Valerie
Subject: FW: Petition for Additional Time on SCR Drat Permit for Lakeland Electric
Importance: High

Hi,

I wasn't sure if you had received this request yet; but AI does want to grant it for Lakeland Electric.

Thanks.

Vickie

Victoria Gibson, Administrative Secretary for
Trina Vielhauer, Chief
Bureau of Air Regulation
Department of Air Resource Management
victoria.gibson@dep.state.fl.us
850-921-9504 fax 850-921-9533

From: Linero, Alvaro
Sent: Monday, July 16, 2007 4:03 PM
To: Gibson, Victoria
Subject: RE: Petition for Additional Time on SCR Drat Permit for Lakeland Electric

Yes

From: Gibson, Victoria
Sent: Monday, July 16, 2007 3:00 PM
To: Linero, Alvaro
Subject: RE: Petition for Additional Time on SCR Drat Permit for Lakeland Electric

Do you wish to grant this request, yet?

Vickie

From: Linero, Alvaro
Sent: Monday, July 16, 2007 2:58 PM
To: Adams, Patty; Cascio, Tom; Miskelley, Valerie; Gibson, Victoria
Subject: FW: Petition for Additional Time on SCR Drat Permit for Lakeland Electric

This is just a routine extension of time.

7/16/2007

From: Brown, Mary Ann [mailto:MaryAnn.Brown@lakelandelectric.com]
Sent: Monday, July 16, 2007 2:54 PM
To: Linero, Alvaro
Cc: kkosky@golder.com; Shelton, Farzie
Subject: FW: Petition for Additional Time on SCR Drat Permit for Lakeland Electric

Mr. Linero:

Attached is the electronic copy of the above document that was submitted to the Office of General Council on this date by Farzie Shelton. For your information you will also be receiving a hard copy of same.

Mary Ann Brown
Environmental Permitting
Lakeland Electric
863-834-8191
maryann.brown@lakelandelectric.com

7/16/2007

Gibson, Victoria

From: Crandall, Lea
Sent: Monday, July 16, 2007 4:09 PM
To: Gibson, Victoria
Subject: RE: Petition for Additional Time on SCR Drat Permit for Lakeland Electric

Thanks! I had not seen this.

Lea

Lea Crandall

Agency Clerk
Department of Environmental Protection
3900 Commonwealth Boulevard, MS 35
Tallahassee, FL 32399-3000
Phone: (850) 245-2212 SC: 205-2212
Fax: (850) 245-2303

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Sent: Monday, July 16, 2007 4:06 PM
To: Crandall, Lea; Miskelley, Valerie
Subject: FW: Petition for Additional Time on SCR Drat Permit for Lakeland Electric

FYI,

Vickie

Victoria Gibson, Administrative Secretary for
Trina Vielhauer, Chief
Bureau of Air Regulation
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Subject: FW: Petition for Additional Time on SCR Drat Permit for Lakeland Electric

This is just a routine extension of time.

7/16/2007

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Sent: Monday, July 16, 2007 2:54 PM
To: Linero, Alvaro
Cc: kkosky@golder.com; Shelton, Farzie
Subject: FW: Petition for Additional Time on SCR Drat Permit for Lakeland Electric

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Mary Ann Brown
Environmental Permitting
Lakeland Electric
863-834-8191
maryann.brown@lakelandelectric.com

Chronology of Activities

OGC Number **1277** **53** **AC** District **SOUTHWEST** County **POLK**
Style of Case **LAKELAND ELECTRIC (C.D. MCINTOSH, JR. POWER PLANT) VS. DEP**
Program Area **AIR CONSTRUCT** Mode **ADMINISTRATIVE**
Lead Attorney **PATRICIA E COMER** Status **OPEN**
Forum Name _____ Forum Case Number _____
Permit Appl **1050004-019-AC** Final Order Number _____

Date *	Code	Activity Description
07/16/2007	AA	ASSIGNED TO LEAD ATTORNEY JACK J CHISOLM
07/16/2007	ACO	ADMIN. CASE OPENED IN OGC
07/16/2007	REX1	RECEIVED FIRST REQUEST FOR EXTENSION OF TIME
07/17/2007	AR	RE-ASSIGNED TO LEAD ATTORNEY PATRICIA E COMER
07/20/2007		ORD GRANTING REQ FOR EXT OF TIME - UNTIL 08/30/07

Gibson, Victoria

From: Gibson, Victoria
Sent: Wednesday, August 29, 2007 12:34 PM
To: Vielhauer, Trina
Subject: FW: Lakeland Electric Unit No. 3 McIntosh Power Plant

FYI,

Vickie

From: Comer, Patricia
Sent: Wednesday, August 29, 2007 12:33 PM
To: Linero, Alvaro
Cc: Gibson, Victoria
Subject: RE: Lakeland Electric Unit No. 3 McIntosh Power Plant

OK I will.. I recommend care with these because there are a lot of possible things that can come back to bite you. OGC should always be kept apprised on litigation matters.
Pat

-----Original Message-----

From: Linero, Alvaro
Sent: Wednesday, August 29, 2007 12:24 PM
To: Comer, Patricia
Cc: Cascio, Tom; Vielhauer, Trina
Subject: RE: Lakeland Electric Unit No. 3 McIntosh Power Plant

Thanks Pat.

This one is to install additional air pollution control equipment at Lakeland.

We did not issue a second intent.

Yes it looks like Farzie was the counsel of record and she is not an attorney.

I should have appreciated that point a little better.

Sounds like technical reps shouldn't do those filings if we are going to have technical discussions with them about their comments.

We looked at the comments and they were of the nature such as applicants make during a 14-day comment period.

We incorporated some and not others into the final permit.

The main reason she withdrew her request for extension of time was that they wanted their permit and that extension was holding it up.

We'll be more diligent in the future like we are about those where petitions are actually filed.

Only EPA, other DEP offices, Lakeland Electric and their P.E. received copies of the original intent.

8/29/2007

I request that you close this one.

Thanks.

Al.

From: Comer, Patricia
Sent: Wednesday, August 29, 2007 10:03 AM
To: Gibson, Victoria
Subject: RE: Lakeland Electric Unit No. 3 McIntosh Power Plant

If a second intent went out the original should have been withdrawn. That would have closed the file. If I can get the papers on those actions, everything's fine. But I can't figure this out because I apparently was left out of the loop.

Technically, if the extension is withdrawn without the original intent having been withdrawn the original intent goes final by operation of law.

Farzie Shelton is "counsel of record" on an open OGC litigation (she filed the extension and in an APA action counsel doesn't have to be an attorney). And it appears that the Division negotiated settlement with opposing counsel without even notifying OGC!

Finally I have no idea if there are other persons who are entitled to notice and who would be entitled to additional notice of the new intent and whether they got that notice...but if anyone besides the applicant is copied on the original intent you cannot just "go final" since ANY change results in new point of entry.

[Pat Comer]

From: Gibson, Victoria
Sent: Wednesday, August 29, 2007 9:50 AM
To: Comer, Patricia
Subject: FW: Lakeland Electric Unit No. 3 McIntosh Power Plant
Importance: High

Good morning, Pat.

This is what Tom and Al have as the request to withdraw the extension of time; is this good enough? The extension expires tomorrow; however they are processing the final permit for Trina and Joe signatures today. 1050004-019-AC

Vickie

From: Cascio, Tom
Sent: Wednesday, August 29, 2007 7:49 AM
To: Gibson, Victoria
Subject: Lakeland Electric Unit No. 3 McIntosh Power Plant
Importance: High

Vickie: This is what we have.

Tom

From: Shelton, Farzie [mailto:Farzie.Shelton@lakelandelectric.com]
Sent: Monday, August 20, 2007 4:36 PM
To: Cascio, Tom
Cc: Halpin, Mike; Linero, Alvaro; kkosky@golder.com; Brown, Mary Ann
Subject: RE: Updated draft air construction permit - Unit No. 3 McIntosh Power Plant
Importance: High

Tom:

Thank you very much for your help. I accept the permit as it is written and with this e-mail I am withdrawing my request for extension of time. Please go ahead and issue the permit and please send a copy to Site certification so that they can do the changes to our application. I will be in Tallahassee tomorrow and Wednesday - see you there.

Farzie Shelton

Associate General Manager Technical Support
Lakeland Electric
501 E. Lemon Street
Lakeland, Florida 33801
863.834.6603
Cell: 863.430.8297
farzie.shelton@lakelandelectric.com

-----Original Message-----

From: Cascio, Tom [mailto:Tom.Cascio@dep.state.fl.us]
Sent: Monday, August 20, 2007 10:31 AM
To: Shelton, Farzie
Subject: RE: Updated draft air construction permit - Unit No. 3 McIntosh Power Plant

Farzie: Please see the attached.

Tom

From: Shelton, Farzie [mailto:Farzie.Shelton@lakelandelectric.com]
Sent: Wednesday, August 15, 2007 9:28 AM
To: Linero, Alvaro
Cc: Brown, Mary Ann; kkosky@golder.com; Cascio, Tom
Subject: Updated draft air construction permit - Unit No. 3 McIntosh Power Plant
Importance: High

Dear Al:

Thanks for the second draft of AC permit for Unit No. 3. Please see attached my comments. As I mentioned in my phone message I shall be going on vacation to Europe for a month and since the plant has scheduled outage for installation of this SCR in September, I would like to get the permit this week if at all possible. As always, all your help in this matter would be greatly appreciated.

Farzie Shelton

Associate General Manager Technical Support
Lakeland Electric
501 E. Lemon Street
Lakeland, Florida 33801
863.834.6603
Cell: 863.430.8297
farzie.shelton@lakelandelectric.com

Gibson, Victoria

From: Vielhauer, Trina
Sent: Wednesday, August 29, 2007 10:08 AM
To: Linero, Alvaro; Cascio, Tom
Cc: Gibson, Victoria
Subject: FW: Lakeland Electric Unit No. 3 McIntosh Power Plant

I'm guessing that the extension of time was the typical precautionary request and we didn't end up making substantive changes to that draft- true? Can you get back with Pat on this?

From: Gibson, Victoria
Sent: Wednesday, August 29, 2007 10:04 AM
To: Vielhauer, Trina
Subject: FW: Lakeland Electric Unit No. 3 McIntosh Power Plant

FYI,

Vickie

From: Comer, Patricia
Sent: Wednesday, August 29, 2007 10:03 AM
To: Gibson, Victoria
Subject: RE: Lakeland Electric Unit No. 3 McIntosh Power Plant

If a second intent went out the original should have been withdrawn. That would have closed the file. If I can get the papers on those actions, everything's fine. But I can't figure this out because I apparently was left out of the loop.

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[Pat Comer]

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Sent: Wednesday, August 29, 2007 9:50 AM
To: Comer, Patricia
Subject: FW: Lakeland Electric Unit No. 3 McIntosh Power Plant
Importance: High

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8/29/2007

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Sent: Wednesday, August 29, 2007 7:49 AM
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Subject: Lakeland Electric Unit No. 3 McIntosh Power Plant
Importance: High

Vickie: This is what we have.

Tom

From: Shelton, Farzie [mailto:Farzie.Shelton@lakelandelectric.com]
Sent: Monday, August 20, 2007 4:36 PM
To: Cascio, Tom
Cc: Halpin, Mike; Linero, Alvaro; kkosky@golder.com; Brown, Mary Ann
Subject: RE: Updated draft air construction permit - Unit No. 3 McIntosh Power Plant
Importance: High

Tom:

Thank you very much for your help. I accept the permit as it is written and with this e-mail I am withdrawing my request for extension of time. Please go ahead and issue the permit and please send a copy to Site certification so that they can do the changes to our application. I will be in Tallahassee tomorrow and Wednesday - see you there.

Farzie Shelton

Associate General Manager Technical Support
Lakeland Electric
501 E. Lemon Street
Lakeland, Florida 33801
863.834.6603
Cell: 863.430.8297
farzie.shelton@lakelandelectric.com

-----Original Message-----

From: Cascio, Tom [mailto:Tom.Cascio@dep.state.fl.us]
Sent: Monday, August 20, 2007 10:31 AM
To: Shelton, Farzie
Subject: RE: Updated draft air construction permit - Unit No. 3 McIntosh Power Plant

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Lakeland Electric

501 E. Lemon Street

Lakeland, Florida 33801

863.834.6603

Cell: 863.430.8297

farzie.shelton@lakelandelectric.com

Gibson, Victoria

From: Gibson, Victoria
Sent: Tuesday, August 28, 2007 4:50 PM
To: Cascio, Tom; Linero, Alvaro
Subject: Petition to withdraw extension of time for Lakeland Electric 1050004-019-AC

Follow Up Flag: Follow up
Flag Status: Red

Hi,

I have not received a copy of this petition to withdraw on their extension of time. I don't see that OGC has received a copy either.

Please forward a copy to me.

Thank you.

Vickie

Victoria Gibson, Administrative Secretary for
Trina Vielhauer, Chief
Bureau of Air Regulation
Department of Air Resource Management
victoria.gibson@dep.state.fl.us
850-921-9504 fax 850-921-9533

Gibson, Victoria

From: Gibson, Victoria
Sent: Tuesday, August 28, 2007 4:50 PM
To: Cascio, Tom; Linero, Alvaro
Subject: Petition to withdraw extension of time for Lakeland Electric 1050004-019-AC

Follow Up Flag: Follow up
Flag Status: Red

Hi,

I have not received a copy of this petition to withdraw on their extension of time. I don't see that OGC has received a copy either.

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Vickie

Victoria Gibson, Administrative Secretary for
Trina Vielhauer, Chief
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