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November 16, 1998

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By Hand Delivery

Blanca S. Bayó, Director
Records and Reporting
Florida Public Service Commission
4075 Esplanade Way, Room 110
Tallahassee, Florida 32399-0850

Re: Conservation Cost Recovery Clause
Docket No. 980002-EG

Dear Ms. Bayó:

Enclosed for filing on behalf of Florida Power & Light Company are the original and ten (10) copies of the following:

1. Florida Power & Light Company's Motion for Leave to File Supplemental Testimony and Alternative Relief,
2. Supplemental Testimony of C. Dennis Brandt

If you or your Staff have any questions regarding this Motion, please contact me

Very truly yours,

Charles A. Guyton
Charles A. Guyton

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Motion
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Testimony
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ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Energy Conservation Cost)
Recovery Clause)

Docket No. 980002-EG
Filed: November 16, 1998

FLORIDA POWER & LIGHT COMPANY'S
MOTION FOR LEAVE TO FILE SUPPLEMENTAL TESTIMONY
AND ALTERNATIVE RELIEF

Florida Power & Light Company ("FPL"), pursuant to Rule 28-106.204, Florida Administrative Code, hereby moves the Commission to allow FPL to file the supplemental testimony of C. Dennis Brandt (copies of which are being filed contemporaneously with this motion) in Docket No. 980002-EG and to set for hearing in November 1998 the two FPL specific CILC issues raised by the Staff in their Prehearing Statement. In the alternative, FPL moves that Staff's CILC issues not be identified as issues for the November 1998 ECCR hearing and that if they are subsequently resolved, such resolution have prospective application only. As grounds for its motion, FPL states:

1. In its Prehearing Statement in this docket, the Staff of the Commission filed two FPL specific issues regarding FPL's Commercial Industrial Load Control (CILC) Program. The supplemental testimony for which FPL seeks leave to file addresses the issues raised by the Commission Staff.

2. When Staff first raised the two issues regarding FPL's CILC Program in their preliminary issue list, FPL endeavored to have the Staff drop the issues, as FPL had not presented testimony on the issues and Staff stated that it did not want to litigate the issues at the November

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1998 hearing and may not ever need to litigate the issues. FPL expressed a willingness to defer the issues with the understanding that any potential subsequent resolution of the issues would be prospective. Staff declined to remove the issues from their Prehearing Statement or to agree that any resolution of the issues would have only prospective application.

3. FPL does not understand the purpose of the issues being raised at this time. Staff is not prepared to go to trial on these issues. They state that they need to conduct discovery. If the issues are not ready for trial, there is no apparent purpose to raising the issues.

4. Compounding the uncertainty arising from why the Staff has raised the issues is the Staff's unwillingness to agree that if the issues are subsequently raised and tried in some future proceeding the resolution of the issues should only have prospective application. This leads FPL to conclude that Staff intends or contemplates that the potential future resolution of the issues may have some retroactive application.

5. If the issues the Staff has raised are raised with the intent to have some retroactive application, then FPL's ongoing administration of its CILC Program is being put at risk by the Staff raising these issues. The issues address the eligibility of certain customers, customers who have executed an approved CILC agreement but not yet have taken service under the CILC rate, ultimately being able to take service under the CILC rate. Between this hearing and the next CILC hearing scheduled for November of 1999, FPL plans to begin providing service to some such customers who have an executed CILC agreement. Some of those customers will or have already made investment decisions relying upon their eligibility for the CILC rate. If the Staff's

issues are intended, as it appears they might be, to put those customers' eligibility for the CILC Program at risk, then FPL and its customers need these matters resolved at the hearing scheduled for November 1998. It is not reasonable or fair to FPL's customers or FPL to have an entire year of CILC Program administration put at risk because the Staff has raised issues it is not prepared to try and may never try.

6. The easiest and most logical resolution to this issue would be for the parties to agree that if these issues are raised and resolved in a subsequent hearing, then the resolution will be prospective. Such an agreement could be reached and presented to the Commission just as the other ECCR issues are commonly stipulated. However, because the Staff is unwilling to enter such a stipulation, FPL is forced to seek leave to file testimony addressing the two CILC issues the Staff has raised and ask the Commission to resolve the issues at the November 1998 hearing. Staff's approach unfairly puts customer eligibility for the CILC Program at risk as well as FPL's continuing administration of its CILC Program.

7. FPL has contacted the parties regarding the filing of this motion. The Office of Public Counsel, the Florida Industrial Power Users Group, Tampa Electric Company, Gulf Power Company, Florida Public Utilities Company and Florida Power Corporation have no objection to the motion and the relief requested. The Staff disagrees with the relief requested. FPL has been unable to reach the other parties to this proceeding.

WHEREFORE, FPL reluctantly but respectfully moves the Commission for leave to file the supplemental testimony of C. Dennis Brandt, copies of which are being filed contemporaneously with this motion, and set the Staff's CILC issues for trial in the November 1998 ECCR hearing. FPL further moves for the alternative relief that the Staff's CILC Program

issues not be identified as issues in this proceeding and that if they are ultimately raised for resolution by the Commission, any such resolution have prospective application only (that no customers with executed CILC agreements who begin taking CILC service before the resolution of these issues be declared ineligible and no costs for the provision of CILC service to such customers be disallowed).

Respectfully submitted,

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Attorneys for Florida Power
& Light Company

By: Charles A. Guyton
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Florida Power & Light Company's Motion for Leave to File Supplemental Testimony and Alternative Relief was served by Hand Delivery (when indicated with an *) or mailed this this 16th day of November, 1998 to the following:

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