



Jeb Bush  
Governor

# Department of Environmental Protection

Twin Towers Office Building  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

David B. Struhs  
Secretary

January 6, 2003

## CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Gary Lambert, Executive Vice President  
CPV Pierce Ltd.  
35 Braintree Hill Office Park, Suite 107  
Braintree, Massachusetts 02184

Re: DEP File No. 01050349-002-AC (PSD-FL-319A)  
CPV Pierce Power Generating Facility.  
Nominal 245 MW Combined Cycle Facility

Dear Mr. Lambert:

The Department reviewed your dated November 26, 2002 for extension of the referenced air construction permit. The request is to extend the dates for commencement of construction, completion of physical construction, and permit expiration.

The Department hereby determines that the request to extend the permit expiration date along with the dates to commence and to complete construction is acceptable. The following permit specific conditions are hereby modified as follows:

### FIRST PAGE OF PERMIT

Expires: ~~October 31, 2004~~ **August 31, 2006**

### SECTION II - CONDITION 8

PSD Approval to Construct Expiration: Approval to construct shall become invalid if construction is not commenced ~~within 18 months after receipt of such approval~~ **by October 31, 2004**, or if construction is discontinued for a period of 18 months or more, or if physical construction is not completed ~~within a reasonable time~~ **by April 30, 2006**. ~~The Department may extend the 18-month period upon a satisfactory showing that an extension is justified.~~ [40 CFR 52.21(r)(2)].

### SECTION II - CONDITION 9

Completion of Construction: The permit expiration date is ~~October 31, 2004~~ **August 31, 2006**. Physical construction shall be complete by ~~June 30, 2004~~ **April 30, 2006**. The additional time provides for testing, submittal of results, and submittal of the Title V permit to the Department.

## SECTION II - CONDITION 11

BACT Determination: In conjunction with ~~extension of the 18 month periods to commence or continue construction,~~ the extension of the ~~October 31, 2004~~ **August 31, 2006** permit expiration date, or any increases in MW generated by steam, heat input limits, hours of operation, oil firing, low or baseload operation, short-term or annual emission limits, annual fuel heat input limits or similar changes; the permittee may be required to demonstrate the adequacy of any previous determination of best available control technology for the source.  
[40 CFR 52.21(j)(4); 40CFR 51.166(j) and Rule 62-4.070 F.A.C.]

Please note that the Department did not adjust the determination of Best Available Control Technology (BACT). Any further requests for extensions should be accompanied by a demonstration that the BACT is adequate or a revised BACT proposal.

A copy of this letter shall be filed with the referenced permit and shall become part of the permit. This permitting decision is issued pursuant to Chapter 403, Florida Statutes.

A person whose substantial interests are affected by the proposed permitting decision may petition for an administrative proceeding (hearing) under sections 120.569 and 120.57 of the Florida Statutes. The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station #35, Tallahassee, Florida, 32399-3000. Petitions filed by the permit applicant or any of the parties listed below must be filed within fourteen days of receipt of this notice of intent. Petitions filed by any persons other than those entitled to written notice under section 120.60(3) of the Florida Statutes must be filed within fourteen days of publication of the public notice or within fourteen days of receipt of this notice of intent, whichever occurs first. Under section 120.60(3), however, any person who asked the Department for notice of agency action may file a petition within fourteen days of receipt of that notice, regardless of the date of publication. A petitioner shall 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 of the Florida Administrative Code.

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 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, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action; (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 Department'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.

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 Department on the application have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above. Mediation is not available in this proceeding.

In addition to the above, a person subject to regulation has a right to apply for a variance from or waiver of the requirements of particular rules, on certain conditions, under Section 120.542 F.S. The relief provided by this state statute applies only to state rules, not statutes, and not to any federal regulatory requirements. Applying for a variance or waiver does not substitute or extend the time for filing a petition for an administrative hearing or exercising any other right that a person may have in relation to the action proposed in this notice of intent.

The application for a variance or waiver is made by filing a petition with the Office of General Counsel of the Department, 3900 Commonwealth Boulevard, Mail Station #35, Tallahassee, Florida 32399-3000. The petition must specify the following information: (a) The name, address, and telephone number of the petitioner; (b) The name, address, and telephone number of the attorney or qualified representative of the petitioner, if any; (c) Each rule or portion of a rule from which a variance or waiver is requested; (d) The citation to the statute underlying (implemented by) the rule identified in (c) above; (e) The type of action requested; (f) The specific facts that would justify a variance or waiver for the petitioner; (g) The reason why the variance or waiver would serve the purposes of the underlying statute (implemented by the rule); and (h) A statement whether the variance or waiver is permanent or temporary and, if temporary, a statement of the dates showing the duration of the variance or waiver requested.

The Department will grant a variance or waiver when the petition demonstrates both that the application of the rule would create a substantial hardship or violate principles of fairness, as each of those terms is defined in Section 120.542(2) F.S., and that the purpose of the underlying statute will be or has been achieved by other means by the petitioner.

Persons subject to regulation pursuant to any federally delegated or approved air program should be aware that Florida is specifically not authorized to issue variances or waivers from any requirements of any such federally delegated or approved program. The requirements of the program remain fully enforceable by the Administrator of the EPA and by any person under the Clean Air Act unless and until the Administrator separately approves any variance or waiver in accordance with the procedures of the federal program.

This permitting decision is final and effective on the date filed with the clerk of the Department unless a petition is filed in accordance with the above paragraphs or unless a request for extension of time in which to file a petition is filed within the time specified for filing a petition pursuant to Rule 62-110.106, F.A.C., and the petition conforms to the content requirements of Rules 28-106.201 and 28-106.301, F.A.C. Upon timely filing of a petition or a request for extension of time, this order will not be effective until further order of the Department.

Any party to this permitting decision (order) has the right to seek judicial review of it under section 120.68 of the Florida Statutes, by filing a notice of appeal under Rule 9.110 of the Florida

Rules of Appellate Procedure with the clerk of the Department of Environmental Protection in the Office of General Counsel, Mail Station #35, 3900 Commonwealth Boulevard, 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 must be filed within thirty days after this order is filed with the clerk of the Department.

Executed in Tallahassee, Florida



Howard L. Rhodes, Director  
Division of Air Resources  
Management

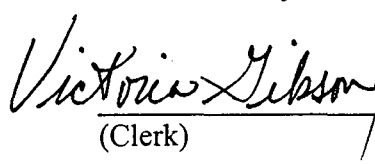
**CERTIFICATE OF SERVICE**

The undersigned duly designated deputy agency clerk hereby certifies that this PERMIT MODIFICATION was sent by certified mail (\*) and copies were mailed by U.S. Mail before the close of business on 1/7/03 to the person(s) listed:

cc: Gary Lambert, CPV Pierce, Ltd.\*  
Patricia A. DiOrio, CPV Pierce, Ltd.\*  
Chair, Polk BCC\*  
Gerald Kissel, DEP SWD  
Mr. Jeff Spence, Polk County ESD  
Cathy Sellers, Esq., Moyle Flanagan

Clerk Stamp

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

 January 7, 2003  
(Clerk) (Date)



Competitive  
Power Ventures, Inc.

November 26, 2002

Mr. Alvaro A. Linero, P.E.  
Administrator, New Source Review Section  
Bureau of Air Regulation  
Department of Environmental Protection  
111 South Magnolia Street, Suite 4  
Tallahassee, FL 32399

Re: DEP PSD Permit No. 01050349-001/PSD-FL-319, for CPV Pierce, Ltd.  
Extension of PSD Permit Expiration Date, Construction Commencement Date, and other  
related Permit Dates.

Dear Mr. Linero:

The Department of Environmental Protection, Bureau of Air Regulation, issued PSD Permit No. 1050349-001/PSD-FL-319, for CPV Pierce, Ltd. on August 17, 2001. This letter is to request the Department, pursuant to Rule 62-4.080, Florida Administrative Code, to extend the permit's expiration date and other specified compliance dates and deadlines in the permit. CPV Pierce, Ltd. is requesting an extension of eighteen (18) months for the commence construction date in the permit. Additionally, CPV Pierce, Ltd. is requesting extensions of the complete construction date and the permit expiration date to allow for the facility's anticipated 24-month construction period.

Following are the specific permit revisions (additions are underlined, deletions are stricken) requested in order to extend the expiration date and related deadlines:

(1) PSD Approval to Construct Expiration (in General and Administrative Requirements section, Condition No. 8, page 4 of 19). Approval to construct shall become invalid if construction is not commenced within ~~18-36~~ months after receipt of such approval, or if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time. The Department may extend the ~~18-month period~~ these time periods upon a satisfactory showing that an extension is justified.

(2) Completion of Construction (in General and Administrative Requirements section, Condition No. 9, page 4 of 19): The permit expiration date is ~~October 31, 2004~~ August 31, 2006. Physical construction shall be complete by ~~June 30, 2004~~ April 30, 2006. The additional time provides for testing, submittal of results, and submittal of the Title V permit to the Department.

(3) BACT Determination (in General and Administrative Requirements, section, Condition No. 11, p. 5 of 19): In conjunction with extension of the ~~18~~ 36 month periods to commence construction or 18-month period to continue construction, the extension of the ~~October 31, 2004~~ August 31, 2006 permit expiration date, or any increases in MW generated by steam, heat input limits, hours of operation, oil firing, low or baseload operation, short-term or annual emission limits, annual fuel heat input limits or similar changes; the permittee may be required to demonstrate the adequacy of any previous determination of best available control technology for the source.

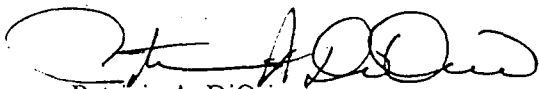
CPV Pierce is requesting the permit deadline extension and related date extensions due to the current financial crisis in the energy industry and, specifically, the electric generation sector. The current financial crisis has resulted in construction of the CPV Pierce project being delayed. These market conditions, which are beyond CPV Pierce's control, constitute good cause justifying the Department's grant of the requested permit extension and related date modifications.

CPV Pierce anticipates that construction will commence within the eighteen month extension period, and that upon commencement, construction will be completed within approximately twenty four (24) months of commencement. As required by Rules 62-4.070 and 62-4.080, F.A.C., once constructed, the CPV Pierce facility will install all control equipment specified in the permit, will adhere to all standards set forth in the permit, and will comply with all applicable regulatory standards and conditions.

It is our understanding that this request will be processed as a minor modification to the PSD permit for the CPV Pierce facility. Please find attached a check for \$50 to cover the permit application processing fee.

Thank you, and we look forward to working with you on this matter.

Sincerely,



Patricia A. DiOrio  
Manager, Development

Cc: Gary Lambert, Executive Vice President  
Cathy M. Sellers (Moyle Flanigan)  
Michael Anderson (TRC)



Competitive  
Power Ventures, Inc.

November 26, 2002

Mr. Alvaro A. Linero, P.E.  
Administrator, New Source Review Section  
Bureau of Air Regulation  
Department of Environmental Protection  
111 South Magnolia Street, Suite 4  
Tallahassee, FL 32399

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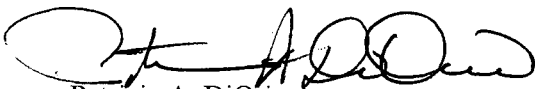
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Patricia A. DiOrio  
Manager, Development

Cc: Gary Lambert, Executive Vice President  
Cathy M. Sellers (Moyle Flanigan)  
Michael Anderson (TRC)



<b>U.S. Postal Service</b> <b>CERTIFIED MAIL RECEIPT</b> (Domestic Mail Only; No Insurance Coverage Provided)	
<b>OFFICIAL USE</b>	
Postage \$ Certified Fee Return Receipt Fee (Endorsement Required) Restricted Delivery Fee (Endorsement Required) Total Postage & Fees \$	Postmark Here
Sent To Patricia A. DiOrio Street, Apt. No. or PO Box No. Braintree Hill Ofc. Park, City, State, ZIP+4 Braintree, MA 02184 State: 107	
PS Form 3800, January 2001	

<b>SENDER: COMPLETE THIS SECTION</b>	<b>COMPLETE THIS SECTION ON DELIVERY</b>
<ul style="list-style-type: none"> <li>Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	A. Received by (Please Print Clearly) J. Mollica B. Date of Delivery JAN 13 2003
1. Article Addressed to: Ms. Patricia A. DiOrio Manager, Development CPV Pierce Ltd. 35 Braintree Hill Office Park, Suite 107 Braintree, MA 02184	C. Signature J. Mollica D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below <input type="checkbox"/> No
2.	3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.
2.	4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes

7001 0320 0001 3692 7263

UNITED STATES POSTAL SERVICE



First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

Dept. of Environmental Protection  
Division of Air Resources Mgt.  
Bureau of Air Regulation, NSR  
2600 Blair Stone Rd , MS 5505  
Tallahassee, FL 32399-2400

RECEIVED

JAN 21 2003

BUREAU OF AIR REGULATION

U.S. Postal Service CERTIFIED MAIL RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)	
<b>OFFICIAL USE</b>	
Postage \$	Postmark Here
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees \$	
Sent To Gary Lambert Street, Apt. No., or P.O. Box No. 107 Braintree Hill Ofc. Park, Ste City, State, ZIP+4 Braintree, MA 02184	
PS Form 3800, January 2000	

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

**1. Article Addressed to:**

Mr. Gary Lambert  
Executive Vice President  
CPV Pierce Ltd.  
35 Braintree Hill Office Park  
Braintree, MA 02184

**COMPLETE THIS SECTION ON DELIVERY**

A. Received by (Please Print Clearly) B. Date of Delivery

J. Mollica

C. Signature

X J. Mollica

☐ Agent  
☐ Addressee

D. Is delivery address different from item 1?

If YES, enter delivery address below:

☐ Yes  
☐ No

3. Service Type

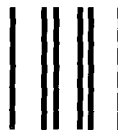
☒ Certified Mail ☐ Express Mail  
☐ Registered ☐ Return Receipt for Merchandise  
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

7001 0320 0001 3692 7270

UNITED STATES POSTAL SERVICE



First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

Dept. of Environmental Protection  
Division of Air Resources Mgt.  
Bureau of Air Regulation, NSR  
2600 Blair Stone Rd., MS 5505  
Tallahassee, FL 32399-2400

BUREAU OF AIR REGULATION

JAN 16 2003

RECEIVED

7001 0320 0001 3692 7249

**U.S. Postal Service**  
**CERTIFIED MAIL RECEIPT**  
*(Domestic Mail Only, No Insurance Coverage Provided)*

**OFFICIAL USE**

Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
<b>Total Postage &amp; Fees</b>	\$	

Sent To **Jack R. Myers**  
 Street, Apt. No.,  
 or PO **Drawer BC01 - PO Box 9005**  
 City, State, ZIP+4  
**Bartow, FL 33830-9005**

PS Form 3800, January 2001 See Reverse for Instructions

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1 Article Addressed to:

Jack R. Myers, Chair  
 Polk County Board of County  
 Commissioners  
 Drawer BC 01 - PO Box 9005  
 Bartow, FL 33830-9005

**COMPLETE THIS SECTION ON DELIVERY**

A. Received by (Please Print Clearly) B. Date of Delivery

**JAN 13 2003**  
 Signature **PAUL HARRIS**  
☐ Agent  
☐ Addressee

D. Is delivery address different from item 1? ☐ Yes  
 If YES, enter delivery address below: ☐ No

3. Service Type  
☒ Certified Mail ☐ Express Mail  
☐ Registered ☐ Return Receipt for Merchandise  
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2 7001 0320 0001 3692 7249

UNITED STATES POSTAL SERVICE



First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

Dept. of Environmental Protection  
Division of Air Resources Mgt.  
Bureau of Air Regulation, NSR  
2600 Blair Stone Rd., MS 5505  
Tallahassee, FL 32399-2400

RECEIVED

JAN 15 2003

BUREAU OF AIR REGULATION