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May 22, 2009

-VIA HAND DELIVERY -

Ms. Ann Cole
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

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COMMISSION
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**Re: Docket No. 090150-EQ
Petition for approval of a modification to existing negotiated renewable energy contract with Solid Waste Authority of Palm Beach County, by Florida Power & Light Company.**

Dear Ms. Cole:

I am enclosing for filing in the above docket the original and five (5) copies of Florida Power & Light Company's responses to Staff's First Data Request, Questions 1-17. Also included is a revised Section 1.3 of the Restated and Amended Agreement for the Purchase of Firm Capacity and Energy between the Solid Waste Authority of Palm Beach County and Florida Power & Light Company reflecting the corrected citation to Rule 25-17.0825(2), Florida Administrative Code.

If there are any questions regarding this transmittal, please contact me at 561-691-7207.

COM _____
ECR 1
GCL 2
GSC _____
GTY _____
SAC _____
SUA 2
ADM _____
CLK _____

Sincerely,

Carla G. Pettus
Authorized House Counsel
Bar No. 53011
Admitted: MD & DC

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



DOCUMENT NUMBER-DATE

05111 MAY 22 8

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by hand delivery (*) or United States mail on May 22, 2009 to the following:

Richard A. Zambo
7501 North Jog Road
West Palm Beach, Florida 33412

By: 
 _____
Carla G. Pettus
Authorized Bar Counsel
Bar No. 53011
Admitted: MD & DC

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- Will Section 1.3 of the Restated and Amended Agreement for the Purchase of Firm Capacity and Energy between the Solid Waste Authority of Palm Beach County and Florida Power & Light Company (modified contract) be revised to include the citation of 25-17.0825(2), Florida Administrative Code instead of 25-17.825(2), Florida Administrative Code? If it will not be revised, please explain your answer.

A: Yes, the revision will be made to correct the scrivener's error.

A) If the answer to the question above is yes, when will the revision be made?

A: Coincident with the filing of FPL's responses to Staff's 1st set of interrogatories in the SWA docket.

- Exhibit C to FPL's Petition for Approval of a Modification to an Existing Negotiated Renewable Energy Contract with The Solid Waste Authority (SWA) of Palm Beach County (Petition) provides a comparison of projected payments to SWA versus what the payments would be under FPL's current Standard Offer Contract. Please provide the same comparison using the payments that would be made under the 2009 standard offer contract, filed by FPL on April 1, 2009 in Docket No. 090166-EQ.

A: A comparison of projected payments to SWA versus what the payments would be under FPL's 2009 Standard Offer Contract (SOC) filed in Docket No. 090166-EQ is provided below.

Comparison of projected SWA payments vs 2009 SOC
(economic comparison using November 6, 2008 fuel forecast assumptions)

Year	Capacity		Energy		55 MW		Availability		89% on-peak		89% all hours		(13)
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	
	Coal based Negotiated Capacity Payments \$/KW-Mo	Projected Coal Energy Payments SJRPP c/KWH	2021 SOC Capacity Payments \$/KW-Mo	2021 SOC Energy Payment C/KWH	Negotiated Capacity Payments \$	Negotiated Energy Payments \$	Negotiated Total Payment \$	Negotiated Total Payment \$/MWH	2021 CC SOC Capacity Payments \$	2021 CC SOC Energy Payments \$	2021 CC SOC Total Payment \$	2021 CC SOC Total Payment \$/MWH	(7)-(11) Diff Negotiated-SOC \$
2012	25.07	2.60	0	6.69	12,400,850	8,374,503	20,784,153	48.47	0	21,502,276	21,502,276	50.15	-718,123
2013	25.58	2.58	0	6.58	16,885,000	11,075,956	27,960,956	65.21	0	28,208,596	28,208,596	65.78	-245,640
2014	26.47	2.63	0	7.13	17,489,650	11,256,053	28,725,703	66.99	0	30,573,583	30,573,583	71.30	-1,847,880
2015	27.38	2.67	0	7.54	18,072,450	11,436,149	29,508,599	68.82	0	32,331,671	32,331,671	75.40	-2,823,071
2016	28.33	2.71	0	8.47	18,697,800	11,616,246	30,314,046	70.89	0	36,319,529	36,319,529	84.70	-6,005,483
2017	29.32	2.74	0	9.11	19,350,650	11,751,319	31,101,969	72.53	0	39,083,862	39,083,862	91.10	-7,981,893
2018	30.34	2.78	0	9.72	20,024,950	11,931,418	31,956,368	74.52	0	41,679,554	41,679,554	97.20	-9,723,189
2019	31.39	2.82	0	10.75	20,716,300	12,111,512	32,827,812	76.58	0	46,096,215	46,096,215	107.50	-13,268,403
2020	32.48	2.87	0	11.27	21,435,150	12,291,609	33,726,759	78.85	0	48,325,985	48,325,985	112.70	-14,599,226
2021	33.62	2.91	7.63	10.77	22,187,000	12,471,706	34,658,706	80.83	3,015,936	46,181,975	49,197,911	114.73	-14,539,205
2022	34.78	2.95	7.97	10.50	22,956,450	12,651,803	35,608,253	83.04	5,259,188	45,045,101	50,304,289	117.31	-14,696,036
2023	35.99	3.00	8.20	10.68	23,755,600	12,876,924	36,632,524	85.43	5,414,398	45,807,142	51,221,540	119.45	-14,589,016
2024	37.25	3.06	8.45	10.87	24,585,550	13,102,045	37,687,595	87.89	5,574,096	46,597,407	52,171,503	121.67	-14,483,908
2025	38.55	3.11	8.69	11.06	25,443,000	13,327,166	38,770,166	90.42	5,735,864	47,415,896	53,151,560	123.95	-14,381,394
2026	39.89	3.16	8.94	11.25	26,329,600	13,552,287	39,881,887	93.01	5,902,468	48,234,385	54,136,853	126.25	-14,254,966
2027	41.29	3.21	9.21	11.44	27,250,300	13,777,408	41,027,708	95.68	6,075,630	49,052,873	55,128,503	128.56	-14,100,795
2028	42.73	3.27	9.48	11.64	28,202,900	14,002,529	42,205,429	98.43	6,255,898	49,927,810	56,183,708	131.02	-13,978,278
2029	44.22	3.33	9.75	11.84	29,185,750	14,272,675	43,458,425	101.35	6,437,288	50,774,522	57,211,810	133.42	-13,753,385
2030	45.77	3.38	10.04	12.05	30,209,300	14,497,796	44,707,096	104.26	6,624,862	51,677,682	58,302,344	135.97	-13,585,248
2031	47.38	3.43	10.33	12.26	31,287,500	14,722,917	46,010,417	107.25	6,820,264	52,580,842	59,401,106	138.53	-13,410,689
2032	48.05	3.49	10.64	12.48	7,928,250	3,737,009	11,665,259	27.20	1,755,285	13,378,056	15,133,341	35.29	-3,468,082
			NPV	2008 \$			232,750,853				292,991,129		-60,240,276

Notes:
(1) Capacity Payments based on FGPP filing installed cost of 2013 coal unit de-escalated by one year to 2012 at 3.5% discount rate
(2) Projected energy payments based on projection of Coal based energy rates for SJRPP times a contract heat rate of 10.5 MMBTU/MWhr (11-08-08 \$/MMBTU fuel projections)
(3) SOC capacity payments based on capital cost of 2021 CC unit
Capacity payment rate adjusted to reflect that under SOC SWA would only receive 68% of the payment for an ACBF OF 89%
(4) Projected energy payments based on projection of As-Available rates for 2012 through 2020, and in all other years 2021-2032 projected energy payments based on projections of 2021 Combined Cycle unit energy costs using latest fuel forecast dated 11-08-08 times (k)CC heat rate of 6.582 MBTU/MWHr. (Projected NPV Savings) 6.89% discount rate

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3. Section 1.1 of the modified contract provides a definition of the term "After-Tax Basis." As this term is not used or defined in the existing contract between FPL and SWA, please explain the purpose of including it in the modified contract.

A: The "After-Tax Basis" definition is utilized to describe taxes for which an indemnified party is entitled to reimbursement. The After-Tax Basis language is applicable to payments described in section 10.1 of the modified contract.

4. Please refer to paragraph 7 of the Petition which states "After refurbishment, SWA will be paid a coal based capacity payment and the lower of as-available energy or coal based energy payments. Capacity payments are based on the cost of a 2012 Glades County coal unit."

Please explain why it is appropriate to base the capacity payment on the cost of a 2012 Glades County coal unit when the Commission denied the need for this unit in Docket No. 070098-EI.

A: It is first important to make clear that the contract that FPL has entered into with SWA and that is the subject of this docket is a negotiated contract and not a Standard Offer Contract (SOC).

The Florida Public Service Commission has historically favored and encouraged the contractual flexibility provided by negotiated contracts versus Standard Offer Contracts (SOC) in establishing the capacity and energy payment splits so long as the total contract payment falls below the utility's avoided cost based on a Combined Cycle (CC) unit. For example, Rule 25-17.240 expressly states that "[i]nvestor-owned utilities and renewable generating facilities are encouraged to negotiate contracts for the purchase of firm capacity and energy to avoid or defer construction of planned utility generating units and provide fuel diversity, fuel price stability and energy security."

Although FPL is required by statute to maintain available at all times a SOC for renewable generators, FPL has stated that in order to provide an incentive for renewable energy developers, the company is willing to bilaterally negotiate contracts with flexible terms that better meet the needs of the supplier provided that FPL's customers do as well or better as a result.

In this contract FPL has agreed to make coal-based capacity payments at the request of SWA in order to facilitate SWA's financing of the refurbishment. While this advantages SWA, FPL's customers also benefit from a low coal-based energy cost and reduced energy cost volatility, as compared to natural gas. Thus, under the SWA contract, FPL's customers will receive many of the economic benefits (including fuel cost diversification) associated with coal based energy without building a coal fired facility.

FPL's existing contract with SWA uses a coal plant as the basis for the capacity payments. It is therefore appropriate that FPL use its Glades figures which constitute FPL's most recent cost estimates for such a plant.

Finally, it is appropriate to base the capacity payment on the cost of the Glades unit because its use is part of the economics of a negotiated contract pursuant to which FPL's customers will pay considerably less than FPL's avoided cost based on a CC unit, and is thus beneficial to FPL's customers.

5. If refurbishment is not completed by 2012, will SWA still receive capacity payments?

A: No, capacity payments are not earned until refurbishment is completed.

6. Please refer to Commission Order No. PSC-09-0109-PAA-EQ, issued February 24, 2009, which granted a certificate to SWA to operate as a qualifying facility (QF). The Order stated in part "The SWA facility uses MSW incineration as fuel for a 62 MW steam turbine generator. However, the existing facility is nearing its tonnage incineration limits, and therefore the facility is being expanded to generate an additional 100 MW. In addition, the SWA is contemplating a landfill-gas fueled component which would provide approximately 18 MW of capacity. The total generating capacity would then be approximately 180 MW. However, in an abundance of caution, the SWA is requesting certification for 185 MW..." Please explain why the definition of "Facility" in Section 1.11 and "Refurbished Facility" in Section 1.25 of the modified contract references "a maximum production of 62.5 MW."

A: FPL's contract with SWA addresses the existing contract and the refurbishment of the existing facility and does not address the expansion of the facility.

7. Section 3 of the modified contract states "In the event of a termination pursuant to this Section 3.3, the Authority shall reimburse FPL for all costs, including interest at the rate of 10.5% per annum, which FPL has reasonably incurred following the execution of this Amended Agreement in preparation to receive Energy and Capacity; provided, however, such costs shall not exceed \$85,000." Please explain whether FPL or its ratepayers would receive such reimbursed costs and interest payments.

A: Customers would receive such cost reimbursements, including any applicable interest.

8. Why does the modified contract require a committed capacity of 40 – 55 MW, when the original contract required a committed capacity of 47.5 MW?

A: To clarify, the original contract between FPL and SWA provided for an initial committed capacity level of at least 40 MW and no greater than 55 MW, which is the same range FPL and SWA has agreed to in the modified contract in order to accommodate SWA's technical, engineering and economic uncertainties with respect to the refurbishment.

9. Paragraph 12 of the Petition states "If refurbishment is not completed by June 1, 2014, FPL has the option to terminate the agreement." Please reconcile this statement with SWA's plan to have its MSW-fueled expansion in commercial operation by 2015 as stated in its Petition in Docket No. 080682-EQ.

A: As stated in FPL's response to Question 6, FPL's contract with SWA addresses only the existing refurbished facility, and does not address SWA's future expansion facility. Accordingly, there is no conflict between the two statements referenced in this request as each refers to a separate facility.

A) Has SWA revised its planned commercial operation date?

A: FPL has no knowledge of SWA revising its planned commercial operation date.

10. Paragraph 9 of the Petition and Section 15 of the modified contract would provide FPL a right of first refusal option to purchase Green Attributes associated with the renewable energy produced by SWA. Does FPL's right of first refusal option limit SWA's ability to sell its Green Attributes to the highest bidder?

A: No.

11. Please refer to Section 15 of the modified contract. Please explain how restrictions regarding the selling/trading of Green Attributes will contribute to the deferral or avoidance of additional capacity-related construction or other capacity-related costs by FPL, and other requirements of Rule 25-17.240, Florida Administrative Code.

A: Section 15 is a portion of a negotiated contract that should be considered as a whole. It is the overall economics and negotiated operating characteristics which are the correct starting point for comparison with avoided capacity-related construction or other capacity-related costs. While the right of first refusal language contained in Section 15 clearly benefits and protects FPL's customers, in and of itself this specific contract provision does not nor is it intended to provide capacity value.

Taken as a whole, the modified contract meets the objectives and requirements of Rule 25-17.240. While Section 15, taken in isolation, does not defer capacity costs the same can be said of many other contract clauses when reviewed in isolation. Rather, the contract, in its entirety, meets the objectives. See also the response to Interrogatory 12, below.

FPL also notes that Rule 25-17.280 expressly permits inclusion of contractual conditions with respect to "tradable renewable energy credits and tax credits" so long as such provisions are "agreed to by the renewable generating facility", as is the case in the present contract." See Rule 25-17.280 F.A.C.

12. Please explain why it would be prudent for the Commission to approve the modified contract that places conditions on selling/trading of Green Attributes when no such market exists in Florida at this time.

A: Rule 25-17.240 states that contracts are prudent for cost recovery purposes if the contract can reasonably be expected to contribute to the deferral or avoidance of additional capacity construction or other capacity related costs and provide fuel diversity,

fuel price stability, and energy security at a cost not exceeding full avoided costs. This contract provides energy and firm capacity at a cost to the customers less than under FPL's 2008 or 2009 Standard Offer Contracts, meeting the first and last elements of the rule. As a renewable facility, it uses municipal solid waste as a fuel, providing fuel diversity. The contract provides fuel price stability and fuel price diversity compared to increased reliance on natural gas through energy pricing based upon coal. The contract enhances energy security as it is a wholly in-state fuel source. Thus the contract as a whole meets all of the prudence standards of the Rule. The Green Attributes section of the contract, freely negotiated and agreed to by the parties, provides a free option to purchase the attributes for the benefit of FPL's customers, but does not provide any obligation to do so. Since this section of the contract was freely negotiated and agreed to by the parties, incurs no obligation on behalf of the customers and may provide a benefit in the future, and since the contract, taken as a whole, meets the requirements of the Rule, the Commission should approve the contract for cost recovery.

13. Are Green Attributes included in the capacity and energy price of the modified agreement?

A: No they are not.

14. Please explain whether FPL intends to seek Commission approval for any recalculation of charges and revisions to payment schedules if SWA commences commercial operation after April 1, 2012, as described in Appendix B.

A: FPL anticipates based upon information provided by SWA that the SWA facility will be in commercial operation by April 1, 2012; however, to the extent this does not occur, Appendix B, footnote 5 provides for the recalculation of the payment schedules. Section 25-17.0836(3) F.A.C., in pertinent parts, provides that "Commission approval is not required for modifications explicitly contemplated by the terms of the contract or routine administrative changes...."

15. Please refer to pages 3 and 4 of the Petition, and to the definition of Unit Energy Costs – Section 1.29 of the modified contract, and page 7 of Exhibit B. According to FPL's December A-4 Schedules, the heat rate for St. John's River Power Plant (SJRPP) for 2008 was 9.9 MMBtu per MWH. Why is the modified contract based on a heat rate of 10.5 MMBtu per MWH?

A: The 10.5 MMBTU per MWH heat rate was negotiated and agreed to by both parties. This same heat rate is also being used in the existing contract to calculate SWA's monthly energy payment. Irrespective of the heat rate the cost of this contract is anticipated to be at or below avoided cost as required by the rule.

A) How does the use of pet coke at the SJRPP affect the calculation of unit energy costs?

A: Pet coke is not being used at SJRPP so it is not part of the calculation.

B) For purposes of this contract, is pet coke included with coal in FERC Account 151? Please explain your response.

A: Pet Coke was accounted for in FERC account 151, Fuel Stock. FPL currently has no Pet Coke balances.

C) Will pet coke continue to be used at SJRPP? Please explain your response.

A: There are no current plans to resume burning Petroleum Coke at SJRPP. Petroleum Coke has not been used to fuel SJRPP since mid 2007 when the economics of burning the fuel became marginal. Subsequently, petroleum coke was not purchased because of operational concerns associated with startup of the new SCR's. An SCR was installed on SJRPP Unit #2 during a planned maintenance outage in 2008 and on SJRPP Unit #1 during a planned maintenance outage earlier this year.

Currently, SJRPP has no open solid fuel requirements until 2011.

16. Please refer to column 2 of Exhibit C. How were the projected coal energy payments developed?

A: See notes provided in the Table below.

A) Please provide the projected coal prices that support the projected coal energy payments and reference the source.

Exhibit C
COAL Energy Pricing
\$/MMBTU **C/KWH**

2012	2.48	2.60
2013	2.46	2.58
2014	2.50	2.63
2015	2.54	2.67
2016	2.58	2.71
2017	2.61	2.74
2018	2.65	2.78
2019	2.69	2.82
2020	2.73	2.87
2021	2.77	2.91
2022	2.81	2.95
2023	2.86	3.00
2024	2.91	3.06
2025	2.96	3.11
2026	3.01	3.16
2027	3.06	3.21
2028	3.11	3.27
2029	3.17	3.33
2030	3.22	3.38
2031	3.27	3.43
2032	3.32	3.49

1) \$/MMBTU are projections of St. Johns River Power Park(SJRPP) coal prices taken from FPL's November 6,2008 long range fuel forecast.

2) C/KWH projections were calculated by taking the product of the \$/MMBTU 's times the contractual heat rate of 10.5 MMBTU/MWHR.

17. Please refer to column 4 of Exhibit C. How were the projected 2014 CC SOC Energy payments developed?

A: See notes provided in the Table below.

A) Please provide the projected gas prices that support the payments in column 4 and the source of the projected prices.

Exhibit C
Gas Energy pricing
\$/MMBTU C/KWH

2012		6.69
2013		6.58
2014		7.29
2015	9.71	7.74
2016	10.22	8.08
2017	10.84	8.48
2018	11.67	9.03
2019	12.70	9.71
2020	13.38	10.16
2021	13.64	10.33
2022	13.91	10.50
2023	14.18	10.68
2024	14.46	10.87
2025	14.75	11.06
2026	15.04	11.25
2027	15.33	11.44
2028	15.64	11.64
2029	15.94	11.84
2030	16.26	12.05
2031	16.58	12.26
2032	16.91	12.48

1) \$/MMBTU are projections of natural gas prices taken from FPL's November 6, 2008 long range fuel forecast

2) C/KWH projections in years 2012 and 2013 are based on FPL's As-Available energy cost projections

3) C/KWH projection in year 2014 is a weighted average of 5 months of As-Available and 7 months of the natural gas projection from FPL's November 6th long range fuel forecast

Note that the As-Available projection in year 2014 is 7.13C/KWH and the projected natural gas price is 9.19\$/MMBTU

4) C/KWH projections in year 2015-2032 were calculated by taking the product of the \$/MMBTU times the Combined Cycle

Heat Rate of 6.582 MMBTU/MW hr

Note that starting in year 2014 the C/KWH calculation includes a \$2.05/MMBTU adder to reflect a gas transportation cost

- 1.3 **As-Available Avoided Energy Costs** - costs computed pursuant to FPSC Rule 25-17.0825(2) set forth in FPSC Order No. 12443, issued September 2, 1983, as it may subsequently be amended from time to time or any successor or substitute calculation, formula or methodology relating thereto approved by the Florida Public Service Commission. FPL's Southeastern/Eastern operating area shall be the designated avoided cost pricing area for purposes of this Amended Agreement.
- 1.4 **Base Capacity Credit** - the amounts thereof set forth in Appendix B.
- 1.5 **Capacity** - electric power in megawatts ("MW") generated by the Facility and delivered to FPL's system.
- 1.6 **Capacity Factor** - the Annual Capacity Factor unless the On-Peak Annual Capacity Factor is five percentage points or more lower than the Annual Capacity Factor, in which case the Capacity Factor shall be the mean average of the On-Peak Annual Capacity Factor and the Annual Capacity Factor.
- 1.7 **Commercial Operation Date** - the first day of the Monthly Billing Period immediately following successful completion and operation of the Refurbished Facility as determined by the Authority.
- 1.8 **Committed Capacity** - the maximum Capacity in any one hour which the Authority contractually commits to sell to FPL pursuant to the terms of this Amended Agreement, all as specified from time to time pursuant to Section 4.3.
- 1.9 **Energy** - electrical energy in megawatt-hours ("MWH") generated by the Facility and delivered to FPL's system at a 138,000 voltage level.
- 1.10 **Event of Default** - any of those occurrences specified in Section 12.