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November 2, 2004

-VIA OVERNIGHT DELIVERY -

Blanca S. Bayó
Director, Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

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COMMISSION
CLERK

Re: Docket No. 040001-EI

Dear Ms. Bayó:

I am enclosing for filing in the above docket the original and seven (7) copies of a Proposed Resolution of Issue executed by Florida Power & Light Company ("FPL") and the Office of Public Counsel, which addresses Issue 31A in the draft prehearing order. Under the Proposed Resolution of Issue, FPL would (i) remove from the calculation of its 2005 capacity cost recovery ("CCR") factors \$38.3 million attributable to compliance with the Nuclear Regulatory Commission's design basis threat order at the St. Lucie and Turkey Point nuclear plants, and (ii) instead recover that amount via amortization through base rates of a deferred debit. Removing \$38.3 million from the calculation of FPL's 2005 CCR factors would result in lowering the factors set forth in Attachment 1 to FPL's Petition for Approval of its Levelized Fuel Adjustment Factors and Capacity Cost Recovery Factors that was filed on September 9, 2004. Accordingly, I am also enclosing for filing the original and seven (7) copies of a revised Attachment 1 setting forth the lowered CCR factors and the original and fifteen (15) copies of revised supporting schedules contained in FPL's prefiled exhibits KMD-4 (pages 1-3 only), KMD-5 (page 1 and 78 only), and KMD-6.

If there are any questions regarding this transmittal, please contact me at 305-577-2939.

Sincerely,

John T. Butler

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Enclosures
cc: Counsel for Parties of Record (w/encl.)

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CERTIFICATE OF SERVICE
Docket No. 040001-EI

I HEREBY CERTIFY that true and correct copies of the foregoing Proposed Resolution, revised Attachment 1 to Florida Power & Light Company's Petition for Approval of its Levelized Fuel Adjustment Factors and Capacity Cost Recovery Factors, and revised prefiled exhibits KMD-4 (pages 1- 3 only), KMD-5 (pages 1 and 78 only) and KMD-6 have been served by overnight delivery (*) or U.S. Mail this 2nd day of November, 2004, to the following:

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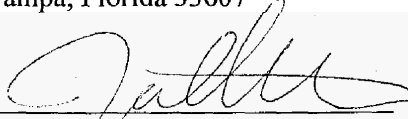
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**PROPOSED RESOLUTION OF ISSUE
DOCKET NO. 040001-EI
NOVEMBER 1, 2004**

Background of Issue:

The Nuclear Regulatory Commission ("NRC") issued its Design Basis Threat Order EA-03-086 on April 29, 2003 (the "DBT Order"). FPL is required by the DBT Order to modify its security systems at the St. Lucie and Turkey Point nuclear units to defend against the design basis threat that has been defined pursuant to that order. FPL included \$12 million for incremental nuclear security costs in the 2004 projections that were filed in Docket No. 030001-EI, of which \$2 million was projected for compliance with the DBT Order. Since that time, the NRC has made numerous revisions and clarifications to the design basis threat originally described in the DBT Order. As a result, the scope of work required to comply with the DBT Order has increased substantially. FPL's 2004 estimated/actual true-up that was filed on August 10, 2004 in this docket included incremental nuclear security costs of \$50.2 million, of which \$40.4 million is estimated for compliance with the DBT Order. This is an increase of \$38.3 million over the original projection. Consistent with the Commission's usual procedures, FPL has proposed to recover its 2004 estimated/actual true-up of the incremental nuclear security costs through the 2005 capacity cost recovery ("CCR") factor.

The Office of Public Counsel ("OPC") does not dispute that the costs of complying with the DBT Order are incremental security costs. OPC also recognizes that the Commission's current policy is to allow recovery of necessary and prudent incremental security costs via the CCR clause. However, OPC has raised concerns about FPL's use of the 2005 CCR factor to recover the extraordinary level of incremental nuclear security costs associated with the DBT Order (the "DBT Costs"). Recovery in that manner, OPC believes, could result in an inappropriate one-time "spike" in FPL's CCR factor.

FPL and OPC have worked together to identify a mutually acceptable alternative to the CCR factor through which FPL may recover the DBT Costs. They have agreed on the proposed resolution outlined below.

Components of Proposed Resolution:

FPL will ask the Commission to approve the following, and OPC agrees to support FPL's request:

1. FPL will remove \$38.3 million of DBT Costs from the calculation of its 2005 CCR factor and will treat that amount as a deferred debit (the "DBT Deferred Debit").
2. FPL will accrue interest on the outstanding balance of the DBT Deferred Debit at the currently approved AFUDC rate of 7.29%, commencing on January 1, 2005.

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3. FPL recovers via base rates an annual accrual amount to fund the estimated decommissioning costs for its St. Lucie and Turkey Point nuclear units. FPL is presently authorized and directed by Order No. PSC-02-0055-PAA-EI to accrue \$78.5 million per year for the decommissioning fund. The order directs FPL to file an updated decommissioning cost study on or before January 1, 2006, for the purpose of evaluating and adjusting, as appropriate, FPL's annual decommissioning accrual. FPL intends to file its updated decommissioning study during 2005 and to ask that the revised annual decommissioning accrual be made retroactive to January 1, 2005. FPL presently anticipates that the updated decommissioning cost study will support a reduction in the annual decommissioning accrual. For 2005, FPL will reduce the DBT Deferred Debit by the amount of any reduction in the annual decommissioning accrual that is approved by the Commission. As a simplified illustration, and ignoring the accrual of interest described in Section 2 above, if the annual decommissioning accrual were reduced by \$10 million, then the DBT Deferred Debit would be reduced from \$38.3 million to \$28.3 million in 2005.
4. The balance of the DBT Deferred Debit remaining after the adjustment described in Section 3 above will be amortized over a five year period starting on January 1, 2006; provided, however, that if FPL enters into a settlement applicable to FPL base rates commencing on January 1, 2006, the amortization will be over the time period to which the settlement applies.
5. \$40.4 million is only an estimate of the DBT Costs. The actual amount of those costs almost certainly will vary. In the event the Commission ultimately determines that the actual amount of FPL's prudent and necessary DBT Costs exceeds \$40.4 million, then the variance will be recovered via FPL's CCR factor pursuant to the Commission's usual procedures. For example, if FPL ultimately incurs \$41 million in prudent and necessary DBT Costs, then the CCR true-up will reflect an under-recovery of \$.6 million which will be included in determining the CCR factor for the subsequent year. On the other hand, if the actual amount of prudent and necessary DBT Costs is determined to be less than \$40.4 million, then the variance will reduce the amount of the DBT Deferred Debit outstanding at that time.
6. This proposed resolution is a one-time response to an extraordinary situation. FPL and OPC acknowledge, and the Commission finds, that approval of this proposed resolution will establish no precedent, and may not be used as evidence, with respect to (a) the appropriate mechanism for recovery of future incremental security costs, (b) the appropriate mechanism for recovery of any other costs through the CCR or other adjustment clauses, (c) the appropriate level of FPL's annual decommissioning accruals, or (d) the adequacy of FPL's decommissioning fund.
7. This proposed resolution may be executed in counterparts, and all such counterparts shall constitute one instrument binding on the signatories, notwithstanding that all signatories are not signatories to the original or the same

counterpart. Facsimile transmission of an executed copy of this proposed resolution shall be accepted as evidence of a party's execution of the proposed resolution.

Agreed and accepted on behalf of:

Florida Power & Light Company
Steel Hector & Davis LLP
Suite 4000
200 South Biscayne Boulevard
Miami, Florida 33131-2398

By: John T. Butler
John T. Butler
Date: 11/1/04

Office of Public Counsel
111 West Madison Street, Suite 810
Tallahassee, FL 32399

By: Harold A. McLean
Harold A. McLean, Esq.
Date: 11/1/04