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November 3, 2008

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VIA HAND DELIVERY

Ms. Ann Cole, Director
Division of Commission Clerk
And Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Florida Power & Light Company's Petition for Approval of
Renewable Energy Tariff and Standard Offer Contract
Docket No. 080193-EQ

Dear Ms. Cole:

Enclosed for filing on behalf of Florida Power & Light Company ("FPL") are an original and fifteen (15) copies of the testimony of Korel M. Dubin.

Thank you for your assistance. Please contact me should you or your staff have any questions regarding this filing.

Sincerely,



Bryan S. Anderson
Authorized House Counsel No. 219511

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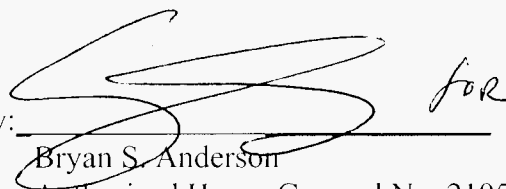
CERTIFICATE OF SERVICE

Docket No. 080193-EQ

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. mail or hand delivery on November 3, 2008 to the following:

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By:  for
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**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

**DOCKET NO. 080193-EQ
FLORIDA POWER & LIGHT COMPANY**

**IN RE: FLORIDA POWER & LIGHT COMPANY'S
PETITION FOR APPROVAL OF A RENEWABLE ENERGY
TARIFF AND STANDARD OFFER CONTRACT**

DIRECT TESTIMONY OF:

KOREL M. DUBIN

DOCUMENT NUMBER: CA11

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1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

2 **FLORIDA POWER & LIGHT COMPANY**

3 **TESTIMONY OF KOREL M. DUBIN**

4 **DOCKET NO. 080193-EQ**

5 **NOVEMBER 3, 2008**

6
7 **Q. Please state your name and business address.**

8 A. My name is Korel M. Dubin. My business address is 9250 West
9 Flagler Street, Miami, Florida 33174.

10 **Q. By whom are you employed and what is your position?**

11 A. I am employed by Florida Power & Light Company (“FPL” or the
12 “Company”) as the Senior Manager of Purchased Power in the
13 Resource Assessment and Planning Department.

14 **Q. What are your present job responsibilities?**

15 A. My responsibilities include providing analyses and support to assist
16 the Company in determining whether and on what terms to extend or
17 replace expiring purchase power contracts; negotiating new power
18 purchase agreements; and contract administration and payment
19 processing.

20 **Q. Would you please describe your educational background and
21 professional experience?**

22 A. I received a Bachelor of Arts in Political Science from Emory
23 University in 1980 and in 1982 I received a Master of Business
24 Administration from Barry University. In June 1982, I joined Florida

1 Power and Light Company's Fossil Fuel Section of the Fuel Resources
2 Department. From 1982 through 1985 my responsibilities included
3 administration of fuel supply and operations contracts, development of
4 procurement procedures, research/analysis of transportation options
5 and by-product sales, and support for regulatory filings. In December
6 of 1985 I joined the Rates and Research Department as a Rate Analyst.
7 Since 1985, my primary responsibilities have been in the area of the
8 adjustment clauses. I have held various positions of increasing
9 responsibility in the Rates and Research Department and the
10 Regulatory Affairs Department where I was responsible for the
11 development and preparation of the Company's Fuel, Capacity,
12 Conservation and Environmental Cost Recovery filings. I remain a
13 Company witness in these clause dockets. In May 2008 I became
14 Senior Manager of Purchased Power in the Resource Assessment and
15 Planning Department.

16 **Q. What is the purpose of your testimony?**

17 A. My testimony is provided in support of FPL's Standard Offer Contract
18 ("SOC") approved by Florida Public Service Commission Order No.
19 PSC-08-0544-TRF-EQ and to address the Wheelabrator Technologies,
20 Inc. ("Wheelabrator") protest of that order. My testimony explains
21 that FPL's Standard Offer Contract is reasonable and is fully
22 compliant with the applicable statute enacted by the Florida
23 Legislature and rules adopted by this Commission. The Standard

1 Offer Contract encourages the development of renewable resources in
2 the State. The rates in the Standard Offer Contract are at avoided cost,
3 as required by law. The terms and conditions contained in the contract
4 are reasonable and fair to the renewable generators and utility
5 customers. The Standard Offer Contract terms and conditions are
6 necessary to protect the customer, and without these provisions the
7 customers would incur higher costs and may have less reliable service.
8 FPL is supportive of development of new renewable generation in
9 Florida, and is happy to purchase for the benefit of its customers
10 capacity and energy from both new and existing renewable generating
11 facilities, as well as other qualified facilities.

12 **Q. Please describe FPL's overall outlook and approach to its**
13 **Standard Offer Contract and to complying with the Commission's**
14 **regulatory requirements for such contracts.**

15 A. FPL is supportive of development of new renewable generation and
16 other qualified facility generation in Florida, as well as continued
17 operation of existing renewable generating facilities and qualified
18 facilities.

19
20 FPL's focus in preparing, submitting and administering its Standard
21 Offer Contract is to make available a fair and reasonable agreement
22 providing an avenue for FPL to make purchases from such facilities,
23 for the benefit and in a manner protective of FPL's customers. FPL

1 also views its Standard Offer Contract as providing a reasonable base
2 from which project owners and developers may, if they choose, seek to
3 negotiate with FPL agreements more closely tailored to the needs of
4 facilities with different fuel types, sizes and operating characteristics,
5 among other unique features.

6 **Q. Wheelabrator’s protest states that “FPL’s proposed standard**
7 **offer contract will not encourage the development of renewable**
8 **resources in the state as required by section 366.91, Florida**
9 **Statutes, and the Commission’s rules, but rather would discourage**
10 **such development.” Do you agree with this statement?**

11 A. No, I do not. The Commission through an extensive series of
12 workshops, hearings, and rulemaking adopted rules to implement the
13 requirements of 366.91. These rules require the Investor Owned
14 Utilities (“IOUs”) to continuously make available Standard Offer
15 Contracts based on a portfolio approach of utility fossil-fueled units;
16 establish a methodology for calculating capacity payments using a
17 value of deferral methodology based on the utility’s full avoided costs
18 and need for power; require IOUs to expand the capacity and energy
19 payment options to facilitate the financing of renewable generation
20 facilities; allow for reopening the contract in the event of future carbon
21 taxes; clarify ownership of transferable renewable energy credits;
22 provide for an expedited dispute resolution process; and require annual
23 reporting from all utilities. These rules strongly encourage the

1 development of renewable resources in Florida, and provide a range of
2 unilateral options to the renewable generator. FPL's Standard Offer
3 Contract complies with these rules, and hence complies with F.S.
4 366.91 and encourages the development of renewable generation in the
5 State.

6 **Q. Wheelabrator's protest states that "FPL's proposed standard**
7 **offer contract contains terms and conditions that are onerous,**
8 **burdensome, unilateral, and commercially unreasonable." Do you**
9 **agree with this statement?**

10 A. No, I do not agree with this statement. Wheelabrator has provided a
11 laundry list of terms and conditions which it deems commercially
12 unreasonable, without support. Wheelabrator fails to recognize that
13 the Standard Offer Contract is not the result of the give and take of
14 commercial negotiations between an unrestricted buyer and seller, but
15 is in actuality a unilateral "put" right of a renewable generator. As
16 such, it is necessary that the contract as a whole and in specific
17 contract provisions be constituted in such a way as to protect the
18 customers of the utility in a contract that may be entered into by
19 project developers and owners that have facilities with a broad range
20 of sizes, fuel types, types of generation, geographical location, and
21 performance characteristics.

1 **Q. Have any of the contract provisions that Wheelabrator is**
2 **protesting been reviewed and approved previously by the**
3 **Commission?**

4 A. Yes, many of Wheelabrator’s assertions are simply a rehash of old
5 arguments. Many of the terms and conditions contained in Standard
6 Offer Contracts have explicitly been established and deemed prudent
7 in hearings before this Commission. For example, Wheelabrator’s
8 assertion, that FPL’s performance requirement that the renewable
9 generator maintain a 97% Equivalent Availability factor to receive full
10 capacity payments unfairly penalizes renewable generators, ignores the
11 fact the Commission has already addressed this issue. FPL’s 2014
12 Combined Cycle (“CC”) avoided unit has a projected annual
13 Equivalent Availability of 97 % as shown on page 93 Schedule 9 of
14 FPL’s 2008 Ten Year site Plan. In other words if necessary the
15 generating capacity of FPL’s CC avoided unit is available to contribute
16 to FPL’s system reliability 97 % of the hours in a year. By FPL setting
17 its minimum performance requirement to a 97% Equivalent
18 Availability factor in order for the QS to receive full capacity
19 payments (see payment provision C of Appendix B in FPL’s Standard
20 Offer Contract) FPL is ensuring, that its customers receive the same
21 level of reliability that they would otherwise receive from the CC
22 avoided unit. The Commission specifically evaluated and approved
23 FPL’s pay for performance sliding scale methodology in calculating

1 capacity payments as a contract provision that is beneficial to
2 customers. In Order No.24989 Docket No. 910004-EU dated August
3 29, 1991 the Commission stated that FPL's proposed adjustment to the
4 monthly capacity payment made to cogenerators that exponentially
5 reduces the QF's capacity payment in a month is reasonable when the
6 twelve-month rolling average of the on peak capacity factor is below
7 the avoided unit minimum. The Commission added that this
8 adjustment broadens the range of performance in which the QF can be
9 paid for performance while also encouraging the QF to provide
10 capacity during FPL's peak periods. The Commission, in its findings
11 encourages the QF to provide capacity during peak periods and
12 provides the customers with the same level of reliability that they
13 would receive from the avoided unit.

14
15 Another example where the Commission has explicitly made a
16 determination has to do with Tradable Renewable Energy Credits
17 ("TREC's"). Wheelabrator asserts that "FPL's proposed contract
18 contains an excessive time frame for FPL to exercise its right of first
19 refusal as to tradable renewable energy credits" and goes on to say that
20 this "provision is commercially unreasonable, discourages the
21 development of renewable resources, and should be rejected."
22 Wheelabrator adds that "this contractual provision also violates rule
23 25-17.280, [F.A.C.], which prohibits FPL from placing any conditions

1 on a renewable generator's ownership of TRECs." Wheelabrator
2 ignores Commission order No PSC-07-0492-TRF-EQ in Docket No.
3 070234-EQ dated June 11, 2007 that states that:

4 "FPL acknowledged that TRECs are the property of the
5 renewable generator, and also has included the right of first
6 refusal with specific timelines for responding. Such a
7 condition will insure that Florida's ratepayers enjoy all the
8 attributes associated with renewable generation without
9 imposing a financial penalty to the owner of the renewable
10 generation facility." (Emphasis added)

11 **Q. Please summarize your testimony.**

12 A. As discussed above, the terms and conditions included in the Standard
13 Offer Contract are reasonable. The Standard Offer Contract terms and
14 conditions are necessary to protect the customer, and without these
15 provisions the customers would incur higher costs and may have less
16 reliable service. A Standard Offer Contract by its nature is required to
17 offer a one-size-fits-all approach to a purchase power agreement.
18 While some project developers/lenders may feel more comfortable
19 with a more individualized approach and as a result pursue an
20 individually negotiated contract, other developers may prefer the
21 Standard Offer Contract.

22 **Q. Does that conclude your testimony?**

23 A. Yes.