

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition of Florida Power)	DOCKET NO. 890319-EI
& Light Company for approval of)	ORDER NO. 23727
"Tax Savings" refund for 1988.)	ISSUED: 11-7-90
_____)		

The following Commissioners participated in the disposition of this matter:

MICHAEL Mck. WILSON, Chairman
 BETTY EASLEY
 GERALD L. GUNTER

ORDER DETERMINING 1988 TAX SAVINGS REFUND

BY THE COMMISSION:

On March 1, 1989, pursuant to Rule 25-14.003, Florida Administrative Code, (the "tax savings rule") Florida Power & Light Company ("FPL") filed a petition for approval of a 1988 tax savings refund of \$38,221,633. The Office of Public Counsel ("OPC") intervened in this docket, as did the Florida Industrial Power Users Group ("FIPUG").

On April 28, 1989, the Commission issued Order No. 21143, which approved the utility's proposed refund, subject to further proceedings and true-up herein. The utility was also directed to refund additional interest on its 1987 tax savings refund, pursuant to Order No. 20659, issued in Docket No. 880355-EI.

On June 7, 1989, OPC and FIPUG filed a Joint Motion to Designate Issue, in which the parties requested the Commission to establish as an issue in this docket the appropriateness of the level of the utility's operations and maintenance ("O&M") expense incorporated in its 1988 tax savings calculation; to inform FPL that it would have the burden of establishing that amounts exceeding the application of the O&M benchmark were necessary, reasonable, and prudent expenditures; and to establish appropriate time frames for discovery and submission of evidence herein. After oral argument, the motion was denied by the prehearing officer as being premature.

On August 18, 1989, FPL filed a request for clarification and motion for extension of time, and alternatively objected to a Staff interrogatory regarding justification of O&M expense benchmark variances. In Order No. 21865, FPL was given additional time in which to complete its interrogatory response. The order stated that "it is not the Commission's policy to instruct utilities on how to justify their O&M benchmark variances" and that "it remains the utility's responsibility to decide what level of justification is needed to explain benchmark variances."

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On December 7, 1989, Staff issued a recommendation regarding disposition of FPL's petition. Thereafter, on December 19, 1990, the Commission declined to vote on the substance of the recommendation due to the number and complexity of the issues. Instead, the Commission decided to proceed to hearing on the merits of the tax savings refund petition. The Commission also voted to hold a hearing to determine the appropriate return on equity for FPL and to require FPL to permanently reduce its rates and charges by \$38,460,672.

Proposed Agency Action Order No. 22334 was issued on December 22, 1989, in which the Commission instructed FPL to permanently reduce its rates and charges by \$38,460,672, consisting of the previously-ordered refund per FPL's 1988 tax savings report, increased by certain expense disallowances to which the utility agreed. The order became final on January 6, 1990.

After a hearing on January 9, 1990, the Commission issued Order No. 22490, which established the utility's appropriate return on equity at 12.3% to 13.3%, with a midpoint of 12.8%.

Later, on January 29, 1990, FPL filed a motion which alleged that the requirements of Order No. 22433, an order on prehearing procedure issued in this docket, violated the utility's right to procedural due process, incorrectly placed the burden of proof on FPL, was inconsistent with previous Commission procedure, and frustrated the Commission's effort to consider the case in an orderly and efficient manner. The utility argued that it did not have the burden of proof in this docket and that Staff and Intervenors should be required to file testimony regarding their proposed adjustments, after which the utility would file its initial testimony. The parties resolved the motion by agreeing that FPL, OPC and FIPUG would file testimony on the same date, to be followed by any Staff testimony. The parties also agreed to address the burden of proof argument as a specific legal issue in the docket, with the understanding that the order of testimony was not intended to imply which party would have the burden of proof. A hearing on the merits of the utility's tax savings report was held on May 7 - 10, 1990.

I. SUMMARY OF DECISION

We find that FPL should refund additional tax savings in the amount of \$6,716,875, plus interest in accordance with Rule 25-6.109, Florida Administrative Code. Unless otherwise noted, all dollar amounts listed herein are jurisdictional amounts.

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Consistent with our recent decision in Docket No. 890324-EI, Gulf Power Company's 1988 tax savings docket, we find that FPL's O&M expenses may be adjusted under Rule 25-14.003, F.A.C. We further find that the utility has the burden of proof herein, and must establish a prima facie case that its expenses are reasonable, utility-related, and prudently incurred. We further find that FPL completed its tax savings report form as required by the tax savings rule. Although requested to do so, we find that no management audit of the utility should be initiated. The utility has had two management audits in the recent past, and we believe that the expense review process involved in this docket adequately protects the ratepayers.

II. ADJUSTMENTS TO RATE BASE

After an adjustment to working capital of \$1,832,500, which results from our reduction of the utility's provision for uncollectibles, discussed below, we find that the appropriate rate base level to be used in computing FPL's 1988 tax savings refund is \$7,110,332,790.

III. ADJUSTMENTS TO NET OPERATING INCOME

After adjustments totalling \$4,303,582, discussed below, we find that the appropriate net operating income to be used in computing FPL's 1988 tax savings refund is \$682,384,590.

A. O&M ADJUSTMENTS

It is not our intention to use the level of O&M expenses determined herein to update FPL's O&M benchmark year for use in a rate case. In a rate case, the level of non-recurring expenses should be adjusted to reflect a reasonable level, while for tax savings purposes, we may wish to allow inclusion of prudently incurred non-recurring expenses. However, we find that it would be appropriate, although not necessary, to use the level of O&M expenses determined in this proceeding as the benchmark base year in the utility's 1989 tax savings docket.

1. Edison Electric Institute Expenses

For purposes of calculating its 1988 tax savings refund, FPL agreed to remove from O&M expense \$191,101 associated with Edison Electric Institute's Power of Choice Marketing Activities and \$185,207 to reflect one-third of the Institute's Administration dues, consistent with Order No. 13537. FPL had previously removed \$76,908 in other Institute expenses. FIPUG and Public Counsel

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challenged funds expended by FPL to support Edison Electric Institute air, solid waste, and nuclear waste management utility groups. We will allow these expenses, which were allowed in the utility's last rate case.

2. Advertising Expenses

Mr. Hugh Larkin, Public Counsel's witness, advocated disallowance of \$630,892 for advertising which he believed was promotional, image building, promoted the use of appliances or electric energy over gas, or was not necessary for the provision of electric service. \$281,825 of this amount was recovered by the utility through energy conservation cost recovery and thus is not at issue in this docket. FPL removed \$50,319 of the remaining amount from O&M expense because it represents one-half of the expense for an advertisement which promoted programs akin to merchandising, and also agreed to remove \$14,059 for advertisements not challenged by Mr. Larkin which should have been recorded below-the-line.

We will allow O&M expense of \$79,670 for advertisements related to the utility's Florida Lifestyle Homes Program, which is conservation-related, and will additionally allow \$59,497 for public interest advertising related to endangered or threatened wildlife species. Expenses totalling \$1,554 for advertising relating to the utility's FACT Program, which provides aids to classroom teachers on various subjects, will also be allowed.

3. FPL Logo

FPL's tax savings report included \$53,550 incurred in the development of a new logo. The logo is image-enhancing and unnecessary for the provision of electric service, and the utility has agreed to treat this expense below-the-line.

4. Endangered Species Booklets

In 1988, FPL spent \$142,452 to publish a series of booklets on endangered species such as sea turtles, wood storks, and manatees. The booklets were written for the general public and point out the fragile nature of the species' existence. The utility argued that the booklets are informational and utility related in that the animals inhabit FPL plant sites, property, and service area, and that the provision of such information enables FPL to avoid delays in operations which would directly impact ratepayers. While we caution the utility that not all such expenditures will be allowed, we will allow the expenses in question because they are reasonable in amount and provide information to the public which will aid the

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utility in plant siting and other related issues. Commissioner Easley dissented from this decision.

5. "Seasons In The Swamp" Videotape

"Seasons in the Swamp" is a 28-minute color nature videotape program about the Barley Barber Swamp, which is adjacent to the company's Martin Plant Units 1 and 2, located in western Martin County. The videotape has been shown on television, has won various awards, and is available for viewing by interested groups. FPL contends that the videotape expense of \$34,699 produces benefits similar to those provided by the endangered species booklets. Consistent with our decision to allow reasonable expenses in connection with the utility's booklets on endangered species, we will allow this expense. However, we note that there is a limit to the expenses of this nature that we will allow. Commissioner Easley dissented from this decision.

6. Swamp Tours

Consistent with our allowance of booklet and videotape expenses and subject to the limitation discussed above, we will allow expenses of \$31,561 for conducting tours of the utility's Barley Barber Swamp property. The property, part of the buffer land next to the utility's Martin Plant site, is a regulated wetland rich in plant and animal life. Commissioner Easley dissented from this decision.

7. "Energizing for Excellence" Magazine

We will disallow \$121,000 in expenses associated with the brochure or magazine "Energizing for Excellence". The publication, which provides a history and overview of the FPL's Quality Improvement Program management program system, is promotional, image-enhancing, and is not necessary for the provision of electric service. The expenses for these brochures are more appropriately charged to FPL's affiliate, QualTec, which markets portions of the Quality Improvement Program.

8. Donated Printed Materials

The parties stipulated to the disallowance of \$104,062 which FPL spent to print a brochure for the Malcolm Baldrige Foundation. The Foundation, which is privately funded, administers the Malcolm Baldrige Award in recognition of companies which have improved their products, goods, and services. FPL originally charged this expense above-the-line because it allegedly increases the level of reliability and usefulness of equipment and services that the

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company obtains from suppliers as well as its own delivery of service to ratepayers. However, donation of a printed brochure is no different than a cash contribution, and should be charged below-the-line.

9. QIP Orientation Seminars

In 1988, FPL spent approximately \$50,000 to conduct monthly seminars to present its Qualify Improvement Program ("QIP") to attendees. Mr. Brunetti, FPL's witness, stated that the seminars were instituted in order to satisfy numerous inquires about QIP in a cost-effective manner, and that they are a "dissemination process for information about QIP."

FPL voluntarily provided a public service by disseminating information about QIP. Employees of QualTec, an FPL affiliate which markets portions of QIP to the public, are allowed to attend the monthly seminars and can obtain a list of attendees. Some attendees have ultimately purchased QIP from QualTec.

Beginning January 1, 1990, FPL began charging \$100 for the seminars. We believe that FPL should have charged attendance fees in 1988, and that the cost of dissemination of QIP information should not be borne by ratepayers. We will therefore disallow this \$50,000 expense. Commissioner Gunter dissented from this decision.

10. Deming Competition

Mr. Larkin, Public Counsel's witness, recommended disallowance of \$398,599 which was directly attributable to the utility's quest for the Deming Prize. He stated that FPL's attempt to receive the Deming Prize was basically image-building in nature and that employee morale and quality of customer service declined due to pressure on employees, applied by management eager to win the prize. Mr. Kollen, FIPUG's witness, also advocated disallowance of costs associated with the Deming Prize competition. FPL's witness, Mr. Brunetti, testified that the utility's pursuit of the Deming Prize was intended to accelerate implementation of its total quality effort and to improve overall operations. According to Mr. Brunetti, pursuit of the Deming Prize accelerated implementation of several management systems, and accelerated the utility's implementation of the Quality Improvement Process by three to six years.

FPL Steering Committee minutes reflect that during a meeting held in Japan on June 27, 1988, Mr. Hudiburg, former Chairman of the Board of FPL, discussed two reasons to pursue the Deming Prize: first, "FP&L's vision to be the 'best managed electric utility in

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the United States' and to be recognized as such"; and second, "the perception FP&L has in the eyes of the public". He stated that there is a correlation between the process of winning the Deming Prize and generation and realization of quality improvement, which is consistent with Mr. Brunetti's testimony that the Deming Prize was pursued in order to accelerate the implementation of the Quality Improvement Program. Mr. Hudiburg's focus regarding public perception centered on the Florida Public Service Commission, which Mr. Hudiburg referred to as the "Public Utility Commission": "Their perception of FP&L can mean the difference between sympathetic, fair treatment, or harsh or punitive treatment. This perception is largely based on contribution to society by offering quality services. And this social aspect is the reason for the statement 'and be recognized as such.' The Deming Prize would be a favorable form of recognition of real value to FP&L."

These statements suggest that FPL pursued the Deming Prize not only to accelerate QIP, but also for image-enhancement purposes. We will therefore disallow a portion of the expenses. We find the appropriate amount of disallowance to be \$99,650, which is 25% of the total 1988 expense.

11. Quality Consultants

In 1988, FPL hired consultants and counselors to assist in implementation of its Quality Improvement Program and to "strengthen management skills in preparation for the Deming prize audit." The utility spent \$603,149 in fees for counselors and consultants, \$117,639 for their airfare and hotel bills, and \$171,693 for facilities and other costs related to the counseling clinics they presented, for a total of \$892,481. These counselors and consultants occupied suites at hotels such as the Miami Airport Hilton and the Miami Hyatt Regency with rates ranging up to \$450 per night and were permitted first class airfare. One counselor brought his wife.

FPL also incurred other costs in connection with the use of quality consultants. As outlined by the utility, these expenses were categorized as miscellaneous expenses, lunches and breaks provided for participants, hotel rooms, telephone charges, transportation in Japan, interpreters, and audio/visual costs to videotape the session for distribution to those who could not attend the seminar. The utility contends that employee training was essential, that counselors were chosen based on training and experience in applying Total Quality Control concepts to a service company, and that the costs were reasonable.

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We find that the costs for airfare, hotel suites and lunches for the seminar participants were excessive. Further, we are not convinced that such expenditures were cost effective. Based on record evidence that the total for two business/economy airline seats is cheaper than one first class ticket, we will disallow \$46,572, which is one half of the airfare costs. We believe a hotel rate of \$150 per day is reasonable, based on an average of the rates at the Miami Hyatt Regency, and will therefore reduce hotel expenses \$16,403. A range of up to \$18.00 per participant was spent for seminar lunches. We believe that \$8.50 per participant is reasonable, which is more than \$6.00 meal allowance for lunch for state employees, and will therefore reduce lunch expenses by \$28,628. The total disallowance for this item is \$90,760.

12. Employee Trips to Japan

During 1988 some FPL employees were sent to Japan to observe the application of Total Quality Control. Mr. Larkin, testifying on behalf of Public Counsel, recommended that expenses in the amount of \$720,568 be disallowed for purposes of calculating the tax savings refund for 1988. FIPUG's witness, Mr. Kollen, agreed that the expenses should be disallowed.

Record evidence indicates that the trips to Japan provided FPL employees with training that could not be received elsewhere. However, some of the expenses are attributable to the utility's quest for the Deming Prize. Consistent with our treatment of such expenses, we will disallow 25% Deming-related costs, resulting in a disallowance of \$16,053.

13. Uncollectible Expense

In 1988, FPL accrued \$17,408,081 in uncollectible expense, calculated according to accrual accounting requirements which require that uncollectible expenses be estimated during the period in which revenues are recognized. Although we believe that FPL's 1988 actual net write-offs of \$11,508,027 are reasonable, we find that the accrual estimate is unreasonably high.

We tested the reasonableness of the estimated expense by calculating an average of net write-offs to retail sales of electricity for the years 1985 through 1987. We used this method of testing the reasonableness of uncollectible expense in Dockets No. 881056-EI, 850172-GU and 890324-EI. We believe that the three year average of \$12,343,000 represents a reasonable expense level. Normally, we would allow the utility uncollectible expense in this amount, which would require a disallowance of \$5,065,000. This

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disallowance would necessitate a corresponding reduction in the accumulated provision account, which would, in turn, increase working capital. However, in 1987 FPL's net write-offs exceeded its accrual by \$1,400,000. The net write-off of \$10,069,159 would have been expensed for tax purposes, while only the estimated accrual of \$8,669,159 was included in the utility's 1987 tax savings calculation. We therefore find it appropriate to offset our reduction by the 1987 deficiency of \$1,400,000. Thus, we will reduce uncollectible expense by \$3,665,000, which produces a \$1,832,500 reduction in accumulated provision for uncollectibles, and a corresponding increase to working capital of \$1,832,500.

14. Employee Thrift Plan

FPL provides retirement benefits to employees in the form of its Pension Plan and Thrift Savings Plan. The utility provides a matching percentage of employee contributions to the Thrift Savings Plan. Expenses for this plan have increased over the benchmark due to FPL's 1985 increase of its matching percentage, increase in participation of eligible employees, and the addition of a collective bargaining unit thrift plan in 1982. We find the utility's contributions to the Thrift Savings Plan to be prudent and reasonable in amount, and will make no disallowance.

Although we disallowed increased expense over the benchmark for this plan in Order No. 13537, we did not disallow plan expenses under the benchmark and thus are not precluded from allowing expenses over the benchmark at this time.

15. Salaries and Wages

FPL attributed \$30,167,000 of its O&M benchmark excess to increases in salaries and wages. We find that this amount should be recognized in the O&M expenses used in calculating FPL's 1988 tax savings refund. In the utility's last rate case, we disallowed over \$21 million of salary expense because FPL failed to prove that the increases were both necessary and reasonable. Order No. 13537 specified that concrete evidence in the form of comparative salary studies would be required on the part of any utility requesting recovery of increased salary levels to be included in retail rates.

In this docket, FPL provided such documentation, relying heavily on a report prepared by the American Compensation Association ("ACA"). The ACA is a nationwide professional organization of compensation and benefit practitioners. The ACA report, entitled "Report on the 1989-1990 Salary Survey," indicates that Consumer Price Index ("CPI") increases have lagged behind actual salary increases for several years. Record evidence

indicates that FPL average salaries for exempt, non-exempt and union employees exceed the CPI growth but are below the levels indicated in the ACA report. The utility also provided comparisons of total salary and wages per employee, and total salary and wages per customer for FPL and 14 other utilities. FPL ranked 8th and 12th, respectively. The information was derived from public filings with the Federal Energy Regulatory Commission, and is useful for comparison purposes.

16. Steam and Other Production

Scheduled Outages: FPL claimed that its benchmark excess of \$31,811,359 relating to scheduled outages of its units should be recognized in the O&M expenses used in calculating its 1988 tax savings. The utility's witness, Mr. Dickey, maintained that materials and labor, the principal cost components of scheduled outage expense, has risen faster than the CPI. He testified that the utility intentionally expanded the scope of its overhaul work in order to improve unit availability and efficiency, and to meet regulatory requirements. He further indicated that the rise in system demand and decrease in reserve margins during the mid-1980's necessitated the increased scheduled outage expense. Based on the record evidence, we will allow such expenses because they are reasonable in amount, prudently incurred, and utility related.

Cutler Plant Reactivation: Prompted by higher than anticipated system demand, FPL reactivated its Cutler Units 5 and 6 in 1988, bringing these units out of Long Term Reserve Shutdown status into commercial operation. The utility incurred \$8,292,000 in reactivation O&M expenses, which we find should be recognized in calculating the 1988 tax savings refund.

St. John's River Power Park: In 1988 FPL incurred \$6,346,000 of O&M expenses for its operational share of the St. John's River Power Park. These expenses were uncontested and we approve their inclusion in the tax saving refund calculation.

Reclassification of Administrative and General Expenses: FPL reclassified Administrative and General expenses in the amount of \$3,856,000 to Steam and Other Production plant. The reclassification therefore increased the benchmark excess in the Steam and Other Production function. However, we find that the expenses should be recognized in the O&M expenses used in calculating the utility's 1988 tax savings refund.

Structural Maintenance Coatings Program: \$4,543,000 of FPL's benchmark excess relates to its Structural Maintenance Coatings Program. The program, which has been in effect since 1984, is

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designed to protect steel structures by eliminating corrosion and thereby prevent the need for repair or replacement of steel members, piping and equipment. The utility's prior plant painting procedures consisted of intermittent coating applications separated by years of little or no preventative maintenance. We find that FPL's expenditure on its Structural Maintenance Coatings Program should be recognized in the O&M expenses used in calculating the 1988 tax savings refund.

Environmental and Safety Related Activities: In 1988 FPL incurred expense in the amount of \$7,011,000 for activities designed to satisfy governmental requirements and protect the health and safety of the public and utility employees. Of this amount, \$2,787,000 does not correspond to expenses allowed in 1985, and therefore has no counterpart in the O&M benchmark. We find that the expenses should be recognized in the O&M expenses used in calculating FPL's 1988 tax savings refund.

Data Processing Expenses: FPL exceeded the O&M benchmark, in part, by \$2,587,000 to rent, operate and maintain computers in the Corporate Production and Timeshare Systems. The increase in data processing costs above the Steam and Other Production benchmark results from increased use of data processing as a tool in the O&M of fossil facilities.

These increased data processing expenses were incurred for overhaul planning and support as well as decision support tasks to compliment the corporate production system. The programs associated with these expenses allow FPL greater flexibility in deploying manpower during scheduled outages. Collecting this data with automated systems is much less costly than using manual systems. We find that these expenses should be recognized in the O&M expenses used in calculating FPL's 1988 tax savings refund.

Other: FPL identified \$6,023,000 of its benchmark excess as fossil production O&M expenses in the "Other" category. The utility maintained that the ten activities which it identified as causing its benchmark excess in this area were either new, having no corresponding expense in the 1985 allowed level of fossil production O&M expenses, or were dollars above the benchmark for that category of expense. We find no evidence in the record that any portion of these expenses are otherwise accounted for in the 1985 benchmark analysis. We will therefore recognize the entire benchmark excess of \$6,023,000 for purposes of calculating the tax savings refund.

17. Nuclear Production

In total, FPL is \$170 million over its O&M benchmark for nuclear production plant. During the course of this proceeding, Public Counsel, FIPUG and Commission staff raised numerous questions regarding FPL's recovery through tax savings of various Nuclear Production O&M expenses above the benchmark level. At the hearing, we heard testimony on the utility's justification for benchmark overages in the functional areas discussed below. We find the expenses in question to be reasonable and prudent, and will recognize all such amounts in the O&M expenses used in calculating FPL's 1988 tax savings refund.

Regulatory Required: This area summarizes other functional areas discussed below. The utility's benchmark excess is \$96,779,369.

Performance Enhancement Program: This is an improvement program for Turkey Point which the Nuclear Regulatory Commission ("NRC") approved and directed FPL to implement. The expenses were new since the 1984 benchmark projections and the improvements were necessary to bring Turkey Point into compliance with federal regulatory requirements.

Commitment to Excellence Program: FPL exceeded its benchmark in this area by \$3,530,308. The utility was directed by the Nuclear Regulatory Commission to implement this program, which is directed at the utility's St. Lucie plant and incorporates relevant portions of the Performance Enhancement Program for Turkey Point.

Independent Management Appraisal: In 1988 an Independent Management Appraisal was performed at Turkey Point pursuant to an order by the Nuclear Regulatory Commission. The total cost for the program was \$1,305,000. Recommendations from the appraisal were implemented by the utility, to the benefit of its ratepayers.

Accreditation of Performance-based Training: FPL incurred a benchmark excess of \$8,228,000 in this area in order to accredit its performance-based training. The training is a systematic program of instruction designed around job tasks and the related knowledge and skills required for competent job performance. Maintaining accreditation is a continuing commitment requiring review by Institute of Nuclear Power Operations every four years. Further, the costs associated with these enhanced training activities were not projected in the 1985 benchmark year.

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Project Management Backfit Support: The work managed by the Project Management Organization generally represents regulatory required modifications, or backfits, aimed at updating the Turkey Point and St. Lucie units to the latest design of nuclear safety features. Until 1987, these support services were not charged separately. FPL compared the total support costs in 1988 to the amount calculated for support costs embedded in the benchmark project costs and determined that the support costs had increased by \$4,439,000 over that period due to the increase in regulatory required project costs.

Total Equipment Data Base: There were no costs for this data base in the utility's 1985 benchmark. The data base provides equipment information required by the Nuclear Job Planning System for planning of maintenance work, and replaces manual system. The benchmark excess attributable to this area is \$427,000.

Second Ten Year Inspection Program: In addition to work necessary to implement repetitive inspection activities which occur during every outage, there are several major engineering inspection tasks which occur once each ten year cycle. During 1987-1988 FPL began performing drawing updates and engineering work for an inspection of portions of Turkey Point's safety-related piping systems. This work was necessary in order to identify and define the nature of the inspections required by applicable codes. The expense, which did not have a benchmark counterpart, was \$3,071,000.

Audits: An integral part of nuclear plant design, construction and operation is the system of internal and external audits which verify that tasks associated with the operation of FPL's nuclear plants are conducted in accordance with utility procedures, federal regulations and industry standards. Audit expenditures in 1988 amounted to \$6,468,000.

Security Requirements: FPL is required under the provisions of 10 C.F.R. Section 73 to establish and maintain a physical protection system for its nuclear facilities to protect against the threat of radiological sabotage. Such security regulations began to emerge about five years after Turkey Point began commercial operation. Prior to that time, only general advice in the form of Regulatory Guides was given to utilities. Many of the security systems and facilities installed prior to 1977 could not be easily modified to accommodate regulatory requirements. This problem was particularly acute at Turkey Point since the two nuclear units are located adjacent to the two fossil plants to take advantage of the various systems which could be shared.

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Pursuant to an 1983 NRC evaluation of the Turkey Point security program, FPL replaced the existing security system and upgraded numerous security barriers within the plant. FPL committed to make the necessary changes and utilize additional security officers to compensate for identified weaknesses until the changes were made.

Implementation of these changes was delayed until approximately 1988, pending a decision by the NRC regarding the types of barriers which would be acceptable as replacements. These upgrades are capital additions. In the meantime, physical security measures were provided by additional security officers and existing systems and facilities were refurbished in 1988 in order to meet regulatory standards pending replacement. The 1988 expense for security requirements was \$5,191,000.

Maintenance and Scheduled Outages: FPL is over its benchmark by \$34 million for maintenance and by \$20 million for scheduled outages. Maintenance expenditures are concentrated in five areas: reliability improvement (\$13 million), upgrade projects (\$5.5 million), corrective maintenance, (\$16 million), miscellaneous (\$4.5 million) and material condition/plant maintenance (\$5.3 million), minus nonrecurring cost of \$10.5 million.

Reliability improvements were made to eliminate recurring problems and reduce reactor trips. The upgrade projects were undertaken in response to the maintenance-related recommendations of the NRC and Institute of Nuclear Power Operations as well as FPL's maintenance assistance and review team. Corrective maintenance refers to work performed in response to unscheduled outages. The material condition/plant maintenance focused on plant preservation, radioactive contamination control, and establishment of a plant working environment.

Improvements (Inspection and Examination): The inspections and examinations under the "Improvements" category represent additional activities beyond regulatory and code requirements which FPL undertook in order to preserve the integrity of important plant equipment. The expenditures amounted to \$13,676,000. FPL maintains that the small amount expended on these inspections and examinations is justified by heightened confidence in equipment reliability.

Improvements (Real Time Engineering Support): This category includes such activities as specifying or determining the acceptability or replacement of upgraded components. Engineering activities are required as a result of FPL Quality Control inspections. During 1988, approximately 1,000 non-conformance

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reports were evaluated, while there were approximately 700 non-conformance reports evaluated in 1984. These expenses, in the amount of \$15,135,000, are related to the Backfit Support expenditures discussed above.

Administration: FPL identified an administration cost improvement program within the Operation cost category, the expenses of which were incurred to support cost avoidance measures for FPL's contracting activities. FPL staffed additional positions to closely monitor the increased number of contractors used for short duration work activities. The utility also added a contract administrator in 1987, which saved the utility excess contract claims of \$958,000 in 1988. FPL estimates that cost avoidances since 1985 are in excess of \$4,000,000. The benchmark excess in this area is \$7,966,000.

Other Power Supply: FPL's benchmark variance in this area is \$2,028,000. The utility maintains that the expenses incurred in performing this function are directly responsible for fuel cost avoidances of between \$39-44 million in 1988.

18. Transmission

FPL spent \$38,411,000 of O&M expenses in the Transmission function in 1988, exceeding its benchmark by \$4,449,000. FPL accounted for \$5,167,000 of expenses which were either new or grew faster than the Consumer Price Index and customer growth. We find that the expenses should be recognized in the tax savings calculation.

19. Distribution

FPL identified four new programs which did not previously exist in the 1985 benchmark calculation. The Distribution Facilities Survey (\$1,445,000) is a maintenance program to systematically correct problems on feeders to reduce service unavailability. The Distribution Facility Grounding (\$260,000) addressed the pervasive problem of poor grounding with crews dedicated to upgrading lightning protection. The Padmount Transformer Security Inspection (\$496,000) was performed to assure the safety of the public and assure access to equipment. Defective Meters (\$589,000) addresses a specific group of residential meters manufactured by Westinghouse which were identified as having higher defective rates than other groups. This program is targeted at testing and removing improperly registering meters from service. All of these expenses should be recognized in the tax savings calculation.

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20. Customer Accounts

FPL's benchmark excess for this function was \$1,029,000, which was attributable to an increase in straight time wages. As discussed above, we accepted the utility's wage comparison study, and will therefore make no adjustment here. Further, our reduction in the amount of the utility's uncollectible expenses results in a negative benchmark excess in this function.

21. Sales

The utility's benchmark excess of \$344,000 in sales expenses is primarily related to the promotion of night lighting programs. Even though these programs promote off-peak usage, they encourage, and in fact use cash incentives to increase, the use of electricity, apparently without offsetting benefits, which may be contrary to the provisions of the Florida Energy Efficiency and Conservation Act. Consistent with our decision in the recent Gulf Power rate case, Docket No. 891345-EI, and Docket No. 890324-EI, Gulf Power's 1988 tax savings docket, we find that this expense should not be recognized in the O&M expenses used in calculating FPL's 1988 tax savings refund.

22. Customer Service

The customer service function consists of 8 program areas:

- (a) Leased Lighting - This is a tariff-based program designed to provide leased outdoor lighting and delivery of utility owned fixtures to residential and commercial customers for installation on company poles. FPL says that an annual average of 965 KWH of off peak energy usage per installation is added, thus improving utilization of the system, and customers will have their need for area or security lighting met. The 1988 costs were \$665,000.

This program is an off-peak load building program. It is this Commission's policy to disallow programs whose only object is to increase KWH sales. Thus, the \$665,000 in costs for this program should be disallowed.

- (b) Watt Wise Plus - This program is designed to encourage the new home construction industry to promote residences which offer energy management and convenience features, and state of the art technologies. The company claims

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over 1,000 KWH of off peak load was added per installation. As with the Leased Lighting program, we believe this program actively promotes the increased use of electricity, and we will therefore disallow \$613,000 in program expenses.

- (c) Prime Time Contact - The objective of this program is to contact new customers within 45 days after service connection for comments on the quality of customer service. We find that the \$326,000 in 1988 expenses for this program should be allowed.
- (d) Energy Systems Planning - This program informs customers about load management, other commercial/industrial programs and rates to new and expanding commercial/industrial facilities. Benefits include optimum energy management and use of state of the art technologies by industrial/commercial customers. We find that the \$280,000 in expenses for this program should be allowed.
- (e) Industrial Management - This program provides customers with energy use projections, rate studies and demographic reports. Customers also receive information on rates, electric technologies and energy management practices. Benefits include improving FPL's load shape and meeting the customer's need for information. We find that the \$320,000 in expenses for this program should be allowed.
- (f) Commercial Heat Pumps - This program encourages commercial customers to install heat pumps to recover unused heat. The program enables commercial and industrial customers to save on water heating costs. We find that the \$548,000 in expenses for this program should be allowed.
- (g) Quality Power Conditioning - This program provides consulting services to commercial and industrial customers affected by power problems. Representatives provide information on expected duration of outages, protection of equipment from voltage irregularities and solutions to outages and fluctuations in voltage levels. We find that the expenses of \$56,000 for this program should be allowed.

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- (h) Safety Environmental and General Information Advertising
- This program provides customers with information about safety practices around electricity and provides environmental advertising. Consistent with our decision to disallow certain programs, we will disallow expenses in the amount of \$158,028 for advertising connected with the utility's Leased Lighting, Night Beautiful, Advantage Lighting, Quality Improvement and Orange Bowl Classic programs.

23. Administrative & General

We have made specific adjustments discussed above in lieu of a general adjustment to this function.

24. Lobbying Activities

No evidence was introduced by any parties that FPL included any lobbying expenses in above-the-line expenses. No adjustment is necessary or proper.

B. IMPUTED INCOME

After FPL implemented its interim interruptible rate schedule ("IST-1"), apparently a number of commercial and industrial customers participating in FPL's Commercial/Industrial Load Control Project Rate Schedule ("C/ILCP") wanted to transfer to the IST-1 schedule. However, customers on the C/ILCP rate schedule were required to remain on the trial project rate schedule for a minimum of one year. If a customer terminated service prior to the end of the one-year trial, he was required by the approved tariff, Original Sheet No. 8651, to reimburse the utility for all credits received under the program.

In August, 1988, FPL petitioned the Commission to allow customers to change from the C/ILCP rate schedule to the IST-1 rate schedule without repayment to the utility of any credits previously received under the C/ILCP rate schedule. In Order No. 20235 the Commission denied FPL's petition. The intent of that order was that credits received by program participants would be repaid to FPL if the participating customer transferred to IST-1 schedule prior to the end of the first twelve-month period of participation. FPL allowed a customer to transfer most of its load from the C/ILCP to the IST-1 rate schedule prior to the end of the twelve-month period, and without repayment of C/ILCP credits previously

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received. This not only violates the intent of Order No. 20235, but also is unduly discriminatory to C/ILCP customers who would be required to repay program credits if they transferred their entire loads to IST-1. We will therefore impute credits in the amount of \$432,341 for purposes of calculating the utility's 1988 tax savings refund. The tax attributable to this imputed income is \$7,026.

C. TAX ADJUSTMENTS

As a result of adjustments to expenses discussed above, FPL's income tax expense must be increased by \$2,580,882, which will be partially offset by an interest reconciliation adjustment in the amount of \$25,888.

IV. REFUND OF TAX SAVINGS

After the adjustments discussed above, we find that FPL should refund additional tax savings in the amount of \$6,716,875, plus interest calculated using the 30-day commercial paper rate as provided by Rule 25-6.109, Florida Administrative Code. Interest should continue to accrue until the refund is completed, and should be calculated assuming that the tax savings revenues were received in equal increments throughout 1988.

The additional tax refund should be returned to customers on an equal cents per KWH basis, as required by Rule 25-14.003, Florida Administrative Code, and should be identified as a refund of tax savings on each customer's bill. Since usage, especially by residential customers, varies on a seasonal basis, the timing of the refund affects the relative proportion of the refund going to various classes. Therefore, a six-month refund should be implemented beginning with the October, 1990 billing cycle, concurrent with the tax refund for 1989.

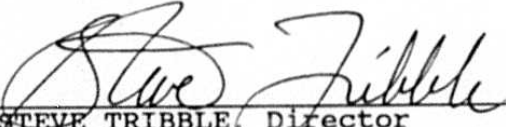
In consideration of the above, it is

ORDERED by the Florida Public Service Commission that the findings and stipulations discussed in this order are hereby approved. It is further

ORDERED that Florida Power & Light Company shall refund additional tax savings in the amount of \$6,716,875, plus interest, in the manner set forth herein.

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BY ORDER of the Florida Public Service Commission, this
7th day of NOVEMBER, 1990.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.

ISSUE 56
 FLORIDA POWER & LIGHT COMPANY
 DOCKET NO. 890319-EI
 CALCULATION OF ADDITIONAL TAX SAVINGS REFUND

REVISED PRIMARY RECOMMENDATION

	GROSS	TAXES @ 37.63%	NET
NET OPERATING INCOME PER TAX FILING			\$678,081,008
ADJUSTMENTS:			
O&M (TOTAL)	\$13,245,062	(\$4,984,117)	\$8,260,945
C/ILCP CREDIT REFUND (ISSUE 54)	432,341	(162,690)	269,651
REVENUE TAXES (ISSUE 54)	(7,026)	2,644	(4,382)
INTEREST RECONCILIATION		0	37,000
		0	0
TOTAL ADJUSTMENTS	\$13,670,377	(\$5,144,163)	\$8,563,303
STAFF ADJUSTED NOI			\$686,644,311
ADJUSTED RATE BASE PER TAX FILING			\$7,108,500,290
STAFF ADJUSTMENTS			\$2,628,742
STAFF ADJUSTED RATE BASE			\$7,111,129,032
OVERALL RATE OF RETURN			9.60%
OVERALL RATE OF RETURN @ 13.60% ROE			9.21%
DIFFERENCE			0.43%
STAFF ADJUSTED RATE BASE			\$7,111,129,032
NET OPERATING INCOME EXCESS			\$31,709,327
REVENUE EXPANSION FACTOR			1.634232
TOTAL TAX SAVINGS REFUND			\$51,820,397
AMOUNT PREVIOUSLY REFUNDED			(38,261,994)
ADDITIONAL AMOUNT TO BE REFUNDED (EXCLUDING INTEREST)			\$13,558,403

COMMISSION VOTE

	GROSS	TAXES @ 37.63%	NET
NET OPERATING INCOME PER TAX FILING			\$678,081,008
ADJUSTMENTS:			
O&M (TOTAL)	\$6,433,261	(\$2,420,836)	\$4,012,425
C/ILCP CREDIT REFUND (ISSUE 54)	432,341	(162,690)	269,651
REVENUE TAXES (ISSUE 54)	(7,026)	2,644	(4,382)
INTEREST RECONCILIATION		0	25,888
		0	0
TOTAL ADJUSTMENTS	\$6,858,576	(\$2,580,882)	\$4,303,582
STAFF ADJUSTED NOI			\$682,384,590
ADJUSTED RATE BASE PER TAX FILING			\$7,108,500,290
STAFF ADJUSTMENTS			\$1,832,500
STAFF ADJUSTED RATE BASE			\$7,110,332,790
OVERALL RATE OF RETURN			9.60%
OVERALL RATE OF RETURN @ 13.60% ROE			9.21%
DIFFERENCE			0.39%
STAFF ADJUSTED RATE BASE			\$7,110,332,790
NET OPERATING INCOME EXCESS			\$27,522,940
REVENUE EXPANSION FACTOR			1.634232
TOTAL TAX SAVINGS REFUND			\$44,978,869
AMOUNT PREVIOUSLY REFUNDED			(38,261,994)
ADDITIONAL AMOUNT TO BE REFUNDED (EXCLUDING INTEREST)			\$6,716,875

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ORDER NO.
DOCKET NO.

FLORIDA POWER AND LIGHT COMPANY TAX SAVINGS
DOCKET NO. 890319-EI
EXPENSE ADJUSTMENTS

REVISED PRIMARY RECOMMENDATION

ISSUE NO.	EXPLANATION	REVISED JURISDICTIONAL	COMMISSION VOTE
O&M ADJUSTMENTS			
4	EEI-U GROUPS	(456,699)	(453,138)
6	FPL LOGO	(53,550)	(53,550)
7	ENDANGERED SPECIES BOOKLETS	(112,701)	0
8	SEASONS IN THE SWAMP VIDEO	(34,699)	0
9	BARLEY BARBER SWAMP TOURS	(21,561)	0
10	ENERGIZING FOR EXCELLENCE	(121,000)	(121,000)
11	MALCOLM BALDRIDGE FOUNDATION	(104,062)	(104,062)
12	QIP ORIENTATION SEMINARS	(50,000)	(50,000)
13	DEMING PRIZE	(365,382)	(99,650)
14	QUALITY CONSULTANTS	(90,760)	(90,760)
15	TRIPS TO JAPAN	(58,859)	(16,053)
16	UNCOLLECTIBLE EXPENSE	(5,065,790)	(0,665,000)
24	STRUCTURAL MAINT. COATINGS	(618,250)	0
26	DATA PROCESSING	(270,000)	0
30	PERFORMANCE ENHANCEMENT PROG.	0	0
32	INDEPENDENT MGMT. APPRAISAL	0	0
33	ACCRED. OF PERF. BASED TRAINING	0	0
35	TOTAL EQUIP. DATA BASE	0	0
36	SECOND 10 YEAR INSPECTION PROG.	0	0
38	SECURITY REQUIREMENTS	0	0
40	MAINT. - SCHEDULED OUTAGES	0	0
44	ADMINISTRATION	0	0
50	SALES	(344,000)	(344,000)
51	CUSTOMER SERVICE	(1,576,749)	(1,436,028)
	TOTAL	(13,245,062)	(9,433,261)
TAXES OTHER			
54	CHLCP CREDIT REFUND	7,026	7,026
INCOME TAXES			
55	TAX EFFECT OF ADJUSTMENTS	5,144,163	2,580,882
55	INTEREST RECONCILIATION	(37,089)	(25,888)
	TOTAL	5,307,074	2,554,994

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FLORIDA POWER AND LIGHT COMPANY TAX SAVINGS
 DOCKET NO. 890319-EI

RATE BASE ADJUSTMENTS

PRIMARY RECOMMENDATION

<u>ISSUE NO.</u>	<u>EXPLANATION</u>	<u>STAFF JURISDICTIONAL</u>	<u>COMMISSION VOTE JURISDICTIONAL</u>
	<u>PLANT</u>		
	TOTAL	----- 0	----- 0
	<u>WORKING CAPITAL</u>		
13	DEMING PRIZE	\$83,042	\$0
15	TRIPS TO JAPAN	13,200	0
16	PROVISION FOR UNCOLLECTIB	2,532,500	1,832,500
	TOTAL	----- 2,628,742	----- 1,832,500
	TOTAL RATE BASE ADJUSTMENTS	----- \$2,628,742 =====	----- \$1,832,500 =====

COMMISSION VOTE

FLORIDA POWER & LIGHT COMPANY
 DOCKET NO. 890319-EI
 1988 O & M BENCHMARK VARIANCE BY FUNCTION

Issue	Steam Production (000)	Nuclear Production (000)	Other Production (000)	Other Power Supply (000)	Trans- mission (000)	Distribution (000)	Customer Accounts (000)	Customer Service (000)	Sales (000)	Admin. & General (000)	Total (000)
1 EEI - U Groups										(453)	(453)
3 New Logo										(54)	(54)
7 Endangered Species Booklets										0	0
8 Seasons in the Swamp Video										0	0
9 Barley Barber Swamp Tours	0										0
10 Energizing for Excellence										(121)	(121)
11 Malcolm Baldrige Foundation								(104)		(50)	(104)
12 QIP Orientation										(50)	(50)
13 Deming Prize										(100)	(100)
14 Quality Consultants										(91)	(91)
15 Trips to Japan										(16)	(16)
16 Uncollectible Accounts							(3,665)				(3,665)
20 Scheduled Outages	0										0
24 Structural Maint. Coating	0										0
26 Data Processing	0										0
30 Performance Enhancement Prog.		0									0
32 Independent Mgmt. Appraisal		0									0
33 Accred. of Perf. Based Training		0									0
35 Total Equip. Data Base		0									0
36 Second 10 year Inspection Prog.		0									0
38 Security Requirements		0									0
40 Maint. + Scheduled Outages		0									0
44 Administration		0									0
50 Sales									(344)		(344)
51 Customer Service							(1,436)				(1,436)
TOTAL JURISDICTIONAL	0	0	0*	0	0	0	(3,665)	(1,540)	(344)	(885)	(6,434)

*BENCHMARK ADJUSTMENTS INCLUDED IN STEAM PRODUCTION

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FLORIDA POWER & LIGHT COMPANY
 DOCKET NO. 890319-EI
 O & M BENCHMARK VARIANCE BY FUNCTION
 1988

COMMISSION VOTE

10/30/90

	Steam Production (000)	Nuclear Production (000)	Other Production (000)	Other Power Supply (000)	Trans- mission (000)	Distribution (000)	Customer Accounts (000)	Customer Service (000)	Sales (000)	Admin. & General (000)	Total (000)
1984 FPSC Allowed O&M-System	\$79,640	\$97,069	\$18,352	\$1,427	\$23,854	\$151,951	\$79,701	\$12,663	\$0	\$223,118	\$687,775
1984 AMG RECLASSIFICATION	4,305	7,663	455	102	1,607	6,758	1,164	117		(22,171)	0
1984 FPSC O&M ALLOWED ADJUSTED FOR RECLASS.	83,945	104,732	18,807	1,529	25,461	158,709	80,865	12,780	0	200,947	\$687,775
1985 ESCALATION FACTOR	1.0570	1.0570	1.0570	1.0570	1.0982	1.0982	1.0982	1.0982	1.0982	1.0982	
1985 O&M ADJUSTMENTS	88,730 (2,114)	110,702	19,879 (139)	1,616	27,961 (97)	174,294 9	88,806	14,035	0	220,680 2	745,703 (2,339)
1985 FPSC ALLOWED O&M-SYSTEM	86,616	110,702	19,740	1,616	27,864	174,303	88,806	14,035	0	220,682	744,364
1986 - 1988 Compound Multiplier	1.0996	1.0996	1.0996	1.0996	1.2408	1.2408	1.2408	1.2408	1.2408	1.2408	
1988 O&M Benchmark - System	95,243	121,728	21,706	1,777	34,574	216,275	110,190	17,415	0	273,822	892,730
1988 Juris. Separation Factors	0.98600	0.98490	0.98230	0.98820	0.98230	0.99820	0.99990	1.00000	1.00000	0.99080	
1988 O&M Benchmark - Juris.	93,909	119,890	21,322	1,756	33,962	215,886	110,179	17,415	0	271,303	885,622
1988 Actual O&M - Juris.	159,653	282,014	17,706	3,784	38,411	216,411	109,623	17,820	344	273,816	1,119,582
REVISED Benchmark Variance	65,744	162,124	(3,616)	2,028	4,449	525	(556)	405	344	2,513	233,960
Specific Adjustments-Juris.	0	0	0	0	0	0	(3,665)	(1,540)	(344)	(885)	(6,434)
Adjusted Variance-Juris.	\$65,744	\$162,124	(\$3,616)	\$2,028	\$4,449	\$525	(\$4,221)	(\$1,135)	\$0	\$1,628	\$227,526

*BENCHMARK ADJUSTMENTS INCLUDED IN STEAM PRODUCTION

COMPOUND MULTIPLIERS

Year	Total Customers	% Increase	Compound Multiplier	CPI Amount	% Increase	Compound Multiplier	Inflation and Growth Multiplier
1985	2,617,569		1.00000	322.2		1.00000	1.00000
1986	2,723,563	0.04049	1.04049	328.4	0.01924	1.01924	1.06052
1987	2,840,214	0.04283	1.08506	340.4	0.03654	1.05649	1.14635
1988	2,953,681	0.03995	1.12841	354.3	0.04083	1.09960	1.24080

Florida Power & Light Company
 Capital Structure
 12 Months Ended December 31, 1988

Capital	Total Capital	Retail Per Books	Company Adjustments	Company Reconciled	Staff Adjustments	Total	Ratio	Cost Rate	Weighted Cost Rate
	(\$)	(\$)	(\$)	(\$)	(\$)	(\$)	(%)	(%)	(%)
Common Equity	2,573,929,748	2,537,766,854	188,697,609	2,349,069,245	605,566	2,348,463,679	33.05%	13.60%	4.49%
Preferred Stock	528,610,911	521,184,096	39,907,958	481,276,138	124,068	481,152,070	6.77%	8.37%	0.57%
Long Term Debt	2,722,826,613	2,684,571,765	291,269,413	2,393,302,352	616,969	2,392,685,383	33.67%	9.79%	3.30%
Short Term Debt	8,963,337	8,837,405	414,307	8,423,098	2,171	8,420,927	0.12%	7.07%	0.01%
Customer Deposits	184,582,069	184,582,069	8,434,841	176,147,228	45,409	176,101,819	2.48%	7.86%	0.19%
Deferred Taxes	1,380,589,747	1,361,192,898	68,864,418	1,292,328,480	333,149	1,291,995,331	18.18%	0.00%	0.00%
Unamortized ITCs	448,250,227	441,952,454	37,739,259	404,213,195	104,202	404,108,993	5.69%	11.37%	0.65%
3% ITCs	3,976,762	3,920,890	180,336	3,740,554	964	3,739,590	0.05%	0.00%	0.00%
TOTAL	7,851,729,414	7,744,008,431	635,508,141	7,108,500,290	1,832,500	7,110,332,790	100.00%		9.21%

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