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Ms. Ann Cole, Director
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Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

By Hand Delivery

110018-EU

RECEIVED-FPSC
JAN - 7 PH 1:56
COMMISSION CLERK

Re: New docket

In re: Joint Petition for Modification to Determination of Need for Expansion of an Existing Renewable Energy Electrical Power Plant in Palm Beach County by Solid Waste Authority of Palm Beach County and Florida Power & Light Company, and for Approval of Associated Regulatory Accounting and Purchased Power Agreement Cost Recovery

Dear Ms. Cole:

Enclosed for filing in on behalf of the Solid Waste Authority of Palm Beach County and Florida Power & Light Company please find an original and 15 copies of the following:

1. Joint Petition for Modification to Determination of Need 00185-11
2. Direct Testimony of Marc C. Bruner 00187-11
3. Direct Testimony of Daniel J. Pellowitz and Exhibit DJP-1 00186-11
4. Direct Testimony of Tom Hartman 00188-11

Please acknowledge receipt of the enclosed documents by stamping the extra copies of this letter "filed" and returning them to me.

Thank you for your assistance with this filing and please do not hesitate to contact me if you have any questions.

Sincerely

Marsha E. Rule

COM _____
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 ECR | _____
 GCL | _____
 RAD | _____
 SSC _____
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 CLK _____

Enclosures
cc: Erik Sayler
Adam Teitzman
Tom Ballinger

DOCUMENT NUMBER DATE
00185 JAN -7 =
FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint Petition for Modification to)
 Determination of Need for Expansion of an Existing)
 Renewable Energy Electrical Power Plant in Palm)
 Beach County by Solid Waste Authority of Palm)
 Beach County and Florida Power & Light Company,)
 and for Approval of Associated Regulatory)
 Accounting and Purchased Power Agreement)
Cost Recovery)

Docket No. 110018 - EU
 Filed: January 7, 2011

**JOINT PETITION FOR MODIFICATION TO DETERMINATION OF NEED BY
 SOLID WASTE AUTHORITY OF PALM BEACH COUNTY, FLORIDA
 AND FLORIDA POWER & LIGHT COMPANY
AND FOR RECOVERY OF PURCHASED POWER CONTRACT COSTS**

The Solid Waste Authority of Palm Beach County ("SWA") and Florida Power & Light Company ("FPL") (collectively, the "Petitioners" or "Joint Applicants"), pursuant to Sections 403.519 and 377.709, Florida Statutes ("Fla. Stat.") and Rules 25-22.080, 28-106.201, and 25-17.091, Florida Administrative Code ("F.A.C.") hereby petition the Florida Public Service Commission ("Commission") to modify or supplement the previously-issued determination of need for 75 MW of electrical generating capacity at SWA's facility in Palm Beach County.

SWA and FPL request that the Commission make an affirmative determination of need for an additional 93 MW of renewable-energy-fueled electrical generating capacity at SWA's Palm Beach County municipal solid waste process and disposal site, thereby increasing the "need" from the currently-approved 75 MW to a total allowed site aggregate electric generating capacity of 168 MW.

The Petitioners further request that the Commission approve a purchase power agreement subject to the terms described in Appendix A attached hereto (hereinafter referred to

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as “contract” or “agreement”), advanced funding for SWA for construction of its expanded solid waste facility, and associated regulatory accounting and cost recovery treatment for FPL, pursuant to Section 377.709, Fla. Stat..

INTRODUCTION

1. The names of the Petitioners are the Solid Waste Authority of Palm Beach County and Florida Power & Light Company. The addresses and contact information relating to Petitioners are:

Solid Waste Authority
7501 North Jog Road
West Palm Beach, Florida 33412
Attn: Executive Director
Phone (561) 640-4000
Fax (561) 640-3400

Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 33408
Attn: Eric Silagy
Phone (561) 305-5206
Fax (561) 304-5338

2. Copies of all correspondence, pleadings, and other documents filed in this proceeding should be provided to:

Richard A. Zambo
Richard A. Zambo, P.A.
2336 S.E. Ocean Boulevard, #309
Stuart, Florida 34996
Phone (772) 221-0263
FAX (772) 283-6756
richzambo@aol.com

Bryan Anderson
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 33408
Phone: (561) 304-5253
Fax: (561) 691-7135
bryan.anderson@fpl.com

and

and

Marsha E. Rule
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William Cox
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 33408
Phone: (561) 304-5662
Fax: (561) 691-7135
will.cox@fpl.com

3. The affected agency is the Florida Public Service Commission. The Commission's address is:

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

4. Accompanying this Petition and more fully describing the Joint Petitioners' circumstances and supporting their petition are the testimony of Mr. Marc Bruner, the testimony and exhibit of Mr. Dan Pellowitz, and the testimony of Mr. Tom Hartman, as well as other pertinent documents attached as Appendices A through C.

5. SWA is a dependent special district created by the Florida Legislature under the Palm Beach County Solid Waste Act, Chapter 2001-331, Laws of Florida (the "Special Act"), as a political subdivision of Palm Beach County, Florida. A copy of the Special Act is attached as Appendix B to this Petition. The Special Act, which is remedial and must be liberally construed,¹ specifically authorizes SWA to construct and operate resource recovery waste-to-energy ("WTE") facilities to generate electrical power to supplement the electricity supply of the State through the combustion of municipal solid waste ("MSW") from the geographical area of Palm Beach County, Florida, and to sell the resulting output to any governmental agency, individual, public or private corporation, municipality, or other person. SWA is, and has been continuously, engaged in such activities at its site in Palm Beach County, Florida, since 1989.

6. SWA's MSW handling and disposal operations rely in part on a nominal 63 MW renewable energy electric generating WTE facility consisting of MSW-fired steam boilers and steam turbine-generator set (the "Existing Facility"). The Commission determined a need for the Existing Facility at a maximum of 75 MW pursuant to Section 403.519, Fla. Stat., in Order No.

¹ See Section 5 of the Special Act.

15280.² A copy of Order No. 15280 is attached as Appendix C to this Petition. Thereafter, in July, 1986, the Department of Environmental Regulation³ issued its site certification pursuant to Section 403.511, Fla. Stat., authorizing SWA to construct and operate the Existing Facility. The facility began commercial operation in 1989. Pursuant to its existing site certification, SWA is a “licensee” as defined in Section 403.503(18), Fla. Stat., and therefore is authorized under Section 403.511(2)(a), Fla. Stat., to construct and operate its Existing Facility “subject only to the conditions of certification set forth in such certification....”

7. The Existing Facility produces in the range of 400,000 net megawatt hours (“MWh”) of renewable electric energy annually that is committed for sale to Florida Power & Light pursuant to contracts for firm energy and capacity expiring in early 2032. SWA plans to add approximately 105 gross MW to its current WTE electrical generating capability through additional MSW incineration, steam generation, and renewable energy electric generation facilities (the “Expanded Facility”).

8. There is a need for the construction and operation of SWA’s Expanded Facility both to serve SWA’s MSW disposal needs and obligations⁴ and to provide needed renewable energy to FPL consistent with the policy objectives of Sections 377.709, 366.91, and 366.92, Fla. Stat.

² Order No. 15280, *Notice of Proposed Agency Action Order Granting Determination of Need*, issued on October 21, 1985 in Docket No. 850435-EU (In re: Petition of Palm Beach Solid Waste Authority for a determination of need for a solid waste-fired small power producing electric plant). *See also* Order No. 15349, issued on November 12, 1985, which consummated and finalized Order No. 15280.

³ The agency is now known as the Department of Environmental Protection (“DEP”).

⁴ SWA’s County-wide obligations and responsibilities extend to all “Solid Waste,” which is defined in Section 5 (20) of the Special Act as: “garbage, sewage, sludge, septage, rubbish, refuse, and other discarded solid or liquid materials resulting from domestic, industrial, commercial, agricultural, and governmental operations, but does not include solid or dissolved materials in domestic sewage, storm drainage, or other significant pollutants in water resources, such as silt, dissolved or suspended solids in industrial wastewater effluents, dissolved materials in irrigation return flows, or other common water pollutants.”

9. FPL is a public utility regulated by the Commission pursuant to Chapter 366, Fla. Stat. FPL and SWA are negotiating a contract to purchase and to sell, respectively, the electrical output from SWA's Expanded Facility which will incorporate the terms and conditions set forth and described in Exhibit A. Petitioners expect to file the contract with the Commission for its approval in this docket by January 31, 2011. Upon Commission approval and execution by Petitioners, SWA will be obligated to sell and FPL will be obligated to purchase electricity produced by the Expanded Facility.

10. This is a petition initiating and requesting agency action and is not a petition based upon a recent agency decision. Therefore, there is no statement of when and how the Joint Petitioners received notice of agency decision per Rule 28-106.201, F.A.C.

STATEMENT OF THE JOINT PETITIONERS' AFFECTED INTERESTS

11. The Existing Facility, located at SWA's Palm Beach County municipal solid waste processing and disposal site, operates pursuant to a 1986 Department of Environmental Protection ("DEP") Site Certification under the Florida Electrical Power Plant Siting Act. The DEP Site Certification was based, among other things, on the Commission's 1985 determination of need for an MSW electric generating plant. Upon approval of the contract by the Commission pursuant to Section 377.709, Fla. Stat., and execution by the Petitioners, the net electric energy produced by the Expanded Facility will be committed for sale to FPL pursuant to a contract for firm energy billed monthly as electricity is produced and sold, and subject to an advanced-capacity payment as provided for in Section 377.709, Fla. Stat. Therefore, the Expanded Facility, like the Existing Facility, will be fully committed to FPL's Florida retail customers who purchase electrical power at retail rates.

12. SWA is obligated by law to dispose of Palm Beach County's increasing MSW. Expansion of its MSW handling and disposal capability is necessary for SWA to comply with

this obligation and will also add a much-needed supply of renewable energy to the State's electrical supply. The action requested of the Commission by the Joint Petitioners -- to modify or supplement Order No. 15280 by increasing the allowable ultimate electric generating capacity at the site to a combined gross maximum of 168 MW -- is essential to SWA's ability to timely implement the much-needed Expanded Facility. SWA has determined that expansion of the Existing Facility is needed to meet Palm Beach County's increasing needs in the 2015 time-frame and, to that end, has been actively working to expand its MSW recovery, recycling, incineration, and disposal operations since 2006.

13. The Existing Facility has been operating at its MSW disposal limits for several years. Consequently, after considering all available options, SWA governing Board has authorized, and work is substantially in progress on, the Expanded Facility, which will substantially expand the SWA's disposal, processing, and incinerating facilities. The Expanded Facility will add up to 105 gross MW to the total electric generating capacity at the site.

14. The Expanded Facility, when fully implemented, will result in an aggregate combined renewable energy electrical generating capacity at the site of up to a maximum of 168 gross MW. On July 13, 2010, SWA submitted to DEP its application to modify the Certification by increasing the ultimate site capacity to 185 gross MW maximum. Due to several factors, the Authority has recently determined that at this juncture, the appropriate number for permitted electrical generating capacity at the site should be 168 gross megawatts, which reflects the amount sought in the Petition. The DEP has been advised of a reduction by the Authority.

15. The Expanded Facility will employ a mass-burn process in which MSW is incinerated in specifically designed boilers to produce high pressure steam suitable for producing electricity via conventional steam turbine generators. The mass-burn process has been in use for

decades and represents a proven, mature technology capable of incinerating MSW and producing renewable energy at high reliability over long periods of time.

16. The Expanded Facility will be capable of disposing of approximately 3,000 tons of MSW per day, and in the process is projected to produce over 500,000 net MWh of electric energy annually for the benefit of FPL's Florida retail customers. The Expanded Facility will comply with all applicable permitting, land use, and environmental requirements during construction, startup, and operation and will be crucial to SWA in meeting its MSW handling and disposal obligations.

17. Upon Commission approval, SWA will sell and FPL will purchase the electrical output of the Expanded Facility pursuant to the contract. Therefore, FPL has an interest in the Commission's approval of the contract between SWA and FPL. Accordingly, both the term sheet attached as Appendix A and the definitive agreement expected to be completed by the parties have been and will be entered into subject to the Commission finding, as conditions precedent to the contract becoming effective, that: (a) the agreement is reasonable, prudent, and in the best interest of FPL's customers, and (b) FPL may recover from its customers all payments made to SWA pursuant to the agreement, including, without limitation, payments for energy and advanced payments for capacity. As the producer and seller of the electrical output from the Expanded Facility pursuant to the contract, SWA also has an interest in the Commission's approval of the SWA/FPL contract.

DISPUTED ISSUES OF MATERIAL FACT

18. The Joint Petitioners are not aware of any disputed issues of material fact affecting this Petition.

PRIMARILY AFFECTED UTILITY

19. The utility primarily affected by the Expanded Facility is Florida Power & Light Company. The Expanded Facility will be located in FPL's service area. FPL, a wholly-owned subsidiary of NextEra Energy, Inc., is an investor-owned utility that supplies electric service to a population of more than 8.7 million people throughout most of the east and lower west coasts of Florida. FPL provides electric generation, transmission, and distribution service to approximately 4.5 million retail customers in the state of Florida.

THE PROPOSED ELECTRICAL POWER PLANT

20. The Expanded Facility will employ a mass-burn combustion process in which MSW is incinerated in specifically designed boilers to produce high pressure steam suitable for producing electricity via conventional steam turbine generators. The mass-burn process has been in use for decades and represents a proven, mature technology capable of incinerating MSW and producing renewable energy at high reliability over long periods of time.

21. The Expanded Facility is expected to be configured using three incinerator/steam boiler "trains" with one steam turbine-generator set with the following characteristics: (1) steam turbine will be of the conventional condensing type; (2) steam condenser will be of the "dry" air-cooled type; (3) electric generator will be synchronous, non-salient pole revolving field; (4) electric generator output voltage will be 13.8 kV; (5) step up transformer will be from 13.8 kV to 138 kV for electrical grid compatibility; (6) boiler operating conditions will be in the range of 900 psig and 860°F; (7) primary fuel to be consumed will be MSW;⁵ (8) gross electrical generating capacity will be in the range of 105 MW; (9) net electrical generating capacity will

⁵ Relatively small amounts of natural gas will be used at startup and may be used periodically for flame stabilization.

be in the range of up to 90 MW; and (10) integrated Expanded Facility cost will be in the range of \$750 million.

22. SWA will deliver the electricity generated by the Expanded Facility directly to FPL with which it will be electrically interconnected.

FACTORS INDICATING NEED

23. Both Applicants have a need for the Expanded Facility. The need of each applicant will be addressed, in turn.

24. Since 1975, SWA has been the sole governmental entity authorized to engage in managing, processing, and disposing of MSW in Palm Beach County, Florida. Pursuant to Section 12(2) of the Special Act, SWA is the only entity authorized and/or required to “operate, maintain, construct, expand, or modify any resource recovery or waste management facility” in Palm Beach County.

25. The Special Act authorizes the SWA in its discretion to, among other things, finance, build, own, and operate facilities to generate electricity and to sell the electricity to any person. It has been authorized to engage in the business of generating electric energy at its site in Palm Beach County, Florida, since 1986, and has been engaged in the business of generating electric energy at its site in Palm Beach County, Florida, and selling such electric energy and other byproducts of its resource recovery operations since 1989.

26. The Expanded Facility is needed to maintain SWA’s ability to dispose of MSW in a reliable and environmentally sound manner consistent with applicable Florida law and policy. After fully considering other alternatives/options and technologies, SWA determined that the Expanded Facility represents the most reliable, cost-effective, and environmentally sound alternative available to meet its obligations to implement and operate a viable resource recovery and waste management program in the County, for the following reasons.

27. Delaying the Expanded Facility would have many significant adverse impacts on SWA's ability to dispose of MSW, to comply with its legal obligations to dispose of MSW, to add a much-needed source of renewable energy to Florida's electric utility fuel mix, and would, among other things, deprive the local economy of hundreds of millions of dollars of investment in plant and equipment and the hiring of hundreds of worker to construct and operate the Expanded Facility. Further, without the Expanded Facility, SWA and Palm Beach County will consume landfill capacity at a rate many times greater than with such facility. This is particularly important since SWA does not have another possible landfill site available at this time.

28. If the Commission should not determine there is a need for the electricity to be generated from the Expanded Facility, SWA may be forced to incinerate increasing amounts of MSW without generating electricity from the process, with the result that the State will experience all of the consequences of such burning without the benefits intended by the Legislature, and the citizens within the area covered by SWA will be unnecessarily burdened with substantial additional collection costs that would otherwise be reduced or mitigated by revenues from the sale of electricity at avoided cost.

29. Under Section 377.709(4), Fla. Stat., in order to retain the full amount of the advanced capacity payment, the Expanded Facility will need to operate at a minimum seventy percent (70%) capacity billing factor on a twelve (12) month rolling average. Accordingly, the Expanded Facility will contribute to FPL's electrical system reliability and integrity.

30. The Expanded Facility and the proposed contract between FPL and SWA will provide FPL and its customers with electricity at a reasonable cost, in a manner fully consistent with the cost effectiveness requirements of Section 377.709(3)(b), Fla. Stat. As further discussed in Mr. Hartman's testimony, the proposed advanced capacity payment is less than the net present

value of FPL's avoided capacity cost, and the proposed energy payments are less than or equal to the energy costs associated with FPL's avoided capacity costs. FPL's purchase of the electricity from the Expanded Facility under the terms of the proposed SWA/FPL contract is therefore a cost-effective alternative for FPL's customers.

31. In assessing need, the Commission also assesses whether renewable energy sources and technologies, as well as conservation measures, are utilized to the extent reasonably available. Here the Florida Legislature has spoken clearly that the Commission should encourage the development of MSW WTE facilities such as the Expanded Facility because such a facility "... not only represents an effective conservation effort but also represents an environmentally preferred alternative to conventional solid waste disposal in the state."⁶ Accordingly, this criterion of need is clearly met by the Expanded Facility and the agreement under which FPL will purchase the output from the Expanded Facility.

32. In assessing need, the Commission is also tasked to consider the conservation measures taken by or reasonably available to the applicant to mitigate the need for the proposed plant. As noted above, the Florida Legislature has specifically recognized MSW WTE facilities as an effective conservation measure that the Commission should encourage through implementation of a utility-supported funding program. The proposed SWA/FPL contract makes effective and appropriate use of the funding program provided for in Section 377.709, Fla. Stat.

**FLORIDA LAW AND POLICY SUPPORT ISSUANCE OF A
DETERMINATION OF NEED FOR THE EXPANDED FACILITY**

33. In Order No. 15280, this Commission granted SWA's petition for determination of need for the Existing Facility for up to 75 MW of generating capacity. That Order was incorporated into and became part of SWA's Site Certification for the Existing Facility.

⁶ See Section 377.709(1), Fla. Stat.

34. In granting SWA's petition for determination of need for the Existing Facility, the Commission noted in Order No. 15280 the federal and state policy of encouraging cogeneration and small power production, and WTE facilities in particular:

Construction of the plant is a conservation measure which we have encouraged primarily because it might mitigate the need for additional construction by electric utilities. Finally, in 1984, the Florida Legislature enacted legislation designed to assist local governments in financing projects such as proposed by the Authority, and in so doing declared it to be the policy of this State that "the combustion of refuse by solid waste facilities to supplement the electricity supply not only represents effective conservation efforts but also represents an environmentally preferred alternative to conventional solid waste disposal in this State. Therefore, the Legislature directs the Florida Public Service Commission to establish a funding program to encourage the development by local governments of solid waste facilities that use solid waste as a primary source of fuel for the production of electricity." See Section 377.709(1), Florida Statutes. Therefore, the relief sought in this petition, an affirmative determination of need, will be and the same is hereby granted. (Emphasis supplied)

35. As recognized in the Commission's Order, the Florida Legislature specifically declared in Section 377.709(1), Fla. Stat., a need for the State to promote renewable energy through the construction and operation of MSW-fired generation:

LEGISLATIVE INTENT.--The Legislature declares that it is critical to encourage energy conservation in order to protect the health, prosperity, and general welfare of this state and its citizens. The Legislature also declares that the disposal of solid refuse is an important governmental obligation and that, if the disposal is not accomplished in a proper manner, such refuse poses a definite threat to the public health and welfare. The Legislature further declares that the combustion of refuse by solid waste facilities to supplement the electricity supply not only represents an effective conservation effort but also represents an environmentally preferred alternative to conventional solid waste disposal in this state. . . . (Emphasis supplied).

36. In a much broader and more general application of the principles articulated above, in its Order No. 22341 issued December 26, 1989,⁷ the Commission again emphasized the unique role played by WTE facilities and, in dicta, recognized “solid waste facilities may be in a different category than other QFs by virtue of §377.709, Florida Statutes” such that “it may be appropriate to 'automatically' approve the need for a solid waste facility. . . .” However, as noted above, under the specific circumstances of this Petition, there is no need to presume need for this proposed solid waste facility, as the Expanded Facility satisfies the need determination requirements of Section 403.519, Fla. Stat. A Commission finding of need would meet the requirements of Section 403.519 through satisfying the specific policy objectives and advanced funding requirements of Section 377.709, Fla. Stat., consistent with long-standing Commission precedent for need determinations for solid waste facilities.⁸

37. A determination of need for SWA’s Expanded Facility is consistent with Florida law and policy, which very clearly and specifically recognizes the many benefits of renewable energy resources and encourages the production of electric energy from MSW. Florida’s Legislature has spoken very specifically in declaring a need for the State to promote renewable energy through the construction and operation of MSW-fired generation in Sections 377.709(1), 366.91(1) and 366.92(1), Fla. Stat.

POTENTIAL ADVERSE CONSEQUENCES

38. Delaying the construction and operation of the expanded MSW-fueled facility will have adverse effects on FPL to the extent that it results in FPL burning more non-renewable

⁷ Order No. 22341, issued on December 26, 1989, in Docket No. 890004-EU (In Re: Hearings on Load Forecast, Generation Expansion Plans, and Cogeneration Prices for Peninsular Florida’s Electric Utilities).

⁸ See Order No. PSC-93-1715-FOF-EQ, *Order Granting Petition for Determination of Need and Closing Docket*, issued on November 30, 1993 in Docket No. 930196-EQ (In Re: Petition to Determine Need for Proposed Capital Expansion Project of the Dade County Resources Recovery Facility).

fossil fuel for the production of electricity than necessary, all or virtually all of which must be imported into Florida from other states or other countries. Delay will also have adverse effects on SWA, which will be prevented from installing and operating much-needed MSW disposal and energy recovery capability from MSW, thereby depriving SWA and the residents of Palm Beach County of the economic benefits of the Expanded Facility.⁹

39. A number of substantial adverse consequences will result if the Expanded Facility is not constructed and operated or if it is delayed. The adverse consequences for SWA and Palm Beach County include, but are not limited to: (1) Palm Beach County and its citizens will lose the benefits of a new capital investment in the range of \$750 million in the Expanded Facility and approximately 400 new temporary construction jobs over the expected three-year construction cycle of the Expanded Facility and the creation of approximately 70 new permanent jobs associated with the commercial operation of the Expanded Facility; (2) Palm Beach County and its citizens will be denied the environmental benefits of replacing and displacing electricity generated by fossil fuels, by recovering energy from waste, and by reducing the volume of MSW treated at the Expanded Facility and ultimately disposed at landfills by approximately 90%; and (3) SWA and citizens of Palm Beach County will be forced to site, finance, and implement less reliable, less desirable, and less environmentally friendly means of MSW management and disposal in contravention of the State solid waste disposal policy and the specific responsibilities of SWA. The adverse consequences for FPL include, but are not limited to: (1) FPL and its customers will be denied a beneficial renewable energy resource and forego the benefits of reducing Florida's dependence on oil and natural gas as electric generating fuels; and (2) FPL

⁹ See milestone dates provided on Page 15 of the Direct Testimony of Marc C. Bruner.

and its customers will be denied the benefits of fuel diversity resulting from addition of a significant amount of renewable energy to FPL's fuel-mix.

ADVANCED FUNDING OF SWA'S EXPANDED FACILITY

40. Under Section 377.709(3), Fla. Stat. and upon petition of a local government special authority, the Commission can require an electric utility such as FPL¹⁰ to enter into a contract with a local government special authority such as SWA to provide advanced funding to such government for the construction of the electrical component of a solid waste facility.¹¹ The utility and the local government authority may not enter into the contract without prior approval of the Commission. The contract must be consistent with the requirements of Section 377.709(3)(b), Fla. Stat., and the Commission must consider those items it deems appropriate, including, but not limited to, the cost effectiveness¹² of the unit and the financial ability of the electric utility to provide the funding.

41. The proposed SWA/FPL contract meets the requirements of Section 377.709(3)(b), Fla. Stat. The contract's compliance with these specific statutory requirements is addressed in the following paragraphs.

42. The proposed unit is cost effective. As set forth in the foregoing paragraphs and as more fully developed in the testimony of FPL's witness Mr. Hartman, the cost of the firm

¹⁰ As stated in the foregoing paragraphs, FPL is the electric utility currently providing electrical energy in Palm Beach County at the geographic area where SWA's Expanded Facility is located, as required by Section 377.709(3)(b), Fla. Stat.

¹¹ Under Section 377.709(2), Fla. Stat., "electrical component" refers to the turbine, generator, and associated transmission facilities of a solid waste facility, and "solid waste facility" is defined as a facility owned or operated by, or on behalf of, a local government for the purpose of disposing of solid waste, as that term is defined in Section 403.703(32), Fla. Stat., by any process that produces heat and incorporates, as a part of that facility, the means of converting heat to electrical energy in amounts greater than actually required for operation of the plant.

¹² Under Section 377.709(2), Fla. Stat., "cost effective" means that the cost of electrical capacity and energy produced by a solid waste facility financed and constructed pursuant to Section 377.709, Fla. Stat., and delivered to an electric utility is no greater than the cost to that utility of producing an equivalent amount of capacity and energy had the alternative facility not been constructed and operated.

capacity and energy from the Expanded Facility under SWA/FPL contract is less than FPL's full avoided cost, and the firm capacity and energy from the Expanded Facility can reasonably be expected to contribute to the deferral or avoidance of FPL's next planned fossil generating unit.

43. FPL has the financial ability to provide the funding required by the contract. As developed more fully in the testimony of Mr. Hartman, FPL has adequate financial resources to provide the required advanced capacity funding.

44. The contract's proposed advanced capacity payment complies with the requirements of Section 377.709(3)(b)1 and (4), Fla. Stat. and Rule 25-17.091(5), F.A.C. As developed more fully in the testimony of Mr. Hartman and specified in Appendix A attached hereto, the advanced capacity payment represents the lesser of the net present value of FPL's avoided-capacity cost for the contract term in which SWA would provide electrical capacity to FPL and the total design cost of electrical component of SWA's expanded facility. Further, the contract provides that the advanced capacity payment will be made for and during the construction of the electrical component of the Expanded Facility and is subject to refund to FPL if the Expanded Facility fails for any reason to operate at a seventy percent (70%) capacity factor based on a twelve (12) month rolling average.

45. The contract's proposed energy payments comply with the requirements of Sections 377.709(3)(b)1 and (5), Fla. Stat. As developed more fully in the testimony of Mr. Hartman and as specified in Appendix A attached hereto, until the later of the expected in-service date of FPL's avoided unit or December 31, 2016, the energy payments will be at 99% of FPL's tariffed hourly incremental energy rates and thereafter, at the lesser of FPL's tariffed hourly incremental energy rates and FPL's avoided unit energy cost .

46. Consistent with Section 377.709, Fla. Stat., and Rule 25-17.091, F.A.C., the contract does not require risk-related guarantees, such as a security deposit, and requires that

SWA maintain a 70% capacity billing factor on a rolling twelve (12) month average and refund FPL a proportionate amount of the advanced capacity payment if the Expanded Facility does not meet this capacity billing factor.

COST RECOVERY FOR FPL CAPACITY PAYMENTS

47. Under Section 377.709(3)(b)4, Fla. Stat., FPL is entitled to recover from its customers costs associated with providing advanced funding to SWA for its Expanded Facility under the provisions of the Florida Energy Efficiency and Conservation Act. Specifically, FPL is entitled to recover “the amount of financing, including all carrying costs, plus reasonable and prudent administrative costs incurred by the electric utility”.

48. The Florida Energy Efficiency and Conservation Act provides the Commission authority for both the energy conservation and cost recovery (“ECCR”) clause under Section 366.82, Fla. Stat., and the environmental cost recovery clause (“ECRC”) under Section 366.8255, Fla. Stat. FPL proposes to recover the return on the advanced capacity payment (“ACP”) plus reasonable and prudent administrative costs incurred by FPL pursuant to the FEECA statute through the ECCR clause. FPL recommends recovery through the ECCR clause because that clause is used for the recovery of the costs of conservation efforts, and the Legislature has declared in Section 377.709(1), Fla. Stat. that solid waste facilities such as the Expanded Facility reflect an effective conservation effort.

49. The ACP would earn a return at the overall clause rate of return until fully amortized, commencing at the point that the ACP is made by FPL to the SWA. The return would be calculated using a pretax rate of return applied to the advanced payment during the construction period. Upon commercial operation of the Expanded Facility, FPL would begin to amortize the ACP through the ECCR clause on a straight line basis over the remaining term of

the SWA/FPL contract. The unamortized balance of the ACP would continue to earn a return at the overall clause rate of return until it is fully amortized.

COST RECOVERY FOR FPL ENERGY PAYMENTS

50. As set forth in the foregoing paragraphs and as developed more fully in the testimony of Mr. Hartman, the firm capacity and energy from the Expanded Facility can reasonably be expected to contribute to the deferral or avoidance of FPL's next planned generating unit.

51. As set forth in the foregoing paragraphs and as developed more fully in the testimony of Mr. Hartman, the firm capacity and energy from the Expanded Facility can reasonably be expected to provide both physical fuel diversity and economic fuel diversity as well as fuel price stability to FPL and its customers.

52. The proposed SWA/FPL contract will provide that until the later of the expected in-service date of FPL's avoided unit or December 31, 2016, FPL will pay SWA for electric energy at 99% of FPL's tariffed hourly incremental energy rates and thereafter, at the lesser of FPL's tariffed hourly incremental energy rates and FPL's avoided unit energy cost. As such, FPL's energy payments will be consistent with the requirements under Section 377.709(3)(b)2, Fla. Stat.

53. The Commission authorizes investor owned electric utilities such as FPL to recover prudently incurred energy charges paid for purchased power through the fuel and purchased power cost recovery clause. For the reasons set forth above, the Commission should authorize FPL to recover its energy payments to SWA under the SWA/FPL contract through the fuel and purchased power cost recovery clause, again consistent with the recovery of such payments for FPL's existing power purchase agreements.

ULTIMATE FACTS ALLEGED

54. The Expanded Facility meets all the statutory requirements for an affirmative determination of need. The construction and operation of the Expanded Facility is fully consistent with the legislative intent of Section 377.709, Fla. Stat., "...to encourage energy conservation in order to protect the health, prosperity, and general welfare of this state and its citizens" through the deployment of a WTE facility that is both an "effective conservation effort" and an "environmentally preferred alternative to conventional solid waste disposal in the state". It is also consistent with the clear intent and policy of Sections 366.91(1) and 366.92(1), Fla. Stat. It will help maintain system reliability, provide adequate electricity at a reasonable cost, increase fuel diversity, enhance fuel supply, utilize a renewable energy technology, provide a cost-effective alternative to FPL and its customers, and assist in the encouragement and development of renewable energy in Florida. There are no conservation resources reasonably available to mitigate the need for the Expanded Facility.

55. Delaying the Expanded Facility would have many significant adverse impacts on SWA's ability to dispose of MSW, to comply with its legal obligation to dispose of MSW, and to add an additional source of renewable energy to FPL's electric utility fuel mix, and would, among other things, deprive the local economy of hundreds of millions of dollars of investment in plant and equipment and the hiring of hundreds of workers to construct and operate the Expanded Facility.

56. The contract between SWA and FPL for the output of the Expanded Facility meets all the criteria for advanced funding for SWA and cost recovery for FPL under Sections 377.709, Fla. Stat. Costs under the contract should be approved for cost recovery pursuant to FPL's energy conservation cost recovery clause and fuel and purchased power cost recovery

clause, subject to a showing that specific expenditures meet the requirements of Section 377.709, Fla. Stat.

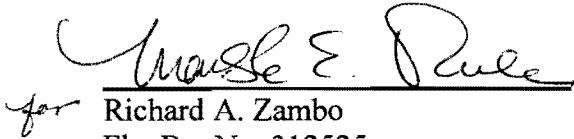
RELIEF REQUESTED

WHEREFORE, for the reasons set forth above, and as more fully described in the testimony and exhibits accompanying this Petition, the Joint Petitioners respectfully request that:

(a) the Commission grant an affirmative modification to a previously issued determination of need for 75 MW by increasing the amount of electric generating capacity “needed” at SWA site in the amount of 93 MW, to an aggregate combined total of 168 MW; (b) that the Commission approve the proposed SWA/FPL contract and associated advanced funding for SWA for the construction of the electrical component of its expanded solid waste facility; and (c) that the Commission make the following findings in approving the SWA/FPL agreement: (i) the agreement is reasonable, prudent, and in the best interest of FPL’s customers and complies fully with the requirements of Section 377.709, Fla. Stat., for advance funding, and (ii) FPL is authorized to utilize the regulatory accounting treatment described above in this petition and recover from its customers the costs associated with its advanced payment for capacity plus administrative costs through the energy conservation cost recovery clause and all payments for firm capacity and energy through the fuel and purchased power cost recovery clause.

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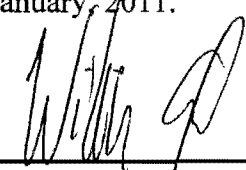
Respectfully submitted, on this 7th day of January, 2011.


for

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APPENDIX A

TO

**JOINT PETITION FOR MODIFICATION TO DETERMINATION OF NEED
BY SOLID WASTE AUTHORITY OF PALM BEACH COUNTY, FLORIDA
AND FLORIDA POWER & LIGHT COMPANY
AND FOR RECOVERY OF PURCHASED POWER CONTRACT COSTS**

TERMS OF PROPOSED PURCHASE POWER AGREEMENT

APPENDIX A
Florida Power & Light Company
Solid Waste Authority of Palm Beach County
Terms of Proposed Purchase Power Agreement

1. Facility

The facility shall be a waste to energy facility up to 90 MW delivered at the busbar (“Expanded Facility”) adjacent to the existing SWA facility. The actual size of the Expanded Facility is to be specified at SWA’s option after it selects a contractor and executes an agreement for the design, construction, and operation of the Expanded Facility.

2. Term

The term shall begin upon signing of the definitive agreement by the parties and shall extend through April 1, 2032 (“Term”), unless extended in writing by mutual agreement of the parties. At the sole option of SWA by written notice to FPL no later than 60 days following initial operation of the Expanded Facility, the initial term shall be extended up to 26 months; provided, however, in no event shall the Agreement extend beyond June 1, 2034 without the prior written agreement of both parties.

3. Sale of Energy & Capacity

All net energy and capacity, exclusive of on-site use, from the Expanded Facility shall be sold to FPL exclusively.

4. Advance Capacity Payments

FPL shall provide an advance capacity payment to SWA (“Payment”) in a single lump-sum upon the date on which final payment for the turbine-generator is due from SWA or its contractor and, in any event, no later than December 31, 2014 (“Payment Date”).

As soon as is commercially reasonable, after issuance of written notice to proceed by SWA to the contractor, but in no case less than one (1) year prior to the Payment Date, SWA shall provide to FPL the specific date (corresponding to the scheduled due date of final payment for the turbine-generator) that the Payment will be payable to SWA, *i.e.*, the Payment Date. FPL may, in its sole discretion, agree to extend the Payment Date to a later date.

The Payment shall be the lower of:

- A. the net present value of the avoided-capacity cost for FPL calculated over the term of the contract; or,
- B. the budgeted cost of the power block for the Facility.

FPL shall notify SWA of the estimated amount of the Payment, no later than 90 days following SWA's notification to FPL of the Expanded Facility net capacity per Section 1, above.

5. Energy Payments

- A. From initial operation of the Expanded Facility, including start-up and testing prior to SWA's determination of commercial operation, energy deliveries from the Expanded Facility shall be purchased and paid for by FPL at ninety nine percent (99%) of the hourly as-available energy rate for the Southeast region on FPL's system.
- B. From the later of the in-service date of the avoided unit or December 31, 2016, energy deliveries from the Expanded Facility shall be paid for by FPL at the lower of the as-available energy rate for the Southeast region on FPL's system, or the energy cost of FPL's avoided unit.

6. Facility Performance

Commencing upon commercial operation, the Expanded Facility shall be allowed a total of twenty eight (28) scheduled maintenance days in each year. Every fifth year, beginning in the second year of commercial operation, the number of scheduled maintenance days shall be thirty five (35) days. Exclusive of these scheduled maintenance days, the Expanded Facility shall maintain an annual capacity billing factor (based on a rolling twelve (12) month basis) of not less than seventy percent (70%). SWA shall have the right to a reasonable cure period in the event of a default under this section, and the capacity factor will take into consideration such items as Force Majeure.

7. Conditions Precedent

The obligations of SWA and FPL under the contract shall be conditional based on the following conditions precedent:

- A. The Florida PSC's final approval of the contract, including findings that the contract is reasonable, prudent, and in the best interests of FPL's customers and fully complies with the requirements of Section 377.709, Fla. Stat., and that FPL may recover all costs associated with this agreement, including financing costs, from its customers;
- B. Execution by SWA of an agreement for the design, construction, and operation of the Expanded Facility;
- C. Receipt by SWA of all necessary state and federal construction permits, certifications, and approvals for the construction of the Expanded Facility;
- D. Securing of long term financing for the Expanded Facility on terms acceptable to SWA.

8. Renewable Attributes

Renewable attributes associated with production of the Expanded Facility remain the property of SWA, subject to a right of first refusal (“ROFR”) to purchase the same by FPL.

9. Change in Law

If a change in law occurs which obligates Florida utilities to maintain a generation mix by fuel type that includes a stated quantity or percentage of renewable energy, e.g., a renewable portfolio standard, then the parties agree to attempt to negotiate an equitable adjustment (subject to FPSC approval) in the price paid for energy from the Facility. Should agreement not be reached, the parties shall seek an arbitral award that determines the adjusted energy price.

10. Termination

At any time subsequent to the date SWA first begins to sell energy to FPL but no later than twelve (12) months prior to the scheduled in-service date of FPL’s avoided unit, or June 1, 2016, whichever occurs last, SWA may, in its sole and absolute discretion, terminate this agreement upon thirty (30) days written notice to FPL, and both parties shall be fully relieved of any further obligation or liability hereunder, except as follows:

- A. Within thirty (30) days of the effective date of termination of this agreement, SWA shall refund to FPL the advanced funding provided to SWA pursuant to this agreement plus interest at a rate equivalent to FPL’s authorized and published pre-tax rate of return plus 400 basis points.
- B. FPL’s ROFR to purchase renewable energy attributes of the Expanded Facility shall survive termination of this agreement.
- C. Effective upon SWA’s termination of this agreement, FPL shall have a ROFR to purchase, at FPL’s sole and absolute discretion, electric energy or electric energy and capacity of SWA’s Expanded Facility at the same rates, terms, and conditions that SWA has negotiated with a third party. FPL must exercise this option within thirty (30) days of receipt of SWA’s written notice of the rates, terms, and conditions for the electric energy and capacity negotiated with the third party.
- D. Effective upon SWA’s termination of this agreement, any off-system sales by SWA (assuming FPL did not exercise its ROFR to purchase electric energy or energy and capacity of the Expanded Facility) must be for the entire net output of the Expanded Facility.

APPENDIX B

TO

**JOINT PETITION FOR MODIFICATION TO DETERMINATION OF NEED
BY SOLID WASTE AUTHORITY OF PALM BEACH COUNTY, FLORIDA
AND FLORIDA POWER & LIGHT COMPANY
AND FOR RECOVERY OF PURCHASED POWER CONTRACT COSTS**

CHAPTER 2001-331, LAWS OF FLORIDA

CHAPTER

2001-33 HB 945, First Engrossed/ntc

House Bill No. 945

A bill to be entitled

1
2 An act relating to the Solid Waste Authority of
3 Palm Beach County, a dependent special district
4 in Palm Beach County; codifying the Authority's
5 charter, chapter 75-473, Laws of Florida, as
6 amended, pursuant to s. 189.429, F.S.;
7 providing legislative intent; amending,
8 codifying, and reenacting all special acts
9 relating to the Solid Waste Authority of Palm
10 Beach County as a single act; providing a short
11 title; providing declaration of legislative
12 intent; providing for application to
13 incorporated and unincorporated areas;
14 providing definitions; providing purposes and
15 powers; providing exemption from taxation;
16 providing prohibition, permits, and penalty;
17 providing enforcement; providing injunctive
18 relief; providing judicial review; providing
19 severability; repealing all prior special acts
20 related to the Authority; providing an
21 effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Pursuant to section 189.429, Florida
26 Statutes, this act constitutes the codification of all special
27 acts relating to the Solid Waste Authority of Palm Beach
28 County. It is the intent of the Legislature in enacting this
29 law to provide a single, comprehensive special act charter for
30 the Solid Waste Authority of Palm Beach County, including all
31 current legislative authority granted to the Authority by its

1 several legislative enactments and any additional authority
2 granted by this act.

3 Section 2. Chapters 75-473, 77-626, 79-536, 79-539,
4 79-542, 84-501, 84-502, 86-433, 88-544, 91-334, 93-345, and
5 94-462, Laws of Florida, relating to the Solid Waste Authority
6 of Palm Beach County, are codified, reenacted, amended, and
7 repealed as herein provided.

8 Section 3. The charter for the Solid Waste Authority
9 of Palm Beach County is re-created and reenacted to read:

10 Section 1. Short title.--This act may be known and
11 cited as the "Palm Beach County Solid Waste Act."

12 Section 2. Declaration of legislative intent.--In
13 order to enhance the beauty and quality of our environment,
14 conserve our natural resources, prevent the spread of disease
15 and creation of nuisances, protect the public health, safety,
16 and welfare, and provide a coordinated resource recovery and
17 waste management program for Palm Beach County, it is
18 necessary to form a countywide authority for the management of
19 solid waste to meet the expanding problems related to the
20 processing and disposal of solid waste within Palm Beach
21 County and to:

22 (1) Provide for the safe and sanitary processing and
23 disposal of solid waste.

24 (2) Provide a coordinated countywide program for the
25 management of hazardous waste and control of solid waste
26 processing and disposal in cooperation with federal, state,
27 and local agencies responsible for the prevention, control, or
28 abatement of air, water, and land pollution.

29 (3) Require the municipalities and the county to plan
30 for and develop an adequate solid waste collection system.

1 Section 3. Creation of countywide solid waste
2 authority.--In order to effectuate the intent and purpose of
3 this act as set forth in section 2, the Solid Waste Authority
4 of Palm Beach County is created as a dependent special
5 district. Its board shall consist of the seven members of the
6 Board of County Commissioners of Palm Beach County. A quorum
7 of the board shall be four members.

8 Section 4. Application to incorporated and
9 unincorporated areas.--This act shall apply to both the
10 incorporated and unincorporated areas of Palm Beach County.

11 Section 5. Definitions.--As used in this act, unless
12 some other meaning is plainly intended:

13 (1) "Act" means this act and all amendments thereto.

14 (2) "Authority" means the Solid Waste Authority of
15 Palm Beach County.

16 (3) "Clerk" means Clerk of the Circuit Court of Palm
17 Beach County, Florida.

18 (4) "Cost of acquisition and/or construction" means
19 the cost of acquiring, constructing, reconstructing,
20 improving, extending, equipping, and furnishing any resource
21 recovery and solid waste management facilities, including the
22 cost of demolishing, removing, or relocating any buildings,
23 structures, or utilities on lands acquired or to be acquired,
24 including the cost of acquiring lands to which such buildings,
25 structures, or utilities may be moved or relocated, the cost
26 of all labor and materials, the cost of financing charges,
27 discount on the purchase price of bonds otherwise permitted
28 hereunder, and interest on the bonds of the Authority prior
29 to, during, and for a period not exceeding 2 years after
30 completion thereof, payments under and fees and expenses in
31 connection with any derivative agreements, the cost of

1 establishing and funding initial reserves, the cost of
 2 engineering, financial, and legal services plans,
 3 specifications, studies, surveys, estimates of cost and of
 4 revenues, and other expenses necessary or incidental to
 5 determining the feasibility or practicability of any such
 6 construction or acquisition, administrative expenses, and such
 7 other costs and expenses as may be necessary or incidental to
 8 such acquisition, construction, reconstruction, improvement,
 9 extension, equipping, or furnishing, the financing thereof,
 10 placing such resource recovery and solid waste management
 11 facilities in operation, and the issuance of bonds under this
 12 act.

13 (5) "County" means Palm Beach County, Florida.

14 (6) "Department" means the Department of Environmental
 15 Protection or any successor agency performing a like function.

16 (7) "Derivative agreements" means contracts commonly
 17 known as investment contracts, interest rate swap agreements,
 18 or contracts providing for payments based on levels of or
 19 changes in interest rates, or contracts to exchange cash flows
 20 or a series of payments, to hedge payment, rate, spread, or
 21 similar exposure, which the governing body of the Authority
 22 determines to be necessary, desirable, or appropriate to
 23 achieve a desirable effective interest rate in connection with
 24 bonds, notes, or bond anticipation notes issued by the
 25 Authority.

26 (8) "Director" means the Executive Director of the
 27 Solid Waste Authority of Palm Beach County or his or her duly
 28 authorized representative.

29 (9) "Disposal" means the disposition of solid waste by
 30 resource recovery, processing, recycling, or the placing of
 31

1 solid waste materials on the land for final disposition, or
2 any combination thereof.

3 (10) "Fiscal year" means the year beginning October 1
4 of each year and ending September 30 of the following year.

5 (11) "General obligation bonds" means bonds or other
6 obligations secured by the full faith and credit and taxing
7 power of the Authority and payable from ad valorem taxes
8 levied and collected on all taxable property in Palm Beach
9 County, without limitation of rate or amount, and may be
10 additionally secured by the pledge of either or both the
11 proceeds of special assessments levied against benefited
12 property or revenues derived from solid waste disposal
13 systems.

14 (12) "Hazardous waste" has the same meaning as the
15 term is defined in section 403.703(21), Florida Statutes, or
16 any successor law or regulation.

17 (13) "Municipality" means all incorporated
18 municipalities or special taxing districts exercising
19 municipal powers in relation to collection and disposal of
20 solid waste, lying and being in Palm Beach County, Florida.

21 (14) "Person" or "persons" means any and all persons,
22 natural or artificial, including any individual, firm, or
23 association, any facility, or any municipal or private
24 corporation organized or existing under the laws of the State
25 of Florida or any other state and any county or governmental
26 agency of this state or the Federal Government.

27 (15) "Processing" means the act of modifying or
28 altering the nature of solid waste materials to facilitate
29 reuse, transfer, transport, and disposal, including, but not
30 limited to, systems employing physical, thermal, organic, or
31 chemical techniques.

1 (16) "Property appraiser" means the Property Appraiser
2 of Palm Beach County, Florida.

3 (17) "Recycling" means any process by which solid
4 waste materials are recovered and reused in manufacturing,
5 agricultural, power production, and other processes.

6 (18) "Resource recovery" means the process by which
7 materials in solid waste retaining useful physical or chemical
8 properties are reused or recycled for the same or other
9 purposes, including use as an energy source.

10 (19) "Revenue bonds" means bonds or other obligations
11 of the Authority secured by and payable from the rates, fees,
12 charges, and other income collected by the Authority from the
13 users of its resource recovery and solid waste management
14 facilities, or by pledge of the full faith and credit of the
15 Authority, or by a combination thereof.

16 (20) "Solid waste" means garbage, sewage, sludge,
17 septage, rubbish, refuse, and other discarded solid or liquid
18 materials resulting from domestic, industrial, commercial,
19 agricultural, and governmental operations, but does not
20 include solid or dissolved materials in domestic sewage, storm
21 drainage, or other significant pollutants in water resources,
22 such as silt, dissolved or suspended solids in industrial
23 wastewater effluents, dissolved materials in irrigation return
24 flows, or other common water pollutants.

25 (21) "Solid waste system" or "resource recovery and
26 solid waste management facilities" or "project" means any
27 plant, facility, or property and additions, extensions, and
28 improvements thereto, at any time constructed or acquired as
29 part thereof, useful or necessary or having the capacity for
30 future use for resource recovery or solid waste management
31 and, without limiting the generality of the foregoing, shall

1 include vehicles used for transport from transfer stations to
 2 treatment sites and incinerators for the purposes of reducing
 3 the volume of or disposing of solid waste by burial, as well
 4 as proper disposal of residue from incineration, and shall
 5 include all real and personal property and any interest
 6 therein, rights, easements, and franchises of any nature
 7 whatsoever, and equipment, machinery, furnishings, fixtures,
 8 and replacements, relating to any such solid waste system and
 9 necessary or convenient for the operation thereof.

10 (22) "Tax collector" means the Tax Collector of Palm
 11 Beach County, Florida.

12 (23) "Transport" means the act of movement of solid
 13 waste materials to facilitate processing, reuse, and disposal.

14 (24) "Waste management" means the systematic control
 15 of the generation, storage, collection, transport, treatment,
 16 processing, recycling, recovery, and disposal of solid waste.

17 Section 6. Purposes and powers.--For the purposes of
 18 this act, all of Palm Beach County is deemed to be a special
 19 district. In addition to other powers, duties, and
 20 responsibilities necessary to carry out the provisions of this
 21 act, the Authority shall have the power to:

22 (1) Adopt and from time to time thereafter alter,
 23 rescind, modify, or amend rules, guidelines, and orders
 24 necessary for its operation in accordance with chapter 403,
 25 Florida Statutes, and all successor laws. No such rules or
 26 amendments thereto shall be adopted or become effective until
 27 after a public hearing has been held by the Authority pursuant
 28 to notice published in a newspaper of general circulation in
 29 the county at least 21 days prior to the hearing. When
 30 approved by the Authority, such rules shall have the force and
 31 effect of law. Nothing in this act shall be construed so as to

1 prevent the Authority from adopting rules which are more
 2 strict and extensive than those imposed by the department.

3 (2) Adopt a resource recovery and waste management
 4 program for Palm Beach County that shall provide for the
 5 transportation, storage, separation, processing, recovery,
 6 recycling, or disposal of solid waste generated or existing
 7 within the county and modify and update such program or plan
 8 as necessary or as may be required by law.

9 (3) Acquire, at its discretion, personal or real
 10 property or any interest therein by gifts, lease, eminent
 11 domain, or purchase. The Authority may enter upon any land or
 12 water for the purpose of making surveys and may exercise the
 13 right of eminent domain whenever public necessity or
 14 convenience requires in accordance with chapters 73 and 74,
 15 Florida Statutes, and other applicable law.

16 (4) Appoint an executive director to be responsible to
 17 the Authority and who shall serve at its pleasure. There shall
 18 be such other officers and employees as may be provided by the
 19 Authority. The officers shall be appointed or removed by the
 20 executive director subject to confirmation by the Authority.
 21 The employees shall be appointed and removed by the executive
 22 director. The Authority shall fix the salary of the executive
 23 director and shall have, but may delegate to the executive
 24 director, the power to fix the salaries of all other officers
 25 and employees of the Authority. The Authority shall also have
 26 the power to employ or appoint engineers, accountants,
 27 attorneys, and such other personnel as may be required for the
 28 operation and management of the Authority and to fix their
 29 compensation.

30 (5) Require surety bonds for any of the officers and
 31 employees in such amounts as the Authority deems necessary.

1 The premiums for the bonds shall be paid in the same manner as
2 any other operating expense.

3 (6) Sue and be sued, implead and be impleaded, and
4 complain and defend in all courts.

5 (7) Adopt, use, and alter a corporate seal.

6 (8) Acquire, construct, reconstruct, improve,
7 maintain, equip, furnish, and operate at its discretion such
8 resource recovery and waste management facilities as are
9 required to carry out the purposes and intent of this act and
10 to meet the requirements of chapter 403, Florida Statutes, and
11 other applicable law.

12 (9) Conduct studies, develop programs, provide
13 continuing management and monitoring of waste projects,
14 programs, and facilities directly or indirectly affecting the
15 solid waste management system in Palm Beach County, and
16 contract, for such periods as may be agreed upon by the
17 parties, with governmental agencies, individuals, public or
18 private corporations, municipalities, or any other person in
19 carrying out the purposes of this act and the requirements of
20 chapter 403, Florida Statutes, and other applicable law.

21 (10) Fix, alter, charge, and establish reasonable
22 rates, fees, and other charges for the facilities provided by
23 the Authority, including, but not limited to, planning,
24 permitting, inspection, collection, enforcement, and disposal
25 site developing and operation, which rates, fees, and charges
26 must be sufficient to cover all costs for said normal
27 functions and facilities, including, but not limited to,
28 permits, fees, and disposal costs.

29 (11) Without limitation, borrow money and issue
30 evidence of indebtedness and accept property, gifts, or grants
31 or loans of money from the Federal Government, state

1 government, and other sources, public or private, which loans
 2 and grants shall be expended in accordance with the purposes
 3 and provisions of this act.

4 (12) Issue revenue bonds.

5 (a) The Authority shall have the power and is hereby
 6 authorized to issue revenue bonds for the purpose of paying
 7 all or part of the costs of acquisition and/or construction of
 8 resource recovery and waste management facilities. The
 9 issuance of such revenue bonds shall be authorized by
 10 resolution of the Authority, which resolution may be adopted
 11 at a regular or special meeting by a majority vote of members
 12 voting thereon and at the same meeting at which it is
 13 introduced. Such revenue bonds may be issued in one or more
 14 series and shall bear such date or dates of issuance, bear
 15 interest at such rate or rates, not exceeding the maximum rate
 16 permitted under section 215.84, Florida Statutes, or any
 17 successor statute, mature at such time or times, not exceeding
 18 40 years from their respective dates of issuance, be subject
 19 to such terms of redemption, with or without premium, be
 20 issued in such form, registered or not, with or without
 21 interest coupons, entitle the holder thereof to such
 22 conversion or registration privileges, be executed in such
 23 manner, be in such denomination or denominations, be payable
 24 in such medium of payment at such place or places, which may
 25 be any bank or trust company within or without the state, have
 26 such rank or priority, be secured in such manner, and have
 27 such other characteristics as may be provided in the
 28 resolution of the Authority authorizing the issuance of such
 29 bonds or in such subsequent resolutions as the Authority may
 30 adopt prior to the issuance of such bonds. All bonds issued
 31 under this act shall have and are hereby declared to be and to

1 have all the qualities and incidents of negotiable instruments
2 under the Uniform Commercial Code--Investment Securities Law
3 of the state. The Authority may sell such bonds at private
4 sale and in such manner and for such price or prices as it may
5 determine to be in the best interest of the Authority, but no
6 such bonds shall be sold at a price as will yield to the
7 purchaser thereof income at a rate exceeding the maximum rate
8 permitted under section 215.84, Florida Statutes, or any
9 successor statute, as computed according to the standard
10 tables of bond values. If said bonds are sold at public sale,
11 a notice of such sale shall be published at least once at
12 least 10 days prior to the date of such sale in a newspaper
13 published and circulating in the county and in a financial
14 newspaper or journal circulating in New York City, New York.
15 The Authority may issue interim bonds, notes, certificates, or
16 receipts, with or without coupons, exchangeable for definitive
17 bonds when such bonds have been executed and are available for
18 delivery.

19 (b) The Authority shall fix and revise from time to
20 time the rates, fees, or other charges for the services and
21 facilities furnished by the Authority, and such rates, fees,
22 or other charges shall be so fixed and adjusted as to provide
23 sufficient funds to pay the principal of and interest on all
24 bonds issued as the same become due and payable for such
25 purposes, and including the cost of operating, maintaining,
26 and repairing the facilities of the Authority and all such
27 other payments required by the proceedings providing for the
28 issuance of such bonds. Such rates, fees, or other charges
29 shall not be subject to supervision or regulation by the
30 state, any political subdivision, or any commission, board, or
31 agency.

1 (c) The Authority, in the issuance of revenue bonds,
2 shall have the authority to pledge all or any part of the
3 revenues derived from the operation of the facilities of the
4 Authority and shall have the power to determine the rank or
5 priority of such pledge of revenues for any purpose, including
6 different issues of bonds, and to grant to the holders of the
7 bonds a lien on all or any part of the revenues prior to the
8 use of such revenues for any other purposes.

9 (d) All revenues received by the Authority shall be
10 deemed to be trust funds to be held and applied as provided in
11 this act. The Authority may also provide that each issue of
12 bonds or any combined issue of bonds may be secured by a trust
13 agreement by and between the Authority and a corporate
14 trustee, which may be any trust company or bank within or
15 without the state. Such trust agreement may pledge or assign
16 the revenues to be received and provide for the rank and
17 priority between different trust agreements for different
18 issues of bonds. The resolution or resolutions providing for
19 the issuance of bonds or such trust agreements may contain
20 such provisions for protecting and enforcing the rights and
21 remedies of the holders of the bonds as may be reasonable and
22 proper, not in violation of the law, including covenants
23 setting forth the duties of the Authority relating to the
24 construction, acquisition, improvement, maintenance,
25 operation, repair, and cost of any project or facility, as is
26 customary in trust agreements or trust indentures securing
27 bonds or debentures of corporations, and may contain such
28 other provisions as the Authority may deem reasonable and
29 proper for the security of the holders of such bonds.

30 (e) The Authority is also hereby authorized to issue
31 refunding bonds for the purpose of refunding any bonds of the

1 Authority then outstanding, including the payment of any
2 redemption premium thereon, and interest accrued or to accrue
3 to maturity or to the prior redemption of such outstanding
4 bonds, as the case may be, or for the combined purpose of
5 refunding such outstanding bonds and paying the cost of
6 acquisition and/or construction of one or more projects. The
7 issuance of such revenue refunding bonds shall be authorized
8 by resolution of the board of the Authority in the same manner
9 as provided in paragraph (a). Such refunding bonds may be
10 issued to refund such outstanding bonds as they mature and
11 become payable, or as they are called for redemption prior to
12 their stated dates of maturity, and the Authority shall be
13 authorized to invest the proceeds or part of the proceeds of
14 such refunding bonds, pending the dates of maturity of such
15 outstanding bonds or the dates upon which such outstanding
16 bonds are to be called prior to their stated dates of
17 maturity, in such lawful securities as the Authority shall
18 deem desirable, for the purpose of refunding such outstanding
19 bonds in the manner provided in this paragraph. The issuance
20 of such revenue refunding bonds, the maturities and other
21 details thereof, the rights of the holders thereof, the
22 security for the payment thereof, and the rights, duties, and
23 obligations of the Authority in respect of the same shall be
24 governed by the provisions of this act insofar as the same may
25 be applicable.

26 (f) The Authority shall also have power to issue notes
27 prior to the issuance of bonds, but such notes shall mature in
28 not less than 3 years and the payment thereof shall be subject
29 to any prior pledge of the revenues of the Authority or any ad
30 valorem taxes of the Authority.

1 (g) The Authority may also issue bond anticipation
2 notes after the authorization of the issuance of bonds in the
3 manner provided in section 215.431, Florida Statutes, or
4 successor law.

5 (13) Enter into interest rate swap agreements in
6 connection with tax-exempt bonds and to issue debt to finance
7 payments under such interest rate swap agreements. The use of
8 interest rate swap agreements to reduce borrowing costs will
9 enable the Authority to have flexibility to finance or
10 refinance projects relating to its solid waste system in a
11 more economically efficient manner. The Authority, other
12 special districts, and municipalities already have the express
13 power to enter into interest rate swap agreements and other
14 derivative products with respect to their taxable bonds under
15 the Taxable Bond Act of 1987, part VII, chapter 159, Florida
16 Statutes. The Legislature finds that the ability of the
17 Authority to enter into derivative agreements shall serve a
18 public purpose by reducing interest costs to the Authority and
19 enhancing the marketability of the Authority's bonds, notes,
20 or bond anticipation notes. Further, such derivative
21 agreements afford the Authority the ability to achieve the
22 lowest effective borrowing costs or terms most suitable to the
23 Authority. The provisions of this paragraph are designed to
24 serve a public purpose by providing for the health, safety,
25 welfare, and economic well-being of the people of the county.
26 Further, these provisions are intended to provide express
27 authority to exercise the powers granted hereby and shall not
28 be construed in limitation of any existing powers of the
29 Authority to enter into or carry out any derivative
30 agreements. This paragraph shall be a supplemental and
31

1 alternative authority to any other provisions of special or
 2 general law.

3 (14) Seek injunctive relief in a court of competent
 4 jurisdiction to prevent the violation of this act or any
 5 resolution, rule, or regulation adopted pursuant to the powers
 6 granted by this act without the necessity of showing of a
 7 public nuisance in such legal proceeding.

8 (15) Sell or otherwise dispose of any byproducts
 9 produced by the operation of resource recovery or waste
 10 management facilities to any governmental agency, individual,
 11 public or private corporation, municipality, or any other
 12 person.

13 (16) Levy ad valorem tax on the taxable property in
 14 the special district solely for the purposes of this act and
 15 not to exceed 1 mill on the dollar, subject to referendum.
 16 Property taxes determined and levied under this section shall
 17 be certified by the Authority to the property appraiser and
 18 extended, assessed, and collected in accordance with the
 19 provisions of chapter 197, Florida Statutes. At any time after
 20 making a tax levy under this section and certifying the same
 21 to the county and the state, the Authority may issue tax
 22 anticipation notes of indebtedness in anticipation of the
 23 collection of such taxes.

24 (17) When the fees or charges for the services and
 25 facilities and any waste disposal or resource recovery
 26 facility are not paid when due and payable and are in default
 27 for 30 days or more, following written notice to such
 28 delinquent customer, discontinue and shut off the supply of
 29 the services and facilities of said system to the person,
 30 firm, corporation, or other body, public or private, so
 31 supplied with such services or facilities until such fees,

1 rates, or charges, including legal interest, penalties, and
2 charges for the shutting off and discontinuance or the
3 restoration of such services or facilities, are fully paid.
4 Such delinquent fees or charges, together with legal interest,
5 penalties, and charges for the shutting off and discontinuance
6 or the restoration of such services or facilities, and
7 reasonable attorney's fees, costs, and other expenses may be
8 recovered by the Authority in a court of competent
9 jurisdiction.

10 (18) Transfer, sell, or assign to any governmental
11 agency, individual, public or private corporation,
12 municipality, or other person, at whatever terms it deems
13 reasonable, any property which it finds is not needed to carry
14 out the purposes of this act.

15 (19) As necessary to carry out its resource recovery
16 and/or disposal plans or programs or when necessary to carry
17 out any other provision of this act, require that all wastes
18 collected by public or private agencies from any municipality
19 or unincorporated area of the county be transported to
20 Authority-designated processing and disposal facilities in a
21 manner and form as may be mandated in accordance with this
22 act, particularly paragraphs (2) and (8) of this section. This
23 act shall not be construed to preclude public or private
24 agencies from operating permitted transfer stations, provided
25 that solid waste transferred or transported therefrom shall be
26 delivered to Authority-designated processing and disposal
27 facilities as set forth in this section.

28 (20) Perform any and all governmental functions of the
29 county, or of any municipality, related to solid waste
30 provided for by general law, including, but not limited to,
31 chapter 403, Florida Statutes, or any successor law, pursuant

1 to written contract or interlocal agreement. For those
 2 purposes, the Authority may employ the special assessment
 3 procedures contained in sections 7 and 8 of this act. The Palm
 4 Beach County Board of County Commissioners shall set for the
 5 unincorporated portions of the county all fees necessary to
 6 accomplish the purposes of this paragraph, and the governing
 7 body of any municipality shall set the required fees for its
 8 respective jurisdiction. Any such fees must be sufficient to
 9 pay all costs incurred by the Authority in connection with the
 10 solid waste services to be provided, including the cost of
 11 billing services.

12 (21) Establish a mandatory collection system for the
 13 county and impose reasonable rates, fees, and charges to all
 14 users of said system. The Authority may establish annual
 15 collection special assessments for users of this collection
 16 system in like manner as the disposal assessments provided for
 17 in this section or sections 7 or 8.

18 (22) Grant franchises and contracts, issue permits, or
 19 otherwise provide for the collection of solid waste in the
 20 county and receive the assignment of such franchises,
 21 contracts, and permits, and establish reasonable rates, fees,
 22 and charges therefor.

23 (23) In connection with, or incidental to, the sale
 24 and issuance of bonds, enter into any contracts which the
 25 Authority determines to be necessary or appropriate to achieve
 26 a desirable, effective interest rate in connection with the
 27 bonds or notes by means of, but not limited to, contracts
 28 commonly known as investment contracts, funding agreements,
 29 interest rate swap agreements, currency swap agreements,
 30 forward payment conversion agreements, or futures; contracts
 31 providing for payments based on levels of or changes in

1 interest rates; contracts to exchange cash flows or a series
 2 of payments; or contracts including, without limitation,
 3 options, puts, or calls to hedge payment, rate, spread, or
 4 similar exposure. Such contracts or arrangements may also be
 5 entered into by the Authority in connection with, or
 6 incidental to, entering into any agreement which secures bonds
 7 or provides liquidity therefor. Such contracts and
 8 arrangements shall be made upon the terms and conditions
 9 established by the Authority after giving due consideration
 10 for the credit worthiness of the counterparties, where
 11 applicable, including any rating by a nationally recognized
 12 rating service or by any other criteria as may be appropriate.

13 (24) Notwithstanding the prohibition against extra
 14 compensation set forth in section 215.425, Florida Statutes,
 15 provide for an extra compensation program, including a
 16 lump-sum bonus payment program, to reward outstanding
 17 employees whose performances exceed standards, if the program
 18 provides that a bonus payment may not be included in an
 19 employee's regular base rate of pay and may not be carried
 20 forward in subsequent years.

21 Section 7. Special assessments; method of levy and
 22 collection.--Since all improved properties in the county
 23 receive a direct, substantial benefit by the provision of
 24 solid waste disposal and collection services by the Authority,
 25 the Authority shall have the additional power to impose, levy,
 26 collect, or have collected, in accordance with the provisions
 27 of chapter 197, Florida Statutes or sections 7, 8 or 9 of this
 28 charter, the annual disposal special assessments herein
 29 authorized and defined as a means of financing the
 30 construction and/or acquisition of additions, extensions, and
 31 improvements to the solid waste system, the payment of the

1 principal of and interest on bonds issued pursuant to this
 2 act, the cost of operating, maintaining, and repairing the
 3 solid waste system, and all other payments that are required
 4 to be made by the Authority in connection with the purposes of
 5 this act.

6 (1) Definitions.--For the purposes of this section and
 7 sections 8 and 9, the following terms shall have the following
 8 meanings:

9 (a) "Addendum to annual disposal special assessments
 10 roll" or "addendum" means the list prepared by and confirmed
 11 by the Authority each fiscal year containing the same
 12 information as the annual disposal special assessment roll as
 13 to any parcels of improved real property not incorporated on
 14 the corresponding annual disposal special assessment roll and
 15 incorporating any changes as to the information specified for
 16 any parcel of improved real property on the corresponding
 17 annual disposal special assessment roll, including any
 18 additions to or deletions from such annual disposal special
 19 assessment roll.

20 (b) "Annual disposal special assessments" means the
 21 annual disposal special assessments imposed upon a parcel or
 22 parcels of improved real property for the disposal of solid
 23 waste for the applicable fiscal year based upon the
 24 classification of the use of such parcel or parcels of
 25 improved real property as set forth in the rate resolution.

26 (c) "Annual disposal special assessment roll" means
 27 the list prepared and confirmed by the Authority each fiscal
 28 year containing a summary description of each parcel of
 29 improved real property, the name and address of the owner of
 30 each such parcel as indicated on the records maintained by the
 31 property appraiser, and the amount of the annual disposal

1 special assessments applicable to each parcel of improved real
2 property.

3 (d) "Collection" means, with respect to solid waste
4 services, the process whereby solid waste is removed and
5 transported to a solid waste facility.

6 (e) "Governmental agencies" means all state, federal,
7 or local agencies or units of government located within the
8 county, including, but not limited to, the School Board of
9 Palm Beach County, all county agencies and departments, all
10 municipalities within the county, all special districts and
11 municipal service taxing units with all or part of their
12 boundaries within the county, and any municipality or special
13 district or other unit of government, the boundaries of which
14 are not within the county but which is the owner of improved
15 real property within the county.

16 (f) "Improved real property" means all real property
17 located within the county that generates or is capable of
18 generating solid waste and that contains buildings,
19 structures, or other improvements designed or constructed for
20 and capable of use or used for human habitation, human
21 activity, or commercial enterprises.

22 (g) "Owner" means the person or persons owning an
23 interest in improved real property.

24 (h) "Rate resolution" means the resolution or
25 resolutions of the Authority described in paragraph (3) (b) of
26 this section and paragraph (2) (b) of section 8 of this
27 charter.

28 (2) Purpose.--It is the purpose of this section to
29 require all persons within the county and all governmental
30 agencies to use exclusively the solid waste system operated
31 and maintained by the Authority or designated by the Authority

1 for the disposal of all solid waste generated within both the
 2 incorporated and unincorporated areas of the county; to
 3 establish a schedule of assessments for all improved real
 4 property in both the incorporated and unincorporated areas of
 5 the county to pay for the cost of financing, operating, and
 6 maintaining the solid waste system; to establish the method
 7 and procedure for the classification of such improved real
 8 property in the establishment of such schedule of annual
 9 disposal special assessments; to provide for a method and
 10 procedure for the collection of such assessments from the
 11 owners of such improved real property; and to provide for the
 12 operation of the solid waste system.

13 (3) Determination of annual disposal special
 14 assessments; public hearing.--On or before October 1 of each
 15 year, the Authority shall hold a public hearing for the
 16 following purposes:

17 (a) To adopt a budget for the operation and
 18 maintenance of the solid waste system for the ensuing fiscal
 19 year, including moneys for the payment of the principal of and
 20 interest on bonds and other outstanding or anticipated
 21 indebtedness, including all reserves necessary therefor, for
 22 the payment of necessary reserves for capital expenditures and
 23 the renovation, improvements, and replacements of existing
 24 facilities of the solid waste system, for the enforcement and
 25 administration of the billing and collection of the annual
 26 disposal special assessments provided for hereunder, including
 27 necessary reserves for anticipated delinquent or uncollectible
 28 annual disposal special assessments, and for the payment of
 29 the current operation and maintenance of the solid waste
 30 system.

1 (b) To adopt a rate resolution incorporating a
 2 schedule of annual disposal special assessments to impose upon
 3 the owners of all improved real property in both the
 4 incorporated and unincorporated areas of the county which
 5 shall constitute a lien as provided for in paragraph (5) and
 6 to establish the classification of the use of such parcel of
 7 improved real property in order to provide revenues which,
 8 together with other moneys of the Authority lawfully available
 9 therefor, shall be sufficient to fund the budget referred to
 10 in paragraph (a). The rates established by the Authority in
 11 each year under the provisions of the rate resolution shall be
 12 sufficient to provide moneys for the purposes described in
 13 paragraph (a), and the Authority shall not establish rates
 14 over and above the rates that are necessary to comply with the
 15 provisions of paragraph (a) and the budgetary requirements of
 16 any proceedings of the Authority heretofore or hereafter
 17 adopted in connection with the issuance of any of its bonds,
 18 notes, or other evidences of indebtedness.

19
 20 Notice of said public hearing shall be published in a
 21 newspaper of general circulation in the county at least twice,
 22 with the first publication being at least 20 days prior to the
 23 date set for the public hearing. Said public hearing may be
 24 continued to a date certain without the necessity of further
 25 newspaper advertisement or public notice.

26 (4) Scope of annual disposal special assessments;
 27 discount for early payment; delinquency.--

28 (a) The annual disposal special assessments
 29 incorporated in the rate resolution applicable to each parcel
 30 of improved real property shall be the annual disposal special
 31 assessments for each such parcel of improved real property for

1 the disposal of all solid waste generated or capable of being
2 generated as determined by the Authority on each such parcel
3 of improved real property during the ensuing fiscal year.

4 (b) The annual disposal special assessments shall be
5 imposed against the owners of all improved real property in
6 both the incorporated and unincorporated areas of the county
7 if such real property is improved real property on or before
8 September 1 prior to the fiscal year in which the annual
9 disposal special assessments are imposed.

10 (c) The owner and description of each parcel of
11 improved real property shall be that designated on the real
12 property records maintained by the property appraiser.

13 (d) The annual disposal special assessments shall be
14 due and payable 30 days after the mailing of the original
15 annual disposal special assessments billing. On all annual
16 disposal special assessments imposed and collected, discounts
17 for early payment thereof shall be at the rate of 4 percent in
18 the month of November and at any time within 30 days after the
19 mailing of the original annual disposal special assessments
20 billings; 3 percent in the month of December; 2 percent in the
21 month of January; and 1 percent in the month of February. The
22 annual disposal special assessments paid in March shall be
23 without discount. The annual disposal special assessments
24 shall become delinquent if not fully paid by March 31 of the
25 fiscal year for which the annual disposal special assessments
26 are imposed. All delinquent annual disposal special
27 assessments shall bear an initial penalty of 3 percent of the
28 full amount of the annual disposal special assessments if not
29 paid by March 31 of the fiscal year for which the annual
30 disposal special assessments are imposed and an additional
31 penalty of 1 percent per month on the delinquent principal

1 amount on the first day of June and on the first day of each
 2 month thereafter until the annual disposal special assessments
 3 are paid in full.

4 (5) Annual disposal special assessments shall
 5 constitute a lien on improved real property.--All annual
 6 disposal special assessments imposed against the owners of
 7 improved real property shall constitute, and are hereby
 8 imposed as, liens against such improved real property as of
 9 October 1 of the fiscal year for which the annual disposal
 10 special assessments are imposed. Until fully paid and
 11 discharged or barred by law, the annual disposal special
 12 assessments shall be prior to all other liens, except that
 13 such liens shall be on parity with a lien of state, county,
 14 and municipal taxes, and any lien for charges for services
 15 created pursuant to section 159.17, Florida Statutes. If any
 16 annual disposal special assessment liens become delinquent by
 17 not being fully paid by March 31 of the fiscal year for which
 18 the annual disposal special assessments are imposed and remain
 19 delinquent, the Authority shall cause to be prepared a notice
 20 of lien containing the amount of the delinquent annual
 21 disposal special assessments, including the amount of the
 22 first penalty, a legal description of the improved real
 23 property against which the lien is imposed, and the name of
 24 the owner of such real property as indicated on the real
 25 property records maintained by the property appraiser of the
 26 county. Said notice of lien shall be recorded in the public
 27 records of the county on or about September 30 of the fiscal
 28 year for which the annual disposal special assessments were
 29 levied, or as soon thereafter as the Authority shall
 30 determine. A copy of the notice of lien shall be served on the
 31

1 owner of record as provided in section 713.18, Florida
 2 Statutes, within 10 days after the notice of lien is recorded.

3 (6) Notification and payment of annual disposal
 4 special assessments; discharge of recorded liens.--The
 5 Authority shall collect the payment of all current or
 6 delinquent annual disposal special assessments from November 1
 7 of the fiscal year for which the annual disposal special
 8 assessments are imposed until paid or satisfied as herein
 9 provided. The Authority shall mail notices of the annual
 10 disposal special assessments to the owners of each parcel of
 11 improved real property in the manner and containing the
 12 information as follows:

13 (a) The first notice shall be mailed on or about
 14 November 1 of each fiscal year to all owners, and such notice
 15 shall contain the amount of the annual disposal special
 16 assessments for the then-current fiscal year and a schedule of
 17 the discounts available to the owners for early payments. Such
 18 notice shall further advise the owners that failure to pay the
 19 annual disposal special assessments in a timely manner may
 20 result in a loss of title.

21 (b) The second notice shall be mailed on or about
 22 March 31 of such fiscal year to those owners who have failed
 23 to pay any or all of the then-due-and-owing annual disposal
 24 special assessments, and such notice shall contain a schedule
 25 of the initial penalty for nonpayment and shall further advise
 26 the owner that a notice of lien will be filed by the Authority
 27 against that parcel of improved real property on the public
 28 records of the county provided for that purpose. However, if
 29 such annual disposal special assessments, together with any
 30 penalties thereon, are received prior to September 30 of the
 31 fiscal year for which the annual disposal special assessments

1 were levied, then such notice of lien will not be filed. Such
2 notice shall further advise the owners that failure to pay the
3 annual disposal special assessments in a timely manner may
4 result in a loss of title.

5 (c) The third notice shall be mailed on or before June
6 1 of such fiscal year to those owners who have failed to pay
7 any or all of the then-due-and-owing annual disposal special
8 assessments, and such notice shall contain a schedule of the
9 additional penalty incurred by the owners for each month from
10 June 1 and thereafter.

11
12 In addition to the collection of any penalties, the Authority
13 shall recover from the owner any cost that may be incurred in
14 connection with such delinquent payments. When any such lien
15 or liens have been fully paid or discharged, the Authority
16 shall properly cause evidence of the satisfaction and
17 discharge of such lien to be provided. Said lien or liens
18 shall not be assigned by the Authority to any person.

19 (7) Enforcement of delinquent annual disposal special
20 assessments.--All delinquent annual disposal special
21 assessment liens may be enforced at any time by the Authority
22 at least 30 days subsequent to the date of the service of the
23 notice of lien for the amount due under such recorded liens,
24 including all penalties, plus costs and a reasonable
25 attorney's fee, by proceeding in a court of equity to
26 foreclose such liens in the manner in which a mortgage lien is
27 foreclosed under the laws of Florida, or the collection and
28 enforcement of payment thereof may be accomplished by any
29 other method authorized by law. It shall be lawful to join in
30 any complaint or foreclosure, or any such legal proceeding,
31 any one or more lots or parcels of land that are the subject

1 of a lien or liens. The Authority is authorized and directed
 2 to execute and deliver, upon request, a written certification
 3 certifying the amount, including all penalties, plus costs,
 4 due for delinquent annual disposal special assessments or
 5 under any recorded liens for any parcel of real property, or
 6 certifying that no such annual disposal special assessments
 7 are due, except current and nondelinquent annual disposal
 8 special assessments.

9 (8) Calculation of annual disposal special
 10 assessments.--

11 (a) Based upon the rate resolution, the Authority
 12 shall cause to be prepared an annual disposal special
 13 assessment roll. Such annual disposal special assessment roll
 14 shall contain a summary description of each parcel of improved
 15 real property within the county on or before September 1 prior
 16 to the fiscal year for which the annual disposal special
 17 assessments are to be imposed, the name and address of the
 18 owner of each parcel of improved real property, the rate
 19 applicable to each parcel of improved real property as
 20 specified in the rate resolution, and the amount of the annual
 21 disposal special assessments applicable to each parcel of
 22 improved real property. The summary description of each parcel
 23 of improved real property shall be in such detail as to permit
 24 ready identification of each parcel on the real property
 25 records. The information specified above to be included in the
 26 annual disposal special assessment roll shall conform to that
 27 maintained by the property appraiser on the real property
 28 records.

29 (b) Upon completion of the preparation of the annual
 30 disposal special assessment roll, the Authority shall at any
 31 regular or special meeting review the annual disposal special

1 assessment roll for preparation in conformity with the rate
 2 resolution. The Authority shall make such changes or additions
 3 as necessary to conform such annual disposal special
 4 assessment roll to the rate resolution. If, upon the
 5 completion of such review, the Authority shall be satisfied
 6 that the annual disposal special assessment roll has been
 7 prepared in conformity with the rate resolution, the Authority
 8 shall ratify and confirm the annual disposal special
 9 assessment roll and certify that the annual disposal special
 10 assessment roll is correct and proper and is to be used in
 11 collecting the annual disposal special assessments.

12 (c) On or before October 1 of the fiscal year for
 13 which the annual disposal special assessment roll is
 14 confirmed, the Authority shall cause to be prepared an
 15 addendum to the annual disposal special assessment roll
 16 containing the addition or deletion of any parcels of improved
 17 real property not incorporated into or deleted from the annual
 18 disposal special assessment roll but constituting improved
 19 real property on September 1 prior to the fiscal year for
 20 which the annual disposal special assessments are imposed.
 21 Included in such addendum shall be any change in the
 22 information specified for each parcel of improved real
 23 property on the annual disposal special assessment roll. Such
 24 addendum to the annual disposal special assessment roll shall
 25 contain information required for the annual disposal special
 26 assessment roll and shall be reviewed by the authority and
 27 certified as the annual disposal special assessment roll of
 28 the Authority.

29 Section 8. Collection of annual disposal special
 30 assessments by tax collector; alternative method of levy and
 31 collection.--The Authority may, to the extent permitted by

1 law, utilize the office of the tax collector for the purpose
 2 of collecting the annual disposal special assessments imposed
 3 under this act. The Authority may, in connection with the
 4 collection of the annual disposal special assessments, proceed
 5 in the manner set forth in this section as an alternative to
 6 that set forth in section 7 of this charter, or as provided by
 7 chapter 197, Florida Statutes, as it may be amended from time
 8 to time. In the event the Authority chooses to follow the
 9 method of collection set forth in this section, it must first
 10 enter into written agreements with the property appraiser and
 11 the tax collector to perform the duties as outlined in this
 12 section. Said agreements shall be entered into voluntarily and
 13 at the sole options of the property appraiser and the tax
 14 collector, and shall provide for reimbursement to them of all
 15 costs associated with their duties hereunder.

16 (1) Purpose.--It is the purpose of this section to
 17 provide for an additional and alternative, but in no event
 18 exclusive, method and procedure for the collection of annual
 19 disposal special assessments from the owners of all improved
 20 real property in both the incorporated and unincorporated
 21 areas of the county, in the same manner as the collection of
 22 ad valorem taxes by the county and through the tax bill issued
 23 by the tax collector.

24 (2) Determination of annual disposal special
 25 assessments; public hearing.--On or before July 30 of each
 26 year, or such other date as may be specified by chapter 197,
 27 Florida Statutes, the Authority shall hold a public hearing
 28 for the following purposes:

29 (a) To adopt a budget for the operation and
 30 maintenance of the solid waste system for the ensuing fiscal
 31 year, including moneys for the payment of the principal and

1 interest on bonds and other outstanding or anticipated
 2 indebtedness, including all reserves necessary therefrom, for
 3 the payment of necessary reserves for capital expenditures and
 4 the renovation, improvements, and replacements of existing
 5 facilities of the solid waste system, for the enforcement and
 6 administration of the billing and collection of the annual
 7 disposal special assessments provided for hereunder, including
 8 necessary reserves for anticipated delinquent or uncollectible
 9 annual disposal special assessments, and for the payment of
 10 the current operation and maintenance of the solid waste
 11 system.

12 (b) To adopt a rate resolution incorporating a
 13 schedule of annual disposal special assessments to be imposed
 14 upon the owners of all improved real property in both the
 15 incorporated and unincorporated areas of the county to
 16 establish the classification of the use of such parcel or
 17 parcels of improved real property in order to provide the
 18 revenues to fund the budget referred to in paragraph (a). Such
 19 rate resolution adopted at the public hearing shall further
 20 authorize the collection of the annual disposal special
 21 assessments in the same manner as the collection of ad valorem
 22 taxes by the county and through the utilization of the office
 23 of the tax collector of the county.

24
 25 Notice of said public hearing shall be published in a
 26 newspaper of general circulation in the county at least twice,
 27 with the first publication being at least 20 days prior to the
 28 public hearing. Additional notice shall also be provided to
 29 each affected property owner by first class mail of both the
 30 potential for loss of his or her title through the use of the
 31 ad valorem collection method and the time and place of said

1 public hearing. Said public hearing may be continued to a date
2 certain without the necessity of further newspaper
3 advertisement or public notice.

4 (3) Scope of annual disposal special assessments.--

5 (a) The annual disposal special assessments
6 incorporated in the rate resolution applicable to each parcel
7 of improved real property shall be the annual disposal special
8 assessments for each such parcel of improved real property for
9 the disposal of all solid waste generated on each such parcel
10 of improved real property during the ensuing fiscal year.

11 (b) The annual disposal special assessments shall be
12 imposed against the owners of all real property in both the
13 incorporated and unincorporated areas of the county if such
14 real property is improved real property on or before January 1
15 prior to the fiscal year in which the annual disposal special
16 assessments are imposed.

17 (c) The owner and description of each parcel of
18 improved real property shall be that designated on the real
19 property records maintained by the property appraiser.

20 (4) Enforcement and collection.--The annual disposal
21 special assessments shall be due and payable on November 1 of
22 each year or at such other times as prescribed by the amended
23 tax bill. Such annual disposal special assessments shall be
24 collected and enforced by the tax collector in the same manner
25 that ad valorem taxes are collected, including, but not
26 limited to, provisions of law relating to discount for early
27 payment, prepayment by installment method, and penalty for
28 delinquent payment.

29 (5) Annual disposal special assessments shall
30 constitute a lien on improved real property.--All annual
31 disposal special assessments imposed against the owners of

1 improved real property shall constitute, and are hereby
2 imposed as, liens against such improved real property as of
3 October 1 of the fiscal year for which the annual disposal
4 special assessments are imposed. Until fully paid and
5 discharged or barred by law, the annual disposal special
6 assessments shall remain liens equal in rank and dignity with
7 the lien of the county ad valorem taxes and superior in rank
8 and dignity to all other liens, encumbrances, titles, and
9 claims in, to, or against the real property involved. If any
10 annual disposal special assessment liens become delinquent by
11 not being fully paid by March 31 of the fiscal year for which
12 the annual disposal special assessments are imposed and remain
13 delinquent, the Authority shall cause to be prepared a notice
14 of lien containing the amount of the delinquent annual
15 disposal special assessments, including the amount of the
16 first penalty, a legal description of the improved real
17 property against which the lien is imposed, and the name of
18 the owner of such real property as indicated on the real
19 property records maintained by the property appraiser of the
20 county. The Authority shall cause to be mailed on or before
21 June 1 of such fiscal year to those owners who have failed to
22 pay any or all of the then-due-and-owing annual disposal
23 special assessments a notice of intention to file lien, and
24 such notice shall contain a schedule of the additional penalty
25 incurred by the owners for each month from June 1 and
26 thereafter and a notice that a lien will be filed if not paid
27 on or before September 30. If the assessment is not paid, a
28 notice of lien shall be recorded in the public records of the
29 county on or about September 30 of the fiscal year for which
30 the annual disposal special assessments were levied, or as
31 soon thereafter as the Authority shall determine.

1 (6) Payment of annual disposal special

2 assessments.--It shall be the duty of the tax collector,
3 pursuant to law, to collect payments of all annual disposal
4 special assessments referred to in this section. The tax
5 collector shall distribute the annual disposal special
6 assessments so collected to the Authority at the times and in
7 the manner provided by law. The tax collector shall mail to
8 all owners of improved real property such notices as are
9 required by law.

10 (7) Enforcement of delinquent annual disposal special

11 assessments.--All delinquent annual disposal special
12 assessment liens may be enforced by the Authority in the
13 manner provided by law.

14 (8) Certification to property appraiser and tax
15 collector.--

16 (a) Upon adoption by the Authority of the rate
17 resolution provided herein, the Authority shall forthwith
18 deliver a certified copy of the rate resolution to the
19 property appraiser and tax collector. Based upon said rate
20 resolution and pursuant to written contracts between the
21 Authority and the property appraiser and the Authority and the
22 tax collector, the property appraiser shall include the annual
23 disposal special assessments on the tax notice issued pursuant
24 to section 197.3635, Florida Statutes, or any successor laws,
25 and the tax collector shall collect the annual disposal
26 special assessments as provided by law.

27 (b) Nothing contained in this section shall be
28 construed or interpreted to preclude the Authority from
29 submitting, within its discretion, a separately prepared
30 notice of the annual disposal special assessments imposed on
31 certain improved real property to the owner of such property

1 if, in the opinion of the Authority, such procedure shall
 2 facilitate the billing and collection of such annual disposal
 3 special assessments, which notice shall be in addition to the
 4 notice submitted by the property appraiser.

5 (9) Additional proceedings.--The Authority shall
 6 conform with and shall do and provide such additional
 7 proceedings as may be necessary to enable the Authority to
 8 collect the annual disposal special assessments in the same
 9 manner as the collection of ad valorem taxes of the county and
 10 through the utilization of the office of the tax collector to
 11 the extent that the general law relating to the method of
 12 collection shall require further and additional notices or
 13 other proceedings of the Authority.

14 Section 9. Annual disposal special assessments to
 15 governmental agencies; applicability of annual disposal
 16 special assessments to tax-exempt improved real property.--

17 (1) (a) The Authority shall bill all governmental
 18 agencies owning improved real property within both the
 19 incorporated and unincorporated areas of the county and said
 20 governmental agencies shall pay the annual disposal special
 21 assessments imposed under the applicable classification
 22 specified in the rate resolution.

23 (b) The discounts for early payment shall not be
 24 applicable to the annual disposal special assessments imposed
 25 against governmental agencies owning real property. Such
 26 governmental agencies shall pay in the manner provided herein
 27 the full annual disposal special assessments imposed.

28 (c) The annual disposal special assessments imposed
 29 against governmental agencies shall become delinquent if not
 30 fully paid within 60 days from the date the notice of such
 31 annual disposal special assessments is mailed. All delinquent

1 annual disposal special assessments shall bear an initial
 2 penalty of 4 percent of the full amount of the annual disposal
 3 special assessments if not paid by the expiration of the
 4 60-day period and an additional penalty of 1 percent per month
 5 on the delinquent amount, plus the initial penalty, on the
 6 first day of each month thereafter until said annual disposal
 7 special assessments are paid in full.

8 (d) The Authority shall have the authority to enforce
 9 the collections of any delinquent annual disposal special
 10 assessments by the institution of an appropriate action
 11 against the governmental agency in a court of competent
 12 jurisdiction for a judgment for the amount due under such
 13 annual disposal special assessments, including all penalties,
 14 plus costs and a reasonable attorney's fee.

15 (e) The provisions of paragraphs (5), (6), and (7) of
 16 section 7 of this charter and paragraphs (5) and (6) of
 17 section 8 of this charter shall not be applicable to the
 18 annual disposal special assessments imposed against improved
 19 real property owned by any governmental agency.

20 (2) Applicability of annual disposal special
 21 assessments to tax-exempt improved real property.--The tax
 22 exemption of property form taxation under chapter 196, Florida
 23 Statutes, or any other law or constitutional provision shall
 24 not relieve the owner of any improved real property in the
 25 county from the provisions hereof or from the imposition by
 26 the Authority of the annual disposal special assessments
 27 applicable to such improved real property as specified in the
 28 rate resolution.

29 Section 10. Limitations on franchises.--The Authority
 30 shall adopt by resolution a procedure for granting exclusive
 31 franchises, subject to the following limitations:

1 (1) No franchise, contract, or permit shall be granted
2 or extended for a period of time exceeding 5 years.

3 (2) A public hearing shall be held prior to the
4 adoption of any rates, fees, or charges to the public.

5 (3) No exclusive franchise shall be granted except
6 pursuant to a procedure adopted by the Authority which shall
7 include the following minimum requirements:

8 (a) The entire process shall comply with chapter 286,
9 Florida Statutes.

10 (b) The procedure shall encourage competition among
11 potential franchisees.

12 (c) The franchise award shall occur at a regular
13 meeting of the Authority and shall be confirmed by a
14 subsequent resolution, which shall contain sufficient findings
15 to demonstrate that the award was in the best interest of the
16 public to be served thereby.

17 (d) Any party aggrieved by the franchise award may
18 appeal the award in writing, within 30 days after the award,
19 to the Authority, which shall decide said appeal by written
20 order within 60 days after its receipt by the Authority. An
21 unsuccessful appellant may thereafter appeal the Authority's
22 decision by writ of certiorari to the circuit court.

23 Section 11. Exemption from taxation.--The property,
24 moneys, and other assets of any countywide authority created
25 hereunder and all of its revenues or other income shall be
26 exempt from all taxation, licenses, fees, or other charges of
27 any kind imposed by the state or by the county or by any
28 municipality, political subdivision, taxing district, or other
29 public agency or body of the state.

30 Section 12. Prohibition; permits; penalty.--
31

1 (1) It is unlawful to violate this act or the rules
2 duly adopted pursuant to it. After the effective date of this
3 act, no person shall:

4 (a) Place or deposit any solid waste in or on the
5 lands or waters located within the county except in a manner
6 consistent with the countywide solid waste program.

7 (b) Burn solid waste except in a manner consistent
8 with the countywide solid waste program.

9 (c) Accomplish or authorize any act inconsistent with
10 the provisions of this act and those of chapter 403, Florida
11 Statutes.

12 (2) No person shall operate, maintain, construct,
13 expand, or modify any resource recovery or waste management
14 facility without first having applied for and received a valid
15 operating permit from the Authority.

16 (3) Any person found in violation of any provision of
17 this act or any rules adopted pursuant to it commits a
18 misdemeanor of the second degree and shall be punished as
19 provided by law. If such violation be continuing, each 24-hour
20 day or fraction thereof during which such violation occurs
21 shall constitute a separate offense.

22 Section 13. Enforcement.--The director of the Palm
23 Beach County Health Department shall determine compliance with
24 the provisions of this act which relate to sanitary
25 collection, storage, processing, and disposal of solid waste,
26 in accordance with the provisions of Palm Beach County
27 Environmental Control Ordinance No. 78-5 and any amendments
28 thereto. Any and all violations shall be reported in writing
29 and a copy of the official inspection report shall be
30 presented to the violator and a copy of said inspection report
31

1 shall also be delivered to the executive director of the
 2 Authority.

3 (1) If any resource recovery or management facility
 4 fails to comply with the provisions of the rules adopted by
 5 the department or the Authority pursuant to chapter 403,
 6 Florida Statutes, or under this act, the director of the Palm
 7 Beach County Health Department shall give the violator a
 8 reasonable time, by formal notice, within which to correct
 9 such violation. Should the violation continue beyond the time
 10 specified for correction, the director of the Palm Beach
 11 County Health Department shall notify the environmental
 12 control officer, in writing, of such failure to correct the
 13 violation.

14 (2) Upon notice of the director of the Palm Beach
 15 County Health Department that a resource recovery or waste
 16 management facility has failed to correct violations, the
 17 environmental control officer shall notify the Palm Beach
 18 County Environmental Control Hearing Board of such
 19 noncompliance, whereupon the hearing board shall, within 45
 20 days after such notice, order the violator to appear before it
 21 to show cause why remedial action should not be taken. Any
 22 meetings before the hearing board shall be conducted in
 23 accordance with the provisions of Palm Beach County
 24 Environmental Control Ordinance No. 78-5 and any amendments
 25 thereto.

26 (3) If, after due public hearing, the hearing board
 27 upholds the violation, the hearing board shall make a decision
 28 setting forth findings of fact and such conclusions of law as
 29 are required in view of the issues presented. The decision
 30 shall contain an order framed in the manner of a writ of
 31 injunction requiring the violator to refrain from committing,

1 creating, maintaining, or permitting the violation and take
2 such affirmative action as the hearing board deems reasonable
3 and necessary under the circumstances to correct such
4 violation.

5 Section 14. Injunctive relief.--If preventive or
6 corrective measures are not taken in accordance with any order
7 of the hearing board, or if the environmental control officer
8 finds that a violation of the provisions of this act exists so
9 as to create an emergency requiring immediate action to
10 protect human health or welfare, the environmental control
11 officer may institute proceedings in the Circuit Court for
12 Palm Beach County to enforce this act or rules or orders
13 pursuant thereto. Such injunctive relief may include both
14 temporary and permanent injunctions. Any proceedings initiated
15 under this section shall be brought for and in the name of the
16 Authority.

17 Section 15. Judicial review.--Any person aggrieved by
18 any action or decision of the hearing board may seek
19 appropriate judicial review.

20 Section 4. If any provision of this act or the
21 application thereof to any person or circumstance is held
22 invalid, the invalidity shall not affect other provisions or
23 applications of the act which can be given effect without the
24 invalid provision or application, and to this end the
25 provisions of this act are declared severable.

26 Section 5. This act shall be construed as a remedial
27 act and shall be liberally construed to promote the purpose
28 for which it is intended.

29 Section 6. Chapters 75-473, 77-626, 79-536, 79-539,
30 79-542, 84-501, 84-502, 86-433, 88-544, 91-334, 93-345, and
31 94-462, Laws of Florida, are repealed.

1 Section 7. This act shall take effect upon becoming a
2 law.

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5 Approved by the Governor MAY 2 5 2001

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7 Filed in Office Secretary of State MAY 2 5 2001

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STATE OF FLORIDA DEPARTMENT OF STATE

Division of Elections

I, KATHERINE HARRIS, Secretary of State of the State of Florida, do hereby certify that the above and foregoing is a true and correct copy of Chapter 2001-331, Laws of Florida, as shown by the records of this office.

Given under my hand and the
Great Seal of the State of Florida,
at Tallahassee, the Capitol, this the
22nd day of June, A.D., 2001



Katherine Harris

Secretary of State

DSDE 99 (1-99)

If photocopied or chemically altered, the word "VOID" will appear.

State of Florida" appears in small letters across the face of this 8 1/2 X 11" document.

APPENDIX C

TO

**JOINT PETITION FOR MODIFICATION TO DETERMINATION OF NEED
BY SOLID WASTE AUTHORITY OF PALM BEACH COUNTY, FLORIDA
AND FLORIDA POWER & LIGHT COMPANY
AND FOR RECOVERY OF PURCHASED POWER CONTRACT COSTS**

ORDER NO. 15280

In Re: Petition of Palm Beach County Solid Waste Authority for Determination of Need for Solid-Waste-Fired Small Power Producing Electric Power Plant.

Docket No. 850435-EU
Order No. 15280

Florida Public Service Commission
October 21, 1985

Before John R. Marks, Chairman, Joseph P. Cresse, Gerald L. Gunter, Katie Nichols and Michael McK Wilson, Commissioners.

NOTICE OF PROPOSED AGENCY ACTION ORDER GRANTING DETERMINATION OF NEED

BY THE COMMISSION:

Notice is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for formal proceeding pursuant to Rule 25-22.29, Florida Administrative Code.

Pursuant to the Florida Electric Power Plant Siting Act, Section 403.501, Florida Statutes, et seq., this Commission is charged with the responsibility of determining whether the construction of a proposed electrical generation facility is necessary to meet the present or expected need for electricity in all or part of Florida. Under the Act, the Department of Environmental Regulation must determine whether the proposed plant will comply with all relevant environmental standards and whether the proposed site for the plant is suitable for that use. Weighting all of these determinations, the Governor and Cabinet, sitting as the Power Plant Siting Board, ultimately determine whether approval will be granted for construction of the proposed plant.

For the construction of any generating facility 50 MW or greater or the expansion of any existing electrical power plant, certification under the Act must be obtained. Palm Beach County Solid Waste Authority (Authority) proposes to construct and operate a solid-waste-fired electrical power plant that will have an

initial generating capacity of 50 MW (gross) derived from processing 2,000 tons per day of refuse. The estimated ultimate generating capacity for the facility is estimated to be 75 MW (gross) which is to be derived from processing 3,000 tons per day of refuse. The projected in-service date for the facility is January, 1989, with construction scheduled to begin in the Spring of 1986. By a petition filed on August 6, 1985, the Authority seeks an affirmative determination of need for a 75 MW generating facility. The Authority's proposed facility is a small power production facility within the meaning of the Public Utilities Regulatory Policies Act and Rules 25-17.80 through 25-17.87, Florida Administrative Code.

The purpose of requiring the Commission's need determination for a generating facility is to protect electric utility ratepayers from unnecessary expenditures. As listed in the Statute, the four criteria the Commission must consider in determining need are as follows:

1. the need for electric system reliability and integrity;
2. the need for adequate electricity at a reasonable cost;
3. whether the proposed plant is the most cost effective alternative; and
4. conservation measures taken or reasonably available to the applicant that might mitigate the need for the new plant. (Section 403.519, Florida Statutes)

Congress and the Legislature of Florida have determined that cogeneration and small power production should be encouraged on the premise that they constitute alternate sources of power that either displace the production of fossil fuel electricity or use fossil fuels more efficiently. Moreover, the proliferation of cogeneration and small power production facilities may defer the need for construction of additional generating facilities by electric utilities. Therefore, in the present context, we find that the Authority's proposed small power production facility will increase electrical system reliability and integrity. The facility will

also maintain the supply of adequate electricity at a reasonable cost while lessening our dependence on fossil fuel. When viewed as an alternative to construction of additional generating facilities by electric utilities, and considering the permissible level of payments to small power producers outlined in Rules 25-17.80 through 25-17.87, Florida Administrative Code, the proposed facility is the most cost-effective alternative available. Construction of the plant is a conservation measure which we have encouraged primarily because it might mitigate the need for additional construction by electric utilities. Finally, in 1984, the Florida Legislature enacted legislation designed to assist local governments in financing projects such as proposed by the Authority, and in so doing declared it to be the policy of this State that "the combustion of refuse by solid waste facilities to supplement the electricity supply not only represents effective conservation efforts but also represents an environmentally preferred alternative to conventional solid waste disposal in this state. Therefore, the Legislature directs the Florida Public Service Commission to establish a funding program to encourage the development by local governments of solid waste facilities that use solid waste as a primary source of fuel for the production of electricity." Section 377.709 (1), Florida Statutes. Therefore, the relief sought in this petition, an affirmative determination of need, will be and the same is hereby granted. It is, therefore,

ORDERED by the Florida Public Service Commission that this Order constitutes the final report required by Section 403.507(1)(b), Florida Statutes, the report concluding that a need exists, within the meaning of Chapter 403, Florida Statutes, for the 75 MW generating facility proposed by the Palm Beach County Solid Waste Authority. It is further

ORDERED that a copy of this Order be furnished to the Department of Environmental Regulation, as required by Section 403.507(1)(b), Florida Statutes. It is further

ORDERED that this Order shall become effective November 12, 1985 unless Petition for formal proceeding is received by November 11, 1985.

By ORDER of the Florida Public Service Commission, this 21st day of October, 1985.

STEVE TRIBBLE Commission Clerk by: Kay Flynn
Deputy Clerk

(SEAL)

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes (Supp. 1984), to notify parties of any administrative hearing or judicial review of Commission orders that may be available, as well as the procedures and time limits that apply to such further proceedings. This notice should not be construed as an endorsement by the Florida Public Service Commission of any request nor should it be construed as an indication that such request will be granted.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.29, Florida Administrative Code. Any person adversely affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.36(7)(a) and (f), Florida Administrative Code. This petition must be received by the Commission Clerk at his office at 101 East Gaines Street, Tallahassee, Florida 32301, by the close of business on November 11, 1985. In the absence of such a petition, this order shall become effective November 12, 1985 as provided by Rule 25-22.29(6), Florida Administrative Code, and as reflected in subsequent order.

If this order becomes final and effective on November 6, 1985, a party adversely affected may request judicial review by the Florida Supreme Court by the filing of a notice of appeal with the Commission Clerk and the filing of a copy of the notice and filing fee with the Supreme Court. This filing must be completed within 30 days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

As printed in Florida Public Service Commission Reporter

END OF DOCUMENT

