



FLORIDA DEPARTMENT OF Environmental Protection

South District
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DEP #19-1114
OGC No.: 19-1258
Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Noah Valenstein
Secretary

FINAL ORDER GRANTING VARIANCE

PETITIONER:

Florida Power & Light Company,
Inc. Loretta Cranmer, Director,
Environmental Services 15430
Endeavor Drive DO1/JW
Jupiter, FL 33478
561-904-3415
Loretta.Cranmer@fpl.com

PROJECT INFORMATION:

Variance No. 0737620-002
Date of Issue: December 27, 2019
Expiration Date: December 27, 2024
County: Charlotte
Project: Sub Aq Utility

AGENT:

SM&E, Inc.
% Maria Summerlin
1615 Edgewater Dr.
Orlando, FL. 32804
msummerlin@smeinc.com

FINAL ORDER BY THE DEPARTMENT:

The Department of Environmental Protection (Department) hereby grants, to Florida Power & Light Company, Inc., a variance from the requirements of Rule 62-330.302, Florida Administrative Code (F.A.C.), to install via upland directional drill (HDD) approximately 4,326 linear feet of a 10" HDPE for 25 KV electric utility line under Placida Harbor.

This variance will permanently allow 4,326 linear feet of a 10" HDPE for 25 KV electric utility line under Placida Harbor. This variance shall only be valid during the construction activities authorized in Permit No. 0373620-001 EI and shall expire when the permit expires on December 27, 2024, unless the permit is modified to grant a time extension.

The associated Consolidated Environmental Resource Permit and Sovereignty Submerged Lands Authorization permit (No. 0373620-001 EI) is to install via upland directional drill (HDD) approximately 4,326 linear feet of a 10" HDPE for 25 KV electric utility line under Placida Harbor with bore pits and splice boxes located in uplands on each end of the crossing between Little Gasparilla Island the eastern end of the crossing located on Boca Grande Causeway across Placida Harbor, Class II Outstanding Florida Waters, Conditionally Approved for shellfish harvesting, and part of Lemon Bay Aquatic Preserve.

Those activities include the use of 83,756 square feet (1.93 acres) of state-owned sovereignty submerged lands.

After reviewing the Petition for Variance, the Department concluded the Petitioner demonstrated that the hardship asserted as a basis for the need for a variance is peculiar to the affected property and not self-imposed and that the grant of this variance is consistent with the general intent and purpose of Chapter 403, Florida Statutes. Additionally, the Petitioner demonstrated that there is a need to relieve or prevent hardship of another kind, the only source of power to Little Gasparilla Island is through an existing subaqueous line located on the north end of the island. Since there are no causeways or bridges to the island, there are no upland alternatives to install a second line and provide the island with a reliable source of electrical power in the event of unexpected damage to the existing aging subaqueous line.

The Consolidated Environmental Resource Permit and Sovereignty Submerged Lands Authorization permit (No. 0373620-001 EI) notified Florida Power and Light, Inc. of the Department's proposed agency action and advised them of their right to a hearing pursuant to Sections 120.569 and 120.57, F.S. On December 12, 2019, notice was given in the Charlotte Sun and on December 5, 2019, notice was given in the Florida Administrative Register informing the public of the Department's intended action and offering an opportunity for hearing pursuant to Sections 120.569 and 120.57, F.S.

The Petitioner and interested parties having been advised of their rights under Chapter 120, F.S., and having failed or declined to file a Petition pursuant to Sections 120.569 and 120.57, F.S., are hereby deemed to have waived those rights. Acceptance of the variance constitutes notice and agreement that the Department will periodically review this variance for compliance, including site inspections where applicable, and may initiate enforcement action for violation of the conditions and requirements thereof. It is therefore:

ORDERED by the State of Florida, Department of Environmental Protection, that the Petition of the Florida Power and Light, Inc. requesting a variance be and is hereby granted, subject to the conditions specified by the Department in Permit No. 0373620-001.

- a. The variance shall also be subject to the following conditions: This variance is only valid in conjunction with the issuance of Environmental Resource Permit No. 0373620-001-EI, and is subject to all conditions of the permit.
- b. The variance is granted under section 403.201(1)(c), F.S., which limits the duration of the variance to a period of 24 months. Therefore, this variance shall be valid for a period of 24 months from the date of the final order authorizing the variance from the above-referenced rule.

Any Party to this Order has the right to seek judicial review of the Order Pursuant to Section 120.68, F.S., by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of the 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 30 days from

the date this Order is filed with the clerk of the Department.

DONE AND ORDERED this 27th day of December, 2019, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Megan Mills
Permitting Program
Adminsitrator

Copies furnished to:

OGC Attorney Stephanie Gray OGC CASE #19-1258

FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to Section 120.52, Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

Shonathuray Buie

Clerk

December 27, 2019

Date

Prepared by: Megan Mills