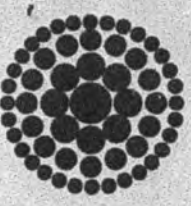


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ORIGINAL  
FILE COPY

**Florida  
Power**  
CORPORATION

**JAMES A. MCGEE**  
SENIOR COUNSEL

August 25, 1994

Ms. Blanca S. Bayo, Director  
Division of Records and Reporting  
Florida Public Service Commission  
101 East Gaines Street  
Tallahassee, Florida 32399-0870

Re: Docket No. 940797-EQ

Dear Ms. Bayo:

Enclosed for filing in the subject docket are fifteen copies of Florida Power Corporation's Supplemental Filing to Petition for Approval to the Extent Required, of Certain Actions Relating to Approved Cogeneration Contracts. This filing replaces the August 10, 1994 filing that incorrectly referenced docket number 940771-EQ.

Please acknowledge your receipt of the above filing on the enclosed copy of this letter and return to the undersigned. Also enclosed is a 3.5 inch diskette *no diskette* containing the above-referenced document in Word Perfect format.

- ACK
- AFA \_\_\_\_\_
- APP \_\_\_\_\_
- CAF \_\_\_\_\_
- CMU \_\_\_\_\_
- CTR \_\_\_\_\_
- EAG Shine JAM/jb
- LEG Elias Enclosure
- LIN 6 cc: #
- OPC \_\_\_\_\_
- RCH \_\_\_\_\_
- SEC 1
- WAS \_\_\_\_\_
- OTH \_\_\_\_\_

RECEIVED & FILED  
*mm*  
FPSC-BUREAU DE RECORDS

Very truly yours,

*James A. McGee*  
James A. McGee

DOCUMENT NUMBER-DATE  
08832 AUG 26 94  
FPSC-RECORDS/REPORTING

GENERAL OFFICE

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

---

In re: Petition of Florida Power Corporation for Approval, to the Extent Required, of Certain Actions Relating to Approved Cogeneration Contracts

---

Docket No.940797-EQ

Submitted for filing:  
August 26, 1994

**SUPPLEMENTAL FILING TO PETITION FOR APPROVAL,  
TO THE EXTENT REQUIRED, OF CERTAIN ACTIONS  
RELATING TO APPROVED COGENERATION CONTRACTS**

Florida Power Corporation ("FPC"), by its undersigned attorneys, hereby supplements its July 28, 1994 Petition to the Florida Public Service Commission ("Commission"), which sought approval, to the extent required, with respect to certain actions taken during the course of performance of Commission-approved cogeneration contracts. The supplementation relates to an agreement between FPC and Auburndale Power Partners, L.P. ("APP") with respect to the El Dorado contract, which agreement -- for reasons explained below -- was not included in the Petition.

1. On April 7, 1994, FPC and APP, reached an agreement relating principally to curtailment. The agreement was to apply to the negotiated El Dorado cogeneration contract which had previously been assigned to APP, and to the two LFC No. 47 contracts which were to be assigned to APP and which were to become the subject of a separate Joint Petition to the Commission in Docket No. 940378-EQ ("Auburndale").
2. On July 7, 1994, the Staff issued a recommendation in Auburndale which created uncertainties regarding the effect of the LFC assignment.
3. On July 28, 1994, FPC filed the instant Petition which, in light of the fact that FPC and APP had yet to respond to the Staff's recommendation, did not reference the parties' April 7 agreement.

DOCUMENT NUMBER-DATE

08832 AUG 26 1994



4. Several days after the Petition was filed, FPC and APP took several actions. Specifically, on August 5, 1994, FPC and APP (1) withdrew their Joint Petition in Auburndale, (2) filed a new Joint Petition for Approval of Contract Modifications relating to the LFC contracts, and (3) amended their April 7, 1994 agreement.

5. The Joint Petition for Approval of Contract Modifications relates only to the LFC contracts (not the El Dorado contract). Among the matters set forth there is a request that, to the extent approval is required at all, the APP/FPC April 7 agreement be approved. Thus, the April 7 agreement as it relates to the LFC contracts is before the Commission in that docket.

6. Accordingly, FPC now supplements its earlier Petition in the instant docket to add the April 7 agreement with APP, as amended on August 5, as it relates to the El Dorado contract. A copy of that agreement, as amended, is attached hereto and supplements the Appendix to FPC's Petition at Tab 10.<sup>1</sup>

7. Under the April 7 curtailment agreement, APP and FPC have agreed to a schedule of set periods of time (when FPC expects its loads to be low), when outages and reductions in capacity may occur. The parties have further agreed that the effect of this curtailment will not adversely impact APP with respect to such items as capacity factors and performance adjustments.

8. As set forth in the Petition (at 12-14, 21-22), FPC believes that no further approval of such a curtailment agreement is required. The cogeneration contracts themselves incorporate the Commission's rules, which expressly authorize FPC to curtail

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<sup>1</sup> Also attached is a revised cover page for that Tab of the Appendix. Other actions related to the El Dorado contract and this agreement in particular can be found in that revised cover page and at Tab 10 of the Appendix. Other actions with respect to the LFC contracts, to the extent they are unrelated to the assignment to APP, can be found at Tabs 11 and 12 of the Appendix.

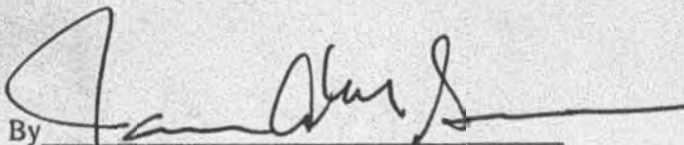
its purchases of power for various reasons, including economic ones. Indeed, by entering a curtailment agreement rather than unilaterally exercising its contract rights, FPC acts to ensure a more orderly and well-planned curtailment than could otherwise occur.

9. Moreover, to the extent that further approval of such an agreement were necessary, FPC submits that such approval should issue. As also set forth in the Petition (*id.*), a curtailment agreement such as that here is consistent with the interests of the public and FPC's ratepayers since it avoids possible impairment of the reliability and efficiency of FPC's system.

10. In sum, in supplementing the Petition, FPC restates its view that its April 7 agreement with Auburndale requires no further Commission approval. However, if the Commission disagrees with that view, the Commission should approve this agreement as in the public interest, the interest of FPC's ratepayers, and the interests of the contracting parties.

Respectfully submitted,

OFFICE OF THE GENERAL COUNSEL  
FLORIDA POWER CORPORATION

By 

James A. McGee  
Post Office Box 14042  
St. Petersburg, FL 33733-4042  
Telephone: (813) 866-5184  
Facsimile: (813) 866-4931



BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Docket No.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of Florida Power Corporation's Supplemental Filing to Petition for Approval, to the Extent Required, of Certain Actions Relating to Approved Cogeneration Contracts has been served by U.S. Mail on the 25th day of August, 1994 to the following:

Orange Cogen Limited  
c/o Ark/CSW Development Partnership  
23293 South Pointe Drive  
Laguna Hills, CA 92653

NationsBank of Florida, NA  
600 Peachtree Street, NE  
Atlanta, GA 30308

GECC  
1600 Summer Street  
Stamford, Connecticut 06927

TIFD-C, Inc.  
c/o GECC  
1600 Summer Street, 6th Floor  
Stamford, Connecticut 06927  
Attn: Manager, Energy Portfolio Admin

Lake Cogen, Ltd.  
1551 N. Tustin Avenue, Suite 900  
Santa Ana, CA 92701

Mr. Macauley Whiting, Jr.  
Ridge Generating Station  
400 North New York Ave., Suite 101  
Winter Park, FL 32789

Wheelabrator Ridge Energy  
3131 K-Ville Avenue  
Auburndale, FL 33823

Mr. Jerome L. Glazer  
Auburndale Power Partners  
12500 Fair Lakes Circle, Suite 420  
Fairfax, Virginia 22033

Mr. Don Fields  
Executive Director  
Auburndale Power Partners  
1501 Derby Avenue  
Auburndale, FL 33823

Mr. Roger Fernandez  
Cargill Fertilizer, Inc.  
8813 Highway 41 South  
Riverview, FL 33569

Bankers Trust Company  
Four Albany Street  
New York, New York, 10015  
Attn: Corporate Trust & Agency Group

The Prudential Insurance Company of  
America  
Three Gateway Center  
Newark, NJ 07102-4077  
Attn: Asset Unit/IAU Management

Dade Power Incorporated  
1551 N. Tustin Avenue, Suite 900  
Santa Ana, CA 92701

The Prudential Insurance Company of  
America  
Four Gateway Center  
Newark, NJ 07102-4069  
Attn: Project Management Team

Pasco Cogen, Ltd.  
220 East Madison Street, Suite 526  
Tampa, FL 33602  
Attn: Elliott White

Tiger Bay Limited Partners  
2500 City West Boulevard  
Houston, TX 77042

The Fuji Bank and Trust Company  
Two World Trade Center  
New York, New York 10048

Mr. Dennis Carter  
Assistant City Manager  
Metro-Dade Center  
111 NW 1st Street, 29th Floor  
Miami, FL 33128

Mr. Juan Portuando  
President  
Montenay International  
3225 Aviation Avenue, 4th Floor  
Coconut Grove, FL 33133

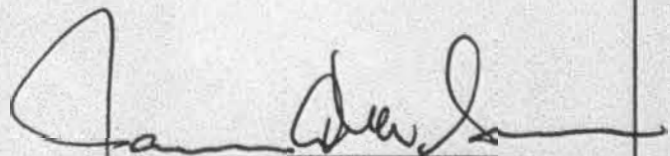
Ms. Gail Fels  
Assistant County Attorney  
Metro-Dade Center  
111 NW 1st Street, Suite 2800  
Miami, FL 33128

Polk Power Partner, L.P.  
c/o Polk Power GP, Inc.  
1027 South Rainbow Boulevard  
Suite 360  
Las Vegas, Nevada 89128

TIFD VIII-J, Inc.  
c/o General Electric Capital Corporation  
1600 Summer Street  
Stamford, Connecticut 06927

Mr. Wayne A Hinman, President  
Orlando Cogen Limited, L.P.  
c/o Air Products and Chemicals  
7201 Hamilton Boulevard  
Allentown, PA 18595-1501

The Sumitomo Bank Limited,  
New York Branch  
One World Trade Center, Ste. 954G  
New York, NY 10048



James A. McGee



## SUMMARY

### EL DORADO ENERGY (03/18/91 Negotiated contract)

#### • Assignments

- Contract expressly authorizes FPC to consent to assignments of obligations, benefits & duties (Art. XXIII)
- 03/09/93: FPC consents to Assignment to Auburndale Power Partners, L.P. pursuant to the terms and conditions of the Assumption and Release
  - Auburndale is merely a name change from El Dorado
  - The 03/09/93 Assumption and Release between El Dorado and Auburndale whereby Auburndale assumes all of the obligations, duties and liabilities of El Dorado under the contract with FPC, provides that El Dorado is released from all of its obligations, duties and liabilities under the contract with FPC

#### • Regulatory Delay

- Contract expressly authorizes extensions for regulatory delays (§4.2.1)
- 02/07/92: FPC agrees to a 37 day extension of commencement and commercial in-service date due to regulatory delays

#### • Force Majeure Delay

- Contract expressly authorizes extensions for force majeure delays (§4.2.2)
- 02/07/92: FPC agrees to a 180 day force majeure delay

#### • Routine Contract Administration and Performance

- 02/07/92: FPC acknowledges a typographical error in the contract
- 04/07/94: FPC agrees that Auburndale may use TECO's interruptible standby service in the event it was unable to provide its own power
  - Given the Auburndale facility location and its interconnection with TECO, it would be in TECO's

own economic interest to minimize Auburndale's downtime when power was tight in the area. Thus, the fact that Auburndale was interruptible would have minimal practical impact

#### Pre-Operational Event of Default

- Contract expressly authorizes parties to renegotiate remedial provisions regarding a pre-operational event of default to preserve the contract's validity (§15.2.1)
- 04/07/94: FPC and Auburndale agree that, if an operational event of default occurs with respect to achieving commercial in-service status, the time within which the facility may achieve such status is changed from 90 to 150 days

#### • Curtailment

- 04/07/94 & 08/05/94:  
FPC and Auburndale agree that, through 1999, power delivered to FPC will be reduced during off-peak hours and no power will be delivered to FPC during certain periods each year, and with how this impacts on such items as capacity factors and performance adjustment



# AUBURNDALE POWER PARTNERS, LIMITED PARTNERSHIP

1001 3rd Avenue, West • Bradenton, Florida 34205 • (813) 749-0448  
12500 Fair Lakes Circle • Suite 420 • Fairfax, Virginia 22033 • (703) 222-0445

April 7, 1994

Robert D. Dolan, P.E.  
Manager, Cogeneration  
Contracts and Administration  
Florida Power Corporation  
3201 34th Street So.  
St. Petersburg, FL 33711

Re: The Negotiated Contract and the Standard Offer Contracts referred to below

Dear Mr. Dolan:

This Letter Agreement (the "Letter Agreement") confirms our understanding and agreement with respect to the following matters regarding (a) the Negotiated Contract for the Purchase of Firm Capacity and Energy from a Qualifying Facility, dated March 18, 1991, between Auburndale Power Partnership, Limited Partnership (the "QF") (as assignee of El Dorado Energy Company) and Florida Power Corporation ("FPC"), as amended, supplemented or otherwise modified from time to time (the "Negotiated Contract") and (b) the "Standard Offer Contracts". (as defined in Exhibit A attached hereto). Terms used herein and not otherwise defined in Exhibit A shall have the meaning set forth in the Negotiated Contract.

1. Coordinated Curtailment. As required in Article 5.1.5 of the Negotiated Contract and Section 5(c) of each Standard Offer Contract, the QF and FPC agree to coordinate scheduled outages and maintenance of the Facility to recognize the periods described in Paragraphs 1(a)-(b) below. Accordingly, notwithstanding the provisions of Article 6.1 of the Negotiated Contract and Section 3.1 of each Standard Offer Contract, FPC shall have no obligation to purchase and QF shall have no obligation to sell electric energy or capacity during the following periods (any such period, a "Coordinated Curtailment Period"):

(a) For calendar years 1995, 1996, 1998 and 1999, one period of 78 consecutive hours in each of such calendar years; and

(b) For calendar year 1997, one period of 336 consecutive hours in such calendar year.

In scheduling each Coordinated Curtailment Period:

(i) FPC shall provide the QF with no less than 12 months' prior written notice of any Coordinated Curtailment Period;

(ii) The commencement date of any Coordinated Curtailment Period (other than the first Coordinated Curtailment Period) shall not be less than 330 days, nor greater than 395 days, from the commencement date of the previous year's Coordinated Curtailment Period;

(iii) The initial Coordinated Curtailment Period shall be scheduled between March 1, 1995 and April 30, 1995; and

(iv) Each Coordinated Curtailment Period shall occur concurrently with a "Coordinated Curtailment Period" referred to in the Consent.

Notwithstanding the foregoing, any Coordinated Curtailment Period shall be rescheduled upon reasonable request of either FPC or the QF unless such rescheduling would have a material adverse affect on the non-requesting party.

2. Off-Peak Curtailment. Notwithstanding the provisions of Article 6.1 of the Negotiated Contract, FPC shall have no obligation to purchase and QF shall have no obligation to sell electric energy produced by the Facility; (i) during the calendar years 1994 through 1999; (ii) between 12:00 am and 6:00 am; and (iii) in excess of:

(a) one hundred fourteen thousand one hundred eighty kilowatt-hours (114,180 KWh) per hour of energy during the period from October 1 to November 14, and

(b) one hundred thousand kilowatt-hours (100,000 KWh) per hour of energy during the period from November 15 to March 14, and

(c) one hundred fourteen thousand one hundred eighty kilowatt-hours (114,180 KWh) per hour of energy during the period from March 15 to April 30

(any such period, an "Off-Peak Curtailment Period").

3. Special Curtailment. Notwithstanding the provisions of Article 6.1 of the Negotiated Contract or Paragraph 2 above, FPC shall have no obligation to purchase and QF shall have no obligation to sell electric energy for any four (4) hour period (any such period, a "Special Curtailment Period") that occurs during an Off-Peak Curtailment Period; provided that:

(i) There may be no more than five (5) Special Curtailment Periods in any calendar year;



(ii) There may be no more than two (2) Special Curtailment Periods in any calendar week;

(iii) Each Special Curtailment Period occurs between the 1st and 25th day (inclusive) of a calendar month (except during February, when the Special Curtailment Period shall occur between the 1st and 24th day (inclusive) of such calendar month); and

(iv) FPC notifies the QF of such Special Curtailment Period no later than 12:00 noon prior to the commencement thereof.

4. Energy Calculations; On-Peak Capacity Factor (Article 8.3); Performance Adjustment (Appendix C); Twelve Month Rolling Average Capacity Factor. Energy calculations under the Standard Offer Contracts and the Negotiated Contract shall include energy produced during each Ramp Period. FPC shall purchase energy delivered to it by QF pursuant to the Standard Offer Contracts and the Negotiated Contracts during each Ramp Period. FPC shall be deemed not to be able to receive electric energy from the QF during each Curtailment Period and Ramp Period; consequently, for the purposes of this Letter Agreement only, all hours during such periods shall be excluded from the calculation of:

(i) The On-Peak Capacity Factor in accordance with Article 8.3(i) of the Negotiated Contract;

(ii) The Performance Adjustment in accordance with Note (b) of Schedule 6 of Appendix C of the Negotiated Contract; and

(iii) The twelve month rolling average capacity factor in accordance with the Standard Offer Contracts (it being understood that if a Special Curtailment Period shall occur, the Ramp Period therefor shall apply, notwithstanding the provisions of Section 4(m) of the Consent);

provided that to the extent the QF sells capacity or energy to a third party during the entirety of any Curtailment Period, the associated Ramp Period shall be included in such calculations, with appropriate proration for partial sales of the capacity and energy.

5. Administration of the Negotiated Contract and the Standard Offer Contracts. For purposes of administering the Negotiated Contract and the Standard Offer Contracts, kilowatts and kilowatt-hours produced by the Facility shall be allocated among such contracts as follows:

The electric energy and capacity produced by the Facility and delivered to FPC pursuant to the Standard Offer Contracts and the Negotiated Contract shall be allocated among the Negotiated Contract and the Standard Offer Contracts on a prorated basis in accordance with the contract committed capacities under each thereof, as may be in effect from time to time. (As an example, if the committed capacities of the Negotiated Contract and the two Standard Offer Contracts are 114.2, 8.5 and 8.5, respectively, then  $114.2/(114.2+8.5+8.5)$  will be allocated to the Negotiated Contract and  $8.5/(114+8.5+8.5)$  for each of the Standard Offer Contracts.) In the event of termination of the Negotiated Contract or either Standard Offer Contract, or the addition of other contracts that commit Facility capacity, this proration will be based on those contracts then in force.

Nothing in this Section shall be interpreted to alter in any manner the rights and obligations of FPC and the QF under the Negotiated Contract and the Standard Offer Contracts.

6. Additional Energy and Capacity. Notwithstanding anything to the contrary in this Letter Agreement, the Negotiated Contract or any Standard Offer Contract, the QF may sell to any party any or all of the energy and/or capacity produced by the Facility so long as, after taking into account such third party sales, the QF would qualify for capacity payments under the Negotiated Contract and the Standard Offer Contracts.
7. Standby Electrical Service (Article 3.4). Recognizing the proximity of the Facility to the Tampa Electric Company 230 KV Recker Substation, the nature of that substation as part of Tampa Electric's transmission system, the nature of the QF's interconnect with that substation, the remote likelihood of needing to start up the Facility during periods when interruptions in electrical service occur, the coincidental need by FPC and Tampa Electric Company on the electrical grid for generation when either party is considering curtailing interruptible customers, and the other benefits accruing to FPC under this letter agreement, FPC hereby agrees that the Tampa Electric Company Rate Schedule SBI-3 attached as Exhibit B, as may be modified from time to time but maintained in substantially the same form as Exhibit B, satisfies the requirement of Article 3.4 of the Negotiated Contract.
8. Pre-Operational Events of Defaults (Section 15.1.6). In accordance with Section 15.2.1 of the Negotiated Contract, if:
  - (a) A Pre-Operational Event of Default specified under Section 15.1.6 of the Negotiated Contract shall occur; and



- (b) The requirements of clauses (i) and (ii) of Section 15.2 of the Negotiated Contract shall be satisfied at that time,

FPC hereby agrees to exercise its rights under the Negotiated Contract by deleting the phrase "ninety (90) days" as set forth in Section 15.1.6 and substituting, in lieu thereof, the phrase "one hundred fifty (150) days".

9. Performance Testing. Performance testing pursuant to the Negotiated Contract shall be adjusted to 72°F ambient conditions, as mutually agreed by both parties based upon prescribed procedures from Westinghouse Electric Corporation for the Facility.
10. The Standard Offer Contracts. FPC represents and warrants to the QF that, except for this Letter Agreement and the Consent, the copies of the Standard Offer Contracts attached as Exhibits C and D hereto are true, complete and correct copies thereof, and there are no other documents (including, without limitation, correspondence and oral amendments or other modifications thereof) not so attached that would have the effect of amending, supplementing or otherwise modifying any provision thereof.
11. FPSC Matters Effectiveness. (a) Term. Upon the execution of this Letter Agreement, the QF and FPC shall be bound by the terms of this Section 11 until this Letter Agreement is terminated pursuant to the terms of this Section 11. Neither Party hereto shall have any right to terminate this Letter Agreement except as expressly set forth in this Section 11.

(b) Effective Date. All of the remaining terms and conditions of this Letter Agreement shall become effective on the Effective Date (as defined in the Consent).

(c) Termination. This Letter Agreement shall terminate and be of no further force or effect if the Consent is terminated pursuant to Section 8 thereof.

(d) Cooperation. Neither the QF nor FPC shall challenge any provision of this Letter Agreement, the Consent, the Negotiated Contract (as clarified by this Letter Agreement) or either Standard Offer Contract (as clarified by this Letter Agreement and the Consent). In any action brought before the FPSC involving this Letter Agreement and/or the Consent, FPC and the QF shall defend all of the terms and conditions thereof; provided, however, that nothing in this Letter Agreement shall be deemed to affect the parties rights and responsibilities under FPSC Rule 25 17.086 or successor rule.

12. Miscellaneous. This Letter Agreement:

(a) Governing Law. Shall be governed by and construed in accordance with the substantive laws of the State of Florida without giving effect to any choice of law rules that may require the application of laws of another jurisdiction;

(b) Entire Agreement. Contains the entire agreement and understanding between the parties hereto, their agents, and their employees as to the subject matter of this Letter Agreement, and supersedes in its entirety any and all previous communications between the parties hereto as the subject matter hereof;

(c) Amendments. Shall be modified only by an instrument in writing executed by FPC and the QF;

(d) Counterparts. May be executed in multiple counterparts, each of which shall be deemed to be an original; and

(e) Successors and Assigns. Shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

13. Interpretation. If any provision of the Negotiated Contract or the Standard Offer Contracts conflicts with any provision of this Letter Agreement, the provisions of this Letter Agreement shall prevail.

If you agree with the foregoing, please so indicate by executing a copy of this letter and returning it to us. Our execution of this letter is our agreement to the foregoing.



FLORIDA POWER CORPORATION

By: Philip C. Henry  
Name: \_\_\_\_\_  
Title: SR VICE PRESIDENT  
Date: 4/18/94

AUBURNDALE POWER PARTNERS,  
LIMITED PARTNERSHIP

By: El Dorado Energy Company,  
its general partner

By: James J. Meyer  
Name: \_\_\_\_\_  
Title: Vice President  
Date: 4/2/94



- Exhibit A - Definitions
- Exhibit B - Tampa Electric Company's Schedule SBI-3
- Exhibit C - Madison Standard Offer Contract
- Exhibit D - Jefferson Standard Offer Contract

**EXHIBIT A  
DEFINITIONS**

**"Consent"** shall mean the Consent and Agreement, dated as of April 7, 1994, among the QF, FPC and LFC.

**"Curtailment Period"** means a Coordinated Curtailment Period, an Off-Peak Curtailment Period, or a Special Curtailment Period.

**"Effective Date"** shall have the meaning set forth in Paragraph 11(a) hereof.

**"FPSC"** shall mean the Florida Public Service Commission.

**"Jefferson Standard Offer Contract"** shall mean the Standard Offer Contract for the Purchase of Firm Energy and Capacity from a Qualifying Facility, dated April 5, 1989, between FPC and LFC (as assignee of Sun Bank of Tampa, not individually, but solely as Indenture Trustee, successor by merger to Flagship Bank of Tampa, as Indenture Trustee, under the Indenture of Trust, dated as of December 1, 1982, between Jefferson County, Florida, as Issuer, and such Indenture Trustee), pertaining to the purchase by FPC of all of the electric power generated by the 8.5 megawatt electric generating facility located 2.5 miles south of Monticello, Florida on US 19S, in Jefferson County, Florida, (as amended, supplemented or otherwise modified from time to time).

**"LFC"** shall mean LFC No. 47 Corporation, a Delaware corporation.

**"Madison Standard Offer Contract"** shall mean the Standard Offer Contract for the Purchase of Firm Energy and Capacity from a Qualifying Facility, dated April 5, 1989, between FPC and LFC (as assignee of Sun Bank of Tampa, not individually, but solely as Indenture Trustee, successor by merger to Flagship Bank of Tampa, as Indenture Trustee, under the Indenture of Trust, dated as of June 1, 1983, between Madison County, Florida, as Issuer, and such Indenture Trustee), pertaining to the purchase by FPC of all of the electric power generated at the 8.5 megawatt electric generating facility located at County Road, 591 on Route 3 in Madison County, Florida, (as amended, supplemented or otherwise modified from time to time).

**"Ramp Period"** shall mean each period during which the Facility is ramping up or ramping down the energy output to/from the output specified for any Curtailment Period, from/to the sum of the committed capacities under the Negotiated Contract and the Standard Offer Contracts; provided that, in the case of a Special Curtailment Period, the Ramp Period shall be one (1) hour before, and two (2) hours after, the associated Special Curtailment Period. The ramp rate for a Coordinated Curtailment Period or an Off-Peak Curtailment Period (other than an Off-Peak Curtailment Period that is also a Special Curtailment Period) shall be mutually agreed by both parties and based on Westinghouse Electric Corporation's standard or normal specifications for the Facility but shall not be



less than one (1) megawatt per minute nor more than three (3) megawatts per minute. Each Ramp Period shall be completed prior to the beginning and the end of the related Curtailment Period, such that the Facility is operating at the reduced capacity at the beginning of each Curtailment Period and at the full capacity at the end of each Curtailment Period, except as set forth above for a Special Curtailment Period.

"Standard Offer Contracts" shall mean the Madison Standard Offer Contract and the Jefferson Standard Offer Contract.

TPA-190936

EXHIBIT "A"

JEFFERSON PROPERTY

Commence at a concrete monument set at the intersection of the South boundary of the North half of Section 12, Township 1 North, Range 4 East, Jefferson County, Florida and the West right-of-way line of U.S. 19 and run East 877.10 feet along said half section line to the POINT OF BEGINNING, said point being on the center line of the Old Pinhook Road and on the North right-of-way line of a 100-foot Florida Power line easement, said point being 1293.8 feet East of the Southwest corner of the Northeast Quarter of Section 12, thence North 2 degrees 05 minutes East 800.0 feet along said Pinhook Road to a point, thence East 544.86 feet to a point, thence South 2 degrees 05 minutes West 800.0 feet to a point on the North boundary of the aforementioned power line easement and the South boundary of the North half of Section 12, thence West 544.86 feet to the point of beginning. Being a part of the Northeast Quarter of Section 12, Township 1 North, Range 4 East, Jefferson County, Florida.



AUBURNDALE POWER PARTNERS, LIMITED PARTNERSHIP  
12500 Fair Lakes Circle - Suite 300  
Fairfax, Virginia 22033

AMENDMENT NO. 1

August 5, 1994

Florida Power Corporation  
3201 34th Street South  
St. Petersburg, FL 33711

Re: The Letter Agreement and the Supplementary Letter Agreement referred to below

Gentlemen:

Reference is made to:

(a) The letter agreement, dated as of April 7, 1994 (as amended, supplemented or otherwise modified from time to time, the "Letter Agreement"), between Auburndale Power Partners, Limited Partnership, a Delaware limited partnership (the "QF"), and Florida Power Corporation, a Florida corporation ("FPC"); and

(b) The letter agreement, dated as of April 7, 1994 (the "Supplementary Letter Agreement"), among the QF, FPC and LFC No. 47 Corp., a Delaware corporation.

The QF and FPC hereby amend the Letter Agreement and the Supplementary Letter Agreement as follows. Unless otherwise defined, capitalized terms used herein shall have the meanings ascribed thereto in the Letter Agreement.

1. Amendments to Section 11 of the Letter Agreement (FPSC Matters: Effectiveness). (a) Amendment of Paragraph (b). Paragraph (b) of Section 11 of the Letter Agreement is hereby amended by deleting such paragraph in its entirety and substituting, in lieu thereof, the following:

"(b) Effective Date. All of the remaining terms and conditions of this Letter Agreement shall become effective on the date (the "Effective Date") upon which all of the following conditions shall have been satisfied:

(i) Effectiveness of the Consent. The Effective Date (as defined in the Consent) shall have occurred.

(ii) Petition Amendment. FPC shall have filed with the FPSC an amendment (the "Petition Amendment") to FPC's Petition For Approval, To The

Extent Required, Of Certain Actions Relating To Approved Cogeneration Contracts, dated July 28, 1994 (as so amended, the "Amended Petition"), by submitting to the FPSC a copy of the Letter Agreement and adding to Tab 10 of the Appendix to such Petition a reference to the Letter Agreement.

(iii) Acceptable FPSC Order. The FPSC shall have issued an Order (an "Acceptable FPSC Order") that (1) is final and not subject to protest under the FPSC's proposed agency action procedures and (2) approves all of the requests set forth in the Amended Petition relating to this Letter Agreement.

(iv) Appeal. Such Acceptable FPSC Order either:

(A) No Appeal. Shall not be the subject of an appeal or otherwise challenged within thirty (30) days after the date such Acceptable FPSC Order becomes final and subject to appeal (the "Appeal Period"); or

(B) Appeal. Becomes the subject of an appeal or is otherwise challenged within the Appeal Period, and such Acceptable FPSC Order thereafter is either upheld or becomes final and non-appealable.

Each of the QF and FPC shall use all reasonable efforts to cause the foregoing conditions to be satisfied as soon as possible. Without limiting the generality of the foregoing, the QF and FPC agree to file the Petition Amendment within five (5) days after the date of Amendment No. 1 to this Letter Agreement."

(b) Addition of New Paragraph (e). Section 11 of the Letter Agreement is hereby amended by adding a new paragraph (e) at the end thereof, which shall be as follows:

"(e) FPSC Order. If, in response to the Amended Petition, the FPSC issues a proposed order (the "Proposed Order") that proposes to either:

(i) Disapprove this Letter Agreement; or

(ii) Approve this Letter Agreement but either:

(A) Has the effect of modifying (or requires the Parties to modify) this Letter Agreement; or

(B) Does not grant all of the relief sought in the Amended Petition with respect to this Letter Agreement,

the Parties shall cooperate with each other to seek clarification of or protest the Proposed Order to cause the FPSC to issue a final order that approves this Letter Agreement as executed. If such effort is not effective and the Proposed Order (or a modification



thereof) becomes final, the Parties shall negotiate in good faith to further modify the Negotiated Contract and seek the approval of the FPSC to implement, to the extent possible, either:

(1) The complete set of curtailment rights set forth in this Letter Agreement; or

(2) A substitute set of curtailment rights that achieve a result similar to that resulting from this Letter Agreement;

provided that, in either case, the QF shall not be required to agree to any modification of this Letter Agreement or the Negotiated Contract that would, in the QF's reasonable judgment, be expected to adversely affect the Facility's economics or operations (as compared to the Facility's economics and operations taking into account the Negotiated Contract as modified by the curtailment provisions of this Letter Agreement). Nothing in this Section 11(d) shall affect the effectiveness of this Letter Agreement if the Effective Date has occurred, it being the intention of the parties that the provisions of this Letter Agreement are severable. Nothing in this Section 11 shall be deemed to be a waiver by either Party of its right to appeal any FPSC order."

2. Termination of the Supplementary Letter Agreement. The Supplementary Letter Agreement is hereby terminated.

3. Miscellaneous. This Amendment:

(a) Entire Agreement. Contains the entire agreement and understanding between the parties hereto, their agents, and their employees as to the subject matter of this Amendment, and supercedes in its entirety any and all previous communications between the parties hereto as the subject matter hereof;

(b) Counterparts. May be executed in multiple counterparts, each of which shall be deemed to be an original; and

(c) Successors and Assigns. Shall be binding upon and inure to the benefit of the parties to the Letter Agreement and their respective successors and assigns.

If you agree with the foregoing, please sign the enclosed copy of this letter and return it to the undersigned.

Very truly yours,

AUBURNDALE POWER PARTNERS,  
LIMITED PARTNERSHIP

By: El Dorado Energy Company, its  
general partner

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

**ACCEPTED AND AGREED:**

**FLORIDA POWER CORPORATION**

By [Signature]  
Name James H. Richardson  
Title President



If you agree with the foregoing, please sign the enclosed copy of this letter and return it to the undersigned.

Very truly yours,

AUBURNDALE POWER PARTNERS,  
LIMITED PARTNERSHIP

By: El Dorado Energy Company, its  
general partner

By *Richard Lehfeldt*  
Name Richard LEHFELDT  
Title Assistant General Counsel

**ACCEPTED AND AGREED:**

**FLORIDA POWER CORPORATION**

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_