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## JOHNSON AND ASSOCIATES, P.A. ATTORNEYS AND COUNSELORS

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March 23, 1995

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URIGMAL FILE COPY

Ms. Blanca S. Bayo, Director Division of Records and Reporting Florida Public Service Commission 101 East Gaines Street Tallahassee, FL 32399-0870

> RE: Petition For Declaratory Statement Regarding Eligibility For Standard Offer Contract And Payment Thereunder By Florida Power Corporation Docket No. 950110-EI

Dear Ms. Bayo:

Enclosed for filing is an original and fifteen copies of Ralph Killian's Amended Affidavit in Support of Panda Kathleen's previously filed Motion for Declaratory Statement and Other Relief.

ACK \_\_\_\_\_ If you should have any questions, or need assistance please contact this office.

AFA . APP Nelton CAF \_\_\_\_\_ CMU \_\_\_\_\_ CTR \_ EAG LEG L LIN OPC \_\_\_\_\_ RCH SEC / WAS \_\_\_\_\_ CTH \_\_\_\_\_

Sincerely, Barrett G. Johnson

DOCUMENT NUMBER-DATE 03213 MAR 27 S FPSC-RECORDS/REPORTING

## **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

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In re: Petition for Declaratory Statement Regarding Eligibility for Standard Offer Contract and Payment Thereunder by Florida Power Corporation

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**Docket No. 950110-EI** 

## **AFFIDAVIT OF RALPH KILLIAN**

The purpose of this affidavit is to relate the position taken by Florida Power Corporation ("FPC") in discussions with Panda concerning the term of the contract and the capacity payments for the last 10 years of the 30-year contract term.

My name is Ralph Killian. My office address is 4100 Spring Valley, Dallas, Texas 75244. I am the Senior Vice President of Panda Energy Corporation. The groups reporting to me are responsible for business development, engineering and operations, and certain technical functions. Mr. J. Brian Dietz reports to me. I have overall responsibility for the development of the Panda-Kathleen project, among other matters. I attended a meeting with FPC on January 9, 1992 to discuss our standard offer contract and several areas that needed clarification. The leader of the FPC team in attendance was John Seelke. Allen Honey and others were also at the meeting.

One issue that was discussed concerned the fact that Panda has signed up for a 30-year contract term, but the tables in Appendix C to the Contract only showed 20 years. FPC said that this was an error and that it needed to be corrected. FPC agreed that (1) Panda would receive capacity payments for the entire 30-year term of the contract; and (2) the payments would escalate over the years of the contract term not shown on Schedule 3 to Appendix C at 5.1% a year.

We also discussed the price for sales above 74.9 MW. FPC told us that we would be paid for the energy, but not the capacity. Obviously, this bespeaks an acknowledgment of the engineering reality that a facility capable of performing at the 74.9 MW under all conditions during a 30-year contract will, much of the time, be capable of generating more than 74.9 MW. I hereby certify that all of the information contained in this Affidavit of March 13, 1995, is true and correct.

alph Kiel

Ralph Killian, Senior Vice President Panda Energy Corporation

THE STATE OF TEXAS ) ) COUNTY OF DALLAS )

SUBSCRIBED AND SWORN to before me this 13th day of March, 1995.



Corona

Notary Public In and For the State of Texas

My Commission Expires: 10 - 22 - 98