



FLORIDA DEPARTMENT OF Environmental Protection

Northeast District
8800 Baymeadows Way West, Suite 100
Jacksonville, Florida 32256

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

March 2, 2023

Sent electronically to: LJohnson@seminole-electric.com

Lisa D. Johnson, Chief Executive Office
Seminole Electric Cooperative, Inc.
1613 North Dale Mabry Highway
Tampa, Florida 33618

SUBJECT: Department of Environmental Protection v. Seminole Electric Cooperative, Inc.
OGC File No. 23-0087
Air Facility ID No. 1070025
Putnam County

Dear Ms. Johnson:

Enclosed is a copy of the executed Consent Order to resolve Case Number 23-0087. The effective date of this Order is March 2, 2023, and all timeframes will be references from this date.

As a reminder, a Consent Order is a binding legal document and was voluntarily entered into by both parties.

Should you have any questions concerning the Consent Order, please contact Chris Azcuy, at Chris.Azcuy@FloridaDEP.gov, or by phone at (904) 256-1529. Your continued cooperation in the matter is appreciated.

Sincerely,

A handwritten signature in blue ink that reads "T.G. Kallemeyn".

Thomas G. Kallemeyn
Assistant Director

Enclosure: Executed Consent Order

cc: FDEP-OGC: Kirk White, Ann Prescott, Lea Crandall
FDEP-NED: Joni Petry, Chris Azcuy, Sarah Harris, DEP_NED
FDEP-DARM: Hastings Read, Jessica Dalton, David Read
David Ferrentino, dferrentino@seminole-electric.com
Chris Weber, cweber@seminole-electric.com

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT)	IN THE OFFICE OF THE
OF ENVIRONMENTAL PROTECTION)	NORTHEAST DISTRICT
)	
v.)	OGC FILE NO. 23-0087
)	
SEMINOLE ELECTRIC)	
COOPERATIVE, INC.)	
_____)	

CONSENT ORDER

This Consent Order (Order) is entered into between the State of Florida Department of Environmental Protection (Department) and Seminole Electric Cooperative, Inc. (Respondent) to reach settlement of certain matters at issue between the Department and Respondent.

The Department finds and Respondent admits the following:

1. The Department is the administrative agency of the State of Florida having the power and duty to protect Florida’s air and water resources and to administer and enforce the provisions of Florida Statutes (Fla. Stat.), and the rules promulgated and authorized in Title 62, Florida Administrative Code (Fla. Admin. Code). The Department has jurisdiction over the matters addressed in this Order.
2. Respondent is a “person” within the meaning of Sections 403.031(5), Fla. Stat.
3. Respondent is the owner and is responsible for the operations of the Seminole Electric Cooperative, Inc. – Seminole Generating Station (hereinafter, Facility), that currently operates two dry-bottom, wall-fired electric utility boilers (Unit Nos. 1 and 2) and associated steam turbines to produce power for the local electrical grid (Facility). The Facility is a Title V source as defined in Section 62-210.200, Fla. Admin. Code, and is operated under Title V Air Operation Permit No. 1070025-038-AV (Operation Permit) which expires on November 26, 2024. The Respondent is in the process of constructing and commissioning a new natural gas-fired two-on-one combined-cycle combustion turbine generator, to be called the Seminole Combined-Cycle Facility (SCCF), which is authorized under Air Construction Permit No. 1070025-028-AC / PSD-FL-443 (Construction Permit) which expires on March 31, 2024. The Facility is located at 890 North Highway 17, Palatka (further identified by Parcel ID Number 07-09-27-0000-0030-0000), in Putnam County, Florida (Property).
4. On December 19, 2022, the Facility staff submitted a Quarterly MATS Performance Test Report for Steam Electric Generator No. 2, which is identified as emission unit (EU) No. 002, for

compliance testing conducted on November 8, 2022. During this round of compliance testing, the Steam Electric Generator No. 2 exceeded the emissions standard for Particulate Matter. The average Particulate Matter emissions rate during the compliance test was 0.271 lb./mmBTU, which is above the emissions standard of 0.030 lb./mmBTU. The Facility stated the cause of the emissions exceedance was Particulate Matter carryover from one of the modules associated with the Flue Gas Desulfurization (FGD) system. A retest was conducted on November 17, 2022, after the Facility identified the FGD module and successfully drained, repaired, and refilled the FGD module. During this compliance testing, Steam Electric Generator No. 2 demonstrated compliance with the emissions standard for Particulate Matter.

5. In accordance with Section 2, condition 11.a of the Construction Permit, the Facility provided notification to the Department that Natural Gas-Fired Combustion Turbine No. 1 (identified as EU-017) and Natural Gas-Fired Combustion Turbine No. 2 (identified as EU-018) of the SCCF combusted fuel for the first time on June 1, 2022 and June 5, 2022, respectively. The Construction Permit requires initial compliance tests for EU-017 and EU-018 to be conducted no later than 180 days after initial fuel firing, which would fall on November 28, 2022 and December 2, 2022, respectively. On November 18, 2022, the Facility notified the Department of a delay in the commencement of commercial operation and initial compliance certification of the SCCF due to a *force majeure* event.

- a) On December 2, 2022, the Facility submitted additional information regarding the *force majeure* event and requested to delay initial compliance tests required under NSPS Subparts KKKK and TTTT and NESHAP Subpart YYYYY.
- b) On December 14, 2022, the Department issued a concurrence letter that the event constituted a *force majeure* as defined in 40 CFR §§ 60.2 and 40 CFR §§ 63.2 and approved additional time to conduct the required initial compliance tests once repairs to the SCCF have been completed.

6. Due to the *force majeure* event delaying commercial operation of the SCCR, the Facility must operate both Steam Electric Generator No. 1 (identified as EU-001), and Steam Electric Generator No. 2 (identified as EU-002) at the same time to produce the required power for the shared electrical grid. Under Section 2, condition 11.b of the Construction Permit, the Department restricted operation of one of the Steam Electric Generators (either EU-001 or EU-002) upon commercial operation, or 180 days after the date of initial fuel firing, whichever comes first, of the SCCF.

7. On December 19, 2022, the Facility notified the Department that they planned to resume operation of both Steam Electric Generator No. 1 and Steam Electric Generator No. 2 on December 20, 2022. On December 20, 2022, a notification was submitted to the Department's Northeast District Office that stated the Facility had resumed operations of both Steam Electric Generator No. 1 and Steam Electric Generator No. 2.

8. Based on the findings from Paragraphs 4 through 7, the Department finds the following violations occurred:

- a) Steam Electric Generator No. 2 (identified as EU-002) exceeded the emissions standard for Particulate Matter, in violation of specific conditions A.9.(a) and A.9.(b) of the Operation Permit and 40 CFR 60.42Da(b).
- b) The Facility operated both Steam Electric Generator No. 1 (EU-001) and Steam Electric Generator No. 2 (EU-002) at the same time, in violation of Section 2, condition 11.b. of the Construction Permit and Rule 62-4.160(1), Fla. Admin. Code.

Having reached a resolution of the matter Respondent and the Department mutually agree and it is

ORDERED:

9. Respondent shall comply with the following corrective actions within the stated time periods:

- a) **As of the effective date of this Order**, the below paragraphs replace Section 2, conditions 11.a., 11.b., and 11.c. of the Construction Permit:
 - i) Upon initial fuel firing in either combustion turbine after resolving the *force majeure* event, the permittee shall provide notification to the Permitting and Compliance Authorities within five business days. For a subsequent period not to exceed 180 calendar days from the date of initial fuel firing after resolving the *force majeure* event, either or both coal-fired units (EU-001 and EU002) may continue to operate.
 - ii) Upon commencement of commercial operation of either combustion turbine (excluding sale or delivery of test generation), or 180 days after the date of initial fuel firing in either combustion turbine after resolving the *force majeure* event,

whichever occurs sooner, coal-fired operations shall be limited to either unit, but not both. The permittee shall provide notification to the Permitting and Compliance Authorities within five business days of commencement of commercial operation.

iii) No later than 300 calendar days after the date of initial fuel firing after resolving the *force majeure* event, either coal-fired Unit 1 (EU-001) or Unit 2 (EU-002) must be rendered inoperable and permanently removed from service. The permittee shall provide notification of such measures to the Permitting and Compliance Authorities within five business days of permanent removal from service.

10. **Within 30 days of the effective date of this Order**, Respondent shall pay the Department \$ 8,000.00 in settlement of the regulatory matters addressed in this Order. This amount includes \$ 7,500.00 for administrative penalties and \$ 500.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Order. The administrative penalties are apportioned as follows: \$ 1,500.00 for violation of 40 CFR 60.42Da(b), with a \$ 4,500.00 add-on since the Facility is classified as a major source of pollution for Particulate Matter and a \$ 1,500.00 add-on since the emissions were greater than 150% of the allowable standard.

11. Respondent agrees to pay the Department stipulated penalties in the amount of \$100 per day for each and every day Respondent fails to timely comply with any of the requirements of Paragraphs 9 and 10 of this Order. The Department may demand stipulated penalties at any time after violations occur. Respondent shall pay stipulated penalties owed within 30 days of the Department's issuance of written demand for payment and shall do so as further described in Paragraphs 13 and 14, below. Nothing in this paragraph shall prevent the Department from filing suit to specifically enforce any terms of this Order. Any stipulated penalties assessed under this paragraph shall be in addition to the administrative penalties agreed to in Paragraph 11 of this Order.

12. Respondent shall make all payments required by this Order by cashier's check, money order or on-line payment. Cashier's check or money order shall be made payable to the "Department of Environmental Protection" and shall include both the OGC number assigned to this Order and the notation "Civil Penalty." Online payments by e-check can be made by going to the DEP Business Portal at: <http://www.fldepportal.com/go/pay/>. It will take a number of days after this order becomes

final, effective and filed with the Clerk of the Department before ability to make online payment is available.

13. Except as otherwise provided, all submittals and payments required by this Order shall be sent to the Northeast District Office, Department of Environmental Protection, at 8800 Baymeadows Way West, Suite 100, Jacksonville, Florida 32256.

14. Respondent shall allow all authorized representatives of the Department access to the Facility and the Property at reasonable times for the purpose of determining compliance with the terms of this Order and the rules and statutes administered by the Department.

15. In the event of a sale or conveyance of the Facility or of the Property upon which the Facility is located, if all of the requirements of this Order have not been fully satisfied, Respondent shall, at least 30 days prior to the sale or conveyance of the Facility or Property, (a) notify the Department of such sale or conveyance, (b) provide the name and address of the purchaser, operator, or person(s) in control of the Facility, and (c) provide a copy of this Order with all attachments to the purchaser, operator, or person(s) in control of the Facility. The sale or conveyance of the Facility or the Property does not relieve Respondent of the obligations imposed in this Order.

16. If any event, including administrative or judicial challenges by third parties unrelated to Respondent, occurs which causes delay or the reasonable likelihood of delay in complying with the requirements of this Order, Respondent shall have the burden of proving the delay was or will be caused by circumstances beyond the reasonable control of Respondent and could not have been or cannot be overcome by Respondent's due diligence. Neither economic circumstances nor the failure of a contractor, subcontractor, materialman, or other agent (collectively referred to as "contractor") to whom responsibility for performance is delegated to meet contractually imposed deadlines shall be considered circumstances beyond the control of Respondent (unless the cause of the contractor's late performance was also beyond the contractor's control). Upon occurrence of an event causing delay, or upon becoming aware of a potential for delay, Respondent shall notify the Department by the next working day and shall, within seven calendar days notify the Department in writing of (a) the anticipated length and cause of the delay, (b) the measures taken or to be taken to prevent or minimize the delay, and (c) the timetable by which Respondent intends to implement these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of Respondent, the time for performance hereunder shall be extended. The agreement to extend

compliance must identify the provision or provisions extended, the new compliance date or dates, and the additional measures Respondent must take to avoid or minimize the delay, if any. Failure of Respondent to comply with the notice requirements of this paragraph in a timely manner constitutes a waiver of Respondent's right to request an extension of time for compliance for those circumstances.

17. The Department, for and in consideration of the complete and timely performance by Respondent of all the obligations agreed to in this Order, hereby conditionally waives its right to seek judicial imposition of damages or civil penalties for alleged violations up to the date of the filing of this Order. This waiver is conditioned upon Respondent's complete compliance with all of the terms of this Order.

18. This Order is a settlement of the Department's civil and administrative authority arising under Florida law to resolve the matters addressed herein. This Order is not a settlement of any criminal liabilities which may arise under Florida law, nor is it a settlement of any violation which may be prosecuted criminally or civilly under federal law. Entry of this Order does not relieve Respondent of the need to comply with applicable federal, state, or local laws, rules, or ordinances.

19. The Department hereby expressly reserves the right to initiate appropriate legal action to address any violations of statutes or rules administered by the Department that are not specifically resolved by this Order.

20. Respondent is fully aware that a violation of the terms of this Order may subject Respondent to judicial imposition of damages, civil penalties up to \$15,000.00 per day per violation, and criminal penalties.

21. Respondent acknowledges and waives its right to an administrative hearing pursuant to sections 120.569 and 120.57, Fla. Stat., on the terms of this Order. Respondent also acknowledges and waives its right to appeal the terms of this Order pursuant to section 120.68, Fla. Stat.

22. Electronic signatures or other versions of the parties' signatures, such as .pdf or facsimile, shall be valid and have the same force and effect as originals. No modifications of the terms of this Order will be effective until reduced to writing, executed by both Respondent and the Department, and filed with the clerk of the Department.

23. The terms and conditions set forth in this Order may be enforced in a court of competent jurisdiction pursuant to sections 120.69 and 403.121, Fla. Stat. Failure to comply with the terms of this Order constitutes a violation of section 403.161(1)(b), Fla. Stat.

24. This Consent Order is a final order of the Department pursuant to Section 120.52(7), Fla. Stat., and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance with Chapter 120, Fla. Stat. Upon the timely filing of a petition, this Consent Order will not be effective until further order of the Department.

25. Persons who are not parties to this Consent Order, but whose substantial interests are affected by it, have a right to petition for an administrative hearing under sections 120.569 and 120.57, Florida Statutes. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition concerning this Consent Order means that the Department's final action may be different from the position it has taken in the Consent Order.

The petition for administrative hearing must contain all of 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, any e-mail address, any facsimile number, and telephone number of the petitioner, if the petitioner is not represented by an attorney or a qualified representative; 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 when and how the petitioner received notice of the agency decision;
- 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, including an explanation of how the alleged facts relate to the specific rules or statutes; 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.

The petition must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS# 35, Tallahassee, Florida, 32399-3000, or received via electronic correspondence at Agency_Clerk@floridadep.gov, within 21 days of receipt of this notice. A copy of

the petition must also be mailed at the time of filing to the District Office at 8800 Baymeadows Way West, Suite 100, Jacksonville, Florida, 32256. Failure to file a petition within the 21-day period constitutes a person's waiver of the right to request an administrative hearing and to participate as a party to this proceeding under sections 120.569 and 120.57, Florida Statutes. Before the deadline for filing a petition, a person whose substantial interests are affected by this Consent Order may choose to pursue mediation as an alternative remedy under section 120.573, Florida Statutes. Choosing mediation will not adversely affect such person's right to request an administrative hearing if mediation does not result in a settlement. Additional information about mediation is provided in section 120.573, Florida Statutes and Rule 62-110.106(12), Florida Administrative Code.

26. Rules referenced in this Order are available at:

<http://www.dep.state.fl.us/legal/Rules/rulelist.htm>.

FOR THE RESPONDENT:



Lisa D. Johnson
Chief Executive Officer, Seminole Electric Cooperative, Inc._____

2-23-23

Date

DONE AND ORDERED this 2nd day of March 2023, in Duval, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Gregory J. Strong
District Director
Northeast District

Filed, on this date, pursuant to section 120.52, Fla. Stat., with the designated Department Clerk, receipt of which is hereby acknowledged.



Clerk

March 2, 2023

Date

FDEP v. Seminole Electric Cooperative, Inc.
Consent Order, OGC File No. 23-0087
Page 9 of 9

Copies furnished to:

Lea Crandall, Agency Clerk, Mail Station 35 [Executed Copy Only]

FDEP-NED: Joni Petry, Chris Azcuy, Sarah Harris

FDEP-DARM: Hastings Read, Jessica Dalton, David Read [Executed Copy Only]

FDEP-OGC: Kirk White, Ann Prescott [Executed Copy Only]