

ORIGINAL

**Florida
Power**
CORPORATION

JAMES A. MCGEE
SENIOR COUNSEL

September 10, 1999

Ms. Blanca S. Bayó, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Re: Petition of Florida Power Corporation for approval
of an agreement to restructure existing cogeneration
contracts with Polk Power Partners, L.P. and Orange
Cogeneration Limited Partnership

Dear Ms. Bayó:

Enclosed for filing in the subject docket are an original and fifteen copies of
Florida Power Corporation's Petition For Determination That Amendment To
Restructuring Agreement Is Not Material Or, In the Alternative, For Approval Of
Amendment.

Please acknowledge your receipt of the above filing on the enclosed copy of
this letter and return to the undersigned. Also enclosed is a 3.5 inch diskette
containing the above-referenced document in WordPerfect format. Thank you for
your assistance in this matter.

Very truly yours,

James A. McGee

- AFA _____
- APP _____
- CAF _____
- CMU _____
- CTR _____
- EAG *Hytell*
- LEG 2
- MAS _____
- OPC _____
- PAI _____ JAM/ams
- SEC 1 Enclosure
- WAW _____
- OTH _____

RECEIVED & FILED

FPSC BUREAU OF RECORDS

DOCUMENT NUMBER - DATE

10895 SEP 10 99

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Florida Power Corporation for approval of an agreement to restructure existing cogeneration contracts with Polk Power Partners, L.P. and Orange Cogeneration Limited Partnership.

Docket No. 990723-EQ

Submitted for filing:
September 10, 1999

**PETITION FOR DETERMINATION THAT AMENDMENT TO
RESTRUCTURING AGREEMENT IS NOT MATERIAL OR,
IN THE ALTERNATIVE, FOR APPROVAL OF AMENDMENT**

Florida Power Corporation (Florida Power, or the Company), pursuant to Rule 25-17.0836, F.A.C., hereby petitions the Florida Public Service Commission (the Commission) for a determination that the amendment contained in Attachment A hereto (the Amendment) is not a material modification to the restructuring agreement between Florida Power and El Paso Power Services Company (El Paso) approved by the Commission in Proposed Agency Action (PAA) Order No. PSC-99-1623-PAA-EQ, issued August 18, 1999 in this docket and therefore does not require Commission approval, or, in the alternative if the Commission finds the Amendment to be such a material modification, for approval of the Amendment. In support of this petition, Florida Power states as follows:

1. Petitioner, Florida Power, is a public utility subject to the jurisdiction of the Commission under Chapter 366, Florida Statutes. Florida Power's General Offices are located at One Progress Plaza, St. Petersburg, Florida, 33701.

DOCUMENT NUMBER-DATE

10895 SEP 10 99

FLORIDA POWER CORPORATION

FPSC-RECORDS/REPORTING

2. All notices, pleadings and other communications required to be served on petitioner should be directed to:

James A. McGee, Esquire
Post Office Box 14042
St. Petersburg, FL 33733-4042
Facsimile: (727) 820-5519

For express deliveries by private courier, the address is:

One Progress Plaza
Suite 1500
St. Petersburg, FL 33701

Background

3. When Florida Power's petition for approval of the restructuring agreement was considered by the Commission at its July 27, 1999 Agenda Conference, Florida Power's representative responsible for the negotiation of the agreement, Mr. Foster, informed the Commission that several conditions precedent to El Paso's obligation to close the transaction remained to be satisfied. He explained that in satisfying these conditions, particularly the restructuring of El Paso's financial arrangements with its partner in the project, it might be necessary to amend the agreement. Mr. Foster stated that if this occurred, he expected that the amendment would not be material to the ratepayer benefits analyzed by Staff in recommending approval of the agreement. He also advised the Commission that if any such amendment was entered into, it would be submitted to Staff for its independent determination that the amendment is not, in fact, material to the basis upon which Staff's recommendation was made. Having received this information from Mr. Foster, the Commission voted unanimously to approve the restructuring agreement.

4. Consistent with Mr. Foster's commitment to the Commission, by letter dated August 23, 1999 to Mr. Joseph D. Jenkins, Director of the Commission's Division of Electric and Gas, a copy of the Amendment which is the subject matter of this petition was submitted by Florida Power for Staff review. The letter stated that the changes contained in the Amendment have no effect on the analysis performed by Florida Power in support of its petition for approval of the restructuring agreement nor on the analysis performed by Staff in support of its favorable recommendation to the Commission. Thereafter, on September 3, 1999, Staff advised Florida Power that, while it agreed the Amendment did not affect the basis upon which the Commission approved the restructuring agreement, it had concluded that certain changes contained in the Amendment constitute "performance requirements" and thus require Commission approval pursuant to Rule 25-17.0836(2), F.A.C.¹

5. On September 7, 1999, Florida Power representatives met with Staff to discuss the Company's belief that the Amendment's changes do not affect "performance requirements" and its overriding concern that the time required to obtain approval of the Amendment, including the PAA protest period, could seriously threaten El Paso's ability to satisfactorily restructure its financial arrangements and, in turn, its willingness to consummate the QF contract restructuring agreement with Florida Power, which is currently scheduled to be

¹ Rule 25-17.0836(2) provides as follows: In order for a utility to recover its costs, Commission approval is required for a modification that affects the overall efficiency, cost-effectiveness or nature of the project. Such modifications include, but are not limited to, changes to contractual terms such as location, prime mover technology type, fuel type, *performance requirements*, contracted megawatt output, the timing of capacity payments, or amount of capacity payments. (Emphasis added.)

closed in mid-October 1999.² While Staff did not agree with the Company regarding the “performance requirements” issue, it did agree to expedite the Commission’s consideration of the Amendment to the greatest extent possible in an attempt to minimize the risk of losing the ratepayer savings that the restructuring agreement will provide. Florida Power wishes to express its appreciation for Staff’s extraordinary efforts in this regard.

The Amendment

6. The Amendment modifies the restructuring agreement in the following respects:

Article 5.2.1 - This revised section provides Florida Power with added operational flexibility in calling on the firm capacity committed under the agreement. Florida Power may now call on the capacity of either the Orange or the Mulberry facility, or both, instead of the original requirement to call on the combined capacity of both facilities.

Article 5.2.6 - This revised section provides Florida Power with added operational flexibility by shortening the notice period for call energy to one hour when required to meet a Firm System Need for Energy (as newly defined in section 3 of the amendment).

Article 10.3.3 - This revised section reduces the cap on the liquidated damages payable by El Paso under the agreement by 10 percent. The effectiveness of

² The sensitivity of El Paso’s financial restructuring arrangements to delay is compounded by the vulnerability of these arrangements to changes in interest rates, which have increased recently and are expected by many to increase further in the near future.

this revision is essential to El Paso's financial restructuring and, thus, its willingness to consummate the agreement with Florida Power.

Exhibit A - This revised exhibit corrects a typographical error by increasing the amount of the capacity payment for 2006 shown in the last column of the exhibit by \$2.00. The correct number was used in the analysis Florida Power previously provided to Staff for use in the preparation of its recommendation.

Exhibit H - The third paragraph of this revised exhibit clarifies the language regarding the hours used in the calculation of the make whole credit, and adds language regarding the calculation of the make whole credit for a partial year. These changes were reflected in the analysis Florida Power previously provided to Staff for use in the preparation of its recommendation.

7. None of these changes to the restructuring agreement require Commission approval pursuant to Rule 25-17.0836, F.A.C. The standard for determining whether a contract modification requires Commission approval is one of materiality.³ Subsection (2) of the rule (see footnote 1 above) identifies certain kinds of modifications that are deemed to be material and therefore must receive Commission approval, *i.e.*, modifications that affect "the overall efficiency, cost-effectiveness or nature of the project," and goes on to provide non-exhaustive list of specific modifications (*e.g.*, location, fuel type, performance requirements, capacity payments, etc.) that could have such an effect. The modifications contained in the Amendment are minor in nature and clearly do not rise to the level of affecting the

³ For example, subsection (1) of the rule requires investor-owned utilities to notify Staff of any contract modification and to include in the notice "a statement indicating whether the modification is a material change." Rule 25-17.0836(1)(a).

overall efficiency, cost-effectiveness or nature of the project. As such, these modifications lack the materiality necessary to require Commission approval.

8. Staff is apparently of the belief that if any of the Amendment's changes fall within one the specific modification categories listed in subsection (2) -- in this case, "performance requirements" -- they must receive Commission approval irrespective of materiality. Florida Power respectfully disagrees. When reasonably read, the rule requires Commission approval for only those changes in performance requirements (or in any of the other enumerated categories) that affect the overall efficiency, cost-effectiveness or nature of the project. Conversely, a change deemed by Staff, or ultimately the Commission, to be immaterial should not trigger the approval process simple because the change happens to fall within one of the listed categories. The fact that the rule expressly acknowledges that the list is not exhaustive suggests that it was not intended to be treated as sacrosanct.

9. Florida Power also disagrees with Staff's characterization of the Amendment's changes to Articles 5.2.1, 5.2.6 and 10.3.3 as affecting performance requirements. The performance requirements imposed on El Paso under the restructuring agreement are contained in Article 4.2 and are completely unaffected by the Amendment. The changes to Articles 5.2.1 and 5.2.6 provide a small enhancement to Florida Power's operational flexibility in arranging the delivery of "call energy" under the agreement and do not affect the level at which El Paso must perform. The change to Article 10.3.3 affects the contractual remedies available to the parties by reducing the amount of the liquidated damages cap that El Paso must deposit with Florida Power and is not a modification of the agreement's performance specifications.

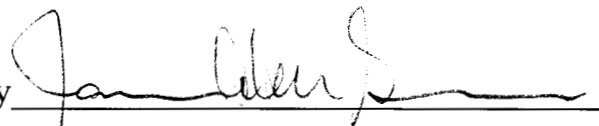
10. Alternatively, in the event the Commission determines that any of the modifications contained in the Amendment require approval pursuant to Rule 25-17.0836, F.A.C., Florida Power requests that such approval be granted. The Amendment is a necessary step toward satisfaction of a condition precedent to the effectiveness of the restructuring agreement and the substantial savings that the agreement will provide to Florida Power's customers. As such, Florida Power believes and therefore represents that the restructuring agreement cannot be consummated in a timely manner without the Amendment in effect, and that if approval of the Amendment is denied, the agreement will either be terminated or be subject to further amendment on terms less favorable to Florida Power and its customers.

WHEREFORE, Florida Power Corporation respectfully requests that the Commission determine that approval of the Amendment is not required or, in the alternative if the Commission determines that approval is required, that such approval be granted.

Respectfully submitted,

OFFICE OF THE GENERAL COUNSEL
FLORIDA POWER CORPORATION

By



James A. McGee
Post Office Box 14042
St. Petersburg, FL 33733-4042
Telephone: (727) 820-5184
Facsimile: (727) 820-5519

ATTACHMENT A

**FIRST AMENDMENT TO THE
MASTER AGREEMENT TO AMEND
AND RESTATE CONTRACTS FOR THE
PURCHASE OF FIRM CAPACITY AND ENERGY,
BETWEEN FLORIDA POWER CORPORATION
AND EL PASO POWER SERVICES**

(redacted copy)

**FIRST AMENDMENT
TO
MASTER AGREEMENT TO AMEND AND RESTATE CONTRACTS
FOR THE PURCHASE OF FIRM CAPACITY AND ENERGY**

THIS FIRST AMENDMENT ("First Amendment") to that certain **MASTER AGREEMENT TO AMEND AND RESTATE CONTRACTS FOR THE PURCHASE OF FIRM CAPACITY AND ENERGY** dated effective May 19, 1999 ("Agreement") by and between **FLORIDA POWER CORPORATION** ("Buyer") and **EL PASO POWER SERVICES COMPANY** ("El Paso"),

WITNESSETH:

WHEREAS, Buyer and El Paso executed and delivered the Agreement on May 19, 1999, for the purposes and consideration therein expressed; and

WHEREAS, Buyer and El Paso desire to amend the Agreement as hereinafter set out;

THEREFORE, FOR AND IN CONSIDERATION OF the premises, the mutual promises and agreements set forth herein and other good and valuable consideration, the receipt, sufficiency and adequacy of which are hereby acknowledged, all of the signatories to this First Amendment, each intending to be legally bound, agree as follows:

1. Defined Terms. Except as otherwise specifically provided herein, all capitalized words and phrases use in this Amendment that are defined in the Agreement shall have the meaning ascribed thereto in the Agreement.

2. Effective Date. This First Amendment shall be effective for all purposes as of May 19, 1999.

3. Definitions. There shall be added to Article 1 of the Agreement the following definition:

"Firm System Need for Energy" – means a need by Buyer for Energy to avoid or mitigate the disruption in service to those demand side management customers on the Buyer's interruptible and curtailable service rate in a situation on the Buyer's electrical system in which, regardless of cause, all other demand side customers of lower service priority are experiencing disruptions.

4. Sale of Capacity and Energy. Articles 5.2.1 and 5.2.6 of the Agreement shall be deleted, and replaced with the following:

5.2.1 Commencing on the Commencement Date and throughout the Term, Buyer shall be entitled to Schedule, at Buyer's discretion at any time and from time to time, in accordance with the provisions of this Article 5.2, quantities of Energy as follows (such Energy, when Scheduled, "Call Energy"):

<u>Time Period</u>	<u>Quantity (MWh perHour)</u>
Commencement Date through August 9, 2009	74 or 110 or 184
August 10, 2009 through August 8, 2024	74 or 80 or 154
August 9, 2024 through December 31, 2025	74

Upon Buyer's Scheduling such Call Energy, Seller shall Schedule, from any sources available to Seller, the quantities of Call Energy Scheduled by Buyer for the number of hours specified by Buyer in its Schedule for such Call Energy; provided, however, that if Seller elects to Schedule the quantity of Energy Scheduled by Buyer from one or more sources designated on Exhibit G, the quantities of Energy Scheduled from such source(s) shall be subject to the "Conditions" with respect to such source(s) as set out on Exhibit G. Buyer shall purchase and Seller shall sell the Call Energy delivered to Buyer in accordance with the terms and conditions of this Agreement.

5.2.6 In the event that any of the Committed Facilities are Running at the time that Buyer Schedules Call Energy, Buyer shall give Seller at least (2) hours notice prior to the time that Buyer requires delivery of such Call Energy to commence, or at least one (1) hour prior notice in the event that Buyer certifies in its Scheduling of Call Energy that such Call Energy is being Scheduled to meet a Firm System Need for Energy. In each case when Call Energy is Scheduled, Buyer shall accept and purchase said Call Energy delivered to Buyer in accordance with terms and conditions of this Agreement for a minimum period of one (1) hour.

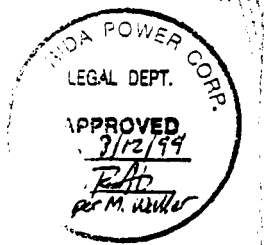
5. Remedies with Respect to Failure to Deliver Events of Default. In Article 10.3.3 of the Agreement, the amount [REDACTED] shall be deleted from the first sentence and replaced with the amount [REDACTED]. In the second sentence of Article 10.3.3 shall be deleted in its entirety and replaced with the following:

The Liquidated Damages Cap shall be increased annually by an amount equal to the nominal interest on a nominal principal amount (the "Interest Adder"). The nominal interest shall be equal to the average Interest Rate over the twelve Months ending with and including the Month in which such anniversary falls. The nominal principal is the lesser of (i) [REDACTED] and (ii) the remaining unpaid

amount of the Liquidated Damages Cap of the Liquidated Damages Cap. The nominal principal shall be increased annually by the Interest Adder on the first anniversary of the Commencement Date and each anniversary thereafter until the first to occur of (a) the exhaustion of the sum of the Liquidated Damages Cap by payments of liquidated damages to Buyer pursuant to Article 10.3.1 and Article 10.3.2, and (b) the expiration of the Term.

6. Exhibits. Buyer and El Paso shall detach Exhibits A and H from each original counterpart of the Agreement, and such detached Exhibits A and H shall have no further force and effect. Revised Exhibits A and H, attached to this First Amendment, shall be attached by Buyer and El Paso to each original counterpart of the Agreement, shall become a part of the Agreement and shall supersede and replace for all purposes Exhibits A and H as originally attached to the Agreement.

IN WITNESS WHEREOF, The Parties have duly executed this First Amendment effective for all purposes as of May 19, 1999.



FLORIDA POWER CORPORATION

By: *Joseph H. Richards*
Title: President and Chief Executive Officer

EL PASO POWER SERVICES COMPANY

By: *Larry McElwaine*
Title: President

**EXHIBIT A TO MASTER AGREEMENT
 COMMITTED CAPACITY, AGGREGATE COMMITTED CAPACITY AND AGGREGATE CAPACITY CHARGE
 (Revised)**

CONTRACT	MULBERRY	ROYSTER	ORANGE				
TERM	08/08/2024	08/09/2009	12/31/2025				
CAPACITY MW	79.2	30.8	74	Aggregate Committed Capacity	Aggregate Capacity Charge	Aggregate Committed Capacity Pursuant to Adjustment as Provided by Article 5.5	Aggregate Capacity Charge Pursuant to Adjustment as Provided by Article 5.5
CAPACITY CHARGES	\$/kW-mo	\$/kW-mo	\$/kW-mo	MW	\$/kW-mo	MW	\$/kW-mo
1999	\$	\$	\$		\$		\$
2000	\$	\$	\$		\$		\$
2001	\$	\$	\$		\$		\$
2002	\$	\$	\$		\$		\$
2003	\$	\$	\$		\$		\$
2004	\$	\$	\$		\$		\$
2005	\$	\$	\$		\$		\$
2006	\$	\$	\$		\$		\$
2007	\$	\$	\$		\$		\$
2008	\$	\$	\$		\$		\$
2009 –through 8/10/2009	\$	\$	\$		\$		\$
8/10/2009 through 12/31/2009	\$		\$		\$		\$
2010	\$		\$		\$		\$
2011	\$		\$		\$		\$
2012	\$		\$		\$		\$
2013	\$		\$		\$		\$
2014	\$		\$		\$		\$

2015	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2016	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2017	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2018	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2019	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2020	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2021	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2022	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2023	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2024 through 8/8/2024	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
8/9/2024 through 12/31/2024	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2025	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

The sole purpose for reporting the individual capacity charges associated with each contract is for the operative understanding of computing the Aggregate Capacity Charges.

EXHIBIT H TO MASTER
AGREEMENT
MAKE WHOLE CREDIT
(Revised)

Make Whole Credit Calculation Methodology

The Make Whole Credit is based upon (i) the difference between the As Available Energy Price and the QF Energy Rate, subject to certain limitations described below, and (ii) an agreed upon number of hours (Y) and an agreed upon number of annual MWh (U). The Make Whole Credit shall be paid monthly as an estimate and corrected annually as needed, and shall be calculated with respect to each of the Contracts as follows:

For each of the Y hours of the year (as Y is hereinafter defined with respect to each of the Contracts) in which the As Available Energy Price were greatest, the QF Energy Rate shall be subtracted from the lesser of the As Available Energy Price or the Strike Price. The differences shall be summed and the sum divided by the number of hours considered. If the result (the "Credit Difference") is equal to or greater than Z (as Z is hereinafter defined with respect to each of the Contracts), the Credit Difference with respect to each Contract shall be deemed to be Z. If the Credit Difference is equal to or less than W (as W is hereinafter defined with respect to each of the Contracts), the Credit Difference with respect to that Contract shall be deemed to be W. If the Credit Difference is greater than W and less than Z, the Credit Difference is the calculated value.

The Credit Difference with respect to each Contract shall be multiplied by the value of U (as U is hereinafter defined with respect to each Contract). The results of each multiplication shall be summed, and such sum shall be the annual Make Whole Credit to be paid by Seller to Buyer. The initial values of Y (expressed in hours), Z and W (each expressed in 1999 dollars per MWh), and U (expressed in MWh) are as set forth with respect to the Contracts in Tables 1 - 3 below; provided, that the values of Z and W shall be adjusted annually by application of the Annual Adjustment Factor, which shall have cumulative effect upon the values of Z and W. For any calendar year when the Master Agreement or any of the Contracts is not in effect for the full twelve months of such year, the values of Y and U for (i) all of the Contracts, with respect to the calendar year in which the Commencement Date occurs, or (ii) for any Contract that expired prior to the end of a particular calendar year, shall be prorated on a daily basis by multiplying the values reflected in Table 1 for all of the Contracts or for the expired Contract, as the case may be, by a fraction, the numerator of which is the number of days during the particular year that the Master Agreement or any of the Contracts expiring during that year was in effect, and the denominator of which is the number of days in such year. Additionally the greatest As Available Energy Prices shall be for the effective hours of the Contract. By example, if the Commencement Date of the Master Contract is August 2, 1999, the values of Y and U for each of the Contracts would be multiplied the fraction 151/365 and the As Available Energy Prices used for calculating the Make Whole payments would include August 2, 1999 through the end of that year. By further example, for calendar year 2009 during which the Royster Contract will expire on August 9, the values of Y and U for the Royster Contract would be multiplied by the fraction 145/365 and the As Available Energy Prices used in calculating the Make Whole payment for the Royster contract would include the beginning of that year through August 9, 2009.

Table 1 Mulberry Energy Make Whole Terms

VARIABLE	TERM	VALUE
Y	Number of Hours	[REDACTED]
Z	Maximum Difference \$/MWh	\$18.00
W	Minimum Difference \$/MWh	[REDACTED]
U	MWh	[REDACTED]

Table 2 Royster Energy Make Whole Terms

VARIABLE	TERM	VALUE
Y	Number of Hours	[REDACTED]
Z	Maximum Difference \$/MWh	\$18.00

W	Minimum Difference \$/MWh	██████████
U	MWh	██████████

Table 3 Orange Energy Make Whole Terms

VARIABLE	TERM	VALUE
Y	Number of Hours	██████████
Z	Maximum Difference \$/MWh	\$15.00
W	Minimum Difference \$/MWh	██████████
U	MWh	██████████

Estimated Monthly Make Whole Credit Payments

CONTRACT	MWh	\$/MWh	INSTALLMENT
Mulberry	██████████	\$11.50	██████████
Royster	██████████	\$11.50	██████████
Orange	██████████	\$10.00	██████████

Example of Make Whole Credit Calculation (Mulberry Contract)

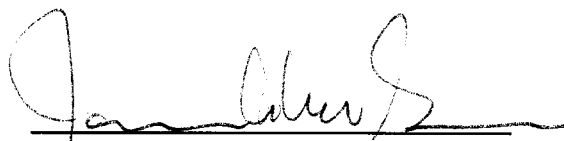
- Step One: Identify ██████ hours of the Year (or fewer, as reduced in proportion to the number of days of a Year in which this Agreement was in effect for only a portion of the Year, compared to 365 days, or 366 days in a Leap Year) in which the As-Available Energy Prices were greatest (during the portion of the Year that this Agreement was in effect);
- Step Two: If the As-Available Energy price for any hour identified in Step One is greater than the corresponding Strike Price for that year, the Strike Price shall be used in lieu of the As-Available Energy Price for such hour (the "Applicable Price");
- Step Three: Determine corresponding QF Energy Rate for each hour identified in Step One;
- Step Four: For each hour identified in Step One, subtract the QF Energy Rate from the corresponding As-Available Energy Price or the Applicable Price, as the case may be. The result for each hour is the "Hourly Make Whole Difference".
- Step Five: Compute the average of the Hourly Make Whole Differences. The result is the "Average Make Whole Rate".
- Step Six: If the Average Make Whole Rate is greater than or equal to \$18.00/MWh (for 1999) then the "Make Whole Amount" shall be equal to \$18.00/MWh (for 1999).
- Step Seven: If the Average Make Whole Rate is less than or equal to ██████ MWh (for 1999), then the Make Whole Amount shall be equal to ██████/MWh (for 1999).
- Step Eight: If the Average Make Whole Rate is less than \$18.00/MWh (for 1999) and greater than ██████/MWh (for 1999), then the Make Whole Amount shall be equal to the Average Make Whole Rate.
- Step Nine: Multiply the Make Whole Amount (in dollars per MWh) by ██████ MWh. The result shall be the Make Whole Credit.

**CERTIFICATE OF SERVICE
DOCKET NO. 990723-EQ**

I HEREBY CERTIFY that a true and correct copy of Florida Power Corporation's Petition For Determination That Amendment To Restructuring Agreement Is Not Material Or, In the Alternative, For Approval of Amendment, has been furnished by U.S. Mail on this 10th day of September, 1999 to the following:

D. Bruce May, Esquire
Holland & Knight, LLP
P.O. Drawer 810
Tallahassee, FL 32302

Greg Jones
Assistant General Counsel
El Paso Energy Corporation
1000 Louisiana Street
Houston, TX 77002



ATTORNEY