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Matthew M Childs P.A.

June 16, 1997

Ms. Blanca S. Bayó, Director
Division of Records and Reporting
Florida Public Service Commission
4075 Esplanade Way, Room 110
Tallahassee, FL 32399

RE: DOCKET NO. 970007-EI

Dear Ms. Bayó:

Enclosed for filing please find the original and ten (10) copies of Florida Power & Light Company's Petition for Approval of Environmental Cost Recovery Substation Remediation Project July 1997 through September 1997 and a copy of the Affidavit of Randall LaBauve (Exhibit "A"). We did not receive the original Affidavit in time to include with this filing; but will forward it to you shortly.

Very truly yours,



Matthew M. Childs, P.A.

MMC:ml

Enclosures

cc: All Parties of Record

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Environmental Cost)
Recovery Clause)
_____)

DOCKET NO. 970007-EI
FILED: June 16, 1997

PETITION FOR APPROVAL OF ENVIRONMENTAL COST RECOVERY
SUBSTATION REMEDIATION PROJECT
JULY 1997 THROUGH SEPTEMBER 1997

Florida Power & Light Company ("FPL"), pursuant to Order No. PSC-93-1580-FOF-EI, hereby petitions this Commission for approval of FPL's Substation Remediation Project for Environmental Cost Recovery and authorization to recover \$1.6 million for the period July 1997 through September 1997 and include this amount in the calculation of the Environmental Cost Recovery Factors for the period October 1997 through September 1998. The justification for the approval of this project and cost recovery is addressed in the Affidavit of Randall LaBauve (Attached as Exhibit "A") which is incorporated in and made a part of this Petition. FPL requests that this matter be addressed at the hearing in the Environmental Cost Recovery Docket No. 970007-EI scheduled for August 14 and 15, 1997.

In support of this Petition, FPL states:

1. Florida Statutes Section 366.8255, which became effective on April 13, 1993, authorizes the Commission to review and approve the recovery of prudently incurred Environmental Compliance Costs.

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2. Florida Statutes Section 366.8255 states that a utility must file projected costs to be considered for cost recovery. Per Order PSC-96-1171-FOF-EI dated September 18, 1996, FPL files projected Environmental factors once a year, every June, for the twelve month period from October through September. In June 1996, FPL was in the preliminary stages of developing the Substation Remediation Project so it was not included in FPL's projected environmental costs. FPL is presenting the Commission with this interim request for recovery since the Substation Remediation Project has now been fully developed and is currently being implemented.

3. The Substation Remediation Project is the prevention and removal of pollutant discharges at FPL substations. The Affidavit of Mr. LaBauve establishes that transformer oil (non-PCB), lead, and arsenic have recently been identified as pollutants. The total projected Operating & Maintenance (O&M) cost for this project is \$16.7 million. Through this petition, FPL is requesting to recover \$1.6 million for pollutant discharge prevention and removal for the period from July 1997 through September 1997.

4. The Substation Remediation Project is necessary in order to prevent and address pollution discharging subject to Fla. Stats. Chapters 376 and 403.

5. As established by Mr. LaBauve, the costs of the Substation Remediation Project for which recovery is now being


requested are reasonable in amount, prudently incurred and not otherwise being recovered by FPL.

WHEREFORE, FPL respectfully petitions for approval of FPL's Substation Remediation Project for Environmental Cost Recovery and authorization to recover \$1.6 million for the period July 1997 through September 1997 and include this amount in the calculation of the Environmental Cost Recovery Factors for the period October 1997 through September 1998.

DATED this 16th day of June, 1997.

Respectfully submitted,

STEEL HECTOR & DAVIS LLP
Suite 601
215 South Monroe Street
Tallahassee, FL 32301
Attorneys for Florida Power
& Light Company

By: 
Matthew M. Childs, P.A.

Florida Power & Light Company
 Environmental Cost Recovery Clause
 Calculation of the Estimated/Actual True-Up Amount for the Period
 April 1997 - September 1997

O&M Activities
 (in Dollars)

Line	Actual APR	Estimated MAY	Estimated JUN	Estimated JUL	Estimated AUG	Estimated SEP	6-Month Sub-Total	12-Month Total	Method of Classification		
									CP Demand	GCP Demand	Energy
1 Description of O&M Activities											
19a Substation Pollutant Discharge Prevention & Removal - Distribution - O&M	0	0	0	434,506	434,506	434,506	1,303,518	1,303,518	1,303,518		
19b Substation Pollutant Discharge Prevention & Removal - Transmission - O&M	0	0	0	115,501	115,501	115,501	346,503	346,503	319,848		26,654
2 Total of O&M Activities	\$0	\$0	\$0	\$550,007	\$550,007	\$550,007	\$1,650,021	\$1,650,021	\$319,848	\$1,303,518	\$26,654
3 Recoverable Costs Allocated to Energy	\$0	\$0	\$0	\$8,885	\$8,885	\$8,885	\$26,655	\$26,655	\$26,655		
4a Recoverable Costs Allocated to CP Demand	\$0	\$0	\$0	\$108,816	\$108,816	\$108,816	\$319,848	\$319,848	\$319,848		
4b Recoverable Costs Allocated to GCP Demand	\$0	\$0	\$0	\$434,508	\$434,508	\$434,508	\$1,303,518	\$1,303,518			
5 Retail Energy Jurisdictional Factor	98.22320%	98.22320%	98.22320%	98.22320%	98.22320%	98.22320%					
6a Retail CP Demand Jurisdictional Factor	97.33111%	97.33111%	97.33111%	97.33111%	97.33111%	97.33111%					
6b Retail GCP Demand Jurisdictional Factor	99.89826%	99.89826%	99.89826%	99.89826%	99.89826%	99.89826%					
7 Jurisdictional Energy Recoverable Costs (A)	\$0	\$0	\$0	\$8,727	\$8,727	\$8,727	\$26,181	\$26,181	\$26,181		
8a Jurisdictional CP Demand Recoverable Costs (B)	\$0	\$0	\$0	\$103,771	\$103,771	\$103,771	\$311,313	\$311,313	\$311,313		
8b Jurisdictional GCP Demand Recoverable Costs (C)	\$0	\$0	\$0	\$434,064	\$434,064	\$434,064	\$1,302,182	\$1,302,182	\$1,302,182		
9 Total Jurisdictional Recoverable Costs for O&M Activities	\$0	\$0	\$0	\$546,562	\$546,562	\$546,562	\$1,639,686	\$1,639,686	\$1,639,686		

DOCUMENT NO. 1, PAGE 1 OF 1
FLORIDA POWER & LIGHT COMPANY
DOCKET NO. 970007-EI
JUNE 13, 1997

Notes
 (A) Line 3 x Line 5
 (B) Line 4a x Line 6a
 (C) Line 4b x Line 6b

DOCUMENT NO. 2, PAGE 1 OF 5
FLORIDA STATUTE 376, POLLUTANT DISCHARGE AND REMOVAL

FLORIDA POWER & LIGHT COMPANY
DOCKET NO. 970007-EI
JUNE 13, 1997

376.302 Prohibited acts; penalties.

- ✱ (1) It shall be a violation of this chapter and it shall be prohibited for any reason.
- ✱ (a) To discharge pollutants or hazardous substances into or upon the surface or ground waters of the state or lands, which discharge violates any departmental "standard" as defined in s. 403.803(13).
- (b) To fail to obtain any permit or registration required by this chapter or by rule, or to violate or fail to comply with any statute, rule, order, permit, registration, or certification adopted or issued by the department pursuant to its lawful authority.
- (c) To knowingly make any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter, or to falsify, tamper with, or knowingly render inaccurate any monitoring device or method required to be maintained under this chapter or by any permit, registration, rule, or order issued under this chapter.
- (2) Except as provided in s. 376.311, any person who commits a violation specified in subsection (1) is liable to the state for any damage caused and for civil penalties as provided in s. 403.141.
- (3) Any person who willfully commits a violation specified in paragraph (1)(a) or paragraph (1)(b) shall be guilty of a misdemeanor of the first degree punishable as provided in ss. 775.082(4)(a) and 775.083(1)(g), by a fine of not less than \$2,500 or more than \$25,000, or punishable by 1 year in jail, or by both for each offense. Each day during any portion of which such violation occurs constitutes a separate offense.
- (4) Any person who commits a violation specified in paragraph (1)(c) shall be guilty of a misdemeanor of the first degree punishable as provided in ss. 775.082(4)(a) and 775.083(1)(g), by a fine of not more than \$10,000, or by 6 months in jail, or by both for each offense.
- (5) Any person who commits fraud in representing their qualifications for reimbursement or in submitting a reimbursement request pursuant to s. 376.3071(12) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
- (6) It is the legislative intent that the civil penalties and criminal fines imposed by the court be of such amount as to ensure immediate and continued compliance with this act.

History.— s. 84, ch. 83-310; s. 8, ch. 84-338; s. 4, ch. 92-30; s. 1, ch. 94-311; s. 4, ch. 94-355.

376.303 Powers and duties of the Department of Environmental Protection.

- (1) The department has the power and the duty to:

to authorize appropriate actions to manage and control the costs associated with activities integrally involved with cleanup of sites contaminated with pollutants.

(2) The department is authorized to review and analyze the disposal materials or byproducts used or resulting from the cleanup of the release of pollutants in the waters of the state. Such materials that are determined by the department not to require extraordinary handling or disposal requirements may be designated for disposal in nearby existing local government solid waste disposal facilities where such facilities are determined to be designed and operated in a manner where disposal of such materials would not constitute an unreasonable risk to public health and the environment. Such designation by the department shall not be disallowed by actions of the local government responsible for operating the solid waste disposal facility. The designation by the department of a local government's solid waste facility as the location for disposing of materials and byproducts resulting from the activities essential to the cleanup of pollutants in the waters of the state shall constitute final agency action subject to review pursuant to chapter 120.

History.- s. 27, ch. 90-54; s. 299, ch. 94-356.

376.305 Removal of prohibited discharges.

- s. (1) Any person discharging a pollutant as prohibited by ss. 376.30-376.319 shall immediately undertake to contain, remove, and abate the discharge to the satisfaction of the department. However, such an undertaking to contain, remove, or abate a discharge shall not be deemed an admission of responsibility for the discharge by the person taking such action. Notwithstanding this requirement, the department may undertake the removal of the discharge and may contract and retain agents who shall operate under the direction of the department.
- (2) If the person causing the discharge, or the person in charge of facilities at which the discharge has taken place, fails to act immediately, the department may arrange for the removal of the pollutant; except that, if the pollutant was discharged into or upon the navigable waters of the United States, the department shall act in accordance with the national contingency plan for removal of such pollutant as established pursuant to the Federal Water Pollution Control Act, as amended, and the costs of removal incurred by the department shall be paid in accordance with the applicable provisions of that law. Federal funds provided under that act shall be used to the maximum extent possible prior to the expenditure of state funds.
- (3) No action taken by any person to contain or remove a discharge, whether such action is taken voluntarily or at the request of the department or its designee, shall be construed as an admission of liability for the discharge.
- (4) No person who, voluntarily or at the request of the department or its designee, renders assistance in containing or removing any pollutant shall be liable for any civil damages to third parties resulting solely from the acts or omissions of such person in rendering such assistance, except for acts or omissions amounting to gross negligence or willful misconduct.

POLLUTANT DISCHARGE PREVENTION ANI

FLL 376.301(26)

(26) "Petroleum" includes:

(a) Oil, including crude petroleum oil and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary methods and which are not the result of condensation of gas after it leaves the reservoir; and

(b) All natural gas, including casinghead gas, and all other hydrocarbons not defined as oil in paragraph (a).

(27) "Petroleum product" means any liquid fuel commodity made from petroleum, including, but not limited to, all forms of fuel known or sold as diesel fuel, kerosene, all forms of fuel known or sold as gasoline, and fuels containing a mixture of gasoline and other products, excluding liquefied petroleum gas and American Society for Testing and Materials (ASTM) grades no. 5 and no. 6 residual oils, bunker C residual oils, intermediate fuel oils (IFO) used for marine bunkering with a viscosity of 30 and higher, asphalt oils, and petrochemical feedstocks.

(28) "Petroleum products' chemicals of concern" means the constituents of petroleum products, including, but not limited to, xylene, benzene, toluene, ethylbenzene, naphthalene, and similar chemicals, and constituents in petroleum products, including, but not limited to, methyl tert-butyl ether (MTBE), lead, and similar chemicals found in additives, provided the chemicals of concern are present as a result of a discharge of petroleum products.

(29) "Petroleum storage system" means a stationary tank not covered under the provisions of ⁵ chapter 377, together with any onsite integral piping or dispensing system associated therewith, which is used, or intended to be used, for the storage or supply of any petroleum product. Petroleum storage systems may also include oil/water separators, and other pollution control devices installed at petroleum product terminals as defined in this chapter and bulk product facilities pursuant to, or required by, permits or best management practices in an effort to control surface discharge of pollutants. Nothing herein shall be construed to allow a continuing discharge in violation of department rules.

* (30) "Pollutants" includes any "product" as defined in ⁴ s. 377.19(11), pesticides, ammonia, chlorine, and derivatives thereof, excluding liquefied petroleum gas.

(31) "Pollution" means the presence on the land or in the waters of the state of pollutants in quantities which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property or which may unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

(32) "Real property owner" means the individual or entity that is vested with ownership, dominion, or legal or rightful title to the real property, or which has a ground lease interest in the real property, on which a drycleaning facility or wholesale supply facility is or has ever been located.

(33) "Response action" means any activity, including evaluation, planning, design, engineering, construction, and ancillary services, which is carried out in response to any discharge, release, or threatened release of a hazardous substance, pollutant, or other contaminant from a facility or site identified by the department under the provisions of ss 376.30-376.319.

(e) The drowning with water of any stratum or part thereof capable of producing oil or gas.

(f) Underground waste however caused and whether or not defined.

(g) The creation of unnecessary fire hazards.

(h) The escape into the open air, from a well producing both oil and gas, of gas in excess of the amount which is necessary in the efficient drilling or operation of the well.

(i) The use of gas for the manufacture of carbon black.

(j) Permitting gas produced from a gas well to escape into the air.

(k) Abuse of the correlative rights and opportunities of each owner of oil and gas in a common reservoir due to nonuniform, disproportionate, and unratable withdrawals, causing undue drainage between tracts of land.

(11) "Product" means any commodity made from oil or gas and includes refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil, casinghead gasoline, natural gas gasoline, naphtha, distillate, condensate, gasoline, waste oil, kerosene, benzene, wash oil, blended gasoline, lubricating oil, blends or mixtures of oil with one or more liquid products or byproducts derived from oil or gas, and blends or mixtures of two or more liquid products or byproducts derived from oil or gas, whether hereinabove enumerated or not.

(12) "Illegal oil" means oil which has been produced within the state from any well or wells in excess of the amount allowed by rule, regulation, or order of the division, as distinguished from oil produced within the state from a well not producing in excess of the amount so allowed, which is "legal oil."

(13) "Illegal gas" means gas which has been produced within the state from any well or wells in excess of the amount allowed by any rule, regulation, or order of the division, as distinguished from gas produced within the State of Florida from a well not producing in excess of the amount so allowed, which is "legal gas."

(14) "Illegal product" means any product of oil or gas, any part of which was processed or derived, in whole or in part, from illegal gas or illegal oil or from any product thereof, as distinguished from "legal product," which is a product processed or derived to no extent from illegal oil or illegal gas.

(15) "Reasonable market demand" means the amount of oil reasonably needed for current consumption, together with a reasonable amount of oil for storage and working stocks.

(16) "Tender" means a permit or certificate of clearance for the transportation or the delivery of oil, gas, or products, approved and issued or registered under the authority of the division.

(17) The use of the word "and" includes the word "or" and the use of "or" includes "and," unless the context clearly requires a different meaning, especially with respect to such expressions as "oil and gas" or "oil or gas."

(18) "Well site" means the general area around a well, which area has been disturbed from its natural or exist-

ing condition, as well as the drilling or production pad, mud and water circulation pits, and other operation areas necessary to drill for or produce oil or gas.

(19) "Oil and gas administrator" means the State Geologist.

(20) "Operator" means the entity who has the right to drill and to produce a well.

(21) "Completion date" means the day, month, and year that a new productive well, a previously shut-in well, or a temporarily abandoned well is completed, repaired, or recompleted and the operator begins producing oil or gas in commercial quantities.

(22) "Shut-in well" means an oil or gas well that has been taken out of service for economic reasons or mechanical repairs.

(23) "Temporarily abandoned well" means a permitted well or wellbore that has been abandoned by plugging in a manner that allows reentry and redevelopment in accordance with oil or gas rules of the Department of Environmental Protection.

(24) "New field well" means an oil or gas well completed after July 1, 1997, in a new field as designated by the Department of Environmental Protection.

(25) "Horizontal well" means a well completed with the wellbore in a horizontal or nearly horizontal orientation within 10 degrees of horizontal within the producing formation.

History.—s. 14, ch. 22819, 1945, ss. 25, 35, ch. 69-100, s. 138, ch. 71-377, s. 1, ch. 76-104, s. 1, ch. 77-174, s. 67, ch. 79-05, s. 1, ch. 94-193, s. 309, ch. 94-356, s. 1021, ch. 95-148, s. 74, ch. 96-323

377.22 Rules, regulations, and orders.—

(1) The department shall provide, by rules and regulations, for ratable takings in all parts on a reasonable and equitable basis.

(2) The department shall adopt such rules and regulations, and shall issue such orders, governing all phases of the exploration, drilling, and production of oil, gas, or other petroleum products in the state, including exploration, drilling, and production in the offshore waters of the state as may be necessary for the proper administration and enforcement of this chapter. Such rules, regulations, and orders shall ensure that all precautions are taken to prevent the spillage of oil or any other pollutant in all phases of the drilling for, and extracting of, oil, gas, or other petroleum products. The department shall revise such rules and regulations from time to time as may be necessary for the proper administration and enforcement of this chapter. Rules, regulations, and orders promulgated in accordance with this section shall be for, but shall not be limited to, the following purposes:

(a) To require the drilling, casing, and plugging of wells to be done in such a manner as to prevent the pollution of the fresh, salt, or brackish waters or the lands of the state

(b) To prevent the alteration of the sheet flow of water in any area.

(c) To require that appropriate safety equipment be installed to minimize the possibility of an escape of oil or other petroleum products in the event of accident, human error, or a natural disaster during drilling, casing, or plugging of any well and during extraction operations.

**DOCUMENT NO. 3, PAGE 1 OF 3
FLORIDA STATUTE 403, POLLUTION CONTROL**

**FLORIDA POWER & LIGHT COMPANY
DOCKET NO. 970007-EI
JUNE 13, 1997**

ENVIRONMENTAL CONTROL

FLL 403.161

PART I: POLLUTION CONTROL

403.161 Prohibitions, violation, penalty, intent.

- * (1) It shall be a violation of this chapter, and it shall be prohibited for any person:
- * (a) To cause pollution, except as otherwise provided in this chapter, so as to harm or injure human health or welfare, animal, plant, or aquatic life or property.
 - (b) To fail to obtain any permit required by this chapter or by rule or regulation, or to violate or fail to comply with any rule, regulation, order, permit, or certification adopted or issued by the department pursuant to its lawful authority.
 - (c) To knowingly make any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter, or to falsify, tamper with, or knowingly render inaccurate any monitoring device or method required to be maintained under this chapter or by any permit, rule, regulation, or order issued under this chapter.
 - (d) For any person who owns or operates a facility to fail to report to the representative of the department, as established by department rule, within one working day of discovery of a release of hazardous substances from the facility if the owner or operator is required to report the release to the United States Environmental Protection Agency in accordance with 42 U.S.C. s. 9603.
- (2) Whoever commits a violation specified in subsection (1) is liable to the state for any damage caused and for civil penalties as provided in s. 403.141.
- (3) Any person who willfully commits a violation specified in paragraph (1)(a) is guilty of a felony of the third degree punishable as provided in ss. 775.082(3)(d) and 775.083(1)(g) by a fine of not more than \$50,000 or by imprisonment for 5 years, or by both, for each offense. Each day during any portion of which such violation occurs constitutes a separate offense.
- (4) Any person who commits a violation specified in paragraph (1)(a) due to reckless indifference or gross careless disregard is guilty of a misdemeanor of the second degree, punishable as provided in ss. 775.082(4)(b) and 775.083(1)(g) by a fine of not more than \$5,000 or by 60 days in jail, or by both, for each offense.
- (5) Any person who willfully commits a violation specified in paragraph (1)(b) or paragraph (1)(c) is guilty of a misdemeanor of the first degree punishable as provided in ss. 775.082(4)(a) and 775.083(1)(g) by a fine of not more than \$10,000 or by 6 months in jail, or by both for each offense.
- (6) It is the legislative intent that the civil penalties and criminal fines imposed by the court be of such amount as to ensure immediate and continued compliance with this section.

History.- s. 17, ch. 67-436; ss. 26, 35, ch. 69-106; s. 1, ch. 70-356; s. 1, ch. 70-439; s. 4, ch. 72-286; s. 8, ch. 74-133; s. 139, ch. 77-104; s. 1, ch. 77-174; s. 21, ch. 88-393; s. 2, ch. 89-143; s. 8, ch. 89-324.

ENVIRONMENTAL CONTROL

FLL 403.031(4)

PART I: POLLUTION CONTROL

- (4) "Installation" is any structure, equipment, or facility, or appurtenances thereto, or operation which may emit air or water contaminants in quantities prohibited by rules of the department.
- (5) "Person" means the state or any agency or institution thereof, the United States or any agency or institution thereof, or any municipality, political subdivision, public or private corporation, individual, partnership, association, or other entity and includes any officer or governing or managing body of the state, the United States, any agency, any municipality, political subdivision, or public or private corporation.
- (6) "Plant" is any unit operation, complex, area, or multiple of unit operations that produce, process, or cause to be processed any materials, the processing of which can, or may, cause air or water pollution.
- * (7) "Pollution" is the presence in the outdoor atmosphere or waters of the state of any substances, contaminants, noise, or manmade or man-induced impairment of air or waters or alteration of the chemical, physical, biological, or radiological integrity of air or water in quantities or at levels which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation unless authorized by applicable law.
- (8) "Pollution prevention" means the steps taken by a potential generator of contamination or pollution to eliminate or reduce the contamination or pollution before it is discharged into the environment. The term includes nonmandatory steps taken to use alternative forms of energy, conserve or reduce the use of energy, substitute nontoxic materials for toxic materials, conserve or reduce the use of toxic materials and raw materials, reformulate products, modify manufacturing or other processes, improve in-plant maintenance and operations, implement environmental planning before expanding a facility, and recycle toxic or other raw materials.
- (9) "Sewerage system" means pipelines or conduits, pumping stations, and force mains and all other structures, devices, appurtenances, and facilities used for collecting or conducting wastes to an ultimate point for treatment or disposal.
- (10) "Source" is any and all points of origin of the item defined in subsection (1), whether privately or publicly owned or operated.
- (11) "Treatment works" and "disposal systems" mean any plant or other works used for the purpose of treating, stabilizing, or holding wastes.
- (12) "Wastes" means sewage, industrial wastes, and all other liquid, gaseous, solid, radioactive, or other substances which may pollute or tend to pollute any waters of the state.
- (13) "Waters" include, but are not limited to, rivers, lakes, streams, springs, impoundments, wetlands, and all other waters or bodies of water, including fresh, brackish, saline, tidal, surface, or underground waters. Waters owned entirely by one person other than the state are included only in regard to possible discharge on other property or water. Underground waters include, but are not limited to, all underground waters passing through pores of rock or soils or flowing through in channels, whether manmade or natural. Solely for purposes

Exhibit "A"

AFFIDAVIT

STATE OF FLORIDA)
COUNTY OF PALM BEACH)

BEFORE ME, the undersigned authority, personally appeared Randall LaBauve, who being first duly sworn deposes and says:

1. My name is Randall R. LaBauve, and I occupy the position of Director of Environmental Services, Florida Power & Light Company, 700 Universe Boulevard, Juno, Florida. In this position I have knowledge of and have familiarity with the matters addressed in this Affidavit.

2. I received a Bachelor of Arts degree in Psychology from Louisiana State University in 1983 and a Juris Doctor degree in Law from Louisiana State University in 1986. I joined FPL in 1995 as an Environmental Lawyer and in 1996 assumed the responsibility of Director of Environmental Services. Prior to joining FPL I was the Director of Environmental Affairs for Entergy Services, Incorporated located in Little Rock, Arkansas and prior to that practiced law with Milling, Benson, Woodward, Hillard, Pierson and Miller in New Orleans, Louisiana.

3. I am responsible for directing the overall corporate environmental planning, programs, licensing, and permitting activities to ensure the basic objective of obtaining and maintaining the federal, state, regional and local government approvals necessary to site, construct and operate FPL's power plants, transmission lines, and fuel facilities and maintain compliance with environmental laws.

4. FPL's Substation Remediation Project has now been fully developed and is currently being implemented. To date, FPL has already spent approximately \$500,000 on this project but is only requesting recovery of expenditures going forward beginning in July, 1997.

5. The Substation Remediation Project is the prevention and removal of transformer oil (non-PCB), lead, and arsenic discharges at FPL substations. This project will prevent environmental degradation and will include the prevention of transformer discharges and the encapsulation of lead painted transformers. It will also be necessary to restore the impacted environment to an acceptable environmental quality.

6. The total projected Operating & Maintenance (O&M) cost for this project is \$16.7 million. The \$16.7 million is subject to change since the magnitude and extent of contamination is difficult to estimate at this time. As FPL approaches each site requiring prevention and removal the most cost effective methods will be utilized to comply with the requirements. FPL solicited bids to obtain the most cost-effective method of accomplishing each activity and will continue to evaluate bids and alternatives in order to drive the cost down.

FPL is requesting to recover \$1.6 million for pollutant discharge prevention and removal for the period from July 1997 through September 1997. This amount includes the cost of transformer encapsulation necessary to prevent lead paint from leaching into the ground water, the prevention of transformer leaks, and the removal and disposal/treatment of soil both hazardous and non-hazardous. Document No. 1 (Environmental Form No. 42-5E) provides a monthly breakdown of these costs which are allocated using the same methodology as in FPL's last rate case.

7. The costs of the Substation Remediation Project are not being recovered through some other cost recovery mechanism or through base rates. In the 1980's FPL conducted substation inspections which focused on the operational functions (reliability and availability of equipment) of the facility. A maintenance program was adopted to address issues identified during inspections. Unlike the maintenance program, this is a new program that had never been undertaken before.

8. FPL has determined that the Substation Remediation Project is necessary for FPL to be in compliance with Florida Statute Chapter 376, Pollutant Discharge Prevention and Removal (See Document No. 2) and Florida Statute Chapter 403, Environmental Control (See Document No. 3). Florida Statute Chapter 376 requires that any person discharging a prohibited pollutant shall immediately undertake to contain, remove, and abate the discharge to the satisfaction of the department. Florida Statute Chapter 403 holds it is prohibited to cause pollution so as to harm or injure human health or welfare, animal, plant, or aquatic life or property.

9. The most cost effective alternative to prevent lead contamination is to encapsulate the remaining paint in order to eliminate the leaching of lead into the ground. Several alternatives were considered for preventing the discharge of lead into the ground, which included stripping the previously approved lead paint from the transformer and re-painting it.

with non-lead paint, however, that alternative was determined to be cost prohibitive.

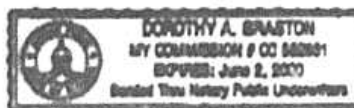
10. The most cost effective alternative for preventing transformer oil discharges is to replace the gaskets currently leaking oil.

11. Considering the regulations for pollutant discharge removal, alternatives are available for the method of clean-up and disposal but they are dependent upon the site and the extent of contamination present. It will be necessary for FPL to develop cost-effective alternatives and to work with the agencies to ensure the alternatives selected by FPL are acceptable and undertaken in a timely manner. In any case, FPL is committed to undertaking actions that are both cost-effective and protect human health and the environment.

Randall R. LaBauve
 I hereby certify that on this 16th day of June, 1997, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Randall R. LaBauve who is personally known to me, and he acknowledged before me that he executed this certification of signature as his free act and deed who did not take an oath.

I Witness Whereof, I have hereunto set my hand and seal in the State and County aforesaid as this 16th day of June, 1997.

Dorothy A. Graston
 Notary Public DOROTHY A. GRASTON
 State of Florida
 My Commission Expires:



**CERTIFICATE OF SERVICE
DOCKET NO. 970007-EI**

I HEREBY CERTIFY that a true and correct copy of Florida Power & Light Company's Petition for Approval of Environmental Cost Recovery Substation Remediation Project June 1997 through September 1997 has been furnished by Hand Delivery (**) or U. S. Mail this 16th day of June, 1997, to the following:

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