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October 24, 1997

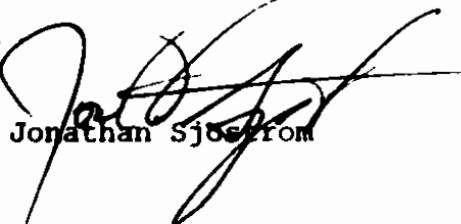
Ms. Blanca S. Bayó, Director
Division of Records and Reporting
Florida Public Service Commission
4075 Esplanade Way, Room 110
Tallahassee, FL 32399

RE: DOCKET NO. 901104-EQ

Dear Ms. Bayó:

Enclosed for filing please find the original and fifteen (15) copies of Orlando CoGen Limited, Ltd.'s Proffer of Testimony Concerning Proposed Agency Action Order and Alternate Staff Recommendation in the above referenced docket.

Very truly yours,



Jonathan Sjoberg

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Enclosure

2 cc: All Parties of Record

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TAL/225
FPSC BUREAU OF RECORDS

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305 577 7000
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DOCUMENT NUMBER-DATE
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FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Petition for approval of)
early termination amendment to)
negotiated qualifying facility)
contract with Orlando CoGen)
Limited, Ltd. by Florida Power)
Corporation)

DOCKET NO. 961184-EQ
FILED: OCTOBER 24, 1997

**ORLANDO COGEN LIMITED, LTD.'S PROFFER OF TESTIMONY
CONCERNING PROPOSED AGENCY ACTION ORDER
AND ALTERNATE STAFF RECOMMENDATION**

Pursuant to the Prehearing Officer's rulings and comments during the prehearing conference held on Monday, October 20, 1997, Orlando Cogen Limited, Ltd. ("OCL") hereby makes this proffer of testimony. This proffer addresses the Alternate Staff Recommendation contained in the Staff Recommendation dated December 12, 1996 (the "Alternate Staff Recommendation").

OCL proposed to call Paul Stallcup and Kenneth Dudley ("Alternate Staff") as adverse witnesses. OCL properly disclosed its intention to Call Alternate Staff in its response to the procedural order entered in this matter. OCL issued notices for deposition of Alternate Staff for the purpose of conducting discovery and for the purpose of preserving testimony and offering the deposition transcripts as direct testimony. The Prehearing Officer granted Staff's motion for protective order, thus preventing OCL from deposing Alternate Staff with respect to the Alternate Staff Recommendation.

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FPSC-RECORDS/REPORTING

OCL intended to present the following facts to the Commission through Alternate Staff.

Alternate Staff made the following assertions of fact and ultimate conclusions, among others, with respect to the contract buy-out at issue:

"The benefits of FPC's proposal appears to be noticeably sensitive to the assumptions used in its cost-effectiveness analysis." Staff Recommendation at 5.

"Using the fuel price forecasts from FPC's 1996 Ten-Year Site Plan reduces savings to the point that FPC's ratepayers may indeed be no better off than under the original contract." Staff Recommendation at 5.

"Substituting FPC's TYSP Base Case fuel price forecast decreased the buy-out's savings to \$20.1 million, a \$12.9 million decrease." Staff Recommendation at 5.

"FPC's TYSP High Case fuel price forecast further reduced the cost-effectiveness to \$3.3 million, a \$29.7 million decrease." Staff Recommendation at 5.

"Staff believes that each of these sensitivities are reasonable and demonstrate the impact of short-term changes in fuel price projections." Staff Recommendation at 6.

"FPC's 1996 Ten-Year Site Plan was found to be suitable for planning purposes at the December 2, 1996 Internal Affairs Conference." Staff Recommendation at 6 n.1.

"Staff found these scenarios of higher fuel prices and higher rates of inflation to be consistent with historical events over recent history. Furthermore, staff believes that these represent reasonable scenarios for the future." Staff Recommendation at 7.

The Alternate Staff Recommendation, as set forth above and as set forth in its entirety in the Staff Recommendation purportedly were the result of undisclosed analyses based upon undisclosed

assumptions and undisclosed calculations. The Alternate Staff Recommendation was based upon assumptions and data inputs to a computer program. The Alternate Staff Recommendation did not provide all the assumptions, inputs, calculations or other bases for the Alternate Staff Recommendation and did not contain any "spreadsheet" from which additional information as to assumptions and manipulations of the numbers could be better understood. The factual basis for the Alternate Staff Recommendation, which was accepted by the Commission in its order on Proposed Agency Action, has never been disclosed. Because this proffer is based on undisclosed evidence and because OCL has been denied the opportunity to take discovery with respect to the Alternate Staff Recommendation, this proffer is necessarily conclusory and general.

Although the Alternate Staff conclusions and assertions are based on undisclosed data and analysis, it appears that in material respects the Alternate Staff Recommendation is wrong.

For example, the Alternate Staff's analysis is based on forecasted fuel prices commencing in the year 2014. Alternate Staff's analysis calls these forecasts "FPC's Ten-Year Site Plan Forecast." Independent evidence from Florida Power Corp.'s witness Schuster suggests that FPC's Ten-Year Site Plan fuel forecasts did not extend past the year 2005. Indeed, there is no fuel forecast in FPC's Ten-Year Site Plan for the period covered by the contract buy-out at issue here. Thus, it appears that Alternate Staff

created its own gas price forecast and simply mischaracterized it as FPC's ten year site plan forecast.

Additionally, the gas price forecasts actually used in connection with FPC's Ten-Year Site Plan have never been "found to be suitable for planning purposes." See Alternate Staff Recommendation at 6 n.1. To the contrary, in its "Review of Electric Utility 1996 Ten-Year Site Plans," the Commission concluded that the electric utilities generally forecasted gas prices that were too high and diverged endlessly from the price of coal. The Commission concluded that these high, diverging forecasts evidenced a "bias" against gas. Review of Electric Utility 1996 Ten-Year Site Plans at 32. Thus, the Alternate Staff's conclusion that use of the Ten-Year Site Plan fuel forecast was "suitable for planning purposes" is wrong.

The Alternate Staff Recommendation was not based on any gas price forecast that had ever been previously considered by the Commission. Moreover, the only Commission statement regarding even the true ten year site plan gas price forecasts indicates that they were high and evidenced a bias against gas. Because the Alternate Staff Recommendation used self-constructed fuel gas price forecasts, mischaracterized Alternate Staff's gas forecasts as FPC's forecast, and mischaracterized the Alternate Staff gas forecast as "approved for planning purposes," the Commission

should not have relied upon the Alternate Staff Recommendation and should have accepted the proposed contract modification.

In preparing its Alternate Staff Recommendation, it appears that Alternate Staff used the last year of FPC's ten year site plan gas price forecast as a starting point for creating Alternate Staff's own gas price forecast. However, Alternate Staff escalated the price from FPC's gas forecast much higher for the years covered by the buy out, thus increasing the projected expense of replacement energy. At the same time, Alternate Staff understated FPC's coal price forecast, thus decreasing the projected expense of energy under the OCL contract, which prices energy based on the price of coal. Moreover, despite these assumptions, the Alternate Staff overlooked system economics in its computation of costs despite the fuel cost disparity and misstated the cost benefit results accordingly.

Alternate Staff's sensitivity analysis was unfounded and its results were wrong. Alternate Staff overstated the cost of replacement energy and understated the cost of the OCL contract. Thus, the Alternate Staff recommendation erroneously indicated that the contract modification here was unfavorable to ratepayers. If the Commission had known of the substantial errors and inaccuracies in the Alternate Staff Recommendation, the Commission would have rejected the Alternate Staff Recommendation and instead would have approved the contract modification. Use of the true data and

appropriate methodologies demonstrates that the contract modification at issue here is much cheaper for customers than continuing with the OCL contract.

DATED this 24th day of October, 1997.

Respectfully submitted,

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Attorneys for Orlando
CoGen Limited, Ltd.

By: 

Matthew M. Childs, P.A.
Jonathan Sjostrom

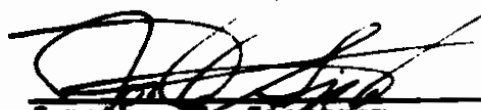
**CERTIFICATE OF SERVICE
DOCKET NO. 961184-EQ**

I HEREBY CERTIFY that a true and correct copy of Orlando CoGen Limited, Ltd.'s Proffer of Testimony Concerning Proposed Agency Action Order and Alternate Staff Recommendation has been furnished by Hand Delivery (*) or Facsimile and U.S. Mail (**) this 24th day of October, 1997, to the following:

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