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ORIGINAL
FILE COPY

April 29, 1991

Mr. Steve Tribble, Director
Records and Reporting
Florida Public Service Commission
101 E. Gaines Street
Tallahassee, FL 32399-0863

RE: ~~Docket No. 900796-E1~~ Scherer Unit No. 4

Dear Mr. Tribble:

Enclosed please find the original and twelve copies of Public Counsel's Request to Take Official Notice of Florida Power & Light Company's Form 10-K in the above-referenced docket.

Please indicate receipt by date-stamping the attached copy of this letter and returning it to this office. Thank you for your consideration of this matter.

Sincerely,

John Roger Howe
Assistant Public Counsel

JRH/ch
Enclosures

- ACK
- AFA
- APP
- CAF
- CMU
- CTR
- EAG
- LEG w/m
- LIN
- OPC
- RCH
- SEC
- WAS
- OTH

RECEIVED & FILED

FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE
04106 APR 29 1991
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition of Florida Power)
& Light Company for inclusion of the)
Scherer Unit No. 4 purchase in rate)
base, including an acquisition)
adjustment)

DOCKET NO. 900796-EI
FILED: April 29, 1991

**REQUEST TO TAKE OFFICIAL NOTICE OF
FLORIDA POWER & LIGHT COMPANY'S FORM 10-K**

The Citizens of the State of Florida, through the Office of Public Counsel, move the Public Service Commission to take official notice of Florida Power & Light Company's Form 10-K, filed April 2, 1991, in Docket No. 900038-EI, and defer ruling on pending motions for reconsideration in this docket (scheduled for the April 30, 1991, agenda conference) to allow FPL an opportunity to respond to this motion and to allow Staff the opportunity to consider information in the Form 10-K, and, as grounds therefor, state:

1. The pivotal issue in this case is whether FPL would have incurred approximately \$131 million in emission allowance costs under the UPS option for Scherer Unit No. 4. In Order No. 24165, at 7, the Commission said:

The CPVRR comparison offered by OPC, however, was not complete in that it did not take into consideration Scherer's SO₂ emission allowances. As previously mentioned, under the 1990 Amendments to the Clean Air Act, FPL will be entitled to Unit 4's share of emission allowances that are designated to the entire Scherer facility. FPL asserts that under the Scherer purchase option, it will be responsible for \$18,213[,000] in SO₂ emission allowance costs. Under the Scherer UPS option, it will be responsible for \$131,067[,000] in SO₂ emission allowance costs. When these elements are considered in

the cost comparison, the CPVRR for the Scherer purchase option is \$93,106[,000] less than the CPVRR for the UPS option. Therefore, we find that the Scherer purchase is the most cost-effective alternative when taking into account SO2 emission credits.

The Commission's decision to approve FPL's petition turned on this evaluation.

2. Both the Public Counsel and Nassau Power Corporation filed motions for reconsideration of Order No. 24165 on March 13, 1991. In its response, at pages 16-19, FPL said, with reference to its initial brief (at page 23), that FPL would only incur emission allowance costs for the UPS option for sufficient additional credits to meet a 90% capacity factor:

While it is true that Scherer Unit No. 4 and other Southern Companies units will receive a certain quantity of "free" emission credits by operation of law under the amended Clean Air Act, the Southern Companies will not receive sufficient "free" credits for all its system units to operate at capacity factor levels required to meet system energy requirements. . . .

As a result, the Southern Companies will have to purchase on the market whatever quantity of additional emission credits are necessary to operate Scherer Unit No. 4 at the 90% capacity level called for by the UPS proposal. . . .

It is the cost of these additional emission credits for which FPL can expect to pay under a UPS agreement.

FPL Brief, at 23; FPL Response to Motions for Reconsideration, at 17 [Emphasis by FPL in response.]

The \$131 million the Commission accepted in Order No. 24165, however, is based on an assumption that FPL will have to purchase sufficient credits to meet the entire 90% capacity level, not just the differential.¹

¹Mr. Waters testified as follows, with reference to Exhibit 36, at transcript page 1012: " Emission allowances, of course, are required -- those required to meet the specified capacity factor,

3. The record in this proceeding indicates that Scherer Unit No. 4, under UPS, would not differ in any material respect from FPL's existing UPS contracts. Furthermore, on April 2, 1991, in Docket No. 900038-EI, FPL filed its Form 10-K for the fiscal year ended December 31, 1990. Statements made by FPL in the Form 10-K, at page 4, indicate that the utility no longer believes that the Clean Air Act will have any significant impact on its UPS contracts:

The federal Clean Air Act Amendments of 1990 which were signed into law in November 1990 are not expected to have a significant impact on FPL's non-fuel operating expenses, capital expenditures, operation of existing plants or contracted power purchases. [Emphasis added.]

4. This is new information not available to the Commission or the parties during hearings held in December 1990. Since Order No. 24165 is still under the Commission's control by virtue of the pending motions for reconsideration, the Commission retains jurisdiction to consider this information FPL has filed in another docket.

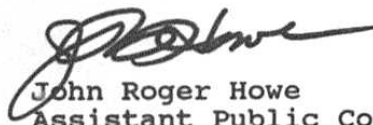
WHEREFORE, the Citizens of the State of Florida, through the Office of Public Counsel, move the Public Service Commission to take official notice in this docket of Florida Power & Light Company's Form 10-K, filed April 2, 1991, in Docket No. 900038-EI, and defer ruling on pending motions for reconsideration until FPL

which in this case in UPS would be 90%; in the Scherer purchase it would be 85%. We've assumed that Scherer has sufficient credits with the purchase arrangement to meet the 72% capacity factor, and I believe that calculation was covered yesterday. The assumption then is that we need incremental credits to go from 72 to 85, while in the UPS arrangement we need credits to go essentially from 0 to 90. That differential is what shows up in this calculation."

can respond to this motion and Staff can formulate a recommendation giving consideration to this new information.

Respectfully submitted,

Jack Shreve
Public Counsel



John Roger Howe
Assistant Public Counsel

c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, FL 32399-1400

(904) 488-9330

Attorneys for the Citizens
of the State of Florida

CERTIFICATE OF SERVICE
DOCKET NO. 900796-EI

I HEREBY CERTIFY that a true and correct copy of the Citizens' REQUEST TO TAKE OFFICIAL NOTICE OF FLORIDA POWER & LIGHT COMPANY'S FORM 10-K, has been furnished by U.S. Mail or by *hand-delivery to the following on this 29th day of April, 1991.

*MATTHEW M. CHILDS, ESQUIRE
Steel Hector & Davis, P.A.
215 South Monroe Street
Suite 601
Tallahassee, FL 32301

FREDERICK M. BRYANT, ESQUIRE
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JOHN T. BUTLER, ESQUIRE
Steel Hector & Davis, P.A.
4000 S.E. Financial Center
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*M. ROBERT CHRIST, ESQUIRE
Florida Public Service Commission
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FREDERICK J. MURRELL, ESQUIRE
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John Roger Howe

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-K

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934 (FEE REQUIRED)

For the fiscal year ended December 31, 1990

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934 (NO FEE REQUIRED)

For the transition period from _____ to _____

Commission File No. 1-3545

FLORIDA POWER & LIGHT COMPANY
(Exact name of registrant as specified in its charter)

Florida
(State or other jurisdiction of
incorporation or organization)

59-0247775
(I.R.S. Employer
Identification No.)

9250 West Flagler Street, Miami, Florida
(Address of principal executive office)

33174
(Zip Code)

Registrant's telephone number, including area code: (305) 552-3552

Securities registered pursuant to Section 12(b) of the Act:

None

Securities registered pursuant to Section 12(g) of the Act:

Preferred Stock, \$100 Par Value
(Title of class)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months and (2) has been subject to such filing requirements for the past 90 days.

YES NO

Aggregate market value of the voting stock held by non-affiliates of the registrant as of March 12, 1991 was zero.

As of March 12, 1991 there were issued and outstanding 1,000 shares of the registrant's common stock, without par value, all of which were held, beneficially and of record, by FPL Group, Inc.

DOCUMENTS INCORPORATED BY REFERENCE

DEFINITIONS

Acronyms and defined terms used in the text include the following:

<u>Term</u>	<u>Meaning</u>
AFUDC	Allowance for funds used during construction
Charter	Restated Articles of Incorporation, as amended
DOE	U. S. Department of Energy
Energy conservation clause	Energy Conservation Cost Recovery Clause
ESOP	Employee Stock Ownership Plan
FASB	Financial Accounting Standards Board
FERC	Federal Energy Regulatory Commission
FGT	Florida Gas Transmission Company
FPL	Florida Power & Light Company
FPL Group	FPL Group, Inc.
FPSC	Florida Public Service Commission
Fuel clause	Fuel and Purchased Power Cost Recovery Clause
Holding Company Act	Public Utility Holding Company Act of 1935
JEA	Jacksonville Electric Authority
kv	Kilovolt
kva	Kilovolt-ampere
kw	Kilowatt
kwh	Kilowatt-hour
Management's Discussion	Management's Discussion and Analysis of Financial Condition and Results of Operations
Mortgage	FPL's Mortgage and Deed of Trust dated as of January 1, 1944, as supplemented and amended
mw	Megawatt(s)
Note _____	Note _____ to Consolidated Financial Statements
NRC	U. S. Nuclear Regulatory Commission
Oil-backout clause	Oil-Backout Cost Recovery Clause
ROE	Return on equity
SEC	U. S. Securities and Exchange Commission
SFAS	Statement of Financial Accounting Standards
SJRPP	St. Johns River Power Park
Southern Companies	Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric & Power Company

PART I

Item 1. Business.

General. FPL is a public utility engaged in the business of supplying electric service throughout most of the east and lower west coasts of Florida. This service territory, which is depicted on a map included herein, contains 27,650 square miles with a population of approximately 6.1 million. During 1990 FPL served approximately 3.2 million customers and it derived approximately 54% of its operating revenues from residential customers, 36% from commercial customers and 10% from other sources.

FPL was incorporated in 1925 under the laws of Florida. All of its common stock is owned by FPL Group; substantially all of its preferred stock is held by non-affiliated persons.

Holding Company Act. FPL Group is a public utility holding company as defined in the Holding Company Act but is exempt from substantially all of the provisions thereof on the basis that FPL Group's and FPL's businesses are predominantly intrastate in character and carried on substantially in a single state, in which both are incorporated. FPL Group has diversified, through subsidiaries, into non-utility businesses which would be prohibited by the Holding Company Act if FPL Group were not exempt. The SEC has the power to revoke FPL Group's exemption upon a finding that the exemption is "detrimental to the public interest or the interest of investors or consumers."

In February 1989 the SEC released for comment proposed rules which would establish a presumption that diversification into non-utility businesses by an exempt holding company would not be considered detrimental to the protected interests if the investment in such businesses met certain tests. FPL Group would not meet either of these tests and has submitted comments opposing the proposed rules which are still pending.

Regulation. The retail operations of FPL are regulated by the FPSC, which has jurisdiction over retail rates, issuances of securities, planning, siting and construction of facilities, accounting and depreciation practices and other matters.

FPL is also subject to regulation by the FERC in various respects including the acquisition and disposition of certain facilities, interchange and transmission services, certain wholesale purchases and sales and interstate transmission, and accounting and depreciation practices.

FPL holds franchises with varying expiration dates to provide electric service in various municipalities and seven counties in Florida. FPL considers its franchises to be adequate for the conduct of its business.

FPL is subject to the jurisdiction of the NRC with respect to its nuclear power plants. NRC regulations govern the granting of licenses for the construction and operation of nuclear power plants and subject such power plants to continuing review and regulation.

Federal, state and local environmental laws and regulations cover air quality, water quality, land use, power plant and transmission line siting, electric and magnetic emissions from power lines and substations, noise and aesthetics, solid waste and other environmental matters. Compliance with these laws and regulations increases the cost of electric service by requiring, among other things, changes in the design and operation of existing facilities and changes or delays in the location, design, construction and operation of new facilities. FPL estimates that capital expenditures for improvements needed to comply with environmental laws and regulations will be approximately \$9 million to \$35 million for each of the years 1991 through 1995. The FPSC historically has permitted recovery of these expenditures through base rates.

The federal Clean Air Act Amendments of 1990 which were signed into law in November 1990 are not expected to have a significant impact on FPL's non-fuel operating expenses, capital expenditures, operation of existing plants or contracted power purchases.

Retail Ratemaking. The underlying concept of utility ratemaking is to set rates at a level that allows the utility to collect total revenues (revenue requirements) equal to its cost of providing service, including a reasonable return on invested capital. To accomplish this the FPSC uses various ratemaking mechanisms.

The basic costs, other than fuel, of providing electric service are recovered through base rates, which are designed to recover the costs of constructing, operating and maintaining the utility system. These costs include operations and maintenance expenses, depreciation and taxes, as well as a rate of return on FPL's investment in assets used and useful in providing electric service (rate base). The rate of return on rate base approximates FPL's weighted cost of capital, which includes its costs for debt and preferred stock and an allowed ROE. Base rates are determined in rate cases which occur at irregular intervals at the initiative of FPL or the FPSC.

Fuel and certain purchased power costs are recovered through levelized monthly charges established pursuant to the FPSC's Fuel clause. These charges, which are calculated semi-annually, are based on estimated costs of fuel and purchased power and estimated customer usage for the ensuing six-month period, plus or minus a true-up adjustment to reflect the variance of actual costs from the fuel adjustment charges for prior periods.

Certain purchased power and other non-fuel costs and the accelerated recovery of the costs of certain projects that displace oil-fired generation are recovered through the Oil-backout clause. Accelerated recovery of the project costs is obtained through accelerated depreciation, which is permitted in an amount equal to two-thirds of the savings of such projects. The remaining one-third of the savings is realized by customers through the Fuel clause. Costs associated with implementing energy conservation programs are recovered through charges established pursuant to an Energy conservation clause.

The FPSC has the power to disallow recovery of costs which it considers excessive or imprudently incurred. The principal costs as to which such issues arise involve operations

**PAGES 5 THROUGH 68
OMITTED**

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

FLORIDA POWER & LIGHT COMPANY

Date March 14, 1991

By S. E. FRANK

S. E. Frank (*President*)

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the date indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>JAMES L. BROADHEAD</u> James L. Broadhead (<i>Chairman of the Board</i>)	Principal Executive Officer and Director	
<u>J. L. HOWARD</u> J. L. Howard (<i>Chief Financial Officer</i>)	Principal Financial Officer and Director	
<u>K. M. DAVIS</u> K. M. Davis (<i>Comptroller</i>)	Principal Accounting Officer	
<u>WAYNE H. BRUNETTI</u> Wayne H. Brunetti		March 14, 1991
<u>DENNIS P. COYLE</u> Dennis P. Coyle		
<u>JEROME H. GOLDBERG</u> Jerome H. Goldberg	Directors	
<u>LAWRENCE J. KELLEHER</u> Lawrence J. Kelleher		
<u>C. O. WOODY</u> C. O. Woody		
<u>MICHAEL W. YACKIRA</u> Michael W. Yackira		