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RECORDS AND
REPORTING

October 19, 2000

VIA HAND DELIVERY

Blanca S. Bayó, Director
Division of Records and Reporting
Florida Public Service Commission
Betty Easley Conference Center
Room 110
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

001579-EI

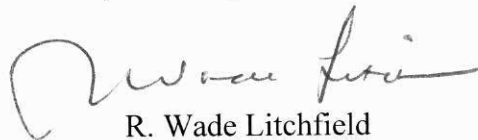
**Re: Florida Power & Light Company's
Petition for Approval of a Performance Guaranty Agreement**

Dear Ms. Bayó:

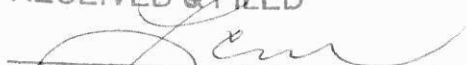
I enclose for filing an original plus seven (7) copies of Florida Power & Light Company's Petition for Approval of a Performance Guaranty Agreement. Also included herewith is a computer diskette containing the Petition on WordPerfect 6/7/8.

If you have any questions or need further information please feel free to call me at the number listed above. Thank you for your consideration in this matter.

Sincerely,


R. Wade Litchfield

RWL/jsb
Enclosure

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FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE
13486 OCT 20 8
FPSC-RECORDS/REPORTING

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

In re: Florida Power & Light Company's)
Request for Approval of a Performance)
Guaranty Agreement)

Docket No. 001579-EI
Date Filed: October 19, 2000

**FLORIDA POWER & LIGHT COMPANY'S
PETITION FOR APPROVAL OF A
PERFORMANCE GUARANTY AGREEMENT**

NOW BEFORE THIS COMMISSION, through undersigned Counsel, comes Florida Power & Light Company ("FPL" or the "Company") and hereby requests approval of a performance guaranty agreement. In support of this Petition, FPL states as follows:

1. FPL is a public utility subject to the jurisdiction of the Florida Public Service Commission ("Commission") under Chapter 366, Florida Statutes. FPL's General Offices are located at 9250 West Flagler Street, Miami, FL 33174.
2. Any pleading, motion, notice, order or other document required to be served upon the petitioner or filed by any party to this proceeding should be served upon the following individuals:

William G. Walker, III
Vice President
Florida Power & Light Company
215 South Monroe Street
Suite 810
Tallahassee, FL 32301-1859
(850) 224-7517
(850) 224-7197 (telecopier)

R. Wade Litchfield
Senior Attorney
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 33408-0420
(561) 691-7101
(561) 691-7135 (telecopier)

3. FPL is seeking Commission approval of a Performance Guaranty Agreement ("Guaranty Agreement"). The Guaranty Agreement will be included in FPL's tariff as Original

DOCUMENT NUMBER-DATE

13486 OCT 20 00

FPSC-RECORDS/REPORTING

Sheet Nos. 9.950, 9.951, 9.952 and 9.953. The Guaranty Agreement is included herewith in Exhibit A. Upon approval of the Guaranty Agreement, FPL will submit for administrative approval a tariff sheet revising FPL's Index of Standard Forms.

4. Pursuant to Section 2.2, "Availability of Service," of FPL's General Rules and Regulations for Electric Service, prior to constructing an extension of its facilities to furnish electric service the Company may require a guaranty, cash contribution in aid of construction, and/or advances for construction, "when in the Company's opinion the immediate or potential revenues do not justify the cost of the extension." Consistent with this provision, FPL is requesting Commission approval of the attached Guaranty Agreement for use in cases where an applicant for service has requested the Company to expand significantly the electric system to meet projected loads that, in the Company's estimation, are speculative or based on untested assumptions. If the projected loads don't materialize, actual revenues may not justify the cost of the extension. In other words, upon receipt of an application for a level of service that is significantly in excess of what would typically be expected for a building or premises of similar size, type and location, FPL will require the applicant to provide written assurance (through the execution of the Guaranty Agreement) that FPL's other customers will not bear the incremental costs incurred by FPL for the expansion if the projected revenue from the increased load does not materialize.

5. The specific situation that has given rise to this Petition is the recent receipt by FPL of numerous requests for expansion to its system to meet very high projected electric loads at premises to be used to house the electronic equipment of telecommunications service providers, including alternate or competitive local exchange companies, internet service providers, and web hosts. The facilities themselves include planned fiber "hotels" or "condos," switching stations, and network access points or "NAPs." The requested concentration of load at several of these premises

exceeds 70 watts per square foot. Such a high load concentration will require either the expansion of existing electric facilities or the construction of new facilities substantially in excess of that which ordinarily would be required to provide electric service to similarly situated premises.

6. Currently, there is a “rush to market” philosophy among these telecommunications service providers and the developers who are attempting to provide the physical facilities necessary to accommodate the rapid growth in the telecommunications services markets. FPL is working closely with these developers and service providers to support the development of this new telecommunications infrastructure, which FPL believes could be important to the long-term expansion of Florida’s economy and particularly to the attraction of “high-tech” commerce to the State.

7. However, the electric system expansions that are necessary to meet the many “high-tech” customer requests FPL has received, and expects to continue receiving, will require millions of dollars in expenditures by FPL. Further, because of the many proposed entrants and facilities in the new and evolving telecommunications services market, it is not clear that all of the planned sites will be completed or, once completed, that the projected occupancy and electric load will materialize. For this reason, FPL seeks Commission approval of the Guaranty Agreement. This will allow FPL to build the requested expansions with assurance that FPL’s other customers will not bear the incremental costs of the “unusual” or excess electric facilities in the event the projected loads do not materialize.

8. Upon execution of the Guaranty Agreement, an applicant will be required to post a “Performance Guaranty.” The applicant has the option of posting the guaranty in cash or as a surety bond, or irrevocable bank letter of credit. As set forth in the Guaranty Agreement, the amount of the Performance Guaranty is determined based on the Company’s estimate of the

“incremental” costs it will incur to meet the service request. The incremental cost represents the difference between: (i) the costs the Company ordinarily would incur to provide a more typical level of service to the premises based on past experience and tested assumptions and (ii) the costs the Company estimates it will incur to meet the requested level of service, multiplied by a present value revenue requirement factor. Thus, the Guaranty Agreement only requires a Performance Guaranty relating to the “excess” or “non-customary” facilities necessary to meet the increased level of service requested.

9. FPL will refund (or cancel) the Performance Guaranty in whole if, within three (3) years from the in-service date, incremental base revenues at least equal the amount of the Performance Guaranty. Incremental base revenue is defined in the Guaranty Agreement and represents the difference between base revenue actually received and a baseline amount of base revenue that the Company estimates is attributable either to the pre-existing capacity or to an amount of capacity more typical for the premises. To the extent that incremental base revenues offset some but not all of the incremental costs of the expansion, the applicant would receive a partial refund equal to the amount of the incremental base revenues received.

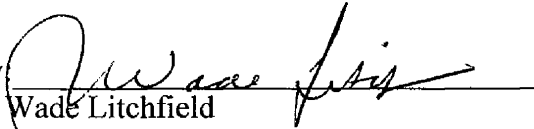
10. The approach contemplated by the Guaranty Agreement generally is consistent with the principles that underlie Rule 25-6.080 of the Florida Administrative code (“F.A.C.”). In addition, the purpose served by the Guaranty Agreement is similar to that which also is served by the rules pertaining to contributions-in-aid-of construction (“CIAC”), i.e., placing responsibility for the cost of unusual or excess facilities on the applicant for the service extension. However, unlike the application of CIAC charges for line extensions, the Guaranty Agreement applies to situations where there is a requested expansion of FPL’s facilities beyond that which is typically necessary to serve the premises and the applicant’s projected future electric load is based on speculative or

untested assumptions. Also, unlike a CIAC charge, the Performance Guaranty will be returned or cancelled if projected revenues are realized. In any case, the differential cost between underground and overhead construction in non-underground designated areas would continue to be collected as CIAC.

11. FPL respectfully submits that the Guaranty Agreement is consistent with the Company's rights under its tariff and under Rule 25-6.095(3) of the F.A.C., and is in the public interest.

WHEREFORE, for the above and foregoing reasons, Florida Power & Light Company respectfully requests that the Commission grant this Petition for Approval of a Performance Guaranty Agreement and approve said agreement for use.

Respectfully submitted,

By: 
R. Wade Litchfield
Florida Authorized House Counsel
Attorney for
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 33408-0420
(561) 691-7101
(561) 691-7135 telecopier

PERFORMANCE GUARANTY AGREEMENT

This Performance Guaranty Agreement ("Agreement"), made this _____ day of _____ 20____, is by and between _____ (hereinafter "Applicant") and FLORIDA POWER & LIGHT COMPANY, a corporation organized and existing under the laws of the State of Florida, (hereinafter the "Company").

WITNESSETH:

Whereas, in connection with the property located at _____, in _____, Florida (the "Premises"), Applicant has requested that Company install electric infrastructure in order to provide electric service to the Premises;

Whereas, Applicant's estimate of the electric power needs of the Premises will require an expansion of Company's present electric system, beyond that which typically would be necessary to provide service to the Premises;

Whereas, because of the uncertainty associated with Applicant's projections of the electric power needs of the Premises, Company may not fully recover its investment in such infrastructure expansion, thus potentially burdening Company's other electric customers; and

Whereas, Applicant is willing to provide assurance that Company will recover its investment in the expansion of Company's electric system based on Applicant's projections in the event that the estimated load at the Premises does not materialize;

Now, therefore, in recognition of the foregoing premises and in consideration of the covenants and promises set forth herein below, Company and Applicant do hereby agree as follows:

ARTICLE I - DEFINITIONS

1.01 "Base Revenue" is the portion of electric revenue received by Company for electric service to the Premises consisting only of applicable base demand charges and base non-fuel energy charges. Base Revenue excludes, without limitation, capacity payment, customer, conservation, environmental, and fuel charges, franchise fees, and taxes.

1.02 "Baseline Base Revenue" is the estimated portion of Base Revenue received during the Performance Guaranty Period that Company attributes to Baseline Capacity. Baseline Base Revenue is calculated by multiplying the Baseline Capacity (as defined in Section 1.03) by the base demand charge and adding to that amount the product of Baseline Capacity, actual load factor, the number of hours in the billing period, and the applicable base non-fuel energy charge.

1.03 "Baseline Capacity", as determined by Company, is (a) the currently existing capacity where Company has in place facilities ready and available to provide electric service to the Premises albeit at a lower level of capacity than requested; or (b) the amount of capacity necessary to provide service to a more typical level of load given the location and/or type of facility or building, where Company does not have in place facilities ready and available to provide electric service to the Premises.

(Continued on Sheet No. 9.951)

(Continued from Sheet No. 9.950)

1.04 “Incremental Base Revenue” is actual Base Revenue received during the Performance Guaranty Period for electric service rendered to the Premises in excess of Baseline Base Revenue.

1.05 “Incremental Capacity,” as determined by Company, is the positive difference, if any, between Baseline Capacity and the amount of capacity (measured in kW) necessary to meet Applicant’s projections of electric load at the Premises.

1.06 “Performance Guaranty Period” is the period of time commencing with the day on which the requested level of service is installed and available to Customer, as determined by Company, (“In-Service Date”), and ending on the third anniversary of the In-Service Date (“Expiration Date”).

ARTICLE II - PERFORMANCE GUARANTY AMOUNT

2.01 For purposes of this Agreement, the derivation of Incremental Capacity is shown in the following table.

Incremental Capacity (1)	Existing Structure (2)	New Structure (3)	Total Structure (2)+(3)
a. Square Footage			
b. Requested watts/sq ft			
c. Baseline Capacity watts/sq ft			
d. Requested Capacity (in kW) (a * b / 1000)			
e. Baseline Capacity (in kW) (a * c / 1000)			
f. Incremental Capacity (in kW) (d - e)			

2.02 The amount of the Performance Guaranty is the cost, as determined by Company, of the Incremental Capacity multiplied by a factor of 1.51. The cost of the Incremental Capacity is the positive difference, if any, between Company’s estimated cost of providing the requested level of capacity and Baseline Capacity. Applicant agrees to provide Company a Performance Guaranty in the amount specified in the table below prior to Company installing the facilities necessary to provide the Incremental Capacity to serve the Premises.

Performance Guaranty (1)	Existing Structure (2)	New Structure (3)	Total Structure (2 + 3)
a. Cost of requested capacity			
b. Cost of Baseline Capacity	-0-		
c. Incremental cost (a - b)			
d. Present value factor	1.51	1.51	1.51
e. Performance Guaranty (c * d)			

(Continued on Sheet No. 9.952)

(Continued from Sheet No. 9.951)

ARTICLE III - PAYMENT AND REFUND

3.01 At Applicant's option, the Performance Guaranty may be posted with Company in cash, or may be secured either by a surety bond or irrevocable bank letter of credit in a form acceptable to Company. In the event that Incremental Base Revenue is less than the Performance Guaranty, Applicant shall pay to Company the Performance Guaranty, less the amount of Incremental Base Revenue.

3.02 If, during the Performance Guaranty Period, Incremental Base Revenue equals or exceeds the Performance Guaranty: a) if Applicant posted a cash Performance Guaranty, Company will promptly refund such funds; or b) if Applicant secured the Performance Guaranty through a surety bond, or irrevocable letter of credit, such bond or letter of credit shall be released or cancelled, or the amount secured by such instrument shall be reduced by the amount of the Performance Guaranty, as applicable.

3.03 In the event that Company's construction of facilities shown on Exhibit A commences but is not completed due to a change in Applicant's plans or other circumstances related to the Premises that are not within Company's control, or if twelve months following the effective date of this Agreement Company has been unable to complete the requested installation and provide an In-Service Date due to changes or delays in Applicant's schedule or plans, Company shall be immediately entitled to an amount of the Performance Guaranty equal to Company's construction expenditures incurred in connection with this Agreement. Thereafter, Company may elect to terminate this Agreement and the balance, if any, of the Performance Guaranty will be refunded if Applicant posted a cash Performance Guaranty.

ARTICLE IV - TERM OF AGREEMENT

The term of this Agreement shall commence on the date first above written and end on the Expiration Date, or on the date Incremental Base Revenue equals the Performance Guaranty, whichever is earlier, unless terminated earlier pursuant to Section 3.03.

ARTICLE V - FINAL SETTLEMENT

Upon the termination or expiration of this Agreement, any portion of the Performance Guaranty not previously refunded or otherwise eligible for refund under the terms of this Agreement shall be retained by Company, and any remaining balance of the Performance Guaranty that is subject to a letter of credit or surety bond shall become immediately due and payable.

ARTICLE VI - TITLE AND OWNERSHIP

Title to and complete ownership and control over the above-referenced expansion shall at all times remain with Company and Company shall have the right to use the same for the purpose of serving other customers.

ARTICLE VII - ENTIRE AGREEMENT

This Agreement supersedes all previous agreements, or representations, whether written or oral, between Company and Applicant, made with respect to the matters herein contained, and when duly executed constitutes the entire agreement between the parties hereto.

(Continued on Sheet No. 9.953)

Issued by: P. J. Evanson, President

Effective:

(Continued from Sheet No. 9.952)

ARTICLE VIII - HEIRS, SUCCESSORS AND ASSIGNS

This Agreement shall inure to the benefit of and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto, but Applicant shall not assign this Agreement without first having obtained the written consent of Company, such consent not to be unreasonably withheld.

ARTICLE IX – SUBJECT TO FPSC RULES

This Agreement is subject to the Rules and Orders of the FPSC and to FPL’s Electric Tariff, including, but not limited to the General Rules and Regulations for Electric Service (collectively “Regulations”), as such Regulations are now written, or as they may be hereafter revised, amended or supplemented. In the event of any conflict between the terms of this Agreement and the Regulations, the provisions of said Regulations shall control, as they are now written, or as they may be hereafter revised, amended or supplemented, and, at Company’s request, Customer agrees to conform this Agreement to such provisions, or enter into a new Agreement reflecting such provisions. This Agreement shall not be used in lieu of applicable requirements set forth in the Regulations pertaining to contributions in aid of construction, advances or deposits.

In Witness Whereof, Applicant and Company hereby have caused this Agreement to be executed in triplicate by their duly authorized representatives to be effective as of the day and year first written above.

Charges and Terms Accepted by:

Applicant (Print/Type Name of Organization)

FLORIDA POWER & LIGHT COMPANY

By: _____
Signature (Authorized Representative)

By: _____
Signature (Authorized Representative)

(Print or Type Name)

(Print or Type Name)

Title: _____

Title: _____