# FLORIDA PUBLIC SERVICE COMMISSION

# Management Audit Report

## Division Of Auditing And Financial Analysis
## Bureau Of Management Studies

# NUCLEAR DECOMMISSIONING TRUST FUND MANAGEMENT

## FLORIDA POWER AND LIGHT COMPANY
## FLORIDA POWER CORPORATION

October 1990

By Authority of
The State of Florida for The Public Service Commission
Bureau of Management Studies ◆ Division of Auditing and Financial Analysis
(Report No. FPL/FPC-FC-1-9262)

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# I.
# INTRODUCTION

# INTRODUCTION

### *AUTHORITY AND RESPONSIBILITY*

The Florida Public Service Commission (Commission), under state law, is charged with the regulation of rates and service of private, investor-owned utilities which service the public of this state. Florida Statutes direct the Commission to set rates for regulated utilities that allow a reasonable rate of return on approved investments, conditioned by the quality of service offered to utility customers.

In order to carry out their stated responsibilities, the Commission must have verification of the existing nature of the utilities' operations. It must then consider whether or not those operations are being carried on in the best possible manner based upon tests of reasonableness, generally accepted standards or guidelines, and the effectiveness, efficiency, and economy of the results.

One of the important tools utilized by this Commission to review, verify, and judge the utilities' operations is the management audit. Such audits are carried out by the Bureau of Management Studies, a bureau of the Division of Auditing and Financial Analysis.

### *OBJECTIVES*

The primary objectives of this audit were as follows:

- To review the processes used by Florida Power and Light Company (FPL) and Florida Power Corporation (FPC) to establish the respective nuclear decommissioning trust (NDT) funds

- To review the policies and procedures which govern the operation of the NDT funds maintained by FPL and FPC

- To provide a basis for enhancing the public's and the Commission's understanding and knowledge of FPL's and FPC's NDT fund operations through the preparation of an accurate report.

## *METHODOLOGY*

The review of FPL's and FPC's NDT funds was conducted in three primary phases:

- Orientation/Preliminary Survey
- Review and Analysis
- Report Writing

During the Orientation/Preliminary Survey phase, surveys were completed by both companies. Commission staff visited both company facilities and met with key management personnel in order to develop an understanding of each company and its environment and to introduce them to the management audit process. Appropriate documents were gathered and reviewed. These documents provided technical definition and direction, as well as a better understanding of the financial arrangements each company has made to administer the NDT funds.

The Review and Analysis phase consisted of two major steps: 1) data collection and 2) review and analysis. Data was collected through interviews with various company personnel, review of documents and reports, observation of operations and facilities, and written surveys. Data analysis was then performed in each area as specified in the audit scope. Each company's NDT fund trustee and investment management functions were evaluated to identify strengths as well as areas of potential improvement.

The culmination of the process was the Report Writing phase. Upon completion, report drafts were provided to each company for review. The findings were discussed with the respective company representatives to verify supporting data and to ensure the companies understanding of those findings.

## *SCOPE*

The review of the financial arrangements FPL and FPC have made to administer the respective NDT funds was conducted to address questions raised at the August 29, 1989 Agenda Conference in Docket No. 870098-EI. The following areas were reviewed:

- Investment Trustee Considerations
- Investment Manager Considerations
- Trust Fund Objectives
- Investment Strategy
- Trust Fund Monitoring
- Nationwide Regulatory Treatment

***ACKNOWLEDGMENTS***

The successful performance of a management audit such as this is highly dependent upon the degree of cooperation and assistance given by the company in general and the individual participants in particular.

For this reason, the staff of the Bureau of Finance and the Bureau of Management Studies wishes to express its sincerest appreciation to the management and employees of FPL's Financial Resources Department, who provided us with the information and guidance which made this report possible. In particular, we would like to thank Mr. Rich Kaminsky, Manager of Financial Resources, for the positive, congenial, and professional atmosphere which we experienced throughout the review. We would also like to thank Mr. Mike Wynn, Coordinator of Financial Resources, who coordinated our data gathering and interview scheduling.

At FPC, we would like to express our sincere appreciation to Mr. Kenneth McDonald, Treasurer, who graciously provided us with the documents which were vital to our analysis. Also, we wish to thank those employees of Premier Investment Management, Inc. who were helpful in our visit, particularly Mr. John Lopez, President of Premier.

# II.
# EXECUTIVE SUMMARY

# EXECUTIVE SUMMARY

This management audit of FPL's and FPC's nuclear decommissioning trust (NDT) funds was conducted at the request of the Commission after the conclusion of the agenda for Docket No. 870098-EI. The purpose of the audit was to review the processes used by FPL and FPC to establish the respective NDT funds, to review the policies and procedures which govern the operation of the NDT funds maintained by FPL and FPC, and to enhance the public's and the Commission's understanding and knowledge of FPL's and FPC's NDT fund operations. This audit will be used as a reference point for ongoing Staff review in this area and as a basis for making recommendations to improve efficiency and effectiveness as required in the future.

FPL and FPC are under mandates from the Nuclear Regulatory Commission (NRC) and the Florida Public Service Commission (Commission) to provide reasonable financial assurance that monies will be available to decommission the respective nuclear units at the time termination of operations is expected for these units. Both companies have elected to establish external NDT funds which are administered by independent trustees. At this time, it appears that the trust funds maintained by FPL and FPC meet the requirements of both the NRC's final Rule 10 C.F.R. Section 50.75 and the Commission's Order No. 21928 in Docket No. 870098-EI.

The issue of compliance with the NRC rule and the Commission order is only one aspect of the companies' responsibility to provide financial assurance for decommissioning costs. Another issue concerns the most appropriate means of meeting the requirements. Each company was faced with making several decisions on how best to handle the number of tasks inherent in the administration of the respective NDT funds. Each utility used its management prerogative to decide which tasks would be performed by the trustee, by the fund manager, or handled internally. The differences in how each company chooses to allocate these tasks explains almost all of the disparity in the fee structures between the companies. The remaining disparity in fees is explained by differences in corporate structure. However, while the two companies differ in their approach to administering the trust funds, neither company has elected to allocate tasks in a manner which could be construed as imprudent.

Table 1 and Exhibit 1 show the performance of the FPL and FPC NDT funds relative to the Consumer Price Index (CPI) for various periods calculated on an after-tax time weighted rate of return basis as of December 31, 1989. Both utility funds have outperformed CPI over the past 5 years and since the inception of the two funds. FPL has the higher return since inception of the two funds; however, FPL's fund did not outperform CPI during 1987. The overall fund return for FPL in 1987 was depressed because of negative returns experienced on the non-qualified portion of the fund due to forced selling required to move monies into the qualified portion of the fund. While the return on the FPC fund since inception is 155 basis points below the return on the FPL fund, the year to year returns have been more consistent and have always exceeded CPI.

TABLE 1

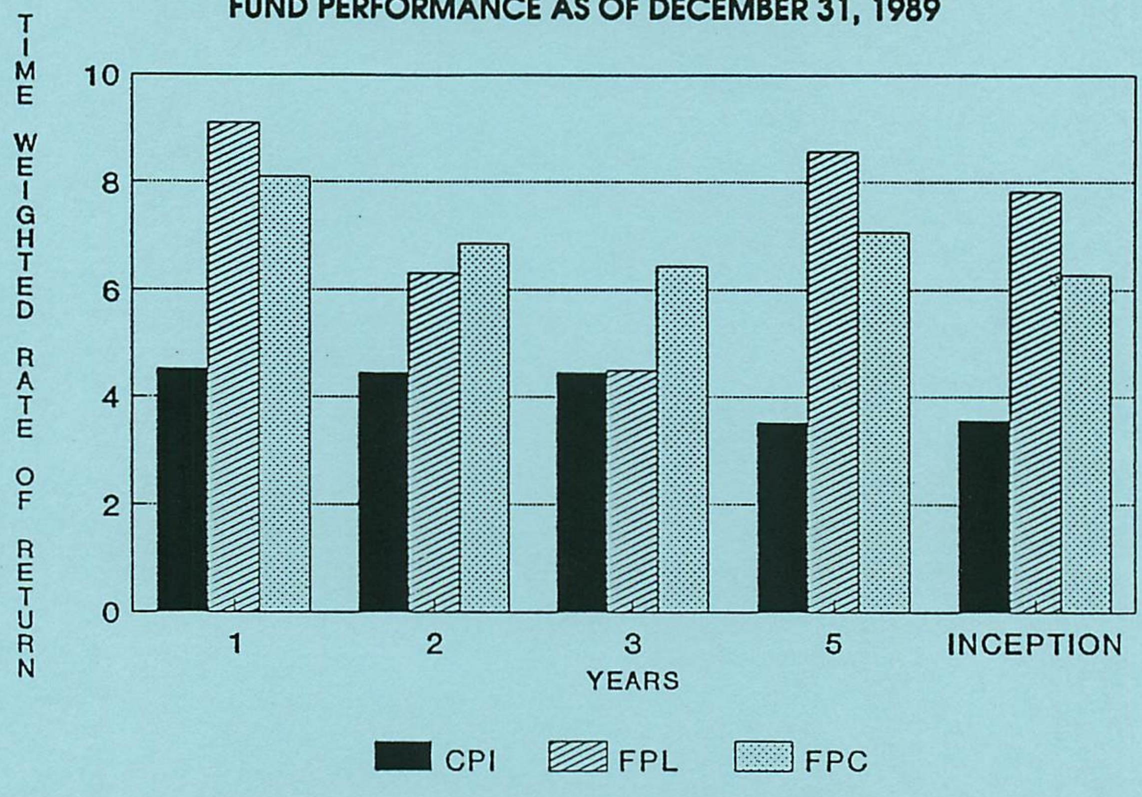
**FPL AND FPC COMPARISON OF TRUST FUND PERFORMANCE AS OF DECEMBER 31, 1989**

| Period | CPI | FPL | FPC |
|---|---|---|---|
| Past 1 year | 4.53% | 9.11% | 8.10% |
| Past 2 years | 4.46% | 6.31% | 6.86% |
| Past 3 years | 4.45% | 4.50% | 6.44% |
| Past 5 years | 3.52% | 8.57% | 7.08% |
| Since inception | 3.57% | 7.83% | 6.28% |

SOURCES: Company Responses to Staff Surveys

EXHIBIT 1

**FPL AND FPC COMPARISON OF TRUST FUND PERFORMANCE AS OF DECEMBER 31, 1989**




SOURCE: Company Responses To Staff Surveys

# III. REGULATORY BACKGROUND AND PERSPECTIVE

# REGULATORY BACKGROUND AND PERSPECTIVE

This chapter presents a brief background of the four regulatory agencies which directly impacted the decisions made by FPL and FPC with regard to the establishment of the NDT funds and the on-going decisions concerning the operation of these funds. These four agencies are the Internal Revenue Service (IRS), the Federal Energy Regulatory Commission (FERC), the Nuclear Regulatory Commission (NRC), and the Florida Public Service Commission (Commission).

***IRS REGULATIONS***

The Federal government has given legislative recognition to the issue of nuclear decommissioning by providing tax incentives to utilities to establish external trust funds. The Tax Reform Act of 1984 (Section 468A of the Internal Revenue Code) allows tax deductions for contributions to a "qualified" NDT fund in the year of the contribution. A qualified NDT fund is defined as a "segregated reserve dedicated exclusively for the payment of nuclear decommissioning costs, taxes on fund income, and management costs of the fund."

These funds, however, are subject to two significant limitations. The first limitation deals with the fund's status as a separate taxable entity. As a separate entity, NDT fund income is subject to taxation at the maximum corporate tax rate. The second limitation for qualified funds is the limited list of permissible investments. Qualified NDT funds are subject to the same investment restrictions as are Black Lung Liability Trust Funds. These so-called "Black Lung" investments are described in Section 501 (c)(21)(B) of the Internal Revenue Code, namely:

- Public debt securities of the United States
- Obligations of a state or local government which are not in default as to principal or interest
- Time or demand deposits in a bank or an insured credit union located in the United States

As mentioned, the Tax Reform Act of 1984 permitted tax deductions for contributions to qualified funds established to pay the eventual decommissioning costs of nuclear power plants. This law required taxpayers to request schedules of "ruling amounts" from the IRS which would establish maximum annual contributions to qualified decommissioning funds. Schedules of ruling amounts are determined by the IRS and are based upon available estimates of decommissioning costs, inflation and after-tax investment rates, and the remaining useful life of the nuclear facility. However, no regulations defining the requirements for obtaining ruling amounts were provided by the IRS when the law was passed. Consequently, taxpayers were unable to file for ruling amounts until June 1986 when the IRS released regulations defining the requirements for doing so.

The regulations placed a number of restrictions on the structure of qualified decommissioning funds. The IRS required that qualified funds be established with a trustee within 30 days of receipt of the schedule of ruling amounts for contributions for the years 1984 through 1986 to qualify for tax deductions for those years. Contributions to qualified funds for tax years 1987 and thereafter would be made by annual election. Under the regulations one qualified fund per nuclear unit would be established, however, the assets of the qualified funds could be commingled for investment purposes under a Master Trust arrangement (together with the assets of a non-qualified fund which would include contributions made prior to 1984). Once contributions to a qualified fund are made, the proceeds cannot be withdrawn until the decommissioning expenses are incurred.

***FERC ACTIONS***

In December 1986, the FERC issued an order relating to a Middle South Energy Resources rate hearing which established guidelines for all electric utilities within its jurisdiction. The FERC indicated that any utility which chooses not to establish qualified NDT funds should demonstrate its reasons for not doing so.

***NRC REGULATIONS***

On June 27, 1988, the NRC released amendments to its rule (10 C.F.R. Section 50) which related to the specific criteria for decommissioning nuclear facilities. The amended rule specifies three methods acceptable to the NRC for electric utilities to demonstrate reasonable financial assurance that funds will be available for decommissioning. Financial assurance can be provided by prepayment prior to the start of operation, an external sinking fund, or a surety method, insurance or other guarantee method.

The external sinking fund method as defined in the final rule is "a fund established and maintained by setting funds aside periodically in an account segregated from licensee assets and outside the licensee's administrative control in which the total amount of funds would be sufficient to pay decommissioning costs at the time termination of operation is expected." The rule elaborates by stating that an external sinking fund "may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities."

***FPSC ACTIONS***

The Commission, in Order No. 10987 issued July 13, 1982, required all utilities which operate nuclear units in the state of Florida to establish a separate funded reserve, apart from the reserve for depreciation, for the accumulation of the estimated costs of decommissioning each nuclear unit. This order required the creation of a funded, internally segregated reserve for each nuclear unit in the state.

On April 27, 1987, the Commission issued Order No. 17467 which required FPL and FPC to file requests with the IRS to seek schedules of ruling amounts under Section 468A of the Internal Revenue Code. While the Commission's order did not require the companies to qualify their funds for 1984-1986, if the companies did choose to qualify their funds they would have had until 30 days after the receipt of the schedule of ruling amounts to establish qualified NDT funds and make contributions to the funds for the tax years 1984 through 1986 in order to take deductions for those years by filing amended tax returns.

Finally, on September 21, 1989 the Commission issued Order No. 21928 which recognized the June 1988 NRC rule change and adopted the establishment of external funded reserves for each nuclear unit in the state of Florida. The order stated that the investment performance of the fund will be evaluated along with all other decommissioning activities every five years and if it is found that the investment earnings, net of taxes and all other administrative costs charged to the fund, did not meet or exceed the CPI average for the period, the Commission would consider ordering the utility to cover the shortfall with additional monies to keep the fund whole with respect to inflation. The order also stated that while the Commission will not require the companies to prospectively qualify the funds pursuant to Section 468A of the Internal Revenue Code, each company will be required to justify its chosen tax treatment by identifying the benefits the ratepayers have received and will receive from that treatment.

# IV.
# COMPARATIVE ANALYSIS

# COMPARATIVE ANALYSIS

This chapter presents four comparative analyses of the operation and management of the NDT funds maintained by FPL and FPC. These analyses are listed below:

- Investment trustee considerations
- Investment manager considerations
- Trust fund investment objectives and strategy
- Trust fund monitoring

This chapter highlights quantitative differences between the two companies whenever possible. Also emphasized are differences in organization, philosophy, and approach. The information presented in this chapter provides valuable and unique insights into the companies' operating effectiveness.

Because the two companies organize, manage, and maintain records differently, it is extremely difficult to reach a conclusion as to which company is most effective. It is not enough to know that the two companies have dissimilar operating procedures, rather it is important to understand why these differences occur and if these differences are justified.

***INVESTMENT TRUSTEE CONSIDERATIONS***

The Tax Reform Act of 1984 permitted, under certain circumstances, tax deductions for contributions to "qualified" funds established to pay the eventual decommissioning costs of nuclear power plants. This law required taxpayers to request schedules of "ruling amounts" from the IRS which would establish maximum annual contributions to qualified decommissioning funds. The IRS further required that qualified funds be established with a trustee within 30 days of receipt of the ruling amounts for contributions for the years 1984 through 1986 to qualify for tax deductions for those years.

On April 27, 1987, the Commission issued Order No. 17467 which required FPL and FPC to file requests with the IRS to seek schedules of ruling amounts to establish a qualified fund with an independent trustee.

***Florida Power & Light***

In January 1987 FPL began evaluating the economic benefits associated with establishing qualified decommissioning funds. The major advantage of establishing qualified funds is that contributions are deductible in the years in which they are made. Tax deductions relating to decommissioning costs paid from a non-qualified fund are taken in the years when the decommissioning expenses are incurred. With a qualified fund, FPL can avoid the risk that the Company's tax rate will decline at the time of decommissioning causing a reduction in the value of the tax deduction associated with the decommissioning costs. Based on this analysis, FPL chose to establish a qualified fund.

During May 1987, in compliance with FPSC Order No. 17467, FPL requested a schedule of ruling amounts from the IRS for each of its four nuclear units. Because of IRS regulations, FPL would need to select a Master Trustee to administer the funds within 30 days of receipt of the ruling amounts if FPL chose to qualify its funds for 1984-1986.

The Investment Committee, comprised of people from both FPL and FPL Group, Inc., began meeting as a formal group on a quarterly basis in August 1987. Prior to this time informal reviews were undertaken periodically. On December 14, 1987, the Board of Directors of FPL authorized certain officers (members of the Investment Committee) to take any such actions necessary to establish separate trusts or master trusts to fund the nuclear decommissioning costs of the Company's four nuclear units. This resolution provided "that the officers of the Company hereby are authorized, directed, and empowered in the name and on behalf of the Company to execute and deliver any and all documents, to take any and all actions, and to do any and all things they, and each of them, may deem necessary or desirable in order to carry out the intent and purposes of the foregoing resolution."

The ruling amounts for the four nuclear units were received from the IRS in December 1987. The trust agreement between FPL and State Street Bank and Trust Company was signed and placed in effect on January 5, 1988.

During the period May through December 1987, FPL conducted an extensive analysis for the selection of a suitable decommissioning trustee. The banks initially considered for the role of Master Trustee included the ten domestic banks having the largest master trust and custodial operations. In addition, Wachovia Bank, which has the sixteenth largest master trust operation, was considered since the bank served as Master Trustee for the Utility's pension plan.

The initial screening eliminated five banks primarily due to concerns over credit quality and for a lack of experience in the utility business. The remaining candidate banks included Bankers Trust Company, Irving Trust Company, Mellon Bank, Northern Trust Bank, State Street Bank and Trust Company, and Wachovia Bank. Each of these banks were evaluated against specific criteria in three major categories. The three main categories of concern were: (1) accounting and reporting capabilities; (2) expectations as to whether the bank will remain in the master trust business in the long term, based on such factors as the bank's credit worthiness and commitment to the business; and (3) proposed fees.

Based on this second screening, the Finance Department narrowed the list of candidate banks to Irving Trust, Northern Trust, and State Street. Following this second round of eliminations, visits were made to the three remaining banks. Based on the specific criteria discussed earlier and the perceptions developed during the on-site visits, the selection committee believed that State Street should be selected as the Master Trustee for the NDT funds.

FPL chose only to consider the largest master trustees in the country because of the eventual size and complexity of the NDT funds. In addition, some of the services FPL was looking for in an administrator of its trusts are only provided by the larger master trustees.

State Street has the largest master trustee business in the United States and its trust operations generate a substantial portion of the bank's earnings. It has over $700 billion in mutual funds and master trust assets, of which $31.6 billion comes from the utility industry. It also has experience administering the NDT funds for Boston Edison and Yankee Atomic Power. The selection committee believed State Street was committed to the master trust business and would remain in that business over the long term. The facilities at State Street are highly automated, and the bank has an extensive training program to support its trust services functions. With its training program, State Street has developed the staff to provide the customized reports and analyses that the selection committee felt would be required to administer the fund assets. In addition, the fees proposed by State Street are competitive relative to the other candidate banks considered.

The trust agreement between FPL and State Street addresses the purpose of the trust, the conditions of the trust, and the responsibilities of the trustee. Among these responsibilities is the role of custodian. This includes the safekeeping of all securities in the trust, the registration of the securities, the collection of the interest and dividend payments, the deposit or reinvestment of funds, the proper settlement of purchases and sales of securities, and in general performing all other responsibilities normally associated with being a trustee.

State Street also performs a number of accounting functions for the trust. These include generating reports which record the amortization of any discounts or premiums, the calculation of market values, and the tracking of all cash flows. In addition to the monthly accounting reports, State Street also provides monthly performance reports on a quarterly basis which detail the before tax and after tax rates of return for the funds.

From a legal standpoint, State Street's master trust attorneys closely monitor all regulatory actions on the national level and keep FPL informed of any changes that may affect the NDT funds. Finally, State Street prepares and files the income tax returns for the qualified portions of the NDT funds.

Administration fees payable to State Street are assessed on a sliding scale based on the market value of the securities. The current fee structure is presented in Table 2 below:

TABLE 2

**FPL TRUSTEE FEE STRUCTURE AS OF DECEMBER 31, 1988**

| Dollars in the Fund | Fee Assessed |
|---|---|
| First $5 million | 1/5th of 1% |
| Next $10 million | 1/10th of 1% |
| Next $15 million | 1/20th of 1% |
| Next $20 million | 1/30th of 1% |
| Over $50 million | 1/50th of 1% |

SOURCE: Company Responses to Staff Survey

In addition, nominal transaction and accounting fees are charged.

FPL paid State Street $74,000 for trustee fees in 1988. Its fund was valued at approximately $100 million at the end of 1988. This equates to .074 of 1% for trustee fees. The holding company maintains the records for the FPL pension plan and employee savings plan. Trustee fees for the pension fund in 1988 were $260,637 on an average asset value of $1.101 billion. Trustee fees for the employee savings plan in 1988 were $487,855 on an average asset value of $387 million. These amounts equate to trustee fees for these two trusts of .024 of 1% and .126 of 1%, respectively. A comparison of the trustee fees for the three FPL funds is presented in Table 3 below:

TABLE 3

**FPL TRUSTEE FEE COMPARISON AS OF DECEMBER 31, 1988**
**(000's)**

| Fund | Value | Fee | Fee (%) |
|---|---|---|---|
| Nuclear Decommissioning Fund | $100,000 | $ 74 | .074 |
| Pension Fund | $1,101,000 | $261 | .024 |
| Employee Savings Plan | $387,000 | $488 | .126 |

SOURCE: Company Responses to Staff Survey

***Florida Power Corporation***

In compliance with Commission Order No. 17467 issued April 27, 1987, FPC petitioned the IRS for a schedule of ruling amounts for its Crystal River nuclear unit. The ruling amounts were received on February 22, 1988. If FPC chose to qualify its funds for 1984-1986, the Company then had until March 23, 1988 to establish a qualified fund and make contributions to the fund for the tax years 1984 through 1986 in order to take a deduction for those years by filing amended tax returns. However, the Company only had until March 15, 1988 to make the required funding of the 1987 contributions to a qualified fund to get a nuclear decommissioning deduction on the Company's 1987 tax return.

The Treasurer was assigned responsibility for the NDT fund in September 1987. Prior to this time, the Controller of FPC was responsible for the accounting, decommissioning studies, and regulatory relations associated with the fund.

On March 7, 1988, the Treasurer of FPC contacted the four largest Florida banks with trust departments and asked each to propose trustee fees for the Company's NDT fund. The four banks selected were Barnett Bank, NCNB, Southeast Bank, and Sun Bank. The banks were provided with all pertinent fund information and advised that they would not be performing the investment management function but only retained as the custodian for the trust. All of the banks submitted bids for the trustee service using fee structures based on a percentage of the fund balance.

On March 9, 1988, the President of FPC appointed five members to the FPC NDT Fund Investment Committee. He resolved that "the Investment Committee is authorized to create and administer the FPC NDT Fund; to appoint a corporation or one or more natural persons to serve in a fiduciary capacity as Trustee; to appoint a corporation or one or more natural persons who are registered investment advisers under the Investment Advisers Act of 1940 to serve in a fiduciary capacity as the Investment Manager of the fund; and to do all things necessary to ensure the efficient execution of the trust purposes."

On March 10, 1988, the Investment Committee appointed Southeast Bank, N.A. as trustee and approved the trust agreement between FPC and Southeast Bank. At the April 21, 1988 meeting of the Board of Directors of FPC, the Board recognized the appointment of the members to the Investment Committee, the selection of Southeast Bank as trustee, and ratified and confirmed the trust agreement between FPC and Southeast.

FPC chose Southeast Bank, N.A. as the trustee because the bank has a reputable trust department, has provided the Utility with quality service on other accounts in the past, and was the lowest-cost bidder. Southeast Bank has 87 years of trustee experience in the state of Florida and currently handles approximately 7,000 trust accounts representing about $6.1 billion in assets in trust. In addition, Southeast Bank met the FERC's guideline of being an independent trustee with a net worth in excess of $100 million.

The trust agreement between FPC and Southeast Bank addresses the purpose of the trust, the conditions of the trust, and the responsibilities of the trustee. Among these responsibilities is the role of custodian. This includes the safekeeping of all securities in the trust, the registration of the securities, the collection of the interest and dividend payments, the deposit or reinvestment of funds, the proper settlement of purchases and sales of securities, and in general performing all other responsibilities normally associated with being a trustee. Southeast also performs a number of accounting functions for the trust. This includes generating a monthly report of all investment receipts, disbursements, and other transactions during the month; descriptions of all securities purchased or sold and the cost or net proceeds from the sale; and the month-end balances of cash, securities, and other investments on both a cost and fair market value basis. Finally, while Southeast will sign and file the income tax returns for the trust, FPC will be responsible for the preparation of the returns.

Administrative fees payable to Southeast Bank are assessed on a percentage basis based on the market value of the securities. The current fee is 2/100's of 1% of the market value of the trust. FPC paid Southeast $4,115 for trustee fees in 1988. Its fund was valued at approximately $29 million at the end of 1988. Trustee fees for the pension fund in 1988 were $130,422 on an average asset value of $318 million. Trustee fees for the employee savings plan in 1988 were $37,896 on an average asset value of $56 million. These amounts equate to trustee fees for these two trusts of .04 of 1% and .07 of 1%, respectively. A comparison of the trustee fees for the three FPC plans is presented in Table 4 below:

TABLE 4

**FPC TRUSTEE FEE COMPARISON AS OF DECEMBER 31, 1988**
**(000's)**

| FUND | Value | Fee | Fee (%) |
|---|---|---|---|
| Nuclear Decommissioning Fund | $ 29,000 | $ 4 | .02 |
| Pension Fund | $ 318,000 | $ 130 | .04 |
| Employee Savings Fund | $ 56,000 | $ 38 | .07 |

SOURCE: Company Responses to Staff Survey

### *INVESTMENT MANAGER CONSIDERATIONS*

The NRC requires that electric utilities with nuclear capacity provide reasonable financial assurance that funds will be available to decommission nuclear units at the time termination of operation is expected. The final rule issued June 27, 1988 requires all utilities to submit a report by July 27, 1990 indicating how financial assurance will be provided. Both FPL and FPC filed the reports with the NRC on July 26, 1990.

The NRC's final rule, 10 C.F.R. Section 50.75, is very clear in its definition of reasonable financial assurance that funds will be available for decommissioning. The rule permits the use of an external sinking fund and defines this as "a fund established and maintained by setting funds aside periodically in an account segregated from licensee assets and outside the licensee's administrative control in which the total amount of funds would be sufficient to pay decommissioning costs at the time termination of operation is expected." Both utilities have established NDT funds with independent banks as trustees. Therefore, it appears that both utilities are in compliance with NRC requirements as they pertain to control of decommissioning funds.

On May 22, 1990, the NRC released the final regulatory guide (Guide) entitled "Assuring the Availability of Funds for Decommissioning Nuclear Reactors." The Guide provides guidance for compliance with the final rule the NRC promulgated in June 1988. According to the Guide, the phrase, "outside the licensee's administrative control," allows licensees general management oversight of trust funds to the extent allowed under State trust law. The NRC recognizes that licensees have legitimate interests and responsibilities in assuring appropriate investment strategies for these funds and monitoring the progress of investments. However, the Guide provides that, "licensees should avoid active day-to-day management of these funds. In this regard, if a trustee is unable to act as an investment manager, use of a professional investment manager is encouraged, although not required." The NRC will review all of the reports due by July 27, 1990 and will contact those utilities which the NRC has concerns regarding reasonable financial assurance. At that time, the NRC will determine if FPL and FPC are in compliance with the NRC requirements pertaining to the management of the investment of the NDT funds. As for now, it appears that FPL and FPC are in compliance with the NRC requirements regarding NDT funds.

#### *Florida Power & Light*

At FPL, the management of the NDT fund is an extension of the portfolio management activities that have been conducted in-house for many years. The Financial Resources staff is responsible for the investing of short-term corporate funds, construction fund monies resulting from the issuance of pollution control bonds, the Storm & Property Insurance Reserve Fund, and other monies as required in addition to their duties relating to treasury and banking activities. This activity has necessitated the use of special information and portfolio management software packages which are also used in the management of the decommissioning fund. This software would be in place even without the in-house management of the trust.

Presently, the Company has two portfolio managers making the investment decisions for the funds. Both individuals have extensive experience managing large fixed income portfolios. The in-house staff has the capability of directing investments in municipal and treasury bonds as well as money market instruments, preferred stock, and other fixed income instruments. The Financial Resources staff currently has approximately $250 million under management.

With in-house management, the staff is able to be responsive to both the Company's management and regulatory requests. Because of the sensitivity and uncertainties surrounding the nuclear decommissioning issue, it is essential that the Company be able to interpret and adjust to the rapidly evolving concerns regarding the appropriate investment alternatives for the qualified and non-qualified funds. Financial, economic, environmental, legislative, and regulatory developments are continuously monitored by the responsible FPL departments. Procedures are in place within FPL which provide for these departments to inform the Financial Resources staff of any significant developments in their areas of responsibility. Issues are then analyzed and acted upon by the appropriate FPL staff and incorporated into the trust management process by the in-house management staff.

The methodology of transmitting information is greatly dependent upon the type and urgency of the information in question. Information on trust status is communicated to the FPL Treasurer, who confirms all investment transactions to the Trustee. Meetings are held with the Investment Committee at least semi-annually and more often if deemed appropriate to review trust status and investment performance. An accounting review and an independent compliance review are performed quarterly and presented at the Investment Committee meetings. A summary of decommissioning trust activity and any related issues is presented to the Finance Committee of the FPL Group Board of Directors annually.

The in-house management has been used since the inception of the decommissioning fund in 1983. Table I on page 7 presents a historical perspective of the performance of the fund for various periods calculated on an after-tax time weighted rate of return basis as of December 31, 1989 compared to the concurrent CPI.

The non-qualified portion of the NDT fund experienced negative returns due to forced selling required to move monies into the qualified portion of the fund in early 1988. The IRS allowed "Black Lung" securities that were purchased after July 18, 1984 and before March 3, 1988 to be deposited in a qualified fund. All other securities would have to be converted to cash before being deposited in the qualified funds. Because of these restrictions, FPL was forced to sell securities from the non-qualified portfolio in early 1988 to fund the qualified portfolio. The issues were sold at a profit but the taxes incurred caused the fund to under-perform. However, the annualized rate of return over the past 5 years of 8.57% for the combined portfolios has still out-performed the average CPI over that period of 3.52%.

Because investment management is executed in-house, the cost of management is the salary and benefits of those employees charged with that responsibility. FPL feels that even if it did employ an outside manager, it would still be necessary to incur much of the in-house cost to review the outside manager's investments and performance, process the payments to the trust, review trustee reports, handle regulatory requests and requirements, etc. Further, FPL states that over the life of the trust it is reasonable to assume that outside management fees would be in the range of 12.5/100 of 1% to 37.5/100 of 1%. Based on the current projected month-end book balances of the trust over its life, outside management fees would range from approximately $50 million to as high as $150 million. This is a general estimate, as fund managers usually charge a fee based on market value rather than book value. Nevertheless, this becomes a significant additional cost of decommissioning which the Company's customers would be expected to bear.

FPL estimates that the cost of managing the decommissioning fund in 1988 was $37,000. Based on the current size of the NDT fund, FPL estimates it incurs costs which would equate to a fund management fee of approximately 5/100 of 1%. This compares with the external fixed income fund manager fee incurred for the pension fund of 10/100 of 1%. FPL utilizes a Guaranteed Investment Contract (GIC) for the fixed income portion of the employee savings plan and therefore there is no comparable fee for the fixed income portion of the employee savings plan. It should be noted that the fund management cost for the decommissioning fund is incurred by FPL along with all other costs associated with internal fund management and is not expensed against the NDT fund earnings.

***Florida Power Corporation***

Pursuant to Commission Order No. 10987 issued July 13, 1982, FPC established a segregated internal fund for monies collected for the purpose of decommissioning the Utility's single nuclear unit. Mr. L. John Lopez, in his capacity as Director of Trust Planning and Administration, was directed to manage this fund. Including the time spent at FPC, Mr. Lopez has approximately 25 years of investment experience.

At the inception of the NDT fund, the Trust Planning and Administration Department was part of FPC's Treasury Department and had responsibility for the retirement plan and the employee savings plan. When Florida Progress Corporation was staffed in 1983, the Trust Planning and Administration Department was transferred to Florida Progress because the retirement and savings plans became Florida Progress retirement and savings plans. The responsibility for managing the FPC NDT fund was also transferred because FPC no longer had a Trust Planning and Administration Department. Mr. Lopez continued as Director of the Trust Planning and Administration Department until 1986.

In May 1986, Florida Progress established Progress Investment Management, Inc. and appointed Mr. Lopez as President. Mr. Lopez continued to manage the Company's NDT fund as well as all other funds (except the retirement and savings plans) which he had been managing for Florida Progress and its subsidiaries. While Progress Investment Management, Inc. was appointed as fund manager at the March 10, 1988 Investment Committee meeting, the formal agreement between FPC and Progress Investment Management was not signed until September 12, 1988 because FPC was waiting on the completion of an independent consultant's review of Progress Investment Management and its fees.

In July 1989, the employees of Progress Investment Management, Inc. purchased a 60% interest in Progress Investment Management, Inc. and changed its name to Premier Investment Management, Inc. (Florida Progress retained a 40% equity investment in Premier Investment Management, Inc.). Mr. Lopez still manages the Company's NDT fund as President of Premier Investment Management, Inc..

Premier Investment Management, Inc. manages the assets in the NDT fund in accordance with the trust agreement dated March 10, 1988 by and between FPC and Southeast Bank, the Investment Committee's Statement of Investment Policies and Guidelines as amended and restated, and the appropriate regulatory agency guidelines. The fund manager has been provided with copies of all NRC, FERC, IRS, and Commission rules and regulations pertaining to nuclear decommissioning trust funds. The fund manager is also aware that these rules and regulations may change and that Premier will be informed of any changes by the Secretary of the Investment Committee.

Premier has a computer tracking system in place which monitors all cash flows. This includes monitoring the daily cash position to determine investment availability, handling all call provisions, verifying all interest receipts, verifying the trade dates with the settlement dates with the trustee, and any other cash flow related activities. Premier provides the Investment Committee with monthly transaction reports and quarterly performance reports. The quarterly statements list the assets in the fund, the market value for each security listed, and other pertinent financial and economic data. The fund manager is also prepared to provide other financial information that the Investment Committee may require from time to time. Finally, Premier and the Investment Committee meet annually to review the investment policies and objectives and the investment strategy in light of existing economic and market conditions.

In December 1987, the Treasurer for FPC met with representatives from four independent investment consulting firms regarding the Company's NDT fund. From these meetings, it appeared that the representatives from Callan Associates, Inc. had the best understanding of the challenges and strategies facing nuclear decommissioning. The Treasurer, in his capacity as Secretary of the Investment Committee, hired Callan Associates, Inc. to evaluate the existing fund and to provide performance evaluations in the future.

In June 1988, Callan Associates, Inc. provided the Investment Committee with two reports concerning the FPC NDT fund. One report was a review of Progress Investment Management, Inc. and the other was a review of the fund's performance relative to market indices and other funds. Callan concluded that "Progress Investment Management, Inc. had done a creditable job, the past investment strategy was appropriate, the returns have exceeded the most important hurdle of inflation, and the management fee is reasonable." Callan also noted that during most periods the NDT fund exhibited before tax returns that compared favorably to all of the market indices analyzed and that the after tax returns of the fund significantly exceeded the CPI over all time periods reviewed.

Callan continues to provide the Investment Committee with quarterly reports which review the fund's performance relative to market indices and other funds in Callan's fixed income manager database. This database contains approximately 500 investment managers with fixed income assets ranging from $20 million to $18 billion. Included in this group of managers is at least 17 managers who are currently managing primarily qualified nuclear decommissioning trust funds ranging in size from $1.5 million to nearly $100 million.

As mentioned earlier in this chapter, Mr. Lopez, in his various capacities, has managed the investments in the NDT fund since the inception of the fund in 1983. Table I on page 7 presents a historical perspective of the performance of the fund for various periods calculated on an after-tax time weighted rate of return basis as of December 31, 1989 compared to the concurrent CPI.

The after-tax returns of the NDT fund exceeded the CPI over all time periods reviewed to date. The relevant time period for comparison of fund performance and CPI dictated by Commission Order No. 21928 is five years. The annualized rate of return over the past 5 years of 7.08% exceeded the average CPI over that period of 3.52%. This suggests that the fund is growing faster than the rate of inflation, and thus, its value is increasing in real dollar terms.

Premier Investment Management's annual compensation for its services as the NDT fund manager is 29/100 of 1% of the market value of the fund up to $100 million. The annual fee reduces to 25/100 of 1% for the total amount in the fund when the market value reaches $100 million. This compares with the fund manager fees incurred for the pension fund of 41/100 of 1% and the employees savings plan of 30/100 of 1%. The NDT fund manager is also reimbursed for any extraordinary out-of-pocket expenses incurred by the manager in connection with requests for customized reports or meetings between the manager and the Investment Committee or its agents.

The NDT fund fee structure was negotiated between the Investment Committee and Premier. The fee structure deviates somewhat from the typical fee structure offered by Premier which is on a more graduated sliding scale. Staff has compared the typical fee structure offered by Premier and the fee structure in place at FPC with the average fee structures reflected in two recent surveys of investment manager fees. The first survey was conducted by the Plan Sponsor Network and published in the March 7, 1988 issue of Pension & Investment Age magazine (P&IA). The other survey was conducted by Callan Investments Institute and was released in March 1989. Exhibit 2 compares the average fees from the two surveys at various fund levels with the fees incurred at the same fund levels under the typical Premier fee structure and the negotiated FPC NDT fund fee structure. The stated percentages are the comparable rates assessed at each particular fund level for each of the four fee structures and the actual percentages are the average rates assessed at each fund level.

The FPC fee structure is less expensive than the averages reflected in the two surveys and the typical Premier fee structure when the fund is valued at $25 million or less. However, while the absolute dollar amount of the fee is still less than the two survey averages at the $50 million fund level, the dollar amount exceeds the typical Premier fee by $2,500. At this level the FPC percentage slightly exceeds the typical Premier rate and is less than the rates from the P&IA survey and the Callan survey. When the fund level reaches $100 million and above, the FPC NDT fee equals the P&IA survey average and is less than the typical Premier fee and the Callan survey fee both in terms of absolute dollar amount and as an average percentage.

In addition to the fund manager, FPC also employs Callan Associates, Inc. as an independent investment consultant to provide on-going quarterly evaluations of the NDT fund manager's performance. Callan receives consulting fees of $1,438 for each of four quarterly performance evaluations ($5,572 annually).

EXHIBIT 2

## FPC INVESTMENT MANAGER FEE STRUCTURE FOR 1988
## ($ 000's)

| | | $5 MM | $25 MM | $50 MM | $100 MM |
|---|---|---|---|---|---|
| FPC (1) | $ | 14.5 | 72.5 | 145.0 | 250.0 |
| Stated | % | .290 | .290 | .290 | .250 |
| Actual | % | .290 | .290 | .290 | .250 |
| Premier (1) | $ | 20.0 | 80.0 | 142.5 | 255.0 |
| Stated | % | .400 | .300 | .250 | .200 |
| Actual | % | .400 | .320 | .285 | .255 |
| P&IA (2) | $ | 25.0 | 85.0 | 150.0 | 250.0 |
| Stated | % | .500 | .300 | .260 | .200 |
| Actual | % | .500 | .340 | .300 | .2500 |
| Callan (1) | $ | 25.2 | 94.2 | 165.9 | 296.3 |
| Stated | % | .500 | .350 | .290 | .260 |
| Actual | % | .504 | .377 | .332 | .296 |

SOURCES: (1) Company Responses to Staff Survey
(2) Pensions and Investment Age, March 7, 1988

In 1988, FPC incurred fund manager fees and investment consulting fees of $78,480 and $5,752, respectively. In total, FPC incurred costs of $84,232 to manage its fund which was valued at approximately $29 million at the end of 1988. This equates to an average fund management fee of 29/100 of 1%.

### *TRUST FUND INVESTMENT OBJECTIVES AND STRATEGY*

#### *Florida Power & Light*

The primary purpose of FPL's NDT fund is to provide the capital necessary for the decommissioning of the Company's four nuclear power plants at the end of their respective licensing periods. In accomplishing this, the investment objective is to maximize the earnings growth of the portfolio while maintaining a high degree of safety so as to minimize future customer contributions. Though credit risk can be eliminated by investments in U.S. Government securities, the resulting loss of income is no less important than experiencing a decrease in market value. Risk will be lessened through the use of fixed income investments and managed through quality controls and diversification. Since establishing the fund in 1983, FPL has pursued a strategy of using tax-advantaged fixed income securities, namely, municipal bonds and preferred stock.

Since its inception, the NDT fund has been administered in accordance with the Investment Guidelines developed by the financial management of FPL and the Investment Committee and approved by the Chief Financial Officers of FPL and FPL Group, Inc. The credit risks of achieving the investment objectives are defined within the scope of the Investment Guidelines. Market and regulatory risks are continually monitored in order to implement the investment strategy in conjunction with the Investment Guidelines and changes in the financial markets. The Investment Guidelines are reviewed each calendar year but such review will not exceed 18 months from the last review by the Investment Committee and will be approved by the Chief Financial Officers of FPL and FPL Group, Inc.

The Investment Guidelines define the investment objectives and are designed to ensure that the desired investment strategy is being executed properly and in a timely manner. Because of the very specific list of acceptable investments allowed in a qualified fund, it was necessary to create a separate set of investment guidelines for both the qualified and non-qualified funds. In both cases, however, the issue of quality and maturity has remained consistent.

Investment-grade securities are those rated BBB or higher. However, in the interest of conservatism, BBB securities will not be purchased. Securities which are rated A3 / A- (or equivalent) or higher by two rating services, one of which shall be Moody's or Standard & Poor's, are eligible for purchase. If a security held in the portfolio is downgraded to a BBB or less rating designation, its retention will be re-evaluated. The weighted average rating of all preferred stock and debt securities shall be maintained in a range of 2.0 to 3.5, on a rating scale in which Moody's ratings of A = 4, AA = 3, AAA = 2, and Governments and pre-refunded issues = 1, to maintain an approximate AA average. The qualified fund had a weighted average quality rating of 2.3 and the non-qualified fund a rating of 2.0 as of June 30, 1989. It should be noted that these ratings were calculated using a scale which weighted A-rated securities at 5 while the current scale weights these securities at 4.

Portfolio quality limitations apply to both the qualified and non-qualified funds. The qualified fund investments are restricted by law to public debt securities of the U.S. Government, obligations of state and local governments, and time or demand deposits. The non-qualified fund has no legal restrictions as to asset class; however, in practice the investments have generally matched those of the qualified fund. At present, the non-qualified fund has a lower weighted average quality rating than the qualified fund and therefore would be considered less risky on average.

Since FPL is funding to decommission nuclear plants, the NDT fund will not invest in securities which carry nuclear exposure. Because of the regulatory and operational uncertainties of the nuclear industry, securities which are exposed to risk by nuclear facilities, whether they are public or private, are excluded from purchase. However, if these issues have been pre-refunded by direct obligations of the U.S. Government, or have been defeased through escrow or other means and are secured by direct obligations of the U.S. Government, the original issuer is no longer a matter of credit concern and these securities are eligible for investment. Securities issued by FPL or any of its affiliates are not eligible for purchase.

The current estimates for outflows from the NDT fund will commence in 2005 for the Turkey Point units and in 2014 for St. Lucie 1 and 2021 for St. Lucie 2. The average outflow is $114 million over this period, with the peak amount of $506 million to occur in 2025. The fund will be exhausted in 2028. The outflows from the qualified and non-qualified funds stay at substantially the same ratio throughout the period so there is no distinction made between funds as to maturity constraints. Amounts in excess of the first $100 million of the aggregate NDT fund will not be invested in maturities beyond the first license expiration in 2007, and no maturities will extend beyond the last forecasted decommissioning payout date of 2028. Due to the potential risk of premature decommissioning, the average maturity of the NDT fund will not exceed 10 years. The combined NDT fund (qualified and non-qualified) weighted average maturity was 7.0 years as of June 30, 1989.

The investments are further constrained by dollar / portfolio size limitations. U.S. Treasury and Federal Agency securities are not limited if backed by the full faith and credit of the U.S. Government. Other Federal Agency securities are limited to $10 million each. Federal Farm Credit Bank securities are not eligible for purchase. The cumulative value of securities issued by municipalities within the state of Florida are limited to 40% of the par value of the portfolio. The cumulative value of securities from all other states and U.S. territories are limited to 15% of the par value of the portfolio. Positions in securities of each issuer will be further limited to the lesser of $5 million or 5% of the par value of the NDT fund at the time of purchase. Issues which have been defeased or escrowed in U.S. Government securities are not limited as to amount, or state, or territorial restriction.

FPL is currently anticipating that it will be required to review the investment strategy with the FPSC every 5 years or less. Investment strategy is an ongoing process. However, no investment strategy can achieve optimum results on a continual basis and returns may be reduced by factors such as inflation rates that far exceed the expectations of investors generally. Because of the limited list of investment alternatives for the qualified fund, in a period of hyper-inflation, results could lag inflation rates. As the fund grows, greater consideration will be given to diversifying at least a portion of the non-qualified fund in investments that provide a greater inflation hedge such as common stocks. However, these investments also have greater risks and could make it more difficult to beat inflation over short periods of time.

As previously mentioned, the ability of a NDT fund to meet its future liabilities is based on the accuracy of cost estimates and the accompanying rate of inflation. Because inflation will play such an important role in meeting the future obligation of a NDT fund, FPL hopes to achieve a rate of return on the fund greater than the rate of inflation. To accomplish this, the fund manager will pursue an investment strategy that is sensitive to changes in the fiscal environments related to decommissioning costs, technology, regulation, and financial market volatility. This means pursuing a course that diversifies market risk over time rather than matching all investment maturities with each plant's expected license expiration date. Because the NDT fund is a taxable entity, tax-exempt municipal securities currently provide the greatest economic benefit for both the qualified and non-qualified portfolios.

Since establishing the fund in 1983, the Company has pursued a strategy of using tax-advantaged fixed income securities, namely, municipal bonds and preferred stock. Municipal bonds have consistently provided a higher after-tax yield to the fund than alternative taxable securities. However, while preferred stock has been an attractive investment for the non-qualified fund because of the Dividends Received Deduction (DRD) to institutional investors, due to the recent reduction of the DRD to 70% from 85% and the general lack of supply of high quality issues the use of preferred stock has lost some of its appeal.

***Florida Power Corporation***

The purpose of the FPC NDT fund is to provide for the future decommissioning cost of the Company's Crystal River nuclear unit and comply with the financial assurance requirements of the various regulatory agencies. The investment objective of the fund is to obtain the highest return from income and appreciation commensurate with limited portfolio risks in order to preserve the contributions to the fund. To meet this objective, the investment goal of the fund is to maintain the purchasing power of the contributions by earning a minimum return, net of taxes and all other expenses charged against the fund, equal to at least the rate of inflation as measured by the CPI over each 5 year review period. Because of the limited number of available investment vehicles and the taxable status of the NDT fund, FPC currently pursues an investment strategy of primarily high quality, tax-exempt securities diversified among security issuers, states, and maturities.

The composition of the NDT fund has shifted among different asset classes throughout its existence. Because of the investment restrictions imposed by Section 468A of the Internal Revenue Code and the taxable status of the fund, the fund has moved from being heavily invested in taxable securities at the date of its inception to heavily invested in tax-exempt securities. By December 1988, the fund was heavily weighted with municipal issues and only a small portion in bank deposits.

At inception, FPC managed the fund under broad investment guidelines which focused on issues of high credit quality. While the Investment Committee eventually established interim investment guidelines tied to the IRS regulations for both the qualified and non-qualified funds, no specific investment parameters were put in place. The Investment Committee believed at the time it would be prudent to wait until after the Commission issued a final order in Docket No. 870098-EI before establishing more detailed written investment guidelines, in expectation that the Commission might order investment strategy and guidelines that may not be consistent with those established by the Investment Committee.

At the October 31, 1989 meeting of the Investment Committee, the members discussed the Commission's Final Order No. 21928 issued September 21, 1989 which established the investment strategy and a minimum fund earnings rate. Since the Fund's current established purpose, investment objective, and investment strategy were consistent with the Commission's Order, the discussion centered on the investment guidelines and portfolio limitations. After considerable discussion, the Secretary was asked to draft a Statement of Investment Policy which would consolidate the investment objective, guidelines, strategy, and portfolio limitations. The Chairman of the Investment Committee instructed the Secretary to schedule an Investment Committee meeting upon completion of the draft of the Statement of Investment Policy with the intent to have the final document approved by the Committee and in place by January 1, 1990.

The minutes of the October 31, 1989 Investment Committee meeting revealed that the members of the Committee established several guidelines which are to be included in the Statement of Investment Policy. This Policy will define the investment objective and will describe the investment guidelines, strategy, and portfolio limitations. The investment guidelines and portfolio limitations will apply to both the qualified and non-qualified portions of the fund.

The qualified portion of the fund will comply with the investment guidelines under Section 468A of the Internal Revenue Code by limiting investments to public debt securities of the U.S. Government, obligations of state or local governments, and time or demand deposits in banks located in the United States. The non-qualified portion of the fund, which is not limited by any IRS or other regulatory restrictions, will also comply with Section 468A with the exception that the non-qualified fund will also be allowed to invest in corporate bonds and preferred stock.

Investment-grade securities are those rated BBB or higher. Both portions of the fund will be allowed to invest in only investment-grade securities that are rated A or better by Standard & Poor's and Moody's Investor Services. Corporate bonds for the non-qualified portion of the fund would require a rating of AA or better. While a specific range of desired quality is not defined, the present ratio is approximately 75% AAA, 20% AA, and 5% A.

The current estimate for outflows from the NDT fund will commence in 2015. The average outflow is $114 million over the nine year decommissioning period with the peak amount of $253 million in 2020. The fund will be exhausted in 2023. The outflows from the qualified and non-qualified portions of the fund will stay at substantially the same ratio throughout the period so there is no distinction made between funds as to maturity constraints. To ensure liquidity to take advantage of advancing yields and to guard against the potential risk of premature decommissioning, the fund manager will structure the maturities so that the average maturity of the fund will not exceed 10 years. Currently the average maturity for the fund is 5.5 years.

The investments are further constrained by dollar / portfolio size limitations. Investments in securities issued by the U.S. Government are not limited. Other than this exception, the fund will be diversified such that not more than 5% of the market value of the fund will be invested in a single issuer. The cumulative value of securities issued by municipalities within the state of Florida are limited to 25% of the market value of the fund. The cumulative value of securities from all other states are limited to 10% of the market value of the fund. There is no restriction as to the asset allocation between public debt securities of the U.S. Government and obligations of state and local governments. No foreign investments will be allowed.

As previously mentioned, the ability of a NDT fund to meet its future liabilities is based on the accuracy of cost estimates and the accompanying rate of inflation. Because inflation will play such an important role in meeting the future obligation of a NDT fund, FPC hopes to achieve a rate of return on the fund greater than the rate of inflation. The current investment strategy is very conservative with the objective being to obtain the highest return from income and appreciation commensurate with limited portfolio risk. Limiting portfolio risk is considered just as important as achieving a return greater than inflation in order to preserve the contributions made to the fund. To meet this end, the investments will be primarily limited to debt securities with high credit ratings. The fund will also be diversified with regard to security issuers, states, and maturities. At present, the fund is heavily weighted with high-quality, tax-advantaged fixed income securities, namely municipal bonds. The Statement of Investment Policy, and therefore the investment objectives, strategy, and portfolio limitations, will be reviewed and updated annually by the Investment Committee.

***TRUST MONITORING***

***Florida Power & Light***

There has been a great deal of discussion within the utility industry and the investment community concerning the appropriate benchmark(s) to use to monitor nuclear decommissioning trust fund performance. Despite all of this discussion, there is still no definitive benchmark or index recognized by the industry or the investment community. However, FPL is in general agreement with the Commission's Order No. 21928 which mandated that the fund grow at a rate at least equal to inflation. While the Company believes that this can be accomplished over the long-term, it does have a concern that it may not be possible during certain periods due to aberrations in the financial markets.

FPL is currently tracking the real rate of return (nominal yield minus CPI) of the fund as the primary benchmark. Additionally, to monitor the price changes of the fund versus the market, the Company is also tracking the total return of the fund against the Shearson Lehman (municipal) seven year State General Obligation (G.O.) Index. The real rate of return is a measure of how much the fund's performance exceeds or falls short of inflation. The comparison with the Shearson Lehman Index is a measure of the fund's performance relative to the market for securities of similar risk and maturity. While the use of a composite benchmark weighted in the same proportion as the portfolio is effective in measuring the performance of the fund relative to the market, it has the inherent weakness in that it cannot determine if that particular weighting of the portfolio is optimal. The Investment Committee is aware of this weakness and is working on a solution.

FPL uses a multi-tier reporting system to monitor the activity and performance of the NDT fund. The Treasurer of the Utility reviews and is required to sign a confirmation letter for each transaction executed by the in-house management staff. Each month an internal accounting review is performed by the Accounting Department to reconcile these monthly transactions and the Company's books with the monthly asset reports received from the trustee. Each quarter, a group from within the Finance Department but separate from the in-house management staff conducts an investment guideline compliance review. This review verifies that the investment guidelines are being followed and that the investment strategy is being executed properly and in a timely manner. The results from these compliance reviews are presented at the Investment Committee meetings. In addition, annually an overview of NDT fund performance and nuclear decommissioning issues is provided to the Finance Committee of the FPL Group Board of Directors.

As far as other factors which may impact the NDT fund, financial, economic, environmental, legislative, and regulatory developments are continually monitored by the responsible FPL departments. The Finance Department is informed of any significant developments in any of these areas. These developments are then analyzed and acted upon by the appropriate FPL staff and incorporated into the trust management process by the in-house management staff.

FPL is currently anticipating that it will be required to commission site specific economic cost studies for each of its four nuclear units no less often than every 5 years. These studies, mandated by the Commission, are intended to reassess the cost estimates of nuclear decommissioning by recognizing developments and changes which may impact these cost estimates such as additional information, improvements in technology, updated inflation rate forecasts, and regulatory changes. The most recent set of studies were performed by TLG Engineering, Inc. and were completed in March 1988.

***Florida Power Corporation***

As previously mentioned, FPC has retained Callan Associates, Inc. as an independent investment consultant. Callan provides the Company with quarterly reports which compare the return on the NDT fund with the performance of a number of financial benchmarks. On a quarterly basis, Callan reports the fund's performance relative to the Shearson Lehman Government Index (maturity of less than 10 years), the Shearson Lehman Long-term Government Index (maturity greater than 10 years), the Shearson Lehman Municipal Bond Index, the Merrill Lynch 1-3 Year Treasury Index, the average rate of return on 90-day Treasury Bills, and the CPI. In addition, Callan compares the fund return to a composite benchmark comprised of the returns of the Shearson Lehman Government Index, the Shearson Lehman Municipal Bond Index, and U.S. Treasury Bills weighted in accordance with the fund's investment mix. These comparisons allow the performance of the fund and the investment manager to be analyzed relative to market returns for assets of similar risk and maturity. FPC feels that by monitoring the fund's performance and that of similar indices, the investment policy can be reviewed, and if necessary, adapted to most effectively reflect the best investment opportunities currently available to the fund. While the use of a composite benchmark weighted in the same proportion as the portfolio is effective in measuring the performance of the fund relative to the market, it has the inherent weakness in that it cannot determine if that particular weighting of the portfolio is optimal. The Investment Committee is aware of this weakness and is working on a solution.

As in the case with FPL, FPC also uses a multi-tier reporting system to monitor the activity and performance of the NDT fund. On an ongoing basis, the Secretary of the Investment Committee (Treasurer of FPC) monitors the investment manager to ensure that the manager is following the investment strategy developed by the Committee. The monthly asset reports from the trustee and the monthly transaction reports from the investment manager are reviewed by the Secretary to ensure that all transactions comply with the investment guidelines and strategy as established by the Committee. The quarterly performance reports from the fund manager and the independent investment consultant are reviewed to assess current fund performance and to determine interim progress toward long-term performance objectives. Quarterly each member of the Investment Committee and the fund manager are provided with the investment consultant's performance report and annually the Committee holds a meeting with the fund manager to discuss risks related to funding nuclear decommissioning. The findings from these reports as well as other pertinent nuclear decommissioning issues are also discussed at periodically scheduled Investment Committee meetings.

As far as other factors which may impact the NDT fund, inflationary, environmental, and legislative/legal risks are monitored on a day-to-day basis by the Secretary of the Investment Committee and by the fund manager. In addition, the Company has retained the Washington D.C. law firm of Reid & Priest to provide the Company with updates on recent developments concerning nuclear decommissioning. These updates include legislative activities as well as interpretations of the IRS Code. All significant developments are brought to the attention of the Investment Committee and are then acted upon appropriately.

FPC currently anticipates that it will be required to commission a site specific economic cost study for its single nuclear unit no less often than every 5 years. These studies, mandated by the Commission, are intended to reassess the cost estimates of nuclear decommissioning by recognizing developments and changes which may impact these cost estimates such as additional information, improvements in technology, updated inflation rate forecasts, and regulatory changes. The most recent study was performed by TLG Engineering, Inc. and was completed in December 1986.

# V.
# SURVEY OF STATE REGULATORY TREATMENT

# SURVEY OF STATE REGULATORY TREATMENT

***OVERVIEW***

There are currently approximately ninety (90) operating nuclear power plants in the United States and about twenty (20) more under construction. Due to the nature of nuclear power, each of these power plants must be decommissioned when its useful life (approximately 40 years) is over. There has been a great deal of discussion within the utility industry and among the various regulatory agencies concerning the issue of financial assurance that sufficient funds will be available to decommission the aging U.S. nuclear power plants. After much debate, the NRC issued its final regulations regarding nuclear decommissioning funding in June 1988. The NRC requires that the decommissioning costs for each nuclear power plant in the U.S. must be provided for by prepayment prior to the start of operation, an external sinking fund, or a surety method, insurance or other guarantee method. The utilities had until July 1990 to establish acceptable financial arrangements.

Two studies were reviewed to determine the relative compliance with the new NRC rules. The first study was funded by the Utah State University Research Department and was a survey of all state regulatory commissions which have jurisdiction over nuclear power plants. The second study was funded by National Investment Services of America (NISA) and was a survey of all utilities which operate nuclear power plants.

***SURVEY OF STATE REGULATORY COMMISSIONS***

The first study is entitled "Survey of State Regulatory Commissions Regarding Financial Approaches Currently Used For Funding Nuclear Power Plant Decommissioning Expenses" and was prepared by Caryn L. Beck-Dudley and J. Robert Malko. The study was prepared for the National Association of Regulatory Commissioners' Annual Winter Meeting held in February 1989.

In an attempt to ascertain the states' response to the NRC's new rules, a survey was sent to all 34 state regulatory commissions which have jurisdiction over nuclear power plants. The study was also designed to address the type of funding approaches that were being used by state regulatory commissions and to ascertain the investment objectives of those states that already required external funds. All 34 commissions responded to the survey.

After compiling the results from the survey, it was noted that a majority of the states, twenty-four (24), had already established segregated trust funds for nuclear decommissioning expenses. Of these, twenty-three (23) states required external funds. (At the time of the survey, the Florida Public Service Commission required an internal segregated trust fund.) The remaining eleven (11) states allowed internal trust funds. Interestingly, two (2) states allowed both external and internal funds. At the time of the survey, ten (10) states continued to allow nonsegregated funds. The study pointed out that, not surprisingly, most of the states that still required or allowed internal funds were considering the recent NRC rulings and many, nine (9), were contemplating changing the funding method within the next two years.

The study also asked the state regulatory commissions which allowed or required external trust funds to identify the investment objectives of these funds. The survey indicated that most states, ten (10), were choosing to maintain inflation levels, six (6) states were interested in fund growth, four (4) states want the fund to be secure, two (2) states were interested in maximum return with a minimum of risk, and one (1) state wanted the fund to be able to adapt to changing technology. Interestingly, two (2) states did not know the investment objective of the external trust funds under their jurisdiction.

Other issues related to NDT funds addressed by the study included mechanisms for dealing with adjusting fund levels. Virtually all state commissions which required external trust funds also required periodic cost adjustments. The review period, however, ranged from less than one (1) year to every five (5) years. In addition, in order to compensate for the uncertainty inherent in the cost estimation process, most states use a twenty-five percent (25%) contingency factor for cost estimates. However, one (1) state uses a twenty percent (20%) contingency factor and a few states require no contingency factor. Further, while not all commissions responded to this question, it was noted that five (5) states use a five percent (5%) inflation rate, one (1) state uses a seven percent (7%) inflation rate, and three (3) states make periodic adjustments in the inflation rate used in the cost estimation process.

***SURVEY OF ELECTRIC UTILITIES***

The second study reviewed was funded by National Investment Services of America (NISA), an investment advisor headquartered in Milwaukee, Wisconsin, and was conducted by Eager and Associates, an independent marketing research firm. The study, which was published in the March 2, 1989 issue of Public Utilities Fortnightly, was a survey of electric utilities which operated nuclear power plants.

This survey shows that slightly more than half (55%) of utilities with nuclear capacity have trust funds in place which meet requirements of the new NRC rulings. Another twenty percent (20%) have trust assets which the utilities manage internally. The remaining twenty-five percent (25%) have not yet created segregated trusts. These utilities either maintain a balance sheet liability or do not have a decommissioning charge in their revenue requirement as yet.

The survey also shows that investor-owned utilities expect after tax real returns (nominal yield minus CPI) of zero to two percent (0% - 2%) for the decommissioning trusts. The survey indicated that the utilities invest primarily in tax-exempt or municipal bonds and direct U.S. Treasury obligations. However, eighteen percent (18%) of the utilities plan some equity investments for the non-qualified portions of the NDT funds. The survey also noted that even if certain restrictions on qualified trust assets are removed or modified, most utilities would not change their asset allocation substantially. However, under the scenario where trust earnings became tax-exempt or taxed at a reduced rate, the utilities would shift their fixed income holdings to taxable bonds, as would be expected. One final note, the survey indicated that most utilities will use one external fund manager initially to manage their trust, but about a third will expand to two to four managers after three years.

# VI.
# CONCLUSION

# CONCLUSION

***OVERVIEW***

The NRC requires that electric utilities with nuclear capacity provide reasonable financial assurance that funds will be available to decommission nuclear units at the time termination of operation is expected. The final rule issued June 27, 1988 requires all utilities to submit a report by July 27, 1990 indicating how financial assurance will be provided. Both FPL and FPC filed the reports on July 26, 1990.

The NRC's final rule, 10 C.F.R. Section 50.75, is very clear in its definition of reasonable financial assurance that funds will be available for decommissioning. The rule permits the use of an external sinking fund and defines this as "a fund established and maintained by setting funds aside periodically in an account segregated from licensee assets and outside the licensee's administrative control in which the total amount of funds would be sufficient to pay decommissioning costs at the time termination of operation is expected." Both Utilities have established NDT funds with independent banks as trustees. Therefore, it appears that both Companies are in compliance with NRC requirements as they pertain to control of decommissioning funds.

On May 22, 1990, the NRC released the final regulatory guide (Guide) entitled "Assuring the Availability of Funds for Decommissioning Nuclear Reactors." The Guide provides guidance for compliance with the final rule of the NRC promulgated in June 1988. According to the Guide, the phrase, "outside the licensee's administrative control," allows licensees general management oversight of trust funds to the extent allowed under State trust law. The NRC recognizes that licensees have legitimate interests and responsibilities in assuring appropriate investment strategies for these funds and monitoring the progress of investments. However, the Guide provides that, "licensees should avoid active day-to-day management of these funds. In this regard, if a trustee is unable to act as an investment manager, use of a professional investment manager is encouraged, although not required." The NRC will review all of the reports due by July 27, 1990 and will contact those utilities which the NRC has concerns regarding reasonable financial assurance. At that time, the NRC will determine if FPL and FPC are in compliance with the NRC requirements pertaining to the management of the investments of the NDT funds. As for now, it appears that FPL and FPC are in compliance with the NRC requirements regarding NDT funds.

***COMPARISON***

While the issue of compliance with NRC rules appears settled, the issue concerning the most appropriate means of meeting the NRC requirements must still be addressed. Each company was faced with making several decisions on how best to handle the number of tasks inherent in the administration of its respective NDT funds. These tasks range from determining the daily cash position and verifying cash flows to making the investment decisions and preparing the tax returns. Each utility had to decide which tasks would be performed by the trustee, by the fund manager, or handled internally. These decisions were based on a number of factors such as the existing internal capabilities, the cost of the particular tasks, and the degree of expertise demanded by the tasks. Exhibit 3 shows how each Company chose to allocate these tasks among the trustee, the fund manager, and internal staff. While the fund management function is handled internally at FPL, the tasks performed by this specific department are shown separately in the exhibit for comparative purposes.

The differences in how each company chooses to allocate these tasks goes a long way in explaining the wide disparity in the fee structures between the companies. For example, State Street Bank & Trust Company, the trustee for FPL, provides a far wider range of services for FPL compared to the services FPC receives from Southeast Bank. Because of the eventual size and complexity of its NDT funds, FPL chose to use the expertise of the largest master trustee in the country to perform several of the necessary tasks. FPC, on the other hand, chose to use a trustee for only the essential trustee duties and handled the other necessary tasks either internally or by allocating them to its fund manager. With only one nuclear unit to decommission, FPC's NDT fund will not be as large or as complex as FPL's funds. Because the two trustees provide significantly different levels of service for the two companies, the fee structures are not directly comparable. It appears that both companies have chosen independent trustees based on managements' assessment of the level of service required from a trustee. FPL's needs appear to be adequately met by State Street Bank and Trust Company. However, while Southeast Bank's level of service is adequate now when FPC's NDT fund is relatively small, in future years when the fund becomes quite large it may be necessary for FPC to find a larger, more sophisticated trustee to perform these duties. FPC does not agree with this opinion. FPC contends that larger does not necessarily mean better and that a smaller bank may be more likely to be able to provide personalized, customized, and less costly services. Staff is concerned that over time, the NDT fund may represent a significant percentage of the bank's trust assets. In any event, if there is a concern in this area the NRC will address it in its review of FPC's financial assurance report filed July 26, 1990.

EXHIBIT 3

**TRUST FUND TASK ALLOCATION**

| **FPL** | **FPC** |
|---|---|
| **Trustee** | |
| Custodian | Custodian |
| Qualify fund status | Qualify fund status |
| Accounting asset reports | Accounting asset reports |
| Transaction reports | Transaction reports |
| Verify cash flows | Verify cash flows |
| Trust Accounting | |
| Prepare tax returns | |
| Monitor regulatory changes | |
| Performance reports | |
| **Fund Manager** | |
| Investment decisions | Investment decisions |
| Determine cash position | Determine cash position |
| | Verify cash flows |
| | Performance reports |
| | Transaction reports |
| **Internal** | |
| Investment guideline compliance | Investment guideline compliance |
| Monitor regulatory changes | Monitor regulatory changes |
| | Performance reports (Callan) |
| | Trust accounting |
| | Prepare tax returns |

SOURCE: Company Responses to Staff Survey

As with the selection of the trustee, a similar comparison can be made between the fund managers the two companies chose for their respective funds. With FPL deciding to handle the investment decisions internally and FPC choosing to use an investment management firm, on the surface it would appear that the two companies have taken significantly different means to the same end. However, under closer examination it becomes apparent that the only difference between the two methods is the corporate structure each company chooses to employ.

At FPL, the management of the NDT funds is an extension of the portfolio management activities that have been conducted in-house for many years. The Financial Resources staff is responsible for investing short-term corporate funds, construction fund monies resulting from the issuance of pollution control bonds, the Storm & Property Insurance Reserve Fund, the NDT fund, and other monies as required in addition to their duties related to treasury and banking activities. In addition, FPL presently has two portfolio managers making the investment decisions for the funds. Both individuals have extensive experience managing large, fixed-income portfolios.

FPC, on the other hand, has retained Premier Investment Management, Inc. as its fund manager. Florida Progress owns a 40% interest in Premier, and therefore Premier is affiliated with FPC. Many of the employees of Premier, including the portfolio manager, are former employees of FPC and were involved with the NDT fund when it was initially managed internally.

The two methods of fund management are very similar. FPL uses a corporate structure which includes an investment management department within the Finance Department of the Utility. The corporate structure at FPC has the investment management function handled under the Florida Progress corporate umbrella by an affiliate, rather than by a department within the Utility. Interestingly, the FPL Financial Resources Department, with eight employees and approximately $250 million under management, is actually a larger operation than the FPC affiliate which has seven employees and approximately $130 million under management.

At FPL, the fund manager monitors the daily cash position and makes the necessary investment decisions. At FPC, the fund manager performs these tasks as well as verifying all cash flows and generating monthly transaction reports and quarterly performance reports. As previously mentioned, these additional tasks and others are performed by the trustee for FPL. However, while the different levels of service the two utilities receive from their respective fund managers explains some of the disparity in fees, another reason for the difference in the fee structures between the utilities appears to be that FPL receives this service at cost while FPC pays retail for this service. FPC has done a study to determine what it would cost to manage the fund internally. It was determined that the initial start up costs would be approximately $85,000 and that annual operating costs would be approximately $159,000. FPC estimates that the first year costs would total $244,000, excluding any depreciation and income tax effects. Therefore, until the investment manager fees exceed at least the annual operating costs of $159,000, FPC believes it is more economically feasible to use an outside investment manager.

Both companies currently use one fund manager to administer the respective trust funds. However, neither utility is heavily invested in equities at this time. FPL and FPC have both stated that after the funds increase in size to the point that significant diversification in the non-qualified portfolios is possible, the utilities will consider retaining additional fund managers and investing portions of the non-qualified funds into equities.

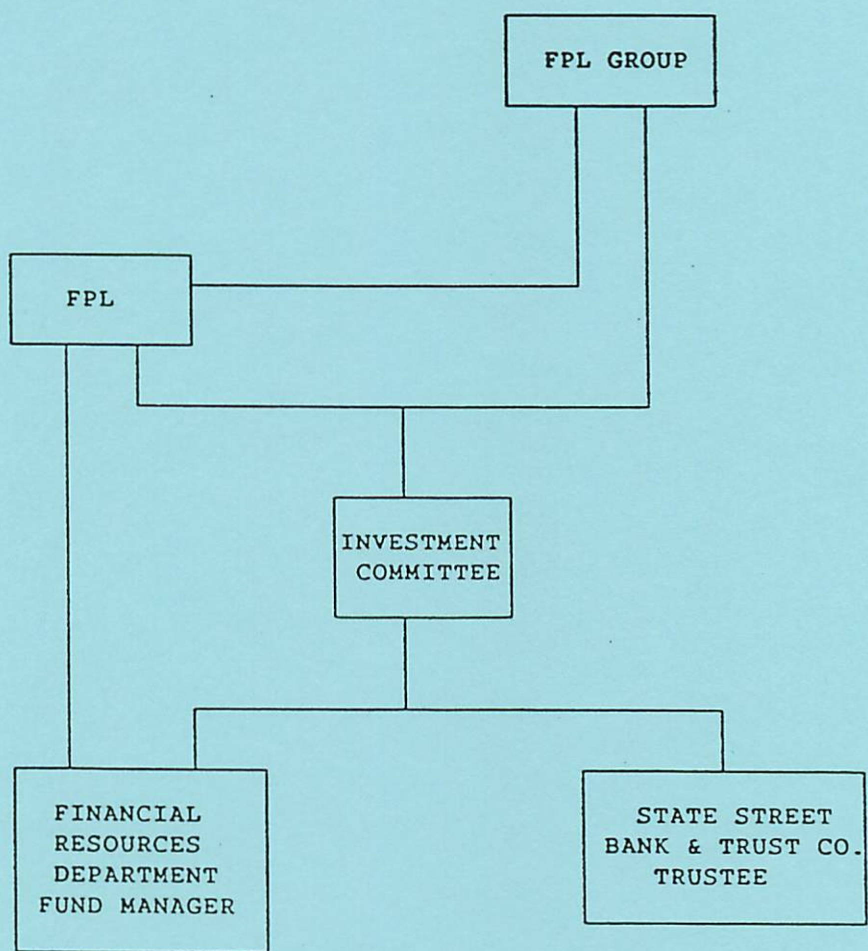
Finally, for those tasks not already performed by either the trustee or the fund manager, both companies have elected to handle these activities internally. In addition to the investment management and the cash management functions already mentioned, FPL also uses internal staff to monitor regulatory changes and assess investment guideline compliance. FPC uses internal staff to monitor regulatory changes, assess investment guideline compliance, perform trust accounting, and prepare the NDT fund tax return. FPC also uses an independent consultant to generate performance reports.

Exhibits 4 and 5 show the organization structures of the NDT fund trustee and fund management operations for FPL and FPC. The two structures are fairly similar. The main difference is the placement of the fund manager within the utilities' corporate structure. As discussed earlier, FPL allocates the fund manager role to a department within the Utility while FPC uses a fund manager which is an affiliate of the Utility and is connected to the parent, Florida Progress.

The IRS allows the trusts to deduct costs incurred for the administration of the NDT fund from its income. This includes such costs as trustee fees and investment management fees. When these costs are netted against the income of the fund, it has the effect of reducing the earned return of the fund. If the costs are not netted against the income of the fund but rather absorbed by the utility, the earned return of the fund is not affected and the expenses are recouped through rates. Both utilities have said that all costs incurred by internal staff in connection with the administration of the NDT funds are in fact absorbed by the utility and are not charged against the income of the funds. It makes little difference to the ratepayer how these costs are paid because the ratepayer makes all the contributions to the fund either way through rates (either directly through the annual decommissioning accrual or indirectly through recovery of operating expenses.)

EXHIBIT 4

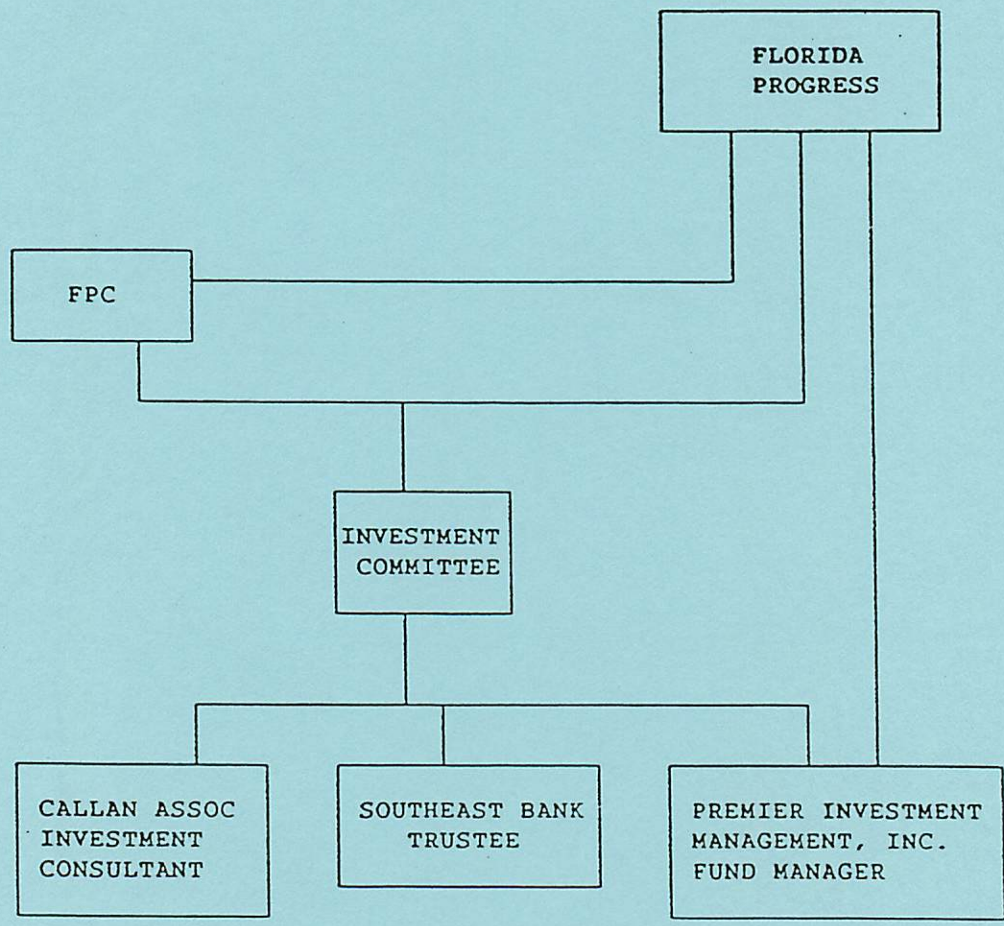
**FLORIDA POWER AND LIGHT COMPANY**
**NUCLEAR DECOMMISSIONING TRUST FUND**
**ORGANIZATION STRUCTURE**




SOURCE: Company Responses to Staff Survey

EXHIBIT 5

## FLORIDA POWER CORPORATION
## NUCLEAR DECOMMISSIONING TRUST FUND
## ORGANIZATION STRUCTURE




SOURCE: Company Responses to Staff Survey

An argument can be made that lower rates of return on the fund in the near-term may possibly necessitate higher accruals in the future because less earnings will have been accrued in the trust fund. However, any cross-generational effect should be offset because the current ratepayer will pay their share through higher rates as a result of the increase in operating expenses.

While the fee structures for the various administrative tasks cannot be compared directly for the reasons discussed, a relative comparison can be made between the two utilities. In total, FPL incurred costs of $111,763 for the administration and management of its trust fund in 1988 and $119,328 in 1989. Its trust fund was valued at approximately $100 million and $134 million, respectively, at year end. This equates to a relative fee of .11 of 1% for 1988 and .09 of 1% for 1989. In total, FPC incurred costs of $88,347 for the administration and management of its trust fund in 1988 and $108,275 in 1989. Its trust fund was valued at approximately $29 million and $42 million, respectively, at year end. This equates to a relative fee of .30 of 1% for 1988 and .26 of 1% for 1989. Table 5 shows this relative comparison of fees.

TABLE 5
**FPL AND FPC**
**COMPARISON OF TRUST FUND FEES**

| | **FPL** | | **FPC** | |
|---|---|---|---|---|
| | 1988 | 1989 | 1988 | 1989 |
| Total Fees | $111,763 | $119,328 | $88,347 | $108,275 |
| Fund Value | $100 MM | $134 MM | $29 MM | $42 MM |
| % | .11% | .09% | .30% | .26% |

Source: Company Responses To Staff Survey

On the surface it appears that FPL has a much less expensive arrangement as a percentage of the total value of the fund. However, there are two valid reasons for FPC to have a higher relative fee than that of FPL. The first involves an economies of scale. FPL is able to spread its costs over a fund which is more than three times larger than the FPC fund. While some of the trustee and fund management costs are variable, other costs are fixed and will not vary with the size of the fund. The second reason deals with the decision to handle the fund management function internally versus retaining the services of a separate affiliate. As mentioned earlier, FPL absorbs the costs of fund management. While FPL has identified these costs in order to make this comparison, it is still apparent that the reported cost is much less than that which would be incurred through an arms length transaction. In fact, FPL's reported fund management costs only account for 33% of its total administrative costs. For FPC, because its trustee fee is so small, its fund management fee represent 95% of its total administrative costs. Therefore, because of the considerable differences in size of the two funds, in the reporting of investment management costs, and in the corporate structure between the two utilities, when calculated as a percentage of the fund value, FPC will always show a higher relative decommissioning cost compared with FPL.

# VII. ACKNOWLEDGMENTS

# ACKNOWLEDGMENTS

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