UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Florida Power & Light Co.	**)**	**Docket No. EC13-___-000**

APPLICATION FOR AUTHORIZATION OF MERGER AND ACQUISITION OF GENERATION ASSETS PURSUANT TO SECTION 203(a)(1) OF THE FEDERAL POWER ACT

R. Wade Litchfield, Vice President and and General Counsel
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408
(561) 691-7101
wade.litchfield@fpl.com

Joseph T. Kelliher, Executive Vice President, Federal Regulatory Affairs
NextEra Energy, Inc.
801 Pennsylvania Avenue, N.W., Suite 220
Washington, DC 20004
(202) 349-3342
joe.kelliher@fpl.com

Stephen L. Huntoon, Senior Attorney
Florida Power & Light Company
801 Pennsylvania Avenue, N.W., Suite 220
Washington, DC 20004
(202) 349-3348
stephen.huntoon@fpl.com

Mike Naeve
Matthew W.S. Estes
Skadden, Arps, Slate, Meagher & Flom LLP
1440 New York Avenue, N.W.
Washington, DC 20005
(202) 371-7000

mike.naeve@skadden.com
matthew.estes@skadden.com

Counsel to
Florida Power & Light Company

April 12, 2013

TABLE OF CONTENTS

Page

I. INTRODUCTION 1

II. DESCRIPTION OF THE PARTIES TO THE TRANSACTION 3

- A. NextEra Energy, Inc. 3
- B. FPL 4
- C. Vero Beach 5

III. DESCRIPTION OF THE PROPOSED TRANSACTION 5

IV. THE TRANSACTION IS CONSISTENT WITH THE PUBLIC INTEREST 7

- A. Horizontal Competition Issues 9
- B. Vertical Market Power Issues 17
- C. No Adverse Effect On Rates 18
- D. No Adverse Effect On Regulation 20
- E. No Improper Cross-Subsidization 21

V. INFORMATION REQUIRED BY PART 33 OF THE COMMISSION'S REGULATIONS 21

- A. Section 33.2(a): Names and addresses of the principal business offices of the applicants 22
- B. Section 33.2(b): Names and addresses of persons authorized to receive notices and communications with respect to the Application 22
- C. Section 33.2(c): Description of Applicants 22
- D. Section 33.2(d): Description of the jurisdictional facilities owned and operated or controlled by Applicants, their parents or affiliates 22
- E. Section 33.2(e): Narrative description of the Transaction 23
- F. Section 33.2(f): Contracts with respect to the Transaction 23
- G. Section 33.2(g): Facts relied upon to show that the Transaction is in the public interest 23
- H. Section 33.2(h): Physical property 23
- I. Section 33.2(i): Status of actions before other regulatory bodies 23
- J. Section 33.2(j): Cross-subsidization 23
- K. Section 33.5: Accounting Entries 23
- L. Section 33.9: Proposed Protective Order 23
- M. Verifications 24

VI. CONCLUSION 25

LIST OF ATTACHMENTS

ATTACHMENT 1 – PRO FORMA ACCOUNTING ENTRIES

ATTACHMENT 2 – PROPOSED PROTECTIVE ORDER

ATTACHMENT 3 – VERIFICATION

LIST OF EXHIBITS

EXHIBIT A: BUSINESS ACTIVITIES OF APPLICANTS

EXHIBIT B: LIST OF ENERGY SUBSIDIARIES AND AFFILIATES

EXHIBIT C: ORGANIZATIONAL CHARTS DEPICTING CURRENT AND POST-TRANSACTION STRUCTURE

EXHIBIT D: DESCRIPTION OF ALL JOINT VENTURES, STRATEGIC ALLIANCES, TOLLING ARRANGEMENTS OR OTHER BUSINESS VENTURES

EXHIBIT E: COMMON OFFICERS OR DIRECTORS OF THE PARTIES TO THE TRANSACTION

EXHIBIT F: DESCRIPTION AND LOCATION OF WHOLESALE POWER SALES CUSTOMERS AND UNBUNDLED TRANSMISSION SERVICES CUSTOMERS SERVED BY APPLICANTS OR THEIR AFFILIATES

EXHIBIT G: DESCRIPTION OF JURISDICTIONAL FACILITIES OF APPLICANTS AND THEIR AFFILIATES

EXHIBIT H: JURISDICTIONAL FACILITIES AND SECURITIES ASSOCIATED WITH OR AFFECTED BY THE TRANSACTION

EXHIBIT I: CONTRACTS WITH RESPECT TO THE DISPOSITION OF FACILITIES

EXHIBIT J: FACTS RELIED UPON TO DEMONSTRATE CONSISTENCY WITH PUBLIC INTEREST

EXHIBIT K: MAPS

EXHIBIT L: STATUS OF REGULATORY ACTIONS AND ORDERS

EXHIBIT M: CROSS-SUBSIDIZATION

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Florida Power & Light Co. **)** **Docket No. EC13-___-000**

APPLICATION FOR AUTHORIZATION OF MERGER AND ACQUISITION OF GENERATION ASSETS PURSUANT TO SECTION 203(a)(1) OF THE FEDERAL POWER ACT

Pursuant to section 203(a)(1) of the Federal Power Act ("FPA") and Part 33 of the Commission's Regulations, Florida Power & Light Company ("FPL") hereby requests that the Commission approve a transaction (the "Transaction") in which FPL will acquire certain electric generation, transmission and distribution facilities, and associated liabilities of the City of Vero Beach, Florida ("Vero Beach"), a non-jurisdictional municipal electric utility, as described in more detail in Section III below.

I. INTRODUCTION

This Transaction involves the sale by Vero Beach of its municipal electric system to FPL. As a result of the sale—which was endorsed by Vero Beach's citizens by a wide margin in a recent referendum—Vero Beach customers will be charged FPL's retail rates, which are significantly lower than the retail rates currently charged by Vero Beach. The Transaction is relatively minor in scope and it does not raise any of the public interest concerns that the Commission considers in evaluating transactions under FPA section 203.

First of all, although the Transaction includes the sale of electric generation capacity, only a minor amount of capacity is being acquired. FPL will: (a) acquire five small units with a total capacity of only 150 MW three of which (with a total capacity of 102 MW) are old, inefficient boiler units that operate only on an infrequent basis (with an average capacity factor below 1%), plus (b) enter into a new three-year contract for the purchase of an additional 38 MW

of capacity. Thus, in total, FPL is acquiring only 188 MW of capacity, most of which almost never runs.

What is more, FPL's acquisition of capacity from Vero Beach will be only temporary. An integral part of the Transaction from Vero Beach's perspective is that the five Vero Beach generation facilities must be retired within four years after the closing and the site returned to Vero Beach for public use.[1] And, although FPL has four years to retire the units under its agreement with Vero Beach, FPL commits to retire the three most inefficient units, representing 102 MW of the Vero Beach capacity, immediately upon the closing of the Transaction. Further, the power purchase agreement ("PPA") for the purchase of 38 MW of capacity from the Orlando Utility Commission ("OUC") will expire 3 years after the Transaction closes (and in any event no later than the end of 2017). When all the generation units are retired and the OUC contract terminates, FPL no longer will retain any of the generation capacity that it acquired under the Transaction.

The additional retail load that FPL will be obligated to supply as a result of the Transaction is greater than the amount of Economic Capacity ("EC") being transferred to FPL, even before considering the retirement of the Vero Beach units. As a consequence, FPL will be obligated to serve a portion of the Vero Beach load from its existing generation fleet, and the Transaction will actually reduce FPL's Available Economic Capacity ("AEC") and thus reduce its market power—a reduction that will be even greater when all of the Vero Beach generation is retired and the OUC contract terminated. And, although there is a temporary increase in FPL's EC, that increase is miniscule compared to the 27,000 MW of generation capacity that FPL owns or is constructing that will come on line in the near future.

---

[1] As explained below, the obligation is to retire the generation capacity in three years, subject to a one-year extension.

As a result, there are no competition concerns raised by the Transaction. This is confirmed by the Competitive Analysis Screen performed by Julie R. Solomon of Navigant Consulting that is attached as Exhibit J-1.

Furthermore, the Transaction does not raise concerns with respect to the other issues that the Commission considers in evaluating mergers. FPL is making the same wholesale rate hold harmless commitment that the Commission has accepted on numerous occasions, and the Transaction does not detract from the jurisdiction of either the Commission or the Florida Public Service Commission ("FPSC"). Nor does the Transaction involve the transfer of any assets to an affiliate, or contracts with an affiliate, or encumbrances on any of FPL's assets in favor of an affiliate and, therefore, it does not in any way result in the improper cross-subsidization of an affiliate of FPL.

Consequently, the Commission should approve the Transaction without conducting an evidentiary hearing. This will allow the retail electric customers of Vero Beach to commence taking service at lower rates as soon as is reasonably possible.

II. DESCRIPTION OF THE PARTIES TO THE TRANSACTION

A. NextEra Energy, Inc.

FPL is a wholly-owned subsidiary of NextEra Energy, Inc. ("NEE"), which is one of the largest electric power companies in North America, with over 42,000 MW of generating capacity in 26 states in the U.S. and 4 provinces in Canada. NEE provides retail and wholesale electric services to nearly 5 million customers and owns generation, transmission and distribution facilities to support its services. NEE is the largest generator in North America of renewable energy, operating approximately 17% of the installed base of U.S. wind power production capacity and approximately 14% of the installed base of U.S. utility-scale solar power production capacity as of December 31, 2012. NEE also owns and operates one of the largest fleets of

nuclear power stations in the U.S., with eight reactors at five sites located in four states, representing approximately 6% of U.S. nuclear power electric generating capacity as of December 31, 2012.

B. FPL

FPL conducts NEE's utility operations in Florida. FPL is a rate-regulated electric utility engaged primarily in the generation, transmission, distribution and sale of electric energy in Florida. FPL is vertically integrated, with approximately 27,000 MW of generating capacity in-service or under construction and expected to be in service in the next two years. FPL does not have market-based rate authority in Peninsular Florida.

FPL provides service to its customers through an integrated transmission and distribution system, with over 70,000 miles of transmission and distribution lines that link its generation facilities to its customers. FPL also maintains interconnection facilities with neighboring utilities and wholesale power providers, enabling it to buy and sell wholesale electricity outside its service territory and to enhance the reliability of its own network and support the reliability of neighboring networks. FPL's transmission system carries high voltage electricity from its generating facilities to substations where the electricity is stepped down to lower voltage levels and is sent through the distribution system to its customers.

FPL's load consists primarily of retail customers. FPL does serve some wholesale customers, but its wholesale load represents only a small percentage of its total load. The highest peak load FPL has served to date was 24,346 MW, which occurred on January 11, 2010.

A more detailed description of FPL's generation and transmission assets is provided in the testimony and exhibits of Ms. Solomon included in Exhibit J. A map showing FPL's service territory (including the location of Vero Beach) and location of FPL's generation resources is attached as Exhibit K-1.

C. Vero Beach

Vero Beach is a political subdivision of the State of Florida. It was originally incorporated in 1919 as the City of Vero. In 1925, the City of Vero was re-incorporated as the City of Vero Beach and was transferred from St. Lucie County to Indian River County. Vero Beach consists of 13.1 square miles and is located about 190 miles south of Jacksonville and 135 miles north of Miami on Florida's east coast. Vero Beach is under a Council-Manager form of government. The five members of the City Council are elected to overlapping terms of two years. The City Manager, City Attorney and City Clerk are appointed by the City Council.

Vero Beach currently owns and operates a municipal electric utility system, which includes generation, transmission and distribution facilities. This includes 150 MW of generation capacity and 42 miles of 138 kV and 69 kV transmission lines. Vero Beach's peak demand was 180 MW in the winter and 153 MW in the summer. Though the City owns electric generating units, Vero Beach primarily purchases the power necessary to serve its load under long-term power purchase agreements. Vero Beach is exempt from the Commission's jurisdiction of public utilities pursuant to FPA section 201(f).

A more detailed description of Vero Beach's electric utility assets is provided in the testimony and exhibits of Ms. Solomon included in Exhibit J. A map showing Vero Beach's service territory is attached as Exhibit K-2.

III. DESCRIPTION OF THE PROPOSED TRANSACTION

In 2010, Vero Beach asked FPL to explore a potential purchase of its municipal electric utility. Vero Beach's interest was in having its customers receive electric service at FPL retail rates which are substantially lower. Vero Beach's intention was to exit the business of furnishing electric service and to reclaim for public use the waterfront property where Vero Beach's generation plants presently are located.

After several months of analysis, in April of 2011 FPL presented Vero Beach with a Letter of Intent to purchase its electric facilities. This led to further negotiations, and ultimately to the execution of a Purchase and Sale Agreement ("PSA") on February 25, 2013. A copy of the PSA is attached as Exhibit I. On March 12, 2013, Vero Beach held a ballot referendum, and the sale was approved by 64% of the voters.

There are three principal elements of the Transaction. Each one is briefly summarized below.

(1) Purchase of Vero Beach Municipal Utility System

Under the PSA, FPL will purchase or lease certain specified assets of, and will assume certain specified liabilities associated with, Vero Beach's municipal utility system. In exchange, FPL will pay a cash purchase price of $111.5 million, subject to certain specified adjustments intended to reflect changes in circumstances after the date the PSA was executed.

(2) Unwinding of Vero Beach's Existing Power Supply Arrangements

As noted above, in addition to its ownership of generation facilities, Vero Beach also has entered into certain long-term power purchase agreements in order to supply its load. In order to unwind these agreements in connection with selling its utility system to FPL and exiting the business of furnishing electric service, Vero Beach has entered into agreements with OUC providing that, at the same time that it closes the Transaction, Vero Beach will also: (1) terminate its existing wholesale power supply agreement with OUC; (2) transfer Vero Beach's Florida Gas Transmission Company ("FGT") gas transport rights to OUC; and (3) transfer all of Vero Beach's Florida Municipal Power Agency ("FMPA") power entitlements in the St. Lucie,

Stanton I and Stanton II Projects to OUC.[2] In addition, FPL will enter into a three-year PPA (which will terminate no later than the end of 2017) with OUC to purchase 38 MW of capacity from the Stanton I and II Projects. Because all power sold under these agreements will be sold by non-jurisdictional municipal entities, none of these agreements will be subject to the Commission's jurisdiction.

(3) Retirement of Vero Beach's Generation Facilities

The land on which Vero Beach's generation units are located is prime waterfront property, centrally located in Vero Beach along the intra-coastal waterway. As a result, one of Vero Beach's goals in selling its municipal utility was to retire the generation units and return the land to Vero Beach for public use. Under the terms of the Transaction, FPL will be given a three-year lease to the site, subject to a one-year extension, during which time the generation units must be retired and dismantled.

Although FPL has four years to retire the units under the terms of the Transaction, FPL commits to retire the three least economic of these units, representing 102 MW of capacity, immediately upon closing the Transaction. FPL will retire the remaining two units, representing 48 MW of capacity, within four years. Attached as Exhibit J-14 is the Testimony of Sam A. Forrest describing in more detail FPL's analysis of the Vero Beach generation facilities and its reasons for determining that 102 MW of capacity should be retired immediately.

IV. THE TRANSACTION IS CONSISTENT WITH THE PUBLIC INTEREST

Section 203(a)(4) of the FPA provides that "the Commission shall approve the proposed disposition . . . if it finds that the proposed transaction will be consistent with the public interest." Applicants need not show that a transaction positively benefits the public interest, but rather

[2] The transfer of these entitlements also will require FMPA's consent, which is pending at the time of this Application.

simply that it is "consistent with the public interest," *i.e.* that the transaction does not harm the public interest. *See, e.g., Texas-N.M. Mexico Power Co.*, 105 FERC ¶ 61,028 at P 23 & n.14 (2003) (citing *Pac. Power & Light Co. v. FPC,* 111 F.2d 1014, 1016-17 (9th Cir. 1940)).

In determining whether a proposed disposition of jurisdictional facilities is consistent with the public interest, the Commission evaluates the impacts of the proposed disposition on competition, rates and regulation. *See Inquiry Concerning the Commission's Merger Policy Under the Federal Power Act: Policy Statement*, Order No. 592, FERC Stats. & Regs. ¶ 31,044 at 30,111 (1996), *order on reconsideration*, Order No. 592-A, 79 FERC ¶ 61,321 (1997) ("Merger Policy Statement"). When considering impacts on competition, the Commission reviews both horizontal competition issues resulting from increases in concentration in energy and capacity markets and vertical competition issues resulting from increases in the ability or incentive to leverage control over electric transmission and natural gas transportation facilities, or other inputs to the generation of electricity, in order to enhance revenues in generation markets. *See Revised Filing Requirements Under Part 33 of the Commission's Regulations,* Order No. 642, FERC Stats. & Regs. ¶ 31,111 at 31,872 (2000) ("Order No. 642").

In addition, the Commission must determine under FPA section 203(a)(4) that a proposed transaction will not result in cross-subsidization of a non-utility associate company by a traditional utility company, or the pledge or encumbrance of utility assets for the benefit of an associate company, unless that cross-subsidization, pledge, or encumbrance will be consistent with the public interest. The standards for evaluating whether an improper cross-subsidization will result are set forth in Order Nos. 669, 669-A and 669-B,[3] and were clarified in the

---

[3] *Transactions Subject to FPA Section 203,* Order No. 669, FERC Stats. & Regs. ¶ 31,200 (2005) ("Order No. 669"), *order on reh'g*, Order No. 669-A, FERC Stats. & Regs.

(cont'd)

Commission's Supplemental Merger Policy Statement. *FPA Section 203 Supplemental Policy Statement*, FERC Stats. & Regs. ¶ 31,253 (2007) ("Supplemental Merger Policy Statement").

As demonstrated below, the Transaction satisfies all of these standards. Therefore, it is consistent with the public interest and should be approved.

A. Horizontal Competition Issues

FPL has engaged Ms. Solomon to analyze the horizontal competition issues (as well as the vertical market power issues) raised by the Transaction. Ms. Solomon has extensive experience in the electric industry, and has performed numerous evaluations of market power issues both in connection with proposed mergers and for purposes of determining eligibility for market-based rate authority. Ms. Solomon's testimony addressing these issues is attached as Exhibit J-1 to this Application. After conducting the Competitive Analysis Screen (also known as an "Appendix A analysis") required by section 33.3 of the Commission's Regulations, Ms. Solomon concludes that the Transaction will not raise any horizontal market power concerns.

Before discussing the results of Ms. Solomon's Competitive Analysis Screen, however, the Commission should consider the following factors that will limit FPL's ability to use the Transaction to exercise market power:

(1) The amount of generation transferred by Vero Beach to FPL is very small, only 188 MW (150 MW owned by Vero Beach plus 38 MW of entitlements to the Stanton I and II projects purchased from OUC for three years or the end of 2017 at the latest), which is dwarfed by the size of the FPL market, with over 27,000 MW of installed capacity on line or in construction.

(2) 102 MW of Vero Beach's generation facilities being transferred are old, inefficient, and seldom run, with average capacity factors well below 1% in the last two years.

(cont'd from previous page)

¶ 31,214 (2006) ("Order No. 669-A"), *order on reh'g*, Order No. 669-B, FERC Stats. & Regs. ¶ 31,225 (2006) ("Order No. 669-B").

(3) This 102 MW of the generating capacity being acquired by FPL will be retired immediately upon the closing of the Transaction, and the remaining 48 MW will be retired within four years—the same time frame in which the PPA with OUC for the purchase of 38 MW of Stanton I and II capacity will expire.

(4) The Vero Beach load obligation being transferred to FPL is greater than the amount of EC that FPL is acquiring, even without considering the retirement of the Vero Beach generation capacity.

Thus, even before considering the more detailed competition analysis required by the Commission's Merger Regulations, it is clear the Transaction will not result in any material increase in FPL's market power and will have no adverse effect on competition. This conclusion is borne out by Ms. Solomon's analysis, which is summarized below.

(1) Relevant Geographic Markets

Ms. Solomon has, consistent with the Merger Policy Statement, analyzed the FPL Balancing Authority Area ("BAA") as a separate geographic market, as well as the Florida Municipal Power Pool ("FMPP") BAA where the Vero Beach facilities currently are located, and all BAAs that are directly interconnected to either the FPL or FMPP BAAs.[4] *See* Merger Policy Statement, FERC Stats. & Regs. ¶ 31,044 at 30,130. Because, after the Transaction, the Vero Beach assets being acquired will be transferred to the FPL BAA, Ms. Solomon similarly has transferred the Vero Beach generation to the FPL BAA in her post-Transaction analysis.

As a practical matter, the only geographic market where the Transaction even potentially could increase FPL's market power is in the FPL BAA, where FPL has a very high market share. FPL's market share in the other BAAs is not large enough that the addition of the very small

[4] These include two BAAs interconnected to both FPL and FMPA (Florida Power Corporation ("FPC"), Tampa Electric Company ("TECO")) and three others interconnected to FPL (JEA, New Smyrna Beach ("NSB"), City of Homestead ("HST"), Seminole Electric Cooperative ("SEC"), Gainesville Regional Utilities ("GVL"), and Southern Company Services, Inc. ("SOCO")). Other than SOCO, all of these BAAs are in Peninsular Florida. Based on FPL's Electric Quarterly Reports, all of its sales in recent years were limited to Peninsular Florida or the SOCO BAA.

amount of Vero Beach capacity could result in any appreciable increase in FPL's market share in those BAAs. Therefore, although Ms. Solomon analyzed all of the geographic markets required by the Merger Policy Statement, FPL focuses its discussion primarily on the results of Ms. Solomon's analysis of the FPL BAA.

(2) Relevant Products

Consistent with section 33.3(c)(4)(i) of the Commission's Regulations, Ms. Solomon performed an analysis of the energy markets in the relevant geographic markets using both the AEC and the EC measures of capacity. However, as the Commission has held, "the AEC measure is more appropriate for markets where there is no retail competition and no indication that retail competition will be implemented in the near future." *Duke Energy Corp.*, 136 FERC ¶ 61,245 at P 124 (2011).[5] Therefore, although Ms. Solomon performed both AEC and EC analyses, FPL focuses its discussion primarily on the results of Ms. Solomon's AEC analysis.

There are no centralized markets in Peninsular Florida, and thus no competitive markets for capacity or ancillary services. Consequently, Ms. Solomon limited her analysis to the energy markets, using the AEC and EC measures of capacity.

(3) Results of Analysis

(a) <u>Analysis of the FPL BAA</u>

Ms. Solomon performed two different AEC analyses of the FPL BAA. As noted above, FPL has determined to retire 102 MW of the Vero Beach capacity immediately upon closing the

---

[5] The Commission has made similar holdings in a number of other cases regarding the use of AEC to evaluate competition in markets with no retail competition. *See Great Plains Energy, Inc.*, 121 FERC ¶ 61,069 at P 34 & n.44 (2007) ("*Great Plains*"), *reh'g denied*, 122 FERC ¶ 61,177 (2008); *Nat'l Grid, plc.,* 117 FERC ¶ 61,080 at PP 27-28 (2006), *reh'g denied*, 122 FERC ¶ 61,096 (2008); *Westar Energy, Inc.,* 115 FERC ¶ 61,228 at P 72, *reh'g denied*, 117 FERC ¶ 61,011 at P 39 (2006); *Nev. Power Co.*, 113 FERC ¶ 61,265 at P 15 (2005).

Transaction based on the economics of the units, as explained by Mr. Forrest in Exhibit J-13. Consequently, Ms. Solomon's base case analysis takes into account FPL's plan to retire 102 MW of Vero Beach's generation capacity immediately upon consummation of the Transaction. Her supplemental analysis does not take these early retirements into consideration and instead analyzes the effect of transferring the entire 150 MW of Vero Beach's generation capacity (plus the 38 MW of Stanton I and II capacity purchased from OUC) to FPL.

The following table shows the results of Ms. Solomon's base case AEC analysis.

Base Case AEC Analysis: 102 MW of Vero Beach Capacity Retired on Closing

		Pre-Transaction						Post-Transaction				
		FPL		Vero Beach				FPL				
Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
S_SP1	$ 72	1,114	54.3%	-	0.0%	2,052	3,192	997	51.5%	1,935	2,930	(262)
S_SP2	$ 64	2,058	68.7%	-	0.0%	2,996	4,855	1,954	67.6%	2,892	4,712	(144)
S_P	$ 55	6,872	88.0%	-	0.0%	7,810	7,779	6,789	87.9%	7,727	7,757	(22)
S_OP	$ 45	6,110	86.7%	-	0.0%	7,048	7,576	6,053	86.6%	6,991	7,558	(18)
W_SP	$ 55	6,472	81.1%	-	0.0%	7,977	6,663	6,403	81.0%	7,908	6,638	(25)
W_P	$ 40	6,810	83.1%	-	0.0%	8,196	7,041	6,742	82.9%	8,128	7,018	(22)
W_OP	$ 38	6,040	65.4%	-	0.0%	9,232	4,794	5,963	65.1%	9,155	4,763	(31)
SH_SP	$ 59	2,629	72.7%	-	0.0%	3,617	5,380	2,532	71.9%	3,520	5,277	(103)
SH_P	$ 47	6,481	86.8%	-	0.0%	7,469	7,575	6,413	86.7%	7,401	7,554	(20)
SH_OP	$ 42	7,021	87.7%	-	0.0%	8,009	7,738	6,971	87.6%	7,959	7,725	(13)

As this table shows, although the Herfindahl-Hirschman Index ("HHI") is highly concentrated in all periods, the effect of the Transaction is to actually *reduce* market concentration. This is because the load obligation that FPL takes on from Vero Beach is greater than the additional economic generation capacity FPL acquires in every period analyzed, thus reducing FPL's total AEC in every period. Ms. Solomon's base case analysis thus shows that the Transaction will not have an adverse effect on competition and, in fact, will slightly reduce FPL's market power in the FPL BAA.

The following table summarizes the results of Ms. Solomon's supplemental analysis.

Supplemental AEC Analysis: No Retirements

		Pre-Transaction						Post-Transaction				
		FPL		Vero Beach				FPL				
Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
S_SP1	$ 72	1,114	54.3%	-	0.0%	2,052	3,192	1,090	53.8%	2,028	3,140	(52)
S_SP2	$ 64	2,058	68.7%	-	0.0%	2,996	4,855	1,998	68.1%	2,935	4,772	(83)
S_P	$ 55	6,872	88.0%	-	0.0%	7,810	7,779	6,833	87.9%	7,771	7,768	(10)
S_OP	$ 45	6,110	86.7%	-	0.0%	7,048	7,576	6,053	86.6%	6,991	7,558	(18)
W_SP	$ 55	6,472	81.1%	-	0.0%	7,977	6,663	6,449	81.1%	7,954	6,655	(8)
W_P	$ 40	6,810	83.1%	-	0.0%	8,196	7,041	6,742	82.9%	8,128	7,018	(22)
W_OP	$ 38	6,040	65.4%	-	0.0%	9,232	4,794	5,963	65.1%	9,155	4,763	(31)
SH_SP	$ 59	2,629	72.7%	-	0.0%	3,617	5,380	2,573	72.3%	3,562	5,322	(59)
SH_P	$ 47	6,481	86.8%	-	0.0%	7,469	7,575	6,455	86.7%	7,443	7,567	(8)
SH_OP	$ 42	7,021	87.7%	-	0.0%	8,009	7,738	6,971	87.6%	7,959	7,725	(13)

As this table shows, even without taking into account the retirement of 102 MW of generation capacity, the amount of Vero Beach load still exceeds the amount of economic Vero Beach capacity acquired by FPL in every period analyzed, thus reducing FPL's market share in every period. Therefore, there are no screen failures, and thus no competitive concerns, raised under Ms. Solomon's supplemental AEC analysis.

The decision to immediately retire the three least efficient Vero Beach units was made for economic reasons, and Ms. Solomon's analysis shows that the Transaction passes all of the competition screens under either assumption regarding the retirement of these units. However, as explained above, Ms. Solomon's two analyses show that there is a greater reduction in FPL's AEC market share under the immediate retirement scenario than if the units are kept in service. FPL therefore commits to the Commission that it will immediately retire the three least efficient units upon closing of the Transaction.

The Commission recently has begun to consider, in evaluating proposed transactions, the results of price sensitivities where the assumed market prices are 10% higher and 10% lower than in the base case analysis. *See Exelon Corp.*, 138 FERC ¶ 61,167 at PP 105-06 (2012); *Duke*

Energy Corp., 136 FERC ¶ 61,245 at P 131. Ms. Solomon therefore conducted "plus 10%" and "minus 10%" price sensitivities for her base case and supplemental analyses, and confirmed that there were no screen failures under any of those sensitivities.

As noted above, Ms. Solomon also performed an EC analysis of the Transaction. Because the 188 MW of capacity that FPL is acquiring from Vero Beach represents such a small amount of the over 27,000 MW of installed capacity and capacity under construction in the FPL BAA, the increase in FPL's EC market share resulting from the Transaction is extremely small, less than 1%. Consequently, Ms. Solomon's EC analysis shows extremely minor HHI increases of, at most, two points. Thus, to the extent that the Commission believes that an EC analysis is relevant in the FPL BAA, there are no screen failures under her EC analysis.

Finally, FPL notes that, as part of the Transaction, it committed to Vero Beach that it will retire all of the generation capacity that it purchased from Vero Beach within four years of the closing. This is the same time frame in which FPL's PPA with OUC for the purchase of Stanton I and II capacity will have expired. At that time, FPL no longer will have any of the capacity that it purchased from Vero Beach, although it will retain the Vero Beach load. Thus, not only will any increase in FPL's market power resulting from the Transaction not be material, but it will be temporary, lasting no more than four years after the Transaction.

(b) <u>Analysis of the FMPP BAA</u>

As noted above, Ms. Solomon also analyzed the effect of the Transaction on the FMPP BAA. As Ms. Solomon explains, the Simultaneous Import Limit into FMPP is zero in summer and winter and only a very small amount in shoulder seasons. As a consequence, the Transaction does not cause any increase FPL's market share in FMPP and consequently, any ability of FPL to exercise market power in the FMPP market.

Instead, the principal effect of the Transaction in the FMPP market is to increase the amount of OUC's AEC. This is because Vero Beach is terminating its partial requirements contract with OUC, which frees up the AEC that OUC previously used to supply Vero Beach. As Ms. Solomon explains, increasing the amount of supply in a market is a pro-competitive result, and therefore this result of the Transaction should be deemed by the Commission to be beneficial.

The Transaction also removes Vero Beach's generation facilities from the FMPP market, as these facilities will be owned by FPL and will be in the FPL market. In addition, OUC will be selling 38 MW of capacity to FPL for three years (or until the end of 2017 at the latest). However, because Vero Beach's units are uneconomic and operate so infrequently, the amount of economic capacity removed from the FMPP market is generally exceeded by the amount of OUC's AEC freed-up by the termination of its partial requirements contract with Vero Beach. Thus, in the base case the net effect of the Transaction generally is to increase the amount of AEC in the FMPP market, which is a beneficial result.

Ms. Solomon's analysis of the FMPP market bears out this conclusion. The results of her analysis are summarized on the following table.[6]

---

[6] The results are exactly the same under the base case scenario assuming the immediate retirement of 102 MW of Vero Beach generation and the supplemental analysis assuming that the 102 MW is not retired.

Available Economic Capacity, FMPP

		Pre-Transaction						Post-Transaction				
		FPL		Vero Beach				FPL				
Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
S_SP1	$ 72	-	0%	-	0.0%	1,032	4,228	-	0%	1,056	4,235	6
S_SP2	$ 64	-	0%	-	0.0%	1,206	4,073	-	0%	1,266	4,085	12
S_P	$ 55	-	0%	-	0.0%	1,540	3,759	-	0%	1,579	3,755	(4)
S_OP	$ 45	-	0%	-	0.0%	1,658	4,039	-	0%	1,715	4,063	25
W_SP	$ 55	-	0%	-	0.0%	1,682	3,734	-	0%	1,705	3,725	(9)
W_P	$ 40	-	0%	-	0.0%	1,279	5,116	-	0%	1,347	5,044	(72)
W_OP	$ 38	-	0%	-	0.0%	1,091	4,939	-	0%	1,168	4,824	(115)
SH_SP	$ 59	11	1%	-	0.0%	1,087	3,817	10	1%	1,142	3,791	(26)
SH_P	$ 47	14	1%	-	0.0%	1,338	3,934	14	1%	1,364	3,947	13
SH_OP	$ 42	17	1%	-	0.0%	1,381	4,809	17	1%	1,431	4,776	(33)

As this analysis shows, in many periods the Transaction reduces market concentration in the FMPP market, just as it does in the FPL market. There are a few instances where there are HHI increases, but in all cases the increases are well below the 50 HHI threshold established by the Commission for highly concentrated markets such as the FMPP market.

Ms. Solomon notes that there is one screen failure in her plus 10% price increase sensitivity, and another single screen failure in her minus 10% price decrease sensitivity. However, those screen failures again do not reflect any increase in FPL's market share, but instead are artifacts of the model that result either from, in one case, increasing OUC's AEC (as a consequence of terminating OUC's partial requirements contract with Vero Beach), and in the other case, from shrinking the size of the FMPP market by 6 MW as a result of moving Vero Beach into the FPL BAA after the Transaction.[7] The single screen failures in the price sensitivities do not reflect any increase in FPL's market power as a result of the Transaction, nor do they indicate that the Transaction does not achieve the beneficial and pro-competitive result

[7] Further, as Ms. Solomon explains, these results are the byproduct of the assumption that the FMPP SIL is at or near zero. Ms. Solomon ran sensitivities using higher SIL numbers for FMPP and in these sensitivities there are no screen failures for either the base case or the price sensitivities.

of increasing OUC's AECC. Consequently, these results do not indicate any reason for the Commission to conclude that the Transaction will raise any competitive concerns. *See, e.g. Exelon Corp.*, 138 FERC 61,167 at P 98 (finding that, based on the factors involved, screen failures "are not an indication of the ability to exercise market power").

Ms. Solomon's EC analysis of the FMPP market does show screen failures, which result from the fact that the Transaction shrinks the size of the market, thereby increasing the market share of all remaining market participants. This result should not raise a concern for the reasons described above and, in any event, the Commission bases its evaluation of markets like the FMPP market, with no retail competition, on the results of the AEC analysis. *See Duke Energy Corp.*, 136 FERC ¶ 61,245 at P 124 (focusing on AEC results even though there were screen failures under the EC analysis).

(c) <u>Analysis of Other Relevant BAAs</u>

As noted above, Ms. Solomon also analyzed the effect of the Transaction on all BAAs that are directly interconnected with either the FPL or the FMPP BAA. For each of these BAAs, Ms. Solomon conducted the same AEC and EC analyses described above, including the required price sensitivities. As Ms. Solomon describes, there are no screen violations under any of these analyses.

B. <u>Vertical Market Power Issues</u>

In Order No. 642, the Commission set out several vertical market power issues potentially arising from mergers with input suppliers. The principal issue identified is whether the merger may create or enhance the ability of the merged firm to exercise market power in downstream electricity markets by control over the supply of inputs used by rival producers of electricity. Three potential abuses have been identified: the upstream firm acts to raise rivals' costs or foreclose them from the market in order to increase prices received by the downstream

affiliate; the upstream firm acts to facilitate collusion among downstream firms; or transactions between vertical affiliates are used to frustrate regulatory oversight of the cost/price relationship of prices charged by the downstream electricity supplier.[8]

The Commission has expressed its concern regarding vertical market power in three primary contexts: (1) "convergence mergers" between electric utilities and natural gas pipelines that "may create or enhance the incentive and/or ability for the merged firm to adversely affect prices and output in the downstream electricity market and to discourage entry by new generators;"[9] (2) mergers involving owners of electric transmission facilities that may use those facilities to benefit their electric generation facilities; and (3) mergers involving the ownership of other inputs to the generation of electricity.

None of those concerns are raised here, because:

(1) FPL does not have and will not obtain control over any natural gas pipelines as a result of the Transaction.

(2) FPL provides open access transmission under its Commission-approved Open Access Transmission Tariff and will not be able to use the acquisition of the limited transmission facilities owned by Vero Beach to benefit itself competitively.

(3) FPL will not be acquiring any inputs to the generation of electricity as a result of the Transaction.

The Transaction therefore does not raise any vertical market power concerns.

C. <u>No Adverse Effect On Rates</u>

In considering the effects of a merger on rates, the Commission looks primarily at impacts on transmission rates and on rates for captive long-term wholesale requirements customers.

---

[8] Order No. 642, FERC Stats. & Regs. ¶ 31,111 at 31,904.

[9] *Id.*

With respect to such rates, FPL is willing to make commitments to ensure that the Transaction will not have an adverse effect on transmission or wholesale requirements customers. Specifically, FPL commits, for a period of five years, to hold such customers harmless from the rate effects of the Transaction. For that five-year period, FPL will not seek to include merger-related costs in their transmission service or wholesale requirements service revenue requirements, except to the extent it can demonstrate that merger-related savings are equal to or in excess of all of the transaction-related costs so included. The Commission has approved this type of commitment in its Merger Policy Statement and in a number of subsequent cases.[10]

As the Commission has directed, the proposed hold harmless provision includes all transaction-related costs, not only costs related to consummating the Transaction.[11] The Commission has full authority to monitor FPL's hold harmless provision. *Id.* If FPL seeks to recover transaction-related costs through its transmission or wholesale requirements rates, it will submit a compliance filing that details how it is satisfying the hold harmless commitment. Moreover, FPL will comply with the Commission's directive in other proceedings involving a similar hold harmless provision:

> If Applicants seek to recover transaction-related costs in an existing formula rate that allows for such recovery, then that compliance filing must be filed in the section 205 docket in which the formula rate was approved by the Commission, as well as the instant section 203 docket. We also note that, if Applicants seek to recover transaction-related costs in a filing whereby they are proposing a *new* rate (either a new formula rate or a new stated rate), then that filing must be made in a *new* section 205 docket as well as in the instant section 203 docket. The

---

[10] Merger Policy Statement, FERC Stats. & Regs. ¶ 31,044 at 30,124; *see also Ameren Corp.*, 108 FERC ¶ 61,094 at PP 62-68 (2004); *Great Plains Energy Inc.*, 121 FERC ¶ 61,069 at P 48.

[11] *See, e.g.*, *ITC Midwest LLC*, 133 FERC ¶ 61,169 at P 24 (2010).

> Commission will [] notice such filings for public comment. In such a filing, Applicants must: (1) specifically identify the transaction-related costs they are seeking to recover, and (2) demonstrate that those costs are exceeded by the savings produced by the transaction, in addition to any requirements associated with filings made under section 205. Such a hold harmless commitment will protect customers' wholesale power and transmission rates from being adversely affected by the proposed transaction.[12]

D. No Adverse Effect On Regulation

Although the Commission requires merger applicants to evaluate the effect of a proposed transaction on regulation, both at the federal and state level, the Commission indicated in Order No. 642 that it will not ordinarily set a merger application for hearing with respect to the impact on regulation unless: (a) the proposed transaction involves public utility subsidiaries of a registered holding company under the Public Utility Holding Company Act of 1935 ("PUHCA 1935") and the relevant applicants do not commit to abide by the Commission's policies on pricing of non-power goods and services between affiliates, or (b) the affected state commissions lack authority over the proposed transaction and raise concerns about the effect on regulation. Order No. 642, FERC Stats. & Regs. ¶ 31,111 at 31,914-15.

The first prong of the test in the Merger Policy Statement no longer is applicable since the repeal of PUHCA 1935. Moreover, the Transaction will not have any effect on the jurisdiction of either this Commission or the FPSC, except to bring Vero Beach's transmission facilities under FPL's OATT and subject to the Commission's jurisdiction and to *expand* the FPSC's jurisdiction over retail sales in Vero Beach, which currently are subject only to limited FPSC regulation (*e.g.*, the FPSC has jurisdiction over the rate structure but not the level of the rates that Vero Beach charges). In any event, the FPSC has the authority to approve the essential

---

[12] *Id.* at P 25 (footnotes omitted); *see also FirstEnergy Corp.*, 133 FERC ¶ 61,222 at P 63 (2010); *PPL Corp*., 133 FERC ¶ 61,083 at PP 26-27 (2010).

elements of the Transaction, including the central question of whether Vero Beach customers can receive electric service at FPL's retail rates. Thus there is no need for the Commission to address the issue here.

E. No Improper Cross-Subsidization

Under the amendments to section 203 implemented by the Energy Policy Act of 2005, the Commission "shall approve" a proposed transaction "if it finds that the proposed transaction, . . will not result in cross-subsidization of a non-utility associate company or the pledge or encumbrance of utility assets for the benefit of an associate company, unless . . . the cross-subsidization, pledge, or encumbrance will be consistent with the public interest." FPA § 203(a)(4).

Here, no cross-subsidization issues are raised by the Transaction. The assets being acquired by FPL will be owned by FPL, and there are no transfers of any assets, or contracts with, or encumbrances in favor of any of FPL's assets. Attached at Exhibit M is a statement that addresses the cross-subsidization issue in more detail.

V. INFORMATION REQUIRED BY PART 33 OF THE COMMISSION'S REGULATIONS

FPL submits the following information pursuant to Part 33 of the Commission's regulations. FPL respectfully request waiver of certain of the Part 33 filing requirements as set forth below, consistent with Commission precedent.[13]

[13] *See, e.g., Northeast Generation Co.,* 117 FERC ¶ 61,068 at P 17 (2006).

A. Section 33.2(a): Names and addresses of the principal business offices of the applicants

Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408

B. Section 33.2(b): Names and addresses of persons authorized to receive notices and communications with respect to the Application

Mike Naeve
Skadden, Arps, Slate,
Meagher & Flom LLP
1440 New York Avenue, N.W.
Washington, DC 20005
(202) 371-7070
(202) 661-8229 Fax
mnaeve@skadden.com

Matthew W.S. Estes
Skadden, Arps, Slate,
Meagher & Flom LLP
1440 New York Avenue, N.W.
Washington, DC 20005
(202) 371-7227
(202) 661-9064 Fax
mestes@skadden.com

R. Wade Litchfield, Vice President and
and General Counsel
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408
(561) 691-7101
wade.litchfield@fpl.com

Joseph T. Kelliher, Executive Vice
President, Federal Regulatory Affairs
NextEra Energy, Inc.
801 Pennsylvania Avenue, N.W., Suite 220
Washington, DC 20004
(202) 349-3342
joe.kelliher@fpl.com

Stephen L. Huntoon, Senior Attorney
Florida Power & Light Company
801 Pennsylvania Avenue, N.W., Suite 220
Washington, DC 20004
(202) 349-3348
stephen.huntoon@fpl.com

C. Section 33.2(c): Description of Applicants

See Part II of this Application, and Exhibits A through F.

D. Section 33.2(d): Description of the jurisdictional facilities owned and operated or controlled by Applicants, their parents or affiliates

See Part II of this Application, Exhibit G and Exhibit J. FPL requests waiver of 18 C.F.R. § 33.2(d) to the extent it would require the submission of additional information.

E. Section 33.2(e): Narrative description of the Transaction

A narrative description of the Transaction is provided in Part III of this Application. FPL requests waiver of 18 C.F.R. § 33.2(e) to the extent it would require the submission of additional information.

F. Section 33.2(f): Contracts with respect to the Transaction

See Exhibit I.

G. Section 33.2(g): Facts relied upon to show that the Transaction is in the public interest

The facts relied upon to show that the Transaction is consistent with the public interest are set forth in Part IV of this Application and in Exhibit J. FPL requests waiver of 18 C.F.R. § 33.2(g) to the extent it would require the submission of additional information.

H. Section 33.2(h): Physical property

See Exhibit K.

I. Section 33.2(i): Status of actions before other regulatory bodies

See Exhibit L.

J. Section 33.2(j): Cross-subsidization

See Part IV.E of this Application and Exhibit M.

K. Section 33.5: Accounting Entries

See Attachment 1.

L. Section 33.9: Proposed Protective Order

In accordance with section 388.112 of the Commission's regulations, FPL requests confidential treatment of certain confidential information contained in the workpapers to Ms. Solomon's analysis, which are being submitted with this Application. In accordance with section 33.9 of the Commission's regulations, a proposed protective order has been included as

Attachment 2 to the Application. FPL requests that the confidential information submitted in Ms. Solomon's workpapers be made subject to this protective order.

M. Verifications

The verification required under section 33.7 of the Commission's regulations, executed by an authorized representative of FPL, is provided at Attachment 3.

VI. CONCLUSION

As demonstrated above, as well as in the attached testimony and exhibits, the Transaction is consistent with the public interest as analyzed under the standards promulgated in the Commission's Merger Policy Statement, Part 33 of the Commission's regulations, and the Commission's merger precedents. Accordingly, FPL requests that the Commission issue an order approving the Transaction, without conducting an evidentiary hearing.

Respectfully submitted,

/s/ *Mike Naeve*

Mike Naeve
Matthew W.S. Estes
Skadden, Arps, Slate, Meagher & Flom LLP
1440 New York Avenue, N.W.
Washington, DC 20005
(202) 371-7000
mike.naeve@skadden.com
matthew.estes@skadden.com

R. Wade Litchfield, Vice President and
and General Counsel
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408
(561) 691-7101
wade.litchfield@fpl.com

Joseph T. Kelliher, Executive Vice
President, Federal Regulatory Affairs
NextEra Energy, Inc.
801 Pennsylvania Avenue, N.W., Suite 220
Washington, DC 20004
(202) 349-3342
joe.kelliher@fpl.com

Stephen L. Huntoon, Senior Attorney
Florida Power & Light Company
801 Pennsylvania Avenue, N.W., Suite 220
Washington, DC 20004
(202) 349-3348
stephen.huntoon@fpl.com

Counsel to
Florida Power & Light Company

April 12, 2013

Attachment 1 – Pro Forma Accounting Entries

Florida Power and Light Company ("FPL") is providing pro forma accounting entries as indicated below showing the proposed accounting for the Proposed Transaction on the books and records of FPL, the entity subject to the Commission's jurisdiction that is required to use the Commission's Uniform System of Account and whose books will be affected by the Proposed Transaction. The amounts which will be used for these entries will be based on the final values under the terms of the Purchase and Sale Agreement between the City of Vero Beach and FPL.

The proposed accounting entries reflect the Company's best present assessment of the manner in which the Proposed Transactions will ultimately be recorded for accounting purposes.

Line No.	Entry No.	FERC Acct No.	FERC Account Description	Debit	Credit
1	1.	102	Electric Plant Purchased or Sold[1]	$132.3	
2		182.3	Other Regulatory Assets[2]	22.6	
3		190	Accumulated Deferred Income Taxes[3]	16.7	
4		131	Cash		$111.5
5		230	Asset Retirement Obligations[4]		4.4
6		242	Miscellaneous Current and Accrued Liabilities[5]		16.3
7		253	Other Deferred Credits[2]		22.6
8		282	Accumulated Deferred Income Taxes - Other Property [6]		16.7
9	Purpose: To reflect the electric utility acquisition of the City of Vero Beach.				
10					
11	2.	101	Electric Plant In Service[7]	$253.8	
12		101.1	Property Under Capital Leases[8]	3.6	
13		114	Electric Plant Acquisition Adjustments[9]	8.9	
14		102	Electric Plant Purchased or Sold		$132.3
15		108	Accumulated Provision for Depreciation of Electric Utility Plant		134.0
16	Purpose: To clear account 102, Electric Plant Purchased, and record the acquired assets on FPL's books and records.				

Notes:

(1) Represents cost of plant acquired from the City of Vero Beach.

(2) Represents the fair value of the out of the money portion of the purchase power agreement with Orlando Utilities Commission (OUC) executed by FPL as part of the acquisition. Amortization is over the three year contract period.

(3) Deferred tax assets are associated with the following items: (i)pension, vacation, and sick time liabilities, (ii) purchase power agreement and (iii) asset retirement obligation. The purchase power agreement and asset retirement obligation will increase the tax basis of the assets when payments are made.

(4) Estimated present value to dismantle the acquired generation assets. Estimated retirement of the generation assets is three years from acquisition date.

(5) Pension, vacation, and sick time liabilities assumed for the City of Vero Beach employees that will transfer to FPL.

(6) Deferred tax liabilities relate to the differences in the book and tax basis assigned to the assets acquired. This difference is primarily due to the timing of the recognition for book basis of the employee obligations assumed and the recognition of the tax basis when these obligations are paid.

(7) Plant will be depreciated as follows: generation and general plant (except for land) over approximately 30 years, transmission plant over 41 years, distribution plant over approximately 33 years and asset retirement costs related to the early retirement of the generating plant over approximately 3 years.

(8) Upfront lump sum payment to the City of Vero Beach to lease 13 miles of transmission lines retained by the City of Vero Beach for a term of 99 years.

(9) Represents the difference between the fair value and the net book value of the acquired property, plant and equipment.

Attachment 2 – Draft Protective Order

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Florida Power & Light Co. **)** **Docket No. EC13-___-000**

PROTECTIVE ORDER

(Issued)

1. This Protective Order shall govern the use of all Protected Materials produced by, or on behalf of, any Participant. Notwithstanding any order terminating this proceeding, this Protective Order shall remain in effect until specifically modified or terminated by the Presiding Administrative Law Judge ("Presiding Judge") or the Federal Energy Regulatory Commission ("Commission").

2. This Protective Order applies to the following two categories of materials: (a) a Participant may designate as protected those materials which customarily are treated by that Participant as sensitive or proprietary, which are not available to the public, and which, if disclosed freely, would subject that Participant or its customers to risk of competitive disadvantage or other business injury; and (b) a Participant shall designate as protected those materials which contain critical energy infrastructure information, as defined in 18 C.F.R. § 388.113(c)(1) ("Critical Energy Infrastructure Information" or "CEII").

3. Definitions -- For purposes of this Order:

   (a) The term "Participant" shall mean a Participant as defined in 18 C.F.R. § 385.102(b).

   (b) (1) The term "Protected Materials" means (A) materials (including depositions) provided by a Participant in response to discovery requests and designated by such Participant as protected; (B) any information contained in or obtained from such designated materials; (C) any other materials which are made subject to this Protective Order by the Presiding Judge, by the Commission, by any court or other body having appropriate authority, or by agreement of the Participants; (D) notes of Protected Materials; and (E) copies of Protected Materials. The Participant producing the Protected Materials shall physically mark them on each page as "PROTECTED MATERIALS" or with words of similar import as long as the term "Protected Materials" is included in that designation to indicate that they are Protected Materials. If the Protected Materials contain Critical Energy Infrastructure Information, the Participant

producing such information shall additionally mark on each page containing such information the words "CEII MATERIALS - DO NOT RELEASE."

(2) The term "Notes of Protected Materials" means memoranda, handwritten notes, or any other form of information (including electronic form) which copies or discloses materials described in Paragraph 3(b)(1). Notes of Protected Materials are subject to the same restrictions provided in this order for Protected Materials except as specifically provided in this order.

(3) Protected Materials shall not include (A) any information or document that has been filed with and accepted into the public files of the Commission, or contained in the public files of any other federal or state agency, or any federal or state court, unless the information or document has been determined to be protected by such agency or court, or (B) information that is public knowledge, or which becomes public knowledge, other than through disclosure in violation of this Protective Order Protected Materials do include any information or document contained in the files of the Commission that has been designated as Critical Energy Infrastructure Information.

(c) The term "Non-Disclosure Certificate" shall mean the certificate annexed hereto by which Participants who have been granted access to Protected Materials shall certify their understanding that such access to Protected Materials is provided pursuant to the terms and restrictions of this Protective Order, and that such Participants have read the Protective Order and agree to be bound by it. All Non-Disclosure Certificates shall be served on all parties on the official service list maintained by the Secretary in this proceeding.

(d) The term "Reviewing Representative" shall mean a person who has signed a Non-Disclosure Certificate and who is:

(1) Commission Trial Staff designated as such in this proceeding;

(2) an attorney who has made an appearance in this proceeding for a Participant;

(3) attorneys, paralegals, and other employees associated for purposes of this case with an attorney described in Subparagraph (2);

(4) an expert or an employee of an expert retained by a Participant for the purpose of advising, preparing for or testifying in this proceeding;

(5) a person designated as a Reviewing Representative by order of the Presiding Judge or the Commission; or

(6) employees or other representatives of Participants appearing in this proceeding with significant responsibility for this docket.

4. Protected Materials shall be made available under the terms of this Protective Order only to Participants and only through their Reviewing Representatives as provided in Paragraphs 7, 8, and 9.

5. Protected Materials shall remain available to Participants until the later of the date that an order terminating this proceeding becomes no longer subject to judicial review, or the date that any other Commission proceeding relating to the Protected Material is concluded and no longer subject to judicial review. If requested to do so in writing after that date, the Participants shall, within fifteen days of such request, return the Protected Materials (excluding Notes of Protected Materials) to the Participant that produced them, or shall destroy the materials, except that copies of filings, official transcripts and exhibits in this proceeding that contain Protected Materials, and Notes of Protected Material may be retained, if they are maintained in accordance with Paragraph 6, below. Within such time period each Participant, if requested to do so, shall also submit to the producing Participant an affidavit stating that, to the best of its knowledge, all Protected Materials and all Notes of Protected Materials have been returned or have been destroyed or will be maintained in accordance with Paragraph 6. To the extent Protected Materials are not returned or destroyed, they shall remain subject to the Protective Order.

6. All Protected Materials shall be maintained by the Participant in a secure place. Access to those materials shall be limited to those Reviewing Representatives specifically authorized pursuant to Paragraphs 8 and 9. The Secretary shall place any Protected Materials filed with the Commission in a non-public file. By placing such documents in a non-public file, the Commission is not making a determination of any claim of privilege. The Commission retains the right to make determinations regarding any claim of privilege and the discretion to release information necessary to carry out its jurisdictional responsibilities. For documents submitted to Commission Trial Staff ("Staff"), Staff shall follow the notification procedures of 18 C.F.R. § 388.112 before making public any Protected Materials.

7. Protected Materials shall be treated as confidential by each Participant and by the Reviewing Representative in accordance with the certificate executed pursuant to Paragraph 9. Protected Materials shall not be used except as necessary for the conduct of this proceeding, nor shall they be disclosed in any manner to any person except a Reviewing Representative who is engaged in the conduct of this proceeding and who needs to know the information in order to carry out that person's responsibilities in this proceeding. Reviewing Representatives may make copies of Protected Materials, but such copies become Protected Materials. Reviewing Representatives may make notes of Protected Materials, which shall be treated as Notes of Protected Materials if they disclose the contents of Protected Materials.

8. (a) If a Reviewing Representative's scope of employment includes the marketing of energy, the direct supervision of any employee or employees whose duties include the marketing of energy, the provision of consulting services to any person whose duties include the marketing of energy, or the direct supervision of any employee or employees whose duties include the marketing of energy, such Reviewing Representative may not use information contained in any Protected Materials obtained through this proceeding to give any Participant or any competitor of any Participant a commercial advantage.

   (b) In the event that a Participant wishes to designate as a Reviewing Representative a person not described in Paragraph 3(d) above, the Participant shall seek agreement from the Participant providing the Protected Materials. If an agreement is reached that person shall be a Reviewing Representative pursuant to Paragraphs 3(d) above with respect to those materials. If no agreement is reached, the Participant shall submit the disputed designation to the Presiding Judge for resolution.

9. (a) A Reviewing Representative shall not be permitted to inspect, participate in discussions regarding, or otherwise be permitted access to Protected Materials pursuant to this Protective Order unless that Reviewing Representative has first executed a Non-Disclosure Certificate; provided, that if an attorney qualified as a Reviewing Representative has executed such a certificate, the paralegals, secretarial and clerical personnel under the attorney=s instruction, supervision or control need not do so. A copy of each Non-Disclosure Certificate shall be provided to counsel for the Participant asserting confidentiality prior to disclosure of any Protected Material to that Reviewing Representative.

   (b) Attorneys qualified as Reviewing Representatives are responsible for ensuring that persons under their supervision or control comply with this order.

10. Any Reviewing Representative may disclose Protected Materials to any other Reviewing Representative as long as the disclosing Reviewing Representative and the receiving Reviewing Representative both have executed a Non-Disclosure Certificate. In the event that any Reviewing Representative to whom the Protected Materials are disclosed ceases to be engaged in these proceedings, or is employed or retained for a position whose occupant is not qualified to be a Reviewing Representative under Paragraph 3(d), access to Protected Materials by that person shall be terminated. Even if no longer engaged in this proceeding, every person who has executed a Non-Disclosure Certificate shall continue to be bound by the provisions of this Protective Order and the certification.

11. Subject to Paragraph 18, the Presiding Judge shall resolve any disputes arising under this Protective Order. Prior to presenting any dispute under this Protective Order to the Presiding Judge, the parties to the dispute shall use their best efforts to resolve it. Any participant that contests the designation of materials as protected shall notify the party that provided the protected materials by specifying in writing the materials the designation of which is contested. This Protective Order shall automatically cease to apply to such materials five (5) business days after the notification is made unless the designator, within said 5-day period, files a motion with the Presiding Judge, with supporting affidavits, demonstrating that the materials should continue to be protected. In any challenge to the designation of materials as protected, the burden of proof shall be on the participant seeking protection. If the Presiding Judge finds that the materials at issue are not entitled to protection, the procedures of Paragraph 18 shall apply. The procedures described above shall not apply to protected materials designated by a Participant as Critical Energy Infrastructure Information. Materials so designated shall remain protected and subject to the provisions of this Protective Order, unless a Participant requests and obtains a determination from the Commission's Critical Energy Infrastructure Information Coordinator that such materials need not remain protected.

12. All copies of all documents reflecting Protected Materials, including the portion of the hearing testimony, exhibits, transcripts, briefs and other documents which refer to Protected Materials, shall be filed and served in sealed envelopes or other appropriate containers endorsed to the effect that they are sealed pursuant to this Protective Order. Such documents shall be marked "PROTECTED MATERIALS" and shall be filed under seal and served under seal upon the Presiding Judge and all Reviewing Representatives who are on the service list. Such documents containing Critical Energy Infrastructure Information shall be additionally marked "CEII MATERIALS - DO NOT RELEASE." For anything filed under seal, redacted versions or, where an entire document is protected, a letter indicating such, will also be filed with the Commission and served on all parties on the service list and the Presiding Judge. Counsel for the producing Participant shall provide to all Participants who request the same, a list of Reviewing Representatives who are entitled to receive such material. Counsel

shall take all reasonable precautions necessary to assure that Protected Materials are not distributed to unauthorized persons.

13. If any Participant desires to include, utilize or refer to any Protected Materials or information derived therefrom in such a manner that might require disclosure of such material, such participant shall first notify both counsel for the producing Participant and the Presiding Judge of such desire, identifying with particularity each of the Protected Materials and the proposed manner of their use. Thereafter, use of such Protected Material will be governed by procedures determined by the Presiding Judge.

14. Nothing in this Protective Order shall be construed as precluding any Participant from objecting to the use of Protected Materials on any legal grounds.

15. Nothing in this Protective Order shall preclude any Participant from requesting the Presiding Judge, the Commission, or any other body having appropriate authority, to find that this Protective Order should not apply to all or any materials previously designated as Protected Materials pursuant to this Protective Order. The Presiding Judge may alter or amend this Protective Order as circumstances warrant at any time during the course of this proceeding.

16. Each party governed by this Protective Order has the right to seek changes in it as appropriate from the Presiding Judge or the Commission.

17. All Protected Materials filed with the Commission, the Presiding Judge, or any other judicial or administrative body, in support of, or as a part of, a motion, other pleading, brief, or other document, shall be filed and served in sealed envelopes or other appropriate containers bearing prominent markings indicating that the contents include Protected Materials subject to this Protective Order. Such documents containing Critical Energy Infrastructure Information shall be additionally marked "CEII MATERIALS – DO NOT RELEASE."

18. In the event that the Presiding Judge at any time in the course of this proceeding finds that all or part of the Protected Materials need not be protected, those materials nevertheless shall continue to be subject to the protection afforded by this Protective Order for three (3) business days from the date of issuance of the Presiding Judge's decision, and if the Participant seeking protection files an interlocutory appeal or requests that the issue be certified to the Commission, for an additional seven (7) business days. None of the Participants waives its rights to seek additional administrative or judicial remedies after the Presiding Judge's decision respecting Protected Materials or Reviewing Representatives, or the Commission's denial of any appeal thereof. The provisions of 18 C.F.R. §§ 388.112 and 388.113 shall apply to any requests under the Freedom of Information Act. (5 U.S.C. § 552) for Protected Materials in the files of the Commission.

19. Nothing in this Protective Order shall be deemed to preclude any Participant from independently seeking through discovery in any other administrative or judicial proceeding information or materials produced in this proceeding under this Protective Order.

20. None of the Participants waives the right to pursue any other legal or equitable remedies that may be available in the event of actual or anticipated disclosure of Protected Materials.

21. The contents of Protected Materials or any other form of information that copies or discloses Protected Materials shall not be disclosed to anyone other than in accordance with this Protective Order and shall be used only in connection with this (these) proceeding(s). Any violation of this Protective Order and of any Non-Disclosure Certificate executed hereunder shall constitute a violation of an order of the Commission.

_____

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Florida Power & Light Co. **)** **Docket No. EC13-___-000**

NON-DISCLOSURE CERTIFICATE

I hereby certify my understanding that access to Protected Materials is provided to me pursuant to the terms and restrictions of the Protective Order in this proceeding, that I have been given a copy of and have read the Protective Order, and that I agree to be bound by it. I understand that the contents of the Protected Materials, any notes or other memoranda, or any other form of information that copies or discloses Protected Materials shall not be disclosed to anyone other than in accordance with that Protective Order. I acknowledge that a violation of this certificate constitutes a violation of an order of the Federal Energy Regulatory Commission.

By: _____

Printed Name: _____

Title: _____

Representing: _____

Date: _____

Attachment 3 – Verification

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Florida Power & Light Company	)	**Docket No. EC13-___-000**

VERIFICATION

State of Florida	)
	)
County of Palm Beach	)

NOW, BEFORE ME, the undersigned authority, personally came and appeared, Sam A. Forrest, who, after first being duly sworn by me, did say:

That he is Vice President of Energy Marketing and Trading for Florida Power & Light Company, that he has the authority to verify the foregoing application and exhibits on behalf of Florida Power & Light Company; that he has knowledge of the matters therein; and that to the best of his knowledge, information and belief, the representations made arc true and correct.

By: _____
Sam A. Forrest

SUBSCRIBED AND SWORN to before me this 8 day of April, 2013

MARITZA MIRANDA-WISE
MY COMMISSION # DD 870958
EXPIRES: May 30, 2013
Bonded Thru Notary Public Underwriters

Maritza Miranda-Wise
Notary Public

Exhibit A: Business Activities of FPL

The business activities of FPL are described in Section II of this Application and in Exhibit J. FPL requests waiver of 18 C.F.R. § 33.2(c)(1) to the extent it would require the submission of additional information in this Exhibit A.

Exhibit B: List of Subsidiaries and Affiliates

Energy subsidiaries and affiliates of FPL are identified in the following table.

Filing Entity and its Energy Affiliates	Docket # where MBR Authority was Granted	Generation Name	Owned by	Controlled by	Date Control Transferred	Location		In-Service Date	Nameplate and/or Seasonal Rating
						Balancing Authority Area	Geographic Region (per Appendix D)		
Tuscola Bay Wind, LLC	ER12-1660	Tuscola Bay	Tuscola Bay Wind, LLC	Tuscola Bay Wind, LLC	N/A	MISO	Central	11/23/2012	120
White Oak Energy LLC	ER10-2078	White Oak Energy	White Oak Energy LLC	White Oak Energy LLC	6/10/2011	MISO	Central	11/1/2010	150
Ashtabula Wind III, LLC	ER11-26	Ashtabula Wind III	Ashtabula Wind III, LLC	Ashtabula Wind III, LLC	N/A	MISO	Central	12/1/2010	62.4
Baldwin Wind, LLC	ER10-2551	Baldwin Wind	Baldwin Wind, LLC	Baldwin Wind, LLC	N/A	WAUE	Central	10/15/2010	102.4
Day County Wind, LLC	ER10-825	Day County Wind	Day County Wind, LLC	Day County Wind, LLC	N/A	WAUE	Central	4/1/2010	99

Filing Entity and its Energy Affiliates	Docket # where MBR Authority was Granted	Generation Name	Owned by	Controlled by	Date Control Transferred	Location		In-Service Date	Nameplate and/or Seasonal Rating
						Balancing Authority Area	Geographic Region (per Appendix D)		
Garden Wind, LLC	ER10-296	Garden Wind	Garden Wind, LLC	Garden Wind, LLC	N/A	MISO	Central	12/20/2009	150
Crystal Lake Wind III, LLC	ER10-297	Crystal Lake III	Crystal Lake III, LLC	Crystal Lake III, LLC	N/A	MISO	Central	12/20/2009	66
Butler Ridge Wind Energy Center, LLC	ER10-2	Butler Ridge	Butler Ridge Wind Energy Center, LLC	Butler Ridge Wind Energy Center, LLC	N/A	MISO	Central	12/5/2009	54
Wessington Wind Energy Center, LLC	ER10-3	Wessington	Wessington Wind Energy Center, LLC	Wessington Wind Energy Center, LLC	N/A	WAUE	Central	12/5/2009	51
Wilton Wind II, LLC	ER09-1760	Wilton Wind II	Wilton Wind II, LLC	Wilton Wind II, LLC	N/A	WAUE	Central	10/1/2009	49.5

Filing Entity and its Energy Affiliates	Docket # where MBR Authority was Granted	Generation Name	Owned by	Controlled by	Date Control Transferred	Location		In-Service Date	Nameplate and/or Seasonal Rating
						Balancing Authority Area	Geographic Region (per Appendix D)		
Ashtabula Wind II, LLC	ER09-1656	Ashtabula Wind II	Ashtabula Wind II, LLC	Ashtabula Wind II, LLC	N/A	MISO	Central	9/1/2009	120
Crystal Lake Wind, LLC	ER08-1293	Crystal Lake I	Crystal Lake Wind, LLC	Crystal Lake Wind, LLC	N/A	Alliant (MISO)	Central	11/1/2008	150
Crystal Lake Wind II, LLC	ER08-1294	Crystal Lake II	Crystal Lake Wind II, LLC	Crystal Lake Wind II, LLC	N/A	Alliant (MISO)	Central	12/1/2008	200
Osceola Windpower II, LLC	ER08-1296	Osceola II (Endeavor II)	Osceola Windpower II, LLC	Osceola Windpower II, LLC	N/A	Alliant (MISO)	Central	11/1/2008	50
Ashtabula Wind, LLC	ER08-1297	Ashtabula	Ashtabula Wind, LLC	Ashtabula Wind, LLC	N/A	OTP (MISO)	Central	10/1/2008	148.5
Story Wind, LLC	ER08-1300	Story County	Story Wind, LLC	Story Wind, LLC	N/A	Alliant (MISO)	Central	11/1/2008	150

Filing Entity and its Energy Affiliates	Docket # where MBR Authority was Granted	Generation Name	Owned by	Controlled by	Date Control Transferred	Location		In-Service Date	Nameplate and/or Seasonal Rating
						Balancing Authority Area	Geographic Region (per Appendix D)		
Langdon Wind, LLC	ER08-250	Langdon	Langdon Wind, LLC	Langdon Wind, LLC	N/A	OTP (MISO)	Central	11/1/2007	159
FPL Energy Oliver Wind I, LLC	ER09-138	Oliver County I	FPL Energy Oliver Wind I, LLC	FPL Energy Oliver Wind I, LLC	N/A	MP (MISO)	Central	11/1/2006	50.6
FPL Energy Oliver Wind II, LLC	ER08-197	Oliver County II	FPL Energy Oliver Wind II, LLC	FPL Energy Oliver Wind II, LLC	N/A	MP (MISO)	Central	11/1/2007	48
FPL Energy South Dakota Wind, LLC	ER03-1103	South Dakota Wind	FPL Energy South Dakota Wind, LLC	FPL Energy South Dakota Wind, LLC	N/A	WAUE	Central	10/1/2003	41
Hawkeye Power Partners, LLC	ER98-2076	Cerro Gordo Wind Project	Hawkeye Power Partners, LLC	Hawkeye Power Partners, LLC	N/A	ALTW (MISO)	Central	6/1/1999	42
FPL Energy Hancock County Wind, LLC	ER03-34	Hancock County (Iowa)	FPL Energy Hancock County Wind, LLC	FPL Energy Hancock County Wind, LLC	N/A	ALTW (MISO)	Central	12/1/2002	98

Filing Entity and its Energy Affiliates	Docket # where MBR Authority was Granted	Generation Name	Owned by	Controlled by	Date Control Transferred	Location		In-Service Date	Nameplate and/or Seasonal Rating
						Balancing Authority Area	Geographic Region (per Appendix D)		
Lake Benton Power Partners II, LLC	ER98-4222	Lake Benton II	Lake Benton Power Partners II, LLC	Lake Benton Power Partners II, LLC	6/1/2000	NSP (MISO)	Central	6/1/1999	106
FPL Energy North Dakota Wind, LLC	ER03-1104	North Dakota	FPL Energy North Dakota Wind, LLC	FPL Energy North Dakota Wind, LLC	N/A	OTP (MISO)	Central	10/1/2003	41
NextEra Energy Duane Arnold, LLC f/k/a FPL Energy Duane Arnold, LLC[1]	ER09-988 (former docket no. ER05-1281)	Duane Arnold	NextEra Energy Duane Arnold, LLC	NextEra Energy Duane Arnold, LLC	2006	ALTW (MISO)	Central	2/1/1975	615
FPL Energy Burleigh County Wind, LLC	ER06-9	Wilton Wind	FPL Energy Burleigh County Wind, LLC	FPL Energy Burleigh County Wind, LLC	N/A	WAUE	Central	1/1/2006	50
FPL Energy Mower County, LLC	ER06-1261	Mower County	FPL Energy Mower County, LLC	FPL Energy Mower County, LLC	N/A	ALTW (MISO)	Central	12/1/2006	99
NextEra Energy Point Beach, LLC f/k/a FPL Energy Point Beach, LLC	ER09-989 (former docket no. ER07-904)	Point Beach	NextEra Energy Point Beach, LLC	NextEra Energy Point Beach, LLC	9/28/2007	WEP (MISO)	Central	1/1/1970	1,129

[1] NextEra is the owner of 70 % of this facility.

Filing Entity and its Energy Affiliates	Docket # where MBR Authority was Granted	Generation Name	Owned by	Controlled by	Date Control Transferred	Location		In-Service Date	Nameplate and/or Seasonal Rating
						Balancing Authority Area	Geographic Region (per Appendix D)		
FPL Energy North Dakota Wind II, LLC	ER03-1105	Oliver County	FPL Energy North Dakota Wind II, LLC	FPL Energy North Dakota Wind II, LLC	N/A	MP (MISO)	Central	10/1/2003	21
Osceola Windpower, LLC	ER07-174	Osceola (Endeavor)	Osceola Windpower, LLC	Osceola Windpower, LLC	N/A	MISO	Central	8/1/2007	100
Windpower Partners 1993, LLC	QF94-82	Windpower Ptrs '93 (Buffalo Ridge)	Windpower Partners 1993, LLC	Windpower Partners 1993, LLC	12/1/2003, 03/01/2006	NSP (MISO)	Central	5/1/1994	22
Florida Power & Light Company	ER03-1292	Lauderdale	Florida Power & Light Company	Florida Power & Light Company	N/A	FPL	Southeast	8/1/1970	1,712
Florida Power & Light Company	ER03-1292	Fort Myers	Florida Power & Light Company	Florida Power & Light Company	N/A	FPL	Southeast	5/1/1974	2,412
Florida Power & Light Company	ER03-1292	Putnam	Florida Power & Light Company	Florida Power & Light Company	N/A	FPL	Southeast	8/1/1977	498

Filing Entity and its Energy Affiliates	Docket # where MBR Authority was Granted	Generation Name	Owned by	Controlled by	Date Control Transferred	Location		In-Service Date	Nameplate and/or Seasonal Rating
						Balancing Authority Area	Geographic Region (per Appendix D)		
Florida Power & Light Company	ER03-1292	St Lucie 1	Florida Power & Light Company	Florida Power & Light Company	N/A	FPL	Southeast	5/1/1976	839
Florida Power & Light Company[2]	ER03-1292	St Lucie 2	Florida Power & Light Company	Florida Power & Light Company	N/A	FPL	Southeast	5/1/1976	839
Florida Power & Light Company	ER03-1292	Sanford	Florida Power & Light Company	Florida Power & Light Company	N/A	FPL	Southeast	5/1/1959	1,946
Florida Power & Light Company[3]	ER03-1292	St Johns River Power Park	Florida Power & Light Company	Florida Power & Light Company	N/A	FPL	Southeast	3/1/1987	1,252

2 FPL is the owner of 85 % of this facility.

3 FPL is the owner of 20 % of this facility.

Filing Entity and its Energy Affiliates	Docket # where MBR Authority was Granted	Generation Name	Owned by	Controlled by	Date Control Transferred	Location		In-Service Date	Nameplate and/or Seasonal Rating
						Balancing Authority Area	Geographic Region (per Appendix D)		
Florida Power & Light Company[4]	ER03-1292	Scherer 4	Florida Power & Light Company	Florida Power & Light Company	N/A	SOCO	Southeast	7/1/1989	850
Florida Power & Light Company	ER97-3359	West County Energy Center Unit 3	Florida Power & Light Company	Florida Power & Light Company	N/A	FPL	Southeast	5/23/2011	1,250
Florida Power & Light Company	ER97-3359	Martin Solar Energy Center	Florida Power & Light Company	Florida Power & Light Company	N/A	FPL	Southeast	12/10/2010	75
Florida Power & Light Company	ER97-3359	Space Coast Solar Energy Center	Florida Power & Light Company	Florida Power & Light Company	N/A	FPL	Southeast	4/16/2010	10
Florida Power & Light Company	ER97-3359	DeSoto Next Generation Solar Energy Center	Florida Power & Light Company	Florida Power & Light Company	N/A	FPL	Southeast	10/27/2009	25

[4] FPL is the owner of 76 % of this facility.

Filing Entity and its Energy Affiliates	Docket # where MBR Authority was Granted	Generation Name	Owned by	Controlled by	Date Control Transferred	Location		In-Service Date	Nameplate and/or Seasonal Rating
						Balancing Authority Area	Geographic Region (per Appendix D)		
Florida Power & Light Company	ER97-3359	West County Energy Center Unit 1	Florida Power & Light Company	Florida Power & Light Company	N/A	FPL	Southeast	8/27/2009	1,219
Florida Power & Light Company	ER97-3359	West County Energy Center Unit 2	Florida Power & Light Company	Florida Power & Light Company	N/A	FPL	Southeast	11/3/2009	1,219
Florida Power & Light Company	ER97-3359	Manatee	Florida Power & Light Company	Florida Power & Light Company	N/A	FPL	Southeast	10/1/1976	2,742
Florida Power & Light Company	ER97-3359	Martin	Florida Power & Light Company	Florida Power & Light Company	N/A	FPL	Southeast	12/1/1980	3,738
Florida Power & Light Company	ER97-3359	Turkey Point	Florida Power & Light Company	Florida Power & Light Company	N/A	FPL	Southeast	1/1/1967	3,330
Blue Summit Wind, LLC	N/A	Blue Summit	Blue Summit Wind, LLC	Blue Summit Wind, LLC	N/A	ERCOT	N/A	N/A	90.6
FPLE Forney, LLC[5]	NA	Forney	FPLE Forney, LLC	FPLE Forney, LLC	N/A	ERCOT	NA	6/1/2003	1,640

[5] Next Era is the owner of 95 % of this facility.

Filing Entity and its Energy Affiliates	Docket # where MBR Authority was Granted	Generation Name	Owned by	Controlled by	Date Control Transferred	Location		In-Service Date	Nameplate and/or Seasonal Rating
						Balancing Authority Area	Geographic Region (per Appendix D)		
Lamar Power Partners, LLC	NA	Lamar Power Partners	Lamar Power Partners, LLC	Lamar Power Partners, LLC	N/A	ERCOT	NA	7/1/2000, 12/01/2000	1,004
FPL Energy Callahan Wind, LLC	NA	Callahan Divide	FPL Energy Callahan Wind, LLC	FPL Energy Callahan Wind, LLC	N/A	ERCOT	NA	2/1/2005	114
Delaware Mountain Wind Farm, LLC	NA	Delaware Mountain	Delaware Mountain Wind Farm, LLC	Delaware Mountain Wind, LLC	6/1/2002	ERCOT	NA	1/1/1999	30
Capricorn Ridge Wind, LLC	NA	Capricorn Ridge	Capricorn Ridge Wind, LLC	Capricorn Ridge Wind, LLC	N/A	ERCOT	NA	11/1/2007	364
Capricorn Ridge Wind II, LLC	NA	Capricorn Ridge II	Capricorn Ridge Wind II, LLC	Capricorn Ridge Wind II, LLC	N/A	ERCOT	NA	5/1/2008	299
Indian Mesa Wind Farm, LLC	NA	Indian Mesa	Indian Mesa Wind Farm, LLC	Indian Mesa Wind Farm, LLC	6/1/2002	ERCOT	NA	1/1/2001	83
FPL Energy Upton Wind, LLC	NA	King Mountain	FPL Energy Upton Wind, LLC	FPL Energy Upton Wind, LLC	N/A	ERCOT	NA	12/1/2001	278
West Texas Wind Energy Partners, LLC	NA	Southwest Mesa	West Texas Wind Energy Partners, LLC	West Texas Wind Energy Partners, LLC	N/A	ERCOT	NA	7/1/1999	75

Filing Entity and its Energy Affiliates	Docket # where MBR Authority was Granted	Generation Name	Owned by	Controlled by	Date Control Transferred	Location		In-Service Date	Nameplate and/or Seasonal Rating
						Balancing Authority Area	Geographic Region (per Appendix D)		
Windpower Partners, 1994, L.P.	NA	Windpower Partners '94	Windpower Partners, 1994, L.P.	Windpower Partners, 1994, L.P.	08/01/2004, 05/01/2006	ERCOT	NA	1/1/1994	34
Wolf Ridge Wind, LLC	NA	Wolf Ridge Wind, LLC	Wolf Ridge Wind, LLC	Wolf Ridge Wind, LLC	N/A	ERCOT	NA	5/1/2008	113
FPL Energy Pecos Wind I - II, LLC	NA	Woodward Mountain (Pecos Wind)	FPL Energy Pecos Wind I - II, LLC	FPL Energy Pecos Wind I - II, LLC	N/A	ERCOT	NA	7/1/2001	160
FPL Energy Horse Hollow Wind, LLC	NA	Horse Hollow 1-4	FPL Energy Horse Hollow Wind I - IV, LLC	FPL Energy Horse Hollow Wind I - IV, LLC	N/A	ERCOT	NA	11/1/2005, 03/01/2006, 06/01/2006, 09/01/2006	745
Post Wind Farm, LLC	NA	Red Canyon	Post Wind Farm, LLC	Post Wind Farm, LLC	N/A	ERCOT	NA	4/1/2006	84
Energy Storage Holdings, LLC	ER13-752	Energy Storage Holdings	Energy Storage Holdings, LLC	Energy Storage Holdings, LLC	N/A	PJM	Northeast	1/11/2013	1.8
Paradise Solar Urban Renewal, L.L.C.	ER11-2365	Paradise Solar	Paradise Solar Urban Renewal, L.L.C.	Paradise Solar Urban Renewal, L.L.C.	N/A	PJM	Northeast	12/20/2010	5.1
NextEra Energy Services Massachusetts, LLC (f/k/a Gexa Energy, LLC)	ER10-1951 (former docket no. ER05-714)	NextEra Energy Massachusetts	NextEra Energy Services Massachusetts, LLC	NextEra Energy Services Massachusetts, LLC	N/A	ISO-NE	Northeast	N/A	17

Filing Entity and its Energy Affiliates	Docket # where MBR Authority was Granted	Generation Name	Owned by	Controlled by	Date Control Transferred	Location		In-Service Date	Nameplate and/or Seasonal Rating
						Balancing Authority Area	Geographic Region (per Appendix D)		
FPL Energy Illinois Wind, LLC	ER10-402	Illinois Wind	FPL Energy Illinois Wind, LLC	FPL Energy Illinois Wind, LLC	N/A	PJM	Northeast	12/20/2009	217.5
Northeast Energy Associates, L.P.[6]	ER05-236	Bellingham	Northeast Energy Associates, L.P.	Northeast Energy Associates, L.P.	1998	ISO-NE	Northeast	8/1/1991	264
FPL Energy Cape, LLC	ER00-3068	Wyman, Cape	FPL Energy Cape, LLC	FPL Energy Cape, LLC	1999	ISO-NE	Northeast	1/1/1957	249
FPL Energy Wyman, LLC	ER98-3566	Wyman	FPL Energy Wyman, LLC	FPL Energy Wyman, LLC	N/A	ISO-NE	Northeast	1/1/1978	235
FPL Energy Wyman IV, LLC[7]	ER98-3564	Wyman 4	FPL Energy Wyman IV, LLC	FPL Energy Wyman IV, LLC	1999	ISO-NE	Northeast	1/1/1978	604
FPL Energy Maine Hydro LLC[8]	ER98-3511	Maine Hydro Stations	FPL Energy Maine Hydro, LLC	FPL Energy Maine Hydro, LLC	1999	ISO-NE	Northeast	1/1/1902	365

[6] NextEra is the owner of 50 % of this facility.

[7] NextEra is the owner of 84.3 % of this facility.

[8] NextEra is the owner of 99 % of this facility.

Filing Entity and its Energy Affiliates	Docket # where MBR Authority was Granted	Generation Name	Owned by	Controlled by	Date Control Transferred	Location		In-Service Date	Nameplate and/or Seasonal Rating
						Balancing Authority Area	Geographic Region (per Appendix D)		
NextEra Energy Seabrook, LLC f/k/a FPL Energy Seabrook, LLC[9]	ER09-990 (former docket no. ER02-1838)	Seabrook	NextEra Energy Seabrook, LLC	NextEra Energy Seabrook, LLC	11/1/2002	ISO-NE	Northeast	8/1/1990	1,220
Bayswater Peaking Facility, LLC	ER02-669	Bayswater	Bayswater Peaking Facility LLC	Bayswater Peaking Facility LLC	N/A	NYISO	Northeast	6/1/2002	57
Jamaica Bay Peaking Facility, LLC	ER03-623	Jamaica Bay	Jamaica Bay Peaking Facility, LLC	Jamaica Bay Peaking Facility, LLC	N/A	NYISO	Northeast	7/1/2003	53
North Jersey Energy Associates[10]	ER04-187	Sayreville	North Jersey Energy Associates	North Jersey Energy Associates	1998	PJM	Northeast	8/1/1991	290
Pennsylvania Windfarms, LLC	ER02-2166	Green Mountain	Pennsylvania Windfarms, LLC	Pennsylvania Windfarms, LLC	8/1/2002	PJM	Northeast	5/1/2000	10
Backbone Mountain Windpower LLC	ER02-2559	Mountaineer Wind	Backbone Mountain Windpower LLC	Backbone Mountain Windpower LLC	6/1/2002	PJM	Northeast	12/1/2002	66

[9] NextEra is the owner of 88 % of this facility.

[10] NextEra is the owner of 50 % of this facility.

Filing Entity and its Energy Affiliates	Docket # where MBR Authority was Granted	Generation Name	Owned by	Controlled by	Date Control Transferred	Location		In-Service Date	Nameplate and/or Seasonal Rating
						Balancing Authority Area	Geographic Region (per Appendix D)		
Meyersdale Windpower LLC	ER04-290	Meyersdale Wind	Meyersdale Windpower LLC	Meyersdale Windpower LLC	N/A	PJM	Northeast	12/1/2003	30
Mill Run Windpower, LLC	ER01-1710	Mill Run Wind	Mill Run Windpower, LLC	Mill Run Windpower, LLC	4/1/2003	PJM	Northeast	12/1/2001	15
Somerset Windpower, LLC	ER01-2139	Somerset Wind	Somerset Windpower, LLC	Somerset Windpower, LLC	4/1/2003	PJM	Northeast	12/1/2001	9
Waymart Wind Farm, L.P.	ER03-1375	Waymart Wind	Waymart Wind Farm, L.P.	Waymart Wind Farm, L.P.	3/1/2003	PJM	Northeast	10/1/2003	65
FPL Energy MH50, L.P.	ER99-2917	Marcus Hook 50	FPL Energy MH50, L.P.	FPL Energy MH50, L.P.	1999	PJM	Northeast	1/1/1987	50
FPL Energy Marcus Hook, LP	ER02-1903	Marcus Hook 750	FPL Energy Marcus Hook, LP	FPL Energy Marcus Hook, LP	N/A	PJM	Northeast	12/1/2004	750
Androscoggin Reservoir Company[11]	QF88-321	Androscoggin	FPL Energy Maine Hydro, LLC	FPL Energy Maine Hydro, LLC	N/A	ISO-NE	Northeast	5/27/1988	5

[11] NextEra is the owner of 25 % of this facility.

Filing Entity and its Energy Affiliates	Docket # where MBR Authority was Granted	Generation Name	Owned by	Controlled by	Date Control Transferred	Location		In-Service Date	Nameplate and/or Seasonal Rating
						Balancing Authority Area	Geographic Region (per Appendix D)		
Ebensburg Power Company[12]	QF86-1074	Ebensburg	Ebensburg Power Company	Ebensburg Power Company	1992	PJM	Northeast	5/1/1991	50
Perrin Ranch Wind, LLC	ER12-676	Perrin Ranch	Perrin Ranch Wind, LLC	Perrin Ranch Wind, LLC	N/A	AZPS	Southwest	1/1/2012	100.8
North Sky River Energy, LLC	ER12-2444	North Sky River	North Sky River Energy, LLC	North Sky River Energy, LLC	N/A	CAISO	Southwest	11/1/2012	160
Windpower Partners 1993, LLC	ER12-52	San Gorgonio Wind	Windpower Partners 1993, LLC	Windpower Partners 1993, LLC	N/A	CAISO	Southwest	11/1/2011	49.5
NextEra Energy Montezuma II Wind, LLC	ER11-4677	Montezuma II Wind	NextEra Energy Montezuma II Wind, LLC	NextEra Energy Montezuma II Wind, LLC	N/A	CAISO	Southwest	11/15/2011	78.2
Vasco Winds, LLC	ER11-4678	Vasco	Vasco Winds, LLC	Vasco Winds, LLC	N/A	CAISO	Southwest	11/1/2011	78.2

[12] NextEra is the owner of 20 % of this facility.

Filing Entity and its Energy Affiliates	Docket # where MBR Authority was Granted	Generation Name	Owned by	Controlled by	Date Control Transferred	Location		In-Service Date	Nameplate and/or Seasonal Rating
						Balancing Authority Area	Geographic Region (per Appendix D)		
Hatch Solar Energy Center I, LLC	ER11-3635	Hatch Solar	Hatch Solar Energy Center I, LLC	Hatch Solar Energy Center I, LLC	N/A	EPE	Southwest	N/A	5
Red Mesa Wind, LLC	ER11-2192	Red Mesa	Red Mesa Wind, LLC	Red Mesa Wind, LLC	N/A	PNM	Southwest	11/25/2010	102
FPL Energy Montezuma Wind, LLC	ER11-2160	Montezuma Wind	FPL Energy Montezuma Wind, LLC	FPL Energy Montezuma Wind, LLC	N/A	CAISO	Southwest	11/20/2010	38
Victory Garden Phase IV, LLC	ER09-900	Victory Garden IV	Victory Garden Phase IV, LLC	Victory Garden Phase IV, LLC	01/01/1990, 01/01/2003	CAISO	Southwest	1/1/1990	22
Sky River LLC	ER09-901	Sky River	Sky River LLC	Sky River LLC	1991, 2003	CAISO	Southwest	2/1/1991	77
FPL Energy Cabazon Wind, LLC	ER09-902	Cabazon Wind	FPL Energy Cabazon Wind, LLC	FPL Energy Cabazon Wind, LLC	12/1/2003	CAISO	Southwest	N/A	40
Diablo Winds, LLC	ER05-222	Diablo Wind	Diablo Winds, LLC	Diablo Winds, LLC	N/A	CAISO	Southwest	12/1/2004	21
FPL Energy Green Power Wind, LLC	ER04-127	Green Power	FPL Energy Green Power Wind, LLC	FPL Energy Green Power Wind, LLC	12/1/2003	CAISO	Southwest	N/A	17
High Winds, LLC	ER03-155	High Winds	High Winds, LLC	High Winds, LLC	N/A	CAISO	Southwest	8/1/2003, 12/01/2003	162

Filing Entity and its Energy Affiliates	Docket # where MBR Authority was Granted	Generation Name	Owned by	Controlled by	Date Control Transferred	Location		In-Service Date	Nameplate and/or Seasonal Rating
						Balancing Authority Area	Geographic Region (per Appendix D)		
FPL Energy New Mexico Wind, LLC	ER03-179	New Mexico Wind	FPL Energy New Mexico Wind, LLC	FPL Energy New Mexico Wind, LLC	N/A	PNM	Southwest	8/1/2003	204
Green Ridge Power, LLC	QF98-30	Green Ridge Power	Green Ridge Power, LLC	Green Ridge Power, LLC	1998	CAISO	Southwest	1/1/1983 to 01/01/1994	87.3
Mojave 16, 17, 18 LLC[13]	QF88-365	Mojave 16/17/18	Mojave 16/17/18 LLC	Mojave 16/17/18 LLC	1989	CAISO	Southwest	11/1/1989	85
Mojave 3 Wind Power Project, Mojave 5 Wind Power Project[14]	QF88-364, QF88-369	Mojave 3/4/5	Mojave 3 Wind Power Project, Mojave 5 Wind Power Project	Mojave 3 Wind Power Project, Mojave 5 Wind Power Project	1990, 1991, 1997	CAISO	Southwest	12/1/1990	46
TPC Windfarms LLC[15]	QF87-191, QF88-198	TPC Windfarms	TPC Windfarms LLC	TPC Windfarms LLC	3/1/2000	CAISO	Southwest	12/1/1986	29

13 NextEra is the owner of 50 % of this facility.

14 NextEra is the owner of 54 % of this facility.

15 NextEra is the owner of 54 % of this facility.

Filing Entity and its Energy Affiliates	Docket # where MBR Authority was Granted	Generation Name	Owned by	Controlled by	Date Control Transferred	Location		In-Service Date	Nameplate and/or Seasonal Rating
						Balancing Authority Area	Geographic Region (per Appendix D)		
Windpower Partners 1990, L.P.[16]	QF91-42	WindPower Ptrs '90	Windpower Partners 1990, L.P.	Windpower Partners 1990, L.P.	1990 - 2006	CAISO	Southwest	12/1/1990	15
Windpower Partners 1991, L.P.[17]	QF87-119	WindPower Ptrs '91	Windpower Partners 1991, L.P.	Windpower Partners 1991, L.P.	1990 - 2006	CAISO	Southwest	12/1/1986	24
Windpower Partners 1991-2, L.P.[18]	QF91-151	WindPower Ptrs '91-2	Windpower Partners 1991-2, L.P.	Windpower Partners 1991-2, L.P.	1990 - 2006	CAISO	Southwest	2/1/1987	28
Windpower Partners 1992, L.P.[19]	QF89-104	WindPower Ptrs '92	Windpower Partners 1992, L.P.	Windpower Partners 1992, L.P.	1990 - 2006	CAISO	Southwest	12/1/1988	30
Luz Solar Partners LTD III[20]	QF86-734	SEGS III	Luz Solar Partners LTD III	Luz Solar Partners LTD III	2005	CAISO	Southwest	12/1/1986	30

16 NextEra is the owner of 50 % of this facility.

17 NextEra is the owner of 50 % of this facility.

18 NextEra is the owner of 50 % of this facility.

19 NextEra is the owner of 50 % of this facility.

20 NextEra is the owner of 50 % of this facility.

Filing Entity and its Energy Affiliates	Docket # where MBR Authority was Granted	Generation Name	Owned by	Controlled by	Date Control Transferred	Location		In-Service Date	Nameplate and/or Seasonal Rating
						Balancing Authority Area	Geographic Region (per Appendix D)		
Luz Solar Partners LTD IV[21]	QF86-736	SEGS IV	Luz Solar Partners LTD IV	Luz Solar Partners LTD IV	2005	CAISO	Southwest	12/1/1986	30
Luz Solar Partners LTD V[22]	QF87-402	SEGS V	Luz Solar Partners LTD V	Luz Solar Partners LTD V	2005	CAISO	Southwest	9/1/1987	30
Luz Solar Partners LTD VI[23]	QF88-33	SEGS VI	Luz Solar Partners LTD VI	Luz Solar Partners LTD VI	2005	CAISO	Southwest	12/1/1988	30
Luz Solar Partners LTD VII[24]	QF88-34	SEGS VII	Luz Solar Partners LTD VII	Luz Solar Partners LTD VII	2005	CAISO	Southwest	12/1/1988	30
Luz Solar Partners LTD VIII[25]	QF88-470	SEGS VIII	Luz Solar Partners LTD VIII	Luz Solar Partners LTD VIII	1989	CAISO	Southwest	12/1/1989	80

21 NextEra is the owner of 38 % of this facility.

22 NextEra is the owner of 46 % of this facility.

23 NextEra is the owner of 41 % of this facility.

24 NextEra is the owner of 50 % of this facility.

25 NextEra is the owner of 50 % of this facility.

Filing Entity and its Energy Affiliates	Docket # where MBR Authority was Granted	Generation Name	Owned by	Controlled by	Date Control Transferred	Location		In-Service Date	Nameplate and/or Seasonal Rating
						Balancing Authority Area	Geographic Region (per Appendix D)		
Luz Solar Partners LTD IX[26]	QF88-472	SEGS IX	Luz Solar Partners LTD IX	Luz Solar Partners LTD IX	1990	CAISO	Southwest	11/1/1990	80
FPL Energy Stateline II, Inc.	ER10-256	Stateline II	FPL Energy Stateline II, Inc.	FPL Energy Stateline II, Inc.	N/A	PACW	Northwest	N/A	98.9
Limon Wind II, LLC	ER12-2225	Limon Wind II	Limon Wind II, LLC	Limon Wind II, LLC	N/A	PSCO	Northwest	9/1/2012	200
Limon Wind, LLC	ER12-2226	Limon Wind, LLC	Limon Wind, LLC	Limon Wind, LLC	N/A	PSCO	Northwest	9/1/2012	200
Northern Colorado Wind Energy, LLC	ER09-1297	Northern Colorado Wind	Northern Colorado Wind Energy, LLC	Northern Colorado Wind Energy, LLC	N/A	PSCO	Northwest	6/1/2009	175
Peetz Table Wind Energy, LLC	ER07-875	Peetz Table	Peetz Table Wind Energy, LLC	Peetz Table Wind Energy, LLC	N/A	PSCO	Northwest	9/1/2007	200

[26] NextEra is the owner of 50 % of this facility.

Filing Entity and its Energy Affiliates	Docket # where MBR Authority was Granted	Generation Name	Owned by	Controlled by	Date Control Transferred	Location		In-Service Date	Nameplate and/or Seasonal Rating
						Balancing Authority Area	Geographic Region (per Appendix D)		
Logan Wind Energy LLC	ER07-1157	Logan Wind	Logan Wind Energy LLC	Logan Wind Energy LLC	N/A	PSCO	Northwest	9/1/2007	201
FPL Energy Vansycle, L.L.C.	ER01-838	Stateline	FPL Energy Vansycle, L.L.C.	FPL Energy Vansycle, L.L.C.	N/A	PACW	Northwest	12/1/2001, 12/01/2002	300
ESI Vansycle Partners, L.P.	ER98-2494	Vansycle	ESI Vansycle Partners, L.P.	ESI Vansycle Partners, L.P.	N/A	PACW	Northwest	N/A	25
FPL Energy Wyoming, LLC	ER03-1025	Wyoming Wind	FPL Energy Wyoming, LLC	FPL Energy Wyoming, LLC	N/A	PACE	Northwest	12/1/2003	144
Cimarron Wind Energy, LLC	ER13-712	Cimarron Wind	Cimarron Wind	Cimarron Wind Energy, LLC	12/03/2012	SECI	SPP	10/01/2012	165.6
Ensign Wind, LLC	ER12-2227	Ensign Wind	Ensign Wind, LLC	Ensign Wind, LLC	N/A	MKEC/ SECI	SPP	9/21/2012	98.9
Minco Wind III, LLC	ER12-1880	Minco Wind III	Minco Wind III, LLC	Minco Wind III, LLC	N/A	OKGE	SPP	9/1/2012	100.8
High Majestic Wind II, LLC	ER12-1228	High Majestic II	High Majestic Wind II, LLC	High Majestic Wind II, LLC	N/A	SPS	SPP	7/1/2012	79.6

Filing Entity and its Energy Affiliates	Docket # where MBR Authority was Granted	Generation Name	Owned by	Controlled by	Date Control Transferred	Location		In-Service Date	Nameplate and/or Seasonal Rating
						Balancing Authority Area	Geographic Region (per Appendix D)		
Minco Wind Interconnection Services, LLC	ER12-895	Minco Interconnection	Minco Interconnection	Minco Interconnection	N/A	OKGE	SPP	3/15/2012	0
Blackwell Wind, LLC	ER12-569	Blackwell Wind	Blackwell Wind, LLC	Blackwell Wind, LLC	N/A	OKGE	SPP	10/1/2012	59.8
Minco Wind II, LLC	ER11-4428	Minco Wind II	Minco Wind II, LLC	Minco Wind II, LLC	N/A	OKGE	SPP	11/8/2011	100.8
Minco Wind, LLC	ER10-2720	Minco Wind	Minco Wind, LLC	Minco Wind, LLC	N/A	OKGE	SPP	11/1/2010	99.2
Elk City II Wind, LLC	ER11-2037	Elk City II	Elk City II Wind, LLC	Elk City II Wind, LLC	N/A	CSWS	SPP	12/1/2010	100.8
Elk City Wind, LLC	ER10-149	Elk City	Elk City Wind, LLC	Elk City Wind, LLC	N/A	CSWS	SPP	11/1/2009	98.9

Filing Entity and its Energy Affiliates	Docket # where MBR Authority was Granted	Generation Name	Owned by	Controlled by	Date Control Transferred	Location		In-Service Date	Nameplate and/or Seasonal Rating
						Balancing Authority Area	Geographic Region (per Appendix D)		
High Majestic Wind Energy Center, LLC	ER10-1	Majestic	High Majestic Wind Energy Center, LLC	High Majestic Wind Energy Center, LLC	N/A	SPS	SPP	12/5/2009	79.5
Gray County Wind Energy, LLC	ER01-1972	Gray County	Gray County Wind Energy, LLC	Gray County Wind Energy, LLC	N/A	SECI	SPP	11/1/2001	112
FPL Energy Sooner Wind, LLC	ER03-1333	Sooner Wind	FPL Energy Sooner Wind, LLC	FPL Energy Sooner Wind, LLC	N/A	OKGE	SPP	9/1/2003	51
FPL Energy Oklahoma Wind, LLC	ER03-1332	Oklahoma Wind	FPL Energy Oklahoma Wind, LLC	FPL Energy Oklahoma Wind, LLC	N/A	OKGE	SPP	9/1/2003, 10/01/2003	51
FPL Energy Cowboy Wind, LLC	ER05-487	Cowboy Wind (Weatherford)	FPL Energy Cowboy Wind, LLC	FPL Energy Cowboy Wind, LLC	N/A	CSWS	SPP	4/1/2005	147
Conestogo Wind, LP	FC13-7	Conestogo Wind	Conestogo Wind, LP	Conestogo Wind, LP	N/A	IESO	Canada	N/A	22.9
Moore Solar, Inc.	FC12-6	Moore Solar	Moore Solar, Inc.	Moore Solar, Inc.	2/27/2012	IESO	Canada	N/A	20
Sombra Solar, Inc.	FC12-7	Sombra Solar	Sombra Solar, Inc.	Sombra Solar, Inc.	2/27/2012	IESO	Canada	N/A	20

Filing Entity and its Energy Affiliates	Docket # where MBR Authority was Granted	Generation Name	Owned by	Controlled by	Date Control Transferred	Location		In-Service Date	Nameplate and/or Seasonal Rating
						Balancing Authority Area	Geographic Region (per Appendix D)		
Ghost Pine Windfarm, LP	FC11-5	Ghost Pine	Ghost Pine Windfarm, LP	Ghost Pine Windfarm, LP	N/A	AESO	Canada	12/31/2010	81.6
Mount Miller Wind Energy Limited Partnership	FC11-3	Mount Miller	Mount Miller Wind Energy Limited Partnership	Mount Miller Wind Energy Limited Partnership	N/A	NPCC	Canada	N/A	54
Mount Copper, LP	FC08-11	Mount Copper	Mount Copper, LP	Mount Copper, LP	N/A	NPCC	Canada	6/1/2008	54
Pubnico Point, LP	FC08-10	Pubnico Point	Pubnico Point, LP	Pubnico Point, LP	N/A	NPCC	Canada	6/1/2008	31

Exhibit C: Organizational Charts Depicting Current and Post-Transaction Structures

There will be no change to FPL's organizational structure resulting from the Transaction, and thus FPL requests waiver of the requirement to submit an organizational chart.

Exhibit D: Description of All Joint Ventures, Strategic Alliances, Tolling Arrangements or Other Business Ventures

FPL's joint ventures, strategic alliances, tolling arrangements and other business ventures are described in Part II of this Application and in Exhibits B and J. FPL requests waiver of 18 C.F.R. § 33.2(c)(4) to the extent it would require the submission of additional information in this Exhibit D.

Exhibit E: Common Officers or Directors of the Parties to the Proposed Transaction

There are no common officers or directors between FPL and Vero Beach.

Exhibit F: Description and Location of Wholesale Power Sales Customers and Unbundled Transmission Services Customers Served by Applicants or Their Affiliates

FPL provides below the required information with respect to its customers located in Florida. FPL requests a waiver of the requirement to list customers located outside of Florida, as such information is not relevant to the Commission's evaluation of the Transaction.

Brevard Energy, LLC

Calpine Energy Services, LP

Cargill Power Markets, LLC

Cargill-Alliant, LLC

City of Blountstown

City of Homestead

City of Lakeland

City of New Smyrna Beach Utilities Comm

City of Tallahassee

City of Vero Beach

City of Wauchula

Cobb Electric Membership Corp.

Constellation Energy Committee

Constellation Energy Commodities Group

Dade County Resource Recovery

DeSoto County Generating Company

EDF Trading North America, LLC

Florida Keys Electric Cooperative, Inc.

Florida Municipal Power Agency

Florida Power Corporation

Gainesville Regional Utilities

Georgia Pacific Corporation

Georgia Transmission Corporation

JP Morgan Ventures Energy Corp.

Lee County Electric Cooperative

Metropolitan Dade County

Morgan Stanley Capital Group, Inc.

New Hope Power Partnership

Oglethorpe Power Corporation

Oleander Power Project, LP

Orlando Utilities Commission

Power South Energy Cooperative

Progress Energy Florida

Rainbow Energy Marketing Corporation

Reedy Creek Improvement District

Reliant Energy Services, Inc.

Seminole Electric Cooperative, Inc.

Seminole Energy, LLC

Southern Company Services, Inc.

Tampa Electric Company

Tennessee Valley Authority

The Energy Authority

Tropicana Manufacturing Company, Inc.

Wheelabrator North Broward, Inc.

Wheelabrator South Broward, Inc.

Exhibit G: Description of Jurisdictional Facilities of Applicants and Their Affiliates

The jurisdictional facilities of FPL and its affiliates that are relevant to the Commission's evaluation of this Application are described in Parts II and IV of this Application and in the testimony and exhibits of Ms. Solomon included in Exhibit J.

Exhibit H: Jurisdictional Facilities and Securities Associated with or Affected by the Transaction

A narrative description of the jurisdictional facilities and securities associated with or affected by the Transaction are described in Parts II, III and IV of this Application and the testimony and exhibits of Ms. Solomon included in Exhibit J.

Exhibit I: Contracts with Respect to the Disposition of Facilities

The Purchase and Sale Agreement between FPL and Vero Beach is attached as Exhibit I.

Execution Version

THE CITY OF VERO BEACH ELECTRIC UTILITY

ASSET PURCHASE AND SALE AGREEMENT

BY AND BETWEEN

CITY OF VERO BEACH, FLORIDA,
AS SELLER

AND

FLORIDA POWER & LIGHT COMPANY,
AS BUYER

DATED AS OF FEBRUARY 19, 2013

TABLE OF CONTENTS

Page

ARTICLE I DEFINITIONS 1
Section 1.1 Definitions..... 1
Section 1.2 Certain Interpretive Matters. 25

ARTICLE II PURCHASE AND SALE 26
Section 2.1 Acquired Assets. 26
Section 2.2 Excluded Assets. 28
Section 2.3 Assumed Liabilities. 29
Section 2.4 Excluded Liabilities. 30
Section 2.5 Capital Leases. 31
Section 2.6 Airport Warehouse Lease Agreement Option..... 31

ARTICLE III THE CLOSING..... 32
Section 3.1 Closing. 32
Section 3.2 Purchase Price. 32
Section 3.3 Adjustment to Purchase Price. 32
Section 3.4 Payment of Purchase Price..... 34
Section 3.5 Allocation of Purchase Price..... 34
Section 3.6 Prorations. 35
Section 3.7 Deliveries by Seller. 36
Section 3.8 Deliveries by Buyer. 38

ARTICLE IV REPRESENTATIONS AND WARRANTIES OF SELLER..... 38
Section 4.1 Organization. 39
Section 4.2 Authority Relative to this Agreement. 39
Section 4.3 Consents and Approvals; No Violation 39
Section 4.4 Reports. 40
Section 4.5 Undisclosed Liabilities..... 40
Section 4.6 Absence of Material Adverse Effect. 40
Section 4.7 Real Property, Title and Related Matters. 40
Section 4.8 Operability; Condition of the Vero Beach Electric Utility; Sufficiency of Real Property Interests. 44
Section 4.9 Insurance. 45
Section 4.10 Environmental, Licensing and Governmental Approval Matters. 45
Section 4.11 Labor Matters. 48
Section 4.12 ERISA; Benefit Plans. 49
Section 4.13 Location of Acquired Assets. 49
Section 4.14 Contracts. 49
Section 4.15 Legal Proceedings, etc. 51
Section 4.16 Non-Environmental Permits; Compliance with Law. 51
Section 4.17 Regulation as a Utility. 52
Section 4.18 Tax Matters 52
Section 4.19 Intellectual Property. 52

Section 4.20 [Reserved] 53
Section 4.21 Service Territory. 53

ARTICLE V REPRESENTATIONS AND WARRANTIES OF BUYER 53
Section 5.1 Organization; Qualification. 53
Section 5.2 Authority Relative to This Agreement 53
Section 5.3 Consents and Approvals; No Violation. 54
Section 5.4 Availability of Funds. 54
Section 5.5 Legal Proceedings. 54
Section 5.6 Certain Agreements. 54

ARTICLE VI COVENANTS OF THE PARTIES 55
Section 6.1 Conduct of Business Relating to the Acquired Assets 55
Section 6.2 Access to Information; Reporting. 57
Section 6.3 Expenses. 57
Section 6.4 Further Assurances; Cooperation 58
Section 6.5 Public Statements. 60
Section 6.6 Consents; Approvals. 61
Section 6.7 Brokerage Fees and Commissions. 63
Section 6.8 Tax Matters. 63
Section 6.9 Updating Disclosure Schedules. 65
Section 6.10 Employees. 65
Section 6.11 Risk of Loss; Insurance. 67
Section 6.12 Assumed Contracts; Ancillary Agreements. 68
Section 6.13 OUC Agreements and FMPA Entitlements. 69
Section 6.14 Separation of Seller Assets. 70
Section 6.15 Franchise Ordinance. 70
Section 6.16 Capital Expenditure and Maintenance Plan. 70
Section 6.17 Customer Data Conversion. 70
Section 6.18 Seller as Customer. 71
Section 6.19 Vero Beach Electric Utility Bonds and Other Indebtedness. 71
Section 6.20 Sale of Real Properties. 71
Section 6.21 Exclusivity. 72
Section 6.22 No Seller Changes in Law. 72
Section 6.23 Vero Beach Power Plant; Certain Environmental Liabilities. 72
Section 6.24 Customer Consumption Allocation 73
Section 6.25 Seller's Responsibility for Environmental Liabilities 74

ARTICLE VII CONDITIONS PRECEDENT 74
Section 7.1 Conditions Precedent to Obligations of Buyer. 74
Section 7.2 Conditions Precedent to Obligations of Seller. 77

ARTICLE VIII INDEMNIFICATION AND PAYMENT FOR LOSSES 78
Section 8.1 Indemnification and Payment for Losses. 78
Section 8.2 Defense of Claims. 81
Section 8.3 Offset 82

ARTICLE IX TERMINATION 83
Section 9.1 Termination. 83
Section 9.2 Effect of Termination. 86

ARTICLE X MISCELLANEOUS PROVISIONS 87
Section 10.1 Amendment and Modification. 87
Section 10.2 Waiver of Compliance; Consents. 87
Section 10.3 Third Party Beneficiaries. 88
Section 10.4 Notices. 88
Section 10.5 Assignment. 89
Section 10.6 Governing Law. 89
Section 10.7 Counterparts. 90
Section 10.8 Schedules and Exhibits. 90
Section 10.9 Entire Agreement. 90
Section 10.10 No Joint Venture. 90
Section 10.11 Change in Law. 90
Section 10.12 Specific Performance. 90
Section 10.13 Severability. 91

LIST OF EXHIBITS AND SCHEDULES

EXHIBITS

Exhibit A-1	Form of Assignment and Assumption Agreement
Exhibit A-2	Form of Assignment of Easements and Other Real Property Interests
Exhibit B	Form of Bill of Sale
Exhibit C	Form of Special Warranty Deed
Exhibit D	Form of Seller's Affidavit
Exhibit E	Form of Franchise Ordinance
Exhibit F	Form of Termination Agreement
Exhibit G	Form of Vero Beach Power Plant Site Lease Agreement and Memorandum of Lease
Exhibit H	Reserved
Exhibit I-1A	Form of Airport Substations 5 Lease Agreement and Memorandum of Lease
Exhibit I-1B	Form of Airport Substation 6 Lease Agreement and Memorandum of Lease
Exhibit I-2	Form of Airport Warehouse Lease Agreement and Memorandum of Lease
Exhibit J	Current Form of Streetlight Agreement
Exhibit K	Form of Pole Attachment for Seller Fiber Optic System
Exhibit L-1	Form of Dark Fiber License Agreement
Exhibit L-2	Form of Substation Access Agreement
Exhibit M	Reserved
Exhibit N	Reserved
Exhibit O	Form of Capital Leases
Exhibit P	Form of District License
Exhibit Q	Form of District Sublicense
Exhibit R	Substation 20 Transmission Line Easements or Rights of Ways
Exhibit S	Vero Beach Power Plant Site Property Description
Exhibit T	Grand Harbor Property Description
Exhibit U	Acquired Substations and Certain Other FPUA Joint Facilities Related Property Descriptions
Exhibit V	New Substation Property Description
Exhibit W	Form of Estoppel Certificates
Exhibit X	Form of Referendum Question
Exhibit Y	Form of Grounding Lease Agreement
Exhibit Z	NERC Responsibility Agreement

SCHEDULES

Schedule 1.1(16)	Assumed Contracts
Schedule 1.1(36)	Capital Expenditure and Maintenance Plan
Schedule 1.1(55)	Specific Customer Service Assets
Schedule 1.1(57)	Decommissioning Standards
Schedule 1.1(72)	Easements
Schedule 1.1(89)	Excluded Inventory
Schedule 1.1(91)	Excluded Licenses
Schedule 1.1(93)	Excluded Substations
Schedule 1.1(99)	Fiber Optic System
Schedule 1.1(131)	Licensed Intellectual Property
Schedule 1.1(152)	Owned Intellectual Property
Schedule 1.1(157)	Specific Permitted Encumbrances
Schedule 1.1(171)	Radio Licenses
Schedule 1.1(198)	Service Territory
Schedule 1.1(217)	Vehicles
Schedule 4.3	Seller Third-Party Consents
Schedule 4.5	Certain Disclosed Liabilities to which Acquired Assets are Subject
Schedule 4.6	Disclosed Material Adverse Effects
Schedule 4.7(b)	Real Property Encumbrances Requiring a Release or Subordination
Schedule 4.7(p)(i)	Eminent Domain or Rezoning Actions
Schedule 4.7(p)(ii)	Public Improvements or Special Assessments
Schedule 4.7(p)(iii)	Plan or Study to Modify Streets or Roads
Schedule 4.7(p)(vii)	Mining, Mineral or Water Extraction or Development Projects; Soil or Land Defects
Schedule 4.7(q)	Rents, Fees, Royalties, Water Or Sewer Charges, Taxes or Assessments or Other Amounts Payable or Receivable
Schedule 4.7(t)	Certain Encumbrances, Covenants, Conditions, Reservations, Restrictions or Easements
Schedule 4.7(u)	Material Adverse Effects on Real Property
Schedule 4.7(v)	Mortgages, Deeds of Trust and Other Agreements Creating Security Interests on Real Property
Schedule 4.8	Acquired Assets Not in Sufficient Condition
Schedule 4.9	Insurance
Schedule 4.10	Environmental, Licensing and Governmental Matters
Schedule 4.10(j)	Environmental Permits
Schedule 4.11	Labor Matters
Schedule 4.12(a)	Benefit Plans
Schedule 4.13	Acquired Assets not Located on Real Property
Schedule 4.14	Material Seller Contracts
Schedule 4.15	Seller Legal Proceedings
Schedule 4.16(b)	Non-Environmental Permits

Schedule 4.18	Tax Matters
Schedule 4.19	Intellectual Property
Schedule 5.3(a)	Buyer Third-Party Consents
Schedule 5.3(b)	Buyer's Required Regulatory Approvals
Schedule 5.5	Buyer Legal Proceedings
Schedule 6.1(a)	Interim Period Exceptions
Schedule 6.6(b)	Filings
Schedule 6.10(a)	Seller Employees
Schedule 6.17	Data Conversion Requirements
Schedule 9.1(i)	Hypothetical Casualty Event Scenarios

ASSET PURCHASE AND SALE AGREEMENT

This ASSET PURCHASE AND SALE AGREEMENT (the ***"Agreement"***), dated as of February 19, 2013 (***"Effective Date"***), is made and entered into by and between the CITY OF VERO BEACH, FLORIDA, a municipal corporation organized under the laws of the State of Florida (***"Seller"***), and FLORIDA POWER & LIGHT COMPANY, a corporation organized under the laws of the State of Florida (***"Buyer"***). Seller and Buyer are referred to individually as a ***"Party,"*** and collectively as the ***"Parties."***

W I T N E S S E T H:

WHEREAS, Seller owns and operates an electric utility in Indian River County, Florida, and wishes to exit the electric utility business;

WHEREAS, Buyer desires to purchase and assume, and Seller desires to sell and assign, certain electric utility assets and certain associated liabilities, upon the terms and conditions hereinafter set forth in this Agreement (the "***Transaction***") as part of Seller's exit strategy from the electric utility business;

WHEREAS, Buyer and Seller desire for Buyer to provide retail electric service to Seller's electric utility customers, commencing on the day that Buyer purchases from Seller such electric utility assets upon the terms and conditions hereinafter set forth in this Agreement;

WHEREAS, Seller agrees to lease to Buyer and Buyer agrees to lease from Seller the site of Seller's electric utility plant to allow Buyer to temporarily operate Seller's electric utility plant for a period of time before such electric utility plant is decommissioned and dismantled as hereinafter provided, and Buyer will then provide electric power to Seller's service area entirely through Buyer's own, broader electric utility system; and

WHEREAS, Buyer and Seller desire for the rates for retail electric service to be provided to Seller's electric utility customers to be the same as the rates for retail electric service charged by Buyer to its retail electric service customers;

NOW, THEREFORE, in consideration of the mutual covenants, representations, warranties and agreements hereinafter set forth, and intending to be legally bound hereby, the Parties agree as follows:

ARTICLE I
DEFINITIONS

Section 1.1 Definitions.

As used in this Agreement, the following terms have the meanings specified in this Section 1.1.

(1) ***"Acquired Assets"*** has the meaning set forth in Section 2.1.

(2) ***"Acquired Land In Fee"*** means (a) the real property occupied by substations 3, 7, 8, 9, 10, 11, and 20 described in Exhibit U, (b) any other real property occupied by any of the FPUA Joint Facilities (other than substation 20) that is described in Exhibit U, and (c) the real property for a new substation described in Exhibit V or such other real property that may be agreed upon by Buyer and Seller that is within one and one half blocks from the Vero Beach Power Plant Site, is at least four acres in size and will not cost more to develop, construct, own, operate or maintain than the real property described in Exhibit V.

(3) ***"Action"*** means any suit, claim, proceeding, litigation, arbitration, audit or investigation by or before any Governmental Authority or arbitral tribunal.

(4) ***"Affiliate"*** means, with respect to any Person, (i) each Person that directly or indirectly, controls or is controlled by or is under common control with such designated Person; (ii) any Person that beneficially owns or holds fifty percent (50%) or more of any class of voting securities of such designated Person or fifty percent (50%) or more of the equity interest in such designated Person; or (iii) any Person of which such designated Person beneficially owns or holds fifty percent (50%) or more of the equity interest. For the purposes of this definition, ***"control"*** (including, with correlative meanings, the terms "***controlled by***" and ***"under common control with"***), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or by contract or otherwise.

(5) "***After-Tax Basis***" means (a) for purposes of any provision of this Agreement that requires a payment to be made on an After-Tax Basis, such payment shall be made in an amount equal to the sum of (i) the payment to be made before adding the amounts referred to in clause (ii) of this sentence (the "***Base Payment***") and (ii) an amount equal to the sum of any and all Taxes paid or required to be paid by or on behalf of the payee as a result of receipt or recognition of such Base Payment (including, without limitation, any Taxes on such additional amounts) (the "***Additional Payment***"); provided, however, that no Additional Payment shall be payable if (A) the Base Payment is not includible in the payee's gross income, (B) the Base Payment is being made to compensate the recipient for a loss or expense that is deductible for federal Tax purposes or (C) the Base Payment compensates the payee for failure to receive an amount, other than a base payment, that would have been includible in the recipient's gross income, had such amount been received, so that the net amount actually received and retained by the payee after payment of all Taxes on the Base Payment and the Additional Payment is equal to the payment otherwise required to be made to the payee under any provision of this Agreement; and (b) for purposes of determining the After-Tax Basis, each payee shall be deemed to be subject to tax at the highest marginal (federal, state and local, as the case may be) Tax rate applicable to a Person with the same legal status as payee doing business in Florida in effect or scheduled to be in effect for the year in which receipt of the payment or payments is taxed.

(6) ***"Agreement"*** means this Asset Purchase and Sale Agreement together with the Schedules and Exhibits hereto, as the same may be amended from time to time in accordance herewith.

(6)(a) ***"Airport"*** means the City of Vero Beach Municipal Airport.

(7) ***"Airport Property Lease Agreements"*** means the Airport Substation Lease Agreements and, if Buyer exercises the Airport Warehouse Lease Agreement Option, the Airport Warehouse Lease Agreement.

(8) ***"Airport Substation Lease Agreements"*** means the Airport Substation 5 Lease Agreement and the Airport Substation 6 Lease Agreement.

(8)(a) ***"Airport Substation 5 Lease Agreement"*** means a lease agreement and memorandum of lease substantially in the form of Exhibit I-1A attached hereto, or such form as may be otherwise agreed by the Parties pursuant to Section 6.4(f) and approved by the FAA if required by applicable Law or by the provisions of any applicable contract with or grant from the FAA, including rent in the amount of $33,754.03 per year, payable in monthly installments.

(8)(b) ***"Airport Substation 6 Lease Agreement"*** means a lease agreement and memorandum of lease substantially in the form of Exhibit I-1B attached hereto, or such form as may be otherwise agreed by the Parties pursuant to Section 6.4(f) and approved by the FAA if required by applicable Law or by the provisions of any applicable contract with or grant from the FAA, including rent in the amount of $13,904.78 per year, payable in monthly installments.

(9) ***"Airport Warehouse Lease Agreement"*** means a lease agreement and memorandum of lease substantially in the form of Exhibit I-2 attached hereto relating to the warehouse facilities (land and building) located within the Airport, or such form as may be otherwise agreed by the Parties pursuant to Section 6.4(g) and approved by the FAA if required by applicable Law or by the provisions of any applicable contract with or grant from the FAA, including rent as set forth in Section 2.6.

(10) ***"Airport Warehouse Lease Agreement Option"*** has the meaning set forth in Section 2.6.

(11) ***"Allocation"*** has the meaning set forth in Section 3.5(b).

(12) "***All-Requirements Contract***" means that certain All-Requirements Power Supply Project Contract dated October 1, 1996, between FMPA and Seller, as amended.

(13) ***"Ancillary Agreements"*** means the Bill of Sale, Assignment and Assumption Agreement, the Assignment of Easements and Other Real Property Interests, the Vero Beach Power Plant Site Lease Agreement, the Airport Property Lease Agreements, the Capital Leases (if any), the District Sublicenses, the Pole Attachment Agreement for Seller Fiber Optic System, the Dark Fiber License Agreement, the Substation Access Agreement, the Streetlight Agreement, the Termination Agreement, the Franchise Ordinance, the Grounding Lease Agreement and any other Contract entered into by Seller and Buyer relating to the transactions contemplated herein or at or for the Closing, as the same may be amended from time to time in accordance therewith.

(14) ***"Assignment and Assumption Agreement"*** means the Assignment and Assumption Agreement between Seller and Buyer substantially in the form of Exhibit A-1 attached hereto.

(15) "***Assignment of Easements and Other Real Property Interests***" means the assignment of Easements and Other Real Property Interests, including the Substation 20 Transmission R/W, between Seller and Buyer substantially in the form of Exhibit A-2 attached hereto.

(16) ***"Assumed Contracts"*** mean the Contracts listed in Schedule 1.1(16) or any other Seller Contract, in each case as has been requested by Buyer to be assumed by Buyer at Closing by notice to Seller given not later than ninety (90) days prior to Closing.

(17) ***"Assumed Liabilities"*** has the meaning set forth in Section 2.3.

(18) ***"Assumed Pension Liability"*** has the meaning set forth in Section 6.10(f).

(19) ***"Attachment Agreements"*** means all pole attachment agreements, wireline agreements, streetlight attachment agreements, joint use agreements, CATV (cable) agreements, fiber optic agreements, franchise agreements for the placement of telecommunication facilities, fiber-optic cable or cable facilities on any of the Acquired Assets, agreements for the placement of telecommunication, cable or other ground equipment and monopoles on any of the Acquired Assets, agreements for the attachment of facilities (including by Governmental Authorities) to towers, substations, buildings, transmission or distribution poles or other facilities comprising the Acquired Assets, banner agreements, holiday lights agreements and other similar agreements.

(20) ***"Available Proceeds"*** means the sum of (i) the total aggregate amount of insurance coverage under all of Seller's policies of insurance that are applicable to the Acquired Assets that were damaged or destroyed by the relevant fire or other casualty, plus (ii) the amount (or value, if provided in the form of property or repair assistance) of assistance that Seller has been provided (or that has been committed to be provided to Seller) in any form (including cash grant, property or repair assistance) by any Person (including the Federal Emergency Management Agency of the United States or any other Governmental Authority) that may be used by Seller to cure such damage or destruction.

(21) ***"Benefit Plans"*** means each employee benefit plan as defined in Section 3(3) of ERISA, each governmental plan as defined in Section 3(32) of ERISA, and each other plan, contract, agreement, arrangement or policy, whether written or oral, qualified or non-qualified, providing for (i) compensation, severance benefits, bonuses, profit-sharing or other forms of incentive compensation; (ii) vacation, holiday, sickness or other time-off; (iii) health, medical, dental, disability, life, accidental death and dismemberment, employee assistance, educational assistance, relocation or fringe benefits or perquisites, including post-employment benefits; and (iv) deferred compensation, defined benefit or defined contribution, retirement or pension benefits.

(22) ***"Between Meter Readings Period"*** has the meaning set forth in Section 6.24.

(23) ***"Bill of Sale"*** means the Bill of Sale, substantially in the form of Exhibit B attached hereto.

(24) "***Bond Resolution***" means the City of Vero Beach Electric Revenue Bond Resolution No. 93-17 adopted on May 18, 1993, as amended.

(25) ***"Breach"*** means (a) any breach or violation of, or any inaccuracy in, any representation or warranty, (b) any breach of, or failure to perform or comply with, any condition, provision, covenant or obligation, or (c) any other violation, breach or event of default.

(26) ***"Business Books and Records"*** has the meaning set forth in Section 2.1(h).

(27) ***"Business Day"*** shall mean any day other than Saturday, Sunday and any day on which banking institutions in the State of Florida are authorized by law or other governmental action to close.

(28) ***"Business of the Vero Beach Electric Utility"*** means each of the following: (a) the ownership, operation and maintenance of the Vero Beach Electric Utility; (b) the sale and provision of electricity to the Customers; and (c) the ownership, operation and maintenance of the Streetlight Assets.

(29) ***"Buyer"*** has the meaning set forth in the preamble to this Agreement.

(30) ***"Buyer Benefit Plans"*** has the meaning set forth in Section 6.10(d).

(31) ***"Buyer Fundamental Representations***" means the representations and warranties made in Sections 5.1, 5.2, 5.3(a)(i) and 6.7**.**

(32) ***"Buyer Indemnitee"*** has the meaning set forth in Section 8.1(b).

(33) ***"Buyer Remediation Responsibility"*** has the meaning set forth in Section 6.23.

(34) ***"Buyer Remediation Share"*** has the meaning set forth in Section 6.23.

(35) ***"Buyer's Required Regulatory Approvals"*** has the meaning set forth in Section 5.3(b).

(36) ***"Capital Expenditure and Maintenance Plan"*** means the document attached hereto as Schedule 1.1(36), which details the maintenance and capital expenditure schedule for the Acquired Assets through December 31, 2016.

(37) ***"Capital Improvement Notice"*** has the meaning set forth in Section 6.16.

(38) ***"Capital Lease Assets"*** has the meaning set forth in Section 2.5.

(39) ***"Capital Leases"*** means any one or more leases entered into between Seller, as lessor, and Buyer, as lessee, substantially in the form of Exhibit O attached hereto, pursuant to the exercise of the option by the Buyer pursuant to Section 2.5 to lease any part or

parts of the Acquired Assets for a minimum term of ninety-nine (99) years rather than acquire title thereto; provided, however, in the event any of the Acquired Assets subject to a Capital Lease are related to Airport facilities and are subject to FAA or FDOT approval by Law or by the provisions of any applicable contract or grant from the FAA or FDOT, the Capital Lease shall be in such other form as approved by the Parties pursuant to Section 6.4(g) and by the FAA and FDOT, as applicable.

(40) "***Cayenta***" means Cayenta. a division of N. Harris Computer Corporation, or successor thereto.

(41) ***"Closing"*** has the meaning set forth in Section 3.1.

(42) ***"Closing Date"*** has the meaning set forth in Section 3.1.

(43) ***"Closing Election"*** means an Immediate Closing Election, a Delayed Closing Election or a Partial Recovery Closing Election.

(44) ***"COBRA"*** means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, and the rules and regulations promulgated thereunder and any similar state or local Laws.

(45) ***"Code"*** means the Internal Revenue Code of 1986, as amended.

(46) ***"Commercially Reasonable Efforts"*** mean efforts which are designed to enable a Party, directly or indirectly, to expeditiously satisfy a condition to, or otherwise assist in the consummation of, the transactions contemplated by this Agreement and which do not require the performing Party to expend any funds or assume Liabilities other than expenditures and Liabilities which are customary and reasonable in nature and amount in the context of the transactions contemplated by this Agreement.

(47) ***"Contract"*** means any agreement, contract, purchase order, lease, license, right, commitment, evidence of Indebtedness, binding bid or other legally binding arrangement.

(48) ***"Converted Represented Transferred Employees"*** means Transferred Employees who were covered by any Seller Collective Bargaining Agreement while employed with the Seller, but who will be employed by the Buyer in positions that are not subject to a collective bargaining agreement.

(49) ***"Converted Unrepresented Transferred Employees"*** means Transferred Employees who were not covered by any Seller Collective Bargaining Agreement while employed with the Seller, but who will be employed by the Buyer in positions that are subject to a collective bargaining agreement.

(50) ***"Council"*** means the City Council of the Seller.

(51) ***"Covered Loss"*** has the meaning set forth in Section 8.1(a).

(52) "***Cure Amount***" means the amount of costs that Seller will be required to pay in order prior to Closing to cure the damage to or destruction of the Acquired Assets resulting from any fire or other casualty as required by Section 6.11(c).

(53) ***"Customer"*** means any existing or possible, retail electric service customer of Seller within the Service Territory.

(54) ***"Customer Deposits"*** means the electric utility deposits collected by Seller from its electric utility customers or the portion of deposits collected from customers of electric, water and sewer utility services allocable to the electric service provided by the Seller**.**

(55) ***"Customer Service Assets"*** means the customer service facilities, equipment and other tangible property and assets relating to, or used in or for, the Vero Beach Electric Utility or the Business of the Vero Beach Electric Utility or located on the Real Property, including but not limited to the facilities, equipment and other tangible property and assets that connect the Distribution Assets to each individual Customer's Delivery Point (and other property and assets associated with or ancillary thereto), Customer/premise/account data, historical consumption information, meters, remote metering equipment, and equipment needed to access the meters (e.g., keys to locked meter rooms, any meter/special/barrel lock/anchor keys), and without limiting the generality of the foregoing, specifically includes the facilities and equipment described in Schedule 1.1(55) but excluding City Hall and related office equipment. For the avoidance of doubt, Customer Service Assets do not include assets used by Seller solely for its water and sewer utility business.

(56) ***"Dark Fiber License Agreement"*** means an agreement substantially in the form of Exhibit L-1 attached hereto, or such form as may be otherwise agreed by the Parties pursuant to Section 6.4(e) and approved by Indian River County and the School District of Indian River County.

(57) ***"Decommissioning***" means the decommissioning of the Vero Beach Power Plant, the Vero Beach Power Plant Substation and related facilities on the Vero Beach Power Plant Site in accordance with the standards set forth on Schedule 1.1(57).

(58) ***"Deed***" means a special warranty deed substantially in the form of Exhibit C attached hereto.

(59) ***"Default Rate***" means the rate determined from time to time equal to Buyer's then-current FPSC-approved pretax cost of capital from investor sources applied on a pro-rated annual basis, which is the sum of: (a) the quotient of (i) the product of (A) Buyer's common equity ratio multiplied by (B) its allowed return on common equity, divided by (ii) one minus the Buyer's effective income tax rate; plus (b) the product of the Buyer's debt ratio (calculated as one minus its equity ratio) and the projected cost of long-term debt for a regulated electric utility with a similar Moody's credit rating to that of the Buyer. The Buyer's equity ratio, allowed return on common equity, and effective income tax rate are referenced in the most recent FPSC-issued rate order to the Buyer, as amended from time to time. The Default Rate is 12.06% on January 4, 2013, based upon the variable elements of the calculation that existed on

that date and consistent with the rate settlement recently approved by the FPSC, which will be memorialized in an order.

(60) ***"Defeasance Obligations***" means (i) direct obligations of the United States of America, (ii) obligations the timely payment of the principal of and interest on which when due are fully and unconditionally guaranteed by the United States of America, or (iii) obligations which, in the opinion of the Attorney General of the United States of America, are general obligations backed by the full faith and credit of the United States of America.

(61) "***Delayed Closing Election***" has the meaning set forth in Section 9.1(i).

(62) ***"Delivery Point"*** means the point on the Customer's premises where, (i) if delivery is being made through overhead wires, Seller's wires connect to Customer's wires at the Customer's weatherhead, and (ii) if delivery is being made through underground wires, Seller's wires connect to the Customer's meter can.

(63) ***"Department of Energy"*** means the United States Department of Energy and any successor agency thereto.

(64) ***"Department of Justice"*** means the United States Department of Justice and any successor agency thereto.

(65) "***Department of Labor***" means the United States Department of Labor and any successor agency thereto.

(66) "***Direct Claim***" has the meaning set forth in Section 8.2(c).

(67) [RESERVED].

(68) "***Distribution Assets***" means the electric distribution facilities, equipment and other tangible property and assets relating to, or used in or for, the Vero Beach Electric Utility or the Business of the Vero Beach Electric Utility or located on the Real Property or the Vero Beach Power Plant Site, including but not limited to the facilities, equipment and other tangible property and assets that connect the Transmission Assets to the Customer Service Assets (and other property and assets associated with or ancillary thereto), distribution substation equipment, feeder circuits and associated hardware (switches and switch gear, regulators, capacitor banks, reclosers, protective equipment, etc), primary circuits, transformers, secondaries and services, and associated physical assets (including poles, conductors, cables, insulators, metering, street lights and outdoor lights).

(69) ***"District"*** means the Indian River Farms Water Control District.

(70) ***"District Licenses"*** means one or more agreements between the District and Seller substantially in the form of Exhibit P attached hereto, or such form as may be otherwise agreed by the Parties pursuant to Section 6.4(d) and approved by the District, that relate to all of the Real Property owned by the District on which any of the Acquired Assets are located as of the Closing Date.

(71) ***"District Sublicenses"*** means one or more agreements between the Buyer and the Seller substantially in the form of Exhibit Q attached hereto, or such form as may be otherwise agreed by the Parties pursuant to Section 6.4(d) and approved by the District, that provide for sublicenses with respect to each of the District Licenses entered into on the Closing Date.

(72) "***Easements***" means the electrical distribution easements, electrical transmission easements, access easements, aerial easements and other easements used in or necessary for (A) the Business of the Vero Beach Electric Utility or (B) the operation or maintenance of the Acquired Assets, including the easements identified in Schedule 1.1(72).

(73) ***"Effective Date"*** has the meaning set forth in the preamble to this Agreement.

(74) ***"Electric Utility Accounting Records"*** means all financial statements, accounting books, related records and reports of Seller relating to the Vero Beach Electric Utility or the Business of the Vero Beach Electric Utility.

(75) ***"Encumbrances"*** means any liens, charges, pledges, options, mortgages, deeds of trust, security interests, equitable interests, claims, easements, rights-of-way, leases, mineral reservations, covenants, conditional and installment sales contracts, title retention arrangements, adverse claims or restrictions of any kind, including restriction on transfer or use, option, right of first refusal, license or other right of third parties, and other encumbrances affecting title or right to property, whether imposed by Law, agreement, understanding or otherwise and whether or not of record.

(76) ***"Environment"*** means all soil, real property, air, water (including surface waters, streams, ponds, drainage basins and wetlands), groundwater, water body sediments, drinking water supply, stream sediments or land, including land surface or subsurface strata, including all fish, plant, wildlife, and other biota and any other environmental medium or natural resource.

(77) ***"Environmental Claim"*** means any and all communications, whether written or oral, alleging potential Liability, administrative or judicial actions, suits, orders, liens, notices alleging Liability, notices of violation, investigations which have been disclosed to Seller, complaints, requests for information relating to the Release or threatened Release into the Environment of Hazardous Substances, proceedings, or other communication, whether criminal or civil, pursuant to or relating to any applicable Environmental Law, by any Person (including any Governmental Authority) based upon, alleging, asserting, or claiming any actual or potential (a) violation of, or Liability under any Environmental Law, (b) violation of any Environmental Permit, or (c) Liability for investigatory costs, cleanup costs, removal costs, remedial costs, response costs, monitoring costs, natural resource damages, property damage, personal injury, fines, or penalties arising out of, based on, resulting from, or related to the presence, Release, or threatened Release into the Environment of any Hazardous Substances at any location related to the Acquired Assets, including, but not limited to, any off-Site location to which Hazardous Substances, or materials containing Hazardous Substances, were sent.

(78) ***"Environmental Clean-up Site"*** means any location which is listed or formally proposed for listing on the National Priorities List, the Comprehensive Environmental Response, Compensation and Liability Information System, or on any similar state list of sites requiring investigation or cleanup, or which is the subject of any action, suit, proceeding or investigation which has been disclosed to Seller for any alleged violation of any Environmental Law, or at which there has been a Release, or a threatened or suspected Release, of a Hazardous Substance.

(79) ***"Environmental Laws"*** means all Laws regarding pollution or protection of the Environment, the conservation and management of land, natural resources and wildlife or human health and safety or the Occupational Safety and Health Act (only as it relates to Hazardous Substances), including, without limitation, Laws regarding Releases or threatened Releases of Hazardous Substances (including, without limitation, Releases to ambient air, surface water, groundwater, land, surface and subsurface strata) or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, Release, transport, disposal or handling of Hazardous Substances. ***"Environmental Laws"*** include, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. §§ 9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. §§ 1801 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. §§ 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.), the Clean Air Act (42 U.S.C. §§ 7401 et seq.), the Toxic Substances Control Act (15 U.S.C. §§ 2601 et seq.), the Oil Pollution Act (33 U.S.C. §§ 2701 et seq.), the Emergency Planning and Community Right-to-Know Act (42 U.S.C. §§ 11001 et seq.), the Occupational Safety and Health Act (29 U.S.C. §§ 651 et seq.) only as it relates to Hazardous Substances, and all other Laws analogous to any of the above.

(80) ***"Environmental Permit"*** means any Permit under or in connection with any Environmental Law, including any and all orders, consent orders or binding agreements issued or entered into by a Governmental Authority under any applicable Environmental Law, that is used in, or necessary for, (i) the Business of the Vero Beach Electric Utility, or (ii) the ownership, use or operation of the Acquired Assets or the Real Property, in each case under clause (i) or (ii), as conducted prior to the Effective Date and as conducted prior to the Closing Date.

(81) ***"ERISA"*** means the Employee Retirement Income Security Act of 1974, as amended, and the applicable rules and regulations promulgated thereunder.

(82) ***"ERISA Affiliate"*** means any trade or business under Section 414(b), (c), (m) or (o) of the Code.

(83) ***"Estimated Allocation"*** has the meaning set forth in Section 3.5(a).

(84) ***"Estimated Closing Statement"*** has the meaning set forth in Section 3.3(b).

(85) ***"Excess Uncovered Loss Amount"*** means the amount by which the Final Cure Amount exceeds the sum of the Maximum Uncovered Loss Amount plus the Available Proceeds.

(86) ***"Excluded Assets"*** has the meaning set forth in Section 2.2.

(87) ***"Excluded Contracts"*** means the FMPA Agreements, the Other FMPA Agreements, the OUC-Vero Beach PPA, Seller Collective Bargaining Agreements, the Excluded Licenses, the Gas Transportation Contracts and all other Contracts that are not Assumed Contracts.

(88) "***Excluded Environmental Liabilities"*** has the meaning set forth in Section 2.4(e).

(89) "***Excluded Inventory***" means any Inventory of Seller described in Schedule 1.1(89)**.**

(90) ***"Excluded Liabilities"*** has the meaning set forth in Section 2.4.

(91) ***"Excluded Licenses"*** means those license and software-related agreements listed on Schedule 1.1(91).

(92) ***"Excluded Real Property"*** means the Grand Harbor property described in the attached Exhibit T.

(93) ***"Excluded Substations"*** means substations of Seller described on Schedule 1.1(93).

(94) ***"FAA"*** means the Federal Aviation Administration or any successor agency thereto.

(95) ***"Federal Communications Commission"*** means the United States Federal Communications Commission or any successor agency thereto.

(96) ***"Federal Power Act"*** means the Federal Power Act, as amended.

(97) ***"Federal Trade Commission"*** means the United States Federal Trade Commission or any successor agency thereto.

(98) ***"FERC"*** means the Federal Energy Regulatory Commission or any successor agency thereto.

(99) ***"Fiber Optic System"*** means the fiber optic system described on Schedule 1.1(99)**.**

(100) "***Final Cure Amount***" has the meaning set forth in Section 9.1(i).

(101) "***Form of Grounding Lease Agreement***" has the meaning set forth in Section 5.4(h).

(101)(a)"***FDOT***" means the Florida Department of Transportation or any successor agency thereto.

(102) ***"FMPA"*** means the Florida Municipal Power Agency.

(103) "***FMPA Agreements***" means all of the following Contracts: (i) St. Lucie Project Power Sales Contract dated June 1, 1982, between FMPA and Seller, as amended; (ii) St. Lucie Project Power Support Contract dated June 1, 1982, between FMPA and Seller, as amended; (iii) the Stanton Contracts and (iv) the All-Requirements Contract.

(104) ***"FPSC"*** means the Florida Public Service Commission or any successor agency thereto.

(105) ***"FPUA***" means the Fort Pierce Utilities Authority or any successor electric utility**.**

(106) ***"FPUA Joint Facilities"*** means the transmission and substation facilities owned jointly by Seller and FPUA in St. Lucie County, Florida, and Indian River County, Florida, including the property identified as "Substation 20" on the schedule of the Acquired Land in Fee and the Substation 20 Transmission Line R/W.

(107) ***"FPUA Right of First Refusal"*** means the right of first refusal with respect to certain of the Acquired Assets granted by Seller to FPUA pursuant to that certain Fort Pierce – Vero Beach Tie-Line Agreement dated May 5, 1992 between Seller and FPUA.

(108) ***"Franchise Ordinance"*** means the franchise ordinance agreement substantially in the form of Exhibit E attached hereto

(109) ***"Gas Transportation Contracts"*** means that certain Form of Service Agreement Applicable to Agreements Executed After April 1, 2002 Firm Transportation Service – Market Area FTS-2, dated January 1, 2010 and that certain Form of Service Agreement Firm Transportation Service – Market Area FTS-1, dated January 1, 2010, each between OUC and Florida Gas Transmission Company, each as amended.

(110) ***"Governmental Authority"*** means any federal, state, county, city, local or other governmental, regulatory or administrative agency, body, authority (including taxing authority), official, district (including water control district), commission, department, board or other governmental subdivision, court, tribunal or arbitrating body, and any national or regional electric reliability organizations, including NERC.

(111) ***"Grounding Equipment"*** means the cable casing and other parts of the Fiber Optic System that are used as the grounding for any part of the Acquired Assets.

(112) "***Grounding Lease Agreement***" means an agreement substantially in the form of the Form of Grounding Lease Agreement.

(113) ***"Hazardous Substances"*** means (a) any petroleum, asbestos, asbestos-containing material, and urea formaldehyde foam insulation and transformers or other equipment that contains polychlorinated biphenyls; (b) any chemicals, materials or substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "hazardous constituents," "restricted hazardous materials," "extremely hazardous substances,"

"toxic substances," "contaminants," "pollutants," "toxic pollutants," "hazardous air pollutants" or words of similar meaning and regulatory effect under any applicable Environmental Law; and (c) any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any applicable Environmental Law.

(114) ***"Holding Company Act"*** means the Public Utility Holding Company Act of 1935, as amended.

(115) "***Immediate Closing Election***" has the meaning set forth in Section 9.1(i).

(116) ***"Income Tax"*** means any Tax (a) based upon, measured by or calculated with respect to net income, profits or receipts (including, without limitation, capital gains Taxes and minimum Taxes), or (b) based upon, measured by or calculated with respect to multiple bases (including, without limitation, corporate franchise Taxes) if one or more of the bases on which such Tax may be based, measured by or calculated with respect to, is described in clause (a), in each case together with any interest, penalties or additions to such Tax.

(117) ***"Indebtedness"*** means, with respect to any Person, at any time without duplication, (i) all indebtedness for borrowed money, (ii) all obligations for the deferred purchase price of property or services, (iii) all obligations of such Person evidenced by notes, bonds, debentures or other similar instruments, (iv) all obligations of such Person created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person, (v) all obligations of such Person as lessee under leases that are or should be capitalized in accordance with generally accepted accounting practices, (vi) all obligations of such Person under acceptance, letter of credit or similar facilities, (vii) all obligations of such Person in respect of any exchange-traded or over-the-counter derivative transaction, including interest rate or currency hedging agreements, and (viii) all obligations of such Person to guarantee any Indebtedness, leases, dividends or other payment obligations of such Person or any other Person.

(118) ***"Indemnifying Party"*** has the meaning set forth in Section 8.1(d).

(119) ***"Indemnitee"*** means either a Seller Indemnitee or a Buyer Indemnitee.

(120) ***"Independent Accounting Firm"*** means such independent accounting firm of national reputation as is mutually appointed by Seller and Buyer.

(121) ***"Intellectual Property***" means the following rights, both statutory and common law rights, if applicable: (a) copyrights, registrations and applications for registration thereof, (b) trademarks, service marks, trade names, slogans, domain names, business names, logos, trade dress, and registrations and applications for registrations thereof, (c) patents, as well as any reissued and reexamined patents and extensions corresponding to the patents, and any patent applications, as well as any related continuation, continuation in part and divisional applications and patents issuing therefrom, (d) trade secrets and other confidential and proprietary information, including ideas, designs, concepts, compilations of information, methods, techniques, procedures, processes and other know-how, whether or not patentable, and (e) computer programs and other software, including source and object codes.

(122) ***"Intellectual Property Licenses"*** means those agreements related to Licensed Intellectual Property.

(123) ***"Interconnection Points"*** mean the points at which Seller's Transmission Assets connect to: (a) Seller's West Substation, (b) Buyer's Emerson Substation, and (c) the FPUA Joint Facilities.

(124) ***"Interim Period"*** has the meaning set forth in Section 6.1(a).

(125) ***"Inventory"*** means materials, spare parts, supplies, fuel (but excluding fuel oil stored at the Vero Beach Power Plant Site), chemicals and other items of inventory relating to, or used in or for, the Vero Beach Electric Utility or the Business of the Vero Beach Electric Utility, including the Streetlight Maintenance Inventory and such other items of inventory located in Seller's warehouses at the Airport.

(126) ***"IRS"*** means the United States Internal Revenue Service or any successor agency thereto.

(127) ***"Knowledge"*** means (i) with respect to Buyer, the constructive or actual knowledge (after reasonable inquiry of appropriate current (and thereafter hired) employees of Buyer) of the corporate officers of the Buyer who are charged with responsibility for the particular function relating to the matter of the inquiry and (ii) with respect to Seller, the constructive or actual knowledge (after reasonable inquiry of appropriate current (and thereafter hired) employees of Seller) of the City Attorney and City Manager of Seller.

(128) ***"Law"*** means any applicable foreign, federal, state or local law, constitutional provision, statute, charter, ordinance or other law, rule, regulation, code (including any zoning code, fire code or health and safety code), Permit, or interpretation of any Governmental Authority or any Order of or by, or any Contract with, any Governmental Authority, including all Environmental Laws and NERC standards, requirements and regulations.

(129) ***"Lease Agreements"*** mean the Vero Beach Power Plant Site Lease Agreement, the Airport Property Lease Agreements, the District Licenses and the District Sublicenses, the Capital Leases (if any) and the Grounding Lease Agreement.

(130) ***"Liability"*** means any direct or indirect debt, liability, commitment, Indebtedness or obligation (whether known or unknown, whether asserted or unasserted, whether absolute or contingent, whether accrued or un-accrued, whether liquidated or un-liquidated, and whether due or to become due) of any kind, character or nature, or any demand, claim or Action asserted or brought against the relevant Person.

(131) "***Licensed Intellectual Property***" means the Intellectual Property described in Schedule 1.1(131).

(132) ***"Long Term Real Property Interest"*** means, as to real property, (a) fee simple absolute interest in Buyer, (b) perpetual easement in favor of Buyer or (c) ground lease with Buyer as tenant, in each case under clause (a), (b) and (c), upon terms and conditions

acceptable to Buyer in its reasonable discretion and, free and clear of Encumbrances (other than Permitted Encumbrances).

(133) ***"Loss"*** or ***"Losses"*** means any and all damages, fines, fees, penalties, deficiencies, losses, Liabilities, interest, awards, judgments, claims, Actions, diminution of value and expenses (whether or not involving a third party claim), including without limitation all Remediation costs, fees of attorneys, accountants and other experts, or other expenses of litigation or proceedings or of any claim, default or assessment relating to the foregoing.

(134) ***"Material Adverse Effect"*** means any change, effect, condition, fact, circumstance or event that individually or in the aggregate is or is reasonably likely to be adverse to, or have or result in an adverse effect on, (i) the condition, operations, results of operations, prospects, assets or properties of the Acquired Assets or (ii) the Business of the Vero Beach Electric Utility, in each case under clause (i) or (ii), prior to or after the Closing Date and that, in the aggregate under clause (i) and (ii) for all such changes, effects, conditions, facts, circumstances and events, amounts to a financial or economic adverse effect of at least $10,000,000; provided, however, that (a) all adverse effects from breaches of representations, warranties, covenants or agreements of Seller hereunder, if not cured prior to the Closing after written notice from Buyer to Seller specifying such breach and adverse effect, will be determined with respect to effects thereof on Buyer after Closing, assuming that Buyer acquires the Acquired Assets and commences conducting the Business of the Vero Beach Electric Utility (whether or not Closing occurs) and irrespective of whether such representation, warranty, covenant or agreement survives Closing, and (b) none of the following shall be taken into account in determining whether there has been or will be a Material Adverse Effect: (I) any change, effect, condition, fact, circumstance or event in the economy or the electrical power industry in general or generally affecting fuel prices; (II) any change in Buyer's policies relating to retention and compensation of or provision of benefits to Buyer's employees and the Transferred Employees, whether resulting from decisions made by Buyer, regulatory authorities, or bargaining with the union representing Buyer's employees; (III) any change in the costs anticipated to be incurred by Buyer after the Closing under the Gas Transportation Contracts; (IV) any costs to be incurred by Buyer for moving the Vero Beach Power Plant Substation and upgrading any of the other substations included as part of the Acquired Assets to provide electricity to City of Vero Beach Customers; (V) any obligations to be performed by Buyer or costs to be incurred by Buyer under the OUC-FPL PPAs; (VI) any obligations of Buyer arising under this Agreement or any of the Ancillary Agreements (other than any such obligations of Buyer arising under (x) the District Licenses and the District Sublicenses (other than the fees charged by the District to Seller as of the Effective Date), (y) the Airport Property Lease Agreements that differ from those set forth in Exhibits I-1and I-2, including rent different than as set forth in Section 2.6 for the Airport Warehouse Lease Agreement, and (z) Dark Fiber License Agreement that differ from those set forth in Exhibit L-1); or (VII) any change, effect, condition, fact, circumstance or event primarily caused by Buyer or its Affiliates. Notwithstanding anything in the foregoing to the contrary, the calculation of the aggregate amount of the financial and economic adverse effects of all changes, effects, conditions, facts, circumstances and events described above shall include, without limitation, the net present value of all costs and expenses (calculated using a discount rate that is equal to the Prime Rate determined as of the date of such calculation) that, as of the time of calculation thereof, Buyer expects to incur after Closing in connection with the ownership, operation or maintenance of the Acquired Assets or the conduct

of the Business of the Vero Beach Electric Utility that will be incremental to the costs and expenses ordinarily incurred by Seller prior to the Effective Date in connection with the ownership, operation or maintenance of the Acquired Assets or the conduct of the Business of the Vero Beach Electric Utility, excluding fuel charges; provided, that such calculation shall not take into account any such incremental costs or expenses to be incurred by Buyer with respect to the Acquired Assets that (A) are not applicable to Seller as of the date of such calculation because of its status as a Florida municipality as compared with Buyer's status as a Florida for-profit corporation (such as the payment of certain taxes); or (B) set forth above in clauses (I) through (VI) of this definition.

(135) ***"Material Seller Contracts"*** shall have the meaning set forth in Section 4.14(a).

(136) "***Maximum Uncovered Loss Amount***" means ten million dollars ($10,000,000).

(137) ***"Monthly Recovery Amount"*** means seven hundred fifty thousand dollars ($750,000).

(138) ***"MOU"*** means that certain Memorandum of Understanding dated September 19, 2012 between OUC, Buyer and Seller.

(139) ***"NERC"*** means the North American Electric Reliability Corporation.

(140) "***NERC Responsibility Agreement***" has the meaning set forth in Section 6.6(a).

(141) ***"Non-Environmental Permit"*** means any Permit (other than an Environmental Permit) that is used in, or necessary for, (i) the Business of the Vero Beach Electric Utility, or (ii) the ownership, use or operation of the Acquired Assets or the Real Property, in each case under clause (i) or (ii), as conducted prior to the Effective Date and as conducted prior to the Closing Date, and specifically includes the Radio Licenses.

(142) ***"Observers"*** has the meaning set forth in Section 6.1(b).

(143) ***"Order"*** means any judgment, decision, consent, assessment, decree, injunction, stay, ruling, writ or order of or by any Governmental Authority.

(144) ***"Other FMPA Agreements"*** means that certain Interlocal Agreement Creating the Florida Municipal Power Agency entered into by Seller as of September 10, 1979, as amended, and all other Contracts relating to FMPA, including any bond resolutions but excluding the FMPA Agreements.

(145) ***"Other Real Property Interest"*** means any real property lease, easement, license (other than those interests acquired under the Easements, the Lease Agreements and the Deeds), rights of way, right to use or other right in real property, including any option for any of the foregoing or for acquisitions of real property and any crossing agreement or consent and entry agreement related to the Business of the Vero Beach Electric Utility.

(146) ***"OUC"*** means the Orlando Utilities Commission.

(147) ***"OUC Assignment Agreements"*** means (a) that certain Assignment between City of Vero Beach and Orlando Utilities Commission of a 15.202% Power Entitlement Share in the St. Lucie Nuclear Power Plant Project dated January 8, 2013 between OUC and Seller, as amended, (b) that certain Assignment between City of Vero Beach and Orlando Utilities Commission of a 32.521% Power Entitlement Share in the Stanton I Project dated January 8, 2013 between OUC and Seller, as amended, and (c) that certain Assignment between City of Vero Beach and Orlando Utilities Commission of a 23.9521% Power Entitlement Share in the Stanton II Project dated January 8, 2013 between OUC and Seller, as amended.

(148) ***"OUC-FPL PPAs"*** means (a) that certain Power Purchase and Sale Agreement for Stanton Unit No. 1 dated January 8, 2013 between OUC and Buyer and (b) that certain Power Purchase and Sale Agreement for Stanton Unit No. 2 dated January 8, 2013 between OUC and Buyer.

(149) ***"OUC Termination Agreement"*** means that certain Termination and Settlement Agreement dated January 8, 2013 between OUC and Seller.

(150) ***"OUC Transfer Agreements"*** means (a) that certain Agreement between the City of Vero Beach and the Orlando Utilities Commission for the Transfer of 100% of the City of Vero Beach's Power Entitlement Share of the Florida Municipal Power Agency St. Lucie Project dated January 8, 2013 between OUC and Seller, as amended, and (b) that certain Agreement between City of Vero Beach and Orlando Utilities Commission for Transfer of 100% of City of Vero Beach's Power Entitlement Share of Stanton and Stanton II Projects dated January 8, 2013 between OUC and Seller, as amended.

(151) ***"OUC-Vero Beach PPA"*** means the Agreement for Purchase and Sale of Electric Energy and Capacity, Gas Transportation Capacity and Asset Management Services dated April 21, 2008 between Seller and OUC.

(152) ***"Owned Intellectual Property"*** means the Intellectual Property described in Schedule 1.1(152).

(153) "***Partial Recovery Closing Election***" has the meaning set forth in Section 9.1(i).

(154) ***"Party"*** (and the corresponding term ***"Parties"***) has the meaning set forth in the preamble to this Agreement.

(155) ***"PBGC"*** means the Pension Benefit Guaranty Corporation established by ERISA.

(156) ***"Permits"*** means all permits, licenses, approvals, immunities, entitlements, certificates (including certificates of need), authorizations, franchises, registrations, waivers, variances, exemptions, orders, notices, application, filings and consents from, to, with or issued by any Governmental Authority, including all certificates of occupancy, operating

permits, sign permits, development rights and approvals, zoning, building and safety and health approvals.

(157) ***"Permitted Encumbrances"*** means: (i) as to the Real Property Interests, those exceptions to title listed in Schedule 1.1(157); (ii) Encumbrances created by any mortgage indenture or the Vero Beach Electric Utility Bonds or the Vero Beach Revenue Note that will be released prior to or at the Closing; provided, that such Encumbrances shall cease to be Permitted Encumbrances as of the Closing; (iii) statutory liens for Taxes or other governmental charges or assessments not yet delinquent; (iv) statutory liens (including mechanics' and materialmen's liens and other like statutory liens and inchoate liens incurred in connection with worker's compensation, unemployment insurance, and social security laws) arising in the ordinary course of business securing payments not yet delinquent (or any such lien for a delinquent payment that has been waived in writing by the holder thereof or any such lien for a delinquent payment for which Seller has obtained a waiver, bond or other security in accordance with applicable Law to fully protect the Acquired Assets from any and all claims that may be made on account of any such lien); (v) existing zoning, entitlement, environmental or conservation restriction and other land use and environmental regulations imposed by Governmental Authorities and any existing conditions and obligations arising under any Permit so long as such restrictions, regulations, conditions and obligations do not materially interfere with the Business of the Vero Beach Electric Utility in the ordinary course as conducted prior to the Effective Date and as conducted prior to the Closing Date; (vi) the covenants and restrictions set forth in this Agreement or in any of the Ancillary Agreements; and (vii) Encumbrances with respect to the Acquired Assets created by or resulting from the acts or omissions of Buyer. In addition, (i) when the term "Permitted Encumbrances" is used with respect to any Real Property Interests created pursuant to any Easement or any Other Real Property Interest, "Permitted Encumbrances" shall be deemed to include matters of record affecting such Real Property Interest so long as (a) such matters of record are not Encumbrances that secure any Indebtedness of Seller and (b) any restrictions, conditions or obligations arising from such matters of record do not to Seller's Knowledge materially interfere with the Business of the Vero Beach Electric Utility in the ordinary course as conducted prior to the Effective Date and as conducted prior to the Closing Date and (ii) if Seller, after making a good faith effort, is unable to secure a release or satisfaction of the matter set forth in items number 1 and 3 on Schedule 4.7(b), then the matters set forth in item numbers 1 and 3 on Schedule 4.7(b) shall be treated for purposes of Section 4.7(c) as a "Permitted Encumbrance."

(158) ***"Person"*** means a natural person, a corporation,, a partnership, a joint venture, a corporation, a union, a limited liability company, a trust, an unincorporated organization, an association, a joint stock company, trustee, estate, real estate investment trust or any other entity or organization, including a government or political subdivision or any agency or instrumentality thereof or a Governmental Authority or any other separate legal entity recognized pursuant to Law.

(159) ***"Pole Attachment Agreement for Seller Fiber Optic System"*** means an agreement substantially in the form of Exhibit K attached hereto.

(160) ***"Post-Closing Adjustment"*** has the meaning set forth in Section 3.3(c).

(161) ***"Post-Closing Consumption Period"*** has the meaning set forth in Section 6.24.

(162) ***"Post-Closing Statement"*** has the meaning set forth in Section 3.3(c).

(163) "***Post-Closing Taxes***" means Taxes (other than Transfer Taxes to which Section 6.8(a) applies) attributable to periods (or portions thereof) beginning on or after the Closing Date, determined by closing the books at the end of the Closing Date for purposes of Income Taxes and by pro rating all other Taxes based on the number of days in the period before and after the Closing Date; provided, however, if the Acquired Assets or the Business of the Vero Beach Electric Utility were not subject to a Tax in the hands of the Seller but become subject to that Tax in the hands of the Buyer, that Tax shall be a Post-Closing Tax in its entirety.

(164) "***Pre-Closing Taxes***" means Taxes (other than Transfer Taxes to which Section 6.8(a) applies) attributable to periods (or portions thereof) ending on or before the Closing Date, determined by closing the books at the end of the Closing Date for purposes of Income Taxes and by pro rating all other Taxes based on the number of days in the taxable period before and after the Closing Date; provided, however, if the Acquired Assets or the Business of the Vero Beach Electric Utility were not subject to a Tax in the hands of the Seller but become subject to that Tax in the hands of the Buyer, no portion of that Tax shall be a Pre-Closing Tax.

(165) ***"Pre-Closing Consumption Period"*** has the meaning set forth in Section 6.24.

(166) "***Prepaid Expenses***" means all expenses (excluding pre-payments for tangible assets such as inventory or property, plant and equipment, but including prepaid maintenance expense) paid in cash before being incurred for GAAP purposes.

(167) "***Prime Rate***" shall mean, for any date, the per annum rate of interest equal to the prime lending rate as may from time to time be published in *The Wall Street Journal* under "Money Rates" on such day (or if not published on such day on the most recent preceding day on which published).

(168) ***"Proposed Post-Closing Adjustment"*** has the meaning set forth in Section 3.3(c).

(169) ***"Public Document"*** has the meaning set forth in Section 6.5.

(170) ***"Purchase Price"*** has the meaning set forth in Section 3.2.

(171) ***"Radio Licenses"*** means the Permits set forth in Schedule 1.1(171).

(172) ***"Real Property"*** means any real property on which any of the physical Acquired Assets are located or real property relating to, or used in or for, the Business of the Vero Beach Electric Utility.

(173) ***"Real Property Interests"*** means the interest held by Seller in Real Property.

(174) ***"Real Property Interest Instrument"*** means any license, deed, lease, easement, agreement or other instrument creating a Real Property Interest.

(175) ***"Recovery Period"*** means the period that commences on the date of notice of a Closing Election and ends on the date that is *X* months thereafter, where "*X*" is equal to the quotient (rounded up or down to the next whole number) of the Excess Uncovered Loss Amount divided by the Monthly Recovery Amount.

(176) ***"Referendum Question"*** means the referendum question relating to the sale and purchase contemplated by this Agreement set forth on Exhibit X.

(177) ***"Release"*** means any actual, threatened or alleged spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, migrating, dumping or disposing of a Hazardous Substance into the Environment or within any building, structure, facility or fixture.

(178) ***"Reliability Call Agreement"*** means that certain Reliability Call Agreement dated January 8, 2013 between OUC and FPL.

(179) [RESERVED].

(180) **"*Remediation*"** means any action of any kind required by applicable Law to address the presence or Release of Hazardous Substances, including but not limited to: (a) monitoring, investigation, assessment, treatment, cleanup containment, removal, mitigation, response or restoration work, as well as obtaining any Permits necessary to conduct any such activity; (b) preparing and implementing any plans or studies for any such activity; and (c) obtaining a written notice from a Governmental Authority with competent jurisdiction under Environmental Laws, that no material additional work is required.

(181) ***"Representatives"*** of a Party means the Party and its Affiliates and their directors, officers, employees, agents and advisors (including, without limitation, accountants, counsel, environmental consultants, financial advisors and other authorized representatives).

(182) ***"Represented Transferred Employees"*** means any Transferred Employee whose employment with Seller was subject to any Seller Collective Bargaining Agreement and who will be employed by the Buyer in positions that are subject to a collective bargaining agreement.

(183) ***"Retained Employees"*** means all Seller Employees who are actively employed by Seller as of the Closing Date and who do not become Transferred Employees as of the Closing Date.

(184) ***"Schedules"*** means the schedules attached to this Agreement.

(185) ***"Seller"*** has the meaning set forth in the preamble to this Agreement.

(186) ***"Seller Ancillary Agreements"*** means the District Licenses and the Seller Pole and Antenna Attachment Termination Agreements.

(187) ***"Seller Benefit Plans"*** has the meaning set forth in Section 4.12(a).

(188) ***"Seller Collective Bargaining Agreements"*** means the Contract between Seller and Teamsters Local Union No. 769, dated October 1, 2010 and any other Contract between Seller and any trade union, labor organization, collective bargaining representative or employee representative of any Transferred Employees concerning terms and conditions with respect to employment with Seller, as well as all modifications of, or amendments to, any such agreements.

(189) ***"Seller Contracts"*** means all Contracts (other than Excluded Contracts) relating to the Acquired Assets or the Business of the Vero Beach Electric Utility (i) that are in favor, or for the benefit, of Seller or (ii) to which Seller is a Party or by which any of its assets may be bound, including (A) the Real Property Interest Instruments, the Assumed Contracts and the Intellectual Property Licenses, (B) Contracts associated with the forecasting, modeling, management and operation of the Acquired Assets, (C) Contracts associated with emergency or wind storm preparedness and (D) Contracts leasing, or providing the right to use, to attach to or of access to, any portion of the Acquired Assets, including the Attachment Agreements.

(190) ***"Seller Defined Benefit Plan"*** means the City of Vero Beach General Employee Retirement Plan in effect on the Effective Date.

(191) ***"Seller Employee"*** means an hourly-paid or salaried employee of Seller, who receives an Internal Revenue Service Form W-2 from Seller, who is employed by Seller as of the Closing Date, and whose work responsibilities involve principally the Vero Beach Electric Utility, which employees are set forth in Schedule 6.10(a) by position.

(192) ***"Seller Executed Ancillary Agreements"*** means the OUC Termination Agreement, the OUC Assignment Agreements and the OUC Transfer Agreements.

(193) ***"Seller Fundamental Representations***" means the representations and warranties made in Sections 4.1, 4.2, 4.3(i), 4.7(c) and 6.7.

(194) ***"Seller Indemnitee"*** has the meaning set forth in Section 8.1(a).

(195) ***"Seller Pole and Antenna Attachment Termination Agreements"*** means the agreements to be negotiated and executed by Seller and each Person (other than Buyer) that attaches or uses poles of Seller, including but not limited to AT&T, Comcast and BellSouth, regarding the termination of such Person's rights relating to poles of Seller.

(196) ***"Seller's Agent(s)"*** has the meaning set forth in Section 6.1(b).

(197) ***"Seller's Past Practices"*** means the recent historical operation, maintenance and repair practices, methods and actions performed prior to the Effective Date by, or on behalf of, Seller with respect to the Acquired Assets, but in each case shall require such practices, methods and actions to be performed in a manner complying with applicable Law.

(198) ***"Service Territory"*** means the area described as Seller's service territory in the map attached hereto as Schedule 1.1(198).

(199) ***"Stanton Contracts"*** means all of the following Contracts: (a) Stanton I Power Sales Contract, dated January 16, 1984, between FMPA and Seller; (b) Stanton I Power Support Contract dated January 16, 1984, between FMPA and Seller, as amended; (c) Stanton II Power Sales Contract executed on or about May 24, 1991, between FMPA and Seller, as amended; and (d) Stanton II Project Support Contract executed on or about May 24, 1991, between FMPA and Seller, as amended.

(200) ***"Streetlight Agreement"*** means Buyer's standard form of street lighting agreement that is applicable on the Closing Date, along with Buyer's street lighting rate schedule on file at the FPSC that is effective on the Closing Date. For reference purposes only, Exhibit J contains a copy of the Streetlight Agreement that is applicable on the Effective Date. For the avoidance of doubt, the Streetlight Agreement that is required to be executed under this Agreement may be different than the form attached hereto as Exhibit J.

(201) ***"Streetlight Assets"*** means all assets of Seller relating to, or used in or for, Seller's street lighting business, including all Seller-owed poles, fixtures, test equipment, brackets, records, conductor (OH & UG), warranties, tools, photocells, relays, conduit, transformers, handholes/splice boxes, connectors/splices, scrap, salvage, ground rods, nuts, bolts, washers, ballasts, shieldspoles and any inventory of the foregoing.

(202) ***"Substation 20 Transmission R/W"*** means the easements or other rights appurtenant to Substation 20 described in Exhibit R attached hereto.

(203) ***"Substation Access Agreement"*** means an agreement substantially in the form of Exhibit L-2 attached hereto.

(204) ***"Taxes"*** means, all taxes, charges, fees, levies, penalties or other assessments imposed by any federal, state, local, provincial or foreign taxing authority, including but not limited to, income, gross receipts, excise, real or personal property, sales, transfer, customs, duties, franchise, payroll, withholding, social security, receipts, license, stamp, occupation, employment or other taxes, including any interest, penalties or additions attributable thereto, and any payments to any state, local, provincial or foreign taxing authorities in lieu of any such taxes, charges, fees, levies or assessments. The term ***"Tax"*** means any one of the foregoing Taxes.

(205) ***"Tax Return"*** means any return, report, form, information return, declaration, claim for refund or other document (including any schedule or related or supporting information) required to be supplied to any Governmental Authority with respect to Taxes including amendments thereto, including any information return filed by a tax exempt organization.

(206) ***"Termination Date"*** means, subject to Section 9.1(i), the earlier of:

(a) December 31, 2016; and

(b) the later of:

(i) the date that is three (3) months after the effective date of the withdrawal by Seller from the All-Requirements Contract, or

(ii) the second anniversary of the Effective Date.

(207) ***"Termination Agreement"*** means the agreement substantially in the form of Exhibit F attached hereto, to be delivered at the Closing, which terminates (i) the Territorial Boundary Agreement between Buyer and Seller dated June 11, 1980, as amended and (ii) that certain Joint Use Agreement, dated July 5, 1956, as supplemented by that certain Supplemental Joint Use Agreement, dated January 29, 1964, in each case between Buyer and Seller, and as the same may have been further amended.

(208) ***"Third Party Claim"*** has the meaning set forth in Section 8.2(a).

(209) ***"Total Compensation"*** means base pay, authorized overtime, and benefits provided under all applicable Benefit Plans.

(210) ***"Transferable Permits"*** means the Environmental Permits and the Non-Environmental Permits.

(211) ***"Transferred Employee Records"*** means all records related to Transferred Employees, including but not limited to the following information: (i) skill and development training, (ii) seniority histories, (iii) salary and benefit information, (iv) Occupational, Safety and Health Administration reports, (v) active medical restriction forms, (vi) fitness for duty, (vii) disciplinary actions, (viii) job performance appraisals and/or evaluations, (ix) employment applications, (x) bonuses, (xi) job history and (xii) access authorization records.

(212) ***"Transferred Employees"*** means all Seller Employees whose primary work responsibilities are with respect to the Acquired Assets, who are actively employed by Seller as of the Closing Date and who are offered and accept continued employment with Buyer as of the Closing Date.

(213) ***"Transfer Taxes"*** means any real property transfer, sales, use, value added, stamp, documentary, recording, registration, conveyance, stock transfer, intangible property transfer, personal property transfer, gross receipts, registration, duty, securities transactions or similar fees or Taxes or governmental charges (together with any interest or penalty, addition to Tax or additional amount imposed) as levied by any Governmental Authority in connection with the transactions contemplated by this Agreement, including, without limitation, any payments made in lieu of any such Taxes or governmental charges which become payable in connection with the transactions contemplated by this Agreement.

(214) ***"Transmission Assets"*** means the electric transmission facilities relating to, or used in or for, the Vero Beach Electric Utility or the Business of the Vero Beach Electric Utility or located on the Real Property or the Vero Beach Power Plant Site (and other property and assets associated with or ancillary thereto); including, but not limited to: the facilities, equipment and other tangible property and assets that connect the Vero Beach Power Plant and

the Distribution Assets to the Interconnection Points (and other property and assets associated with or ancillary thereto), transformers, breakers, capacitor banks, switches, arresters, instrument transformers, substation structures, substations, buswork, substation battery and chargers, relay protection panels, relay communications/carriers, remote telemetry and control equipment, metering, fault recorders, sequence of event recorders, annunciators, relay vaults, substation fencing, transmission lines, conductors, transmission line structures and poles, and control buildings.

(214)(a) ***"Unforeseen Costs"*** has the meaning set forth in Section 9.1(c)(ii).

(215) ***"Union Representative"*** means the labor union that represents the craft or class of Represented Transferred Employees and Converted Unrepresented Transferred Employees after the Closing Date.

(216) ***"Unrepresented Transferred Employees"*** means any Transferred Employees whose employment with the Seller was not subject to any Seller Collective Bargaining Agreement and who will be employed by Buyer in positions that are also not subject to a collective bargaining agreement.

(217) ***"Vehicles"*** means the vehicles listed in Schedule 1.1(217).

(218) ***"Vero Beach Electric Utility"*** means the electric utility system of electricity generation, transmission and distribution commonly known as "The City of Vero Beach Electric Utility", including the Vero Beach Power Plant.

(219) ***"Vero Beach Electric Utility Bonds"*** means the Indebtedness created or evidenced by, or arising under, the Bond Resolution, including any principal, interest, fees, penalties and other amounts payable thereunder.

(220) ***"Vero Beach Power Plant"*** means (a) the nominal 157 MW electric generating facility located on the Vero Beach Power Plant Site, consisting of five (5) generating units (two (2) of which operate in combined cycle), and including the combustion turbine generators, steam turbine generators, heat recovery steam generators, boilers, cooling tower, transformers and other structures, facilities, appliances, lines, conductors, instruments, apparatus, components and equipment comprising and integrating the entire facility, and (b) all other facilities and equipment located on the Vero Beach Power Plant Site, including the Vero Beach Power Plant Substation.

(221) ***"Vero Beach Power Plant Expectations"*** means the maintenance, repair and replacement of the Acquired Assets in a manner that complies with applicable Law, that is consistent with the Capital Expenditure and Maintenance Plan and that ensures, but does not guarantee, that (a) the Vero Beach Power Plant will be capable of operation for four (4) years after the Closing Date in a manner consistent with Seller's Past Practices and (b) the other Acquired Assets (such as the Transmission Assets and the Distribution Assets) will be capable of operating indefinitely, with normal care and maintenance, in a manner consistent with Seller's Past Practices.

(222) ***"Vero Beach Power Plant Site"*** means the real property described in Exhibit S.

(223) ***"Vero Beach Power Plant Site Lease Agreement"*** means a lease agreement and memorandum of lease substantially in the form of Exhibit G attached hereto, which includes Seller as lessor and Buyer as lessee, a term of three (3) years from the Closing Date, with an option for Buyer to extend for one (1) additional year, and rent of $1,500,000 per year payable monthly.

(224) ***"Vero Beach Power Plant Substation"*** means the substation and other transmission and distribution facilities and equipment located on the Vero Beach Power Plant Site.

(225) "***Vero Beach Revenue Note***" means the $8,247,000 City of Vero Beach, Florida Electric System Refunding Revenue Note, Series 2008, issued pursuant to the Loan Agreement, dated as of June 10, 2008, between Seller and Regions Bank, and any and all renewals or replacements thereof.

Section 1.2 Certain Interpretive Matters.

(a) Unless otherwise required by the context in which any term appears:

(i) Capitalized terms used in this Agreement shall have the meanings specified in this Article.

(ii) The singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine and neuter.

(iii) References to "Articles", "Sections", "Schedules" or "Exhibits" shall be to articles, sections, schedules or exhibits of or to this Agreement, and references to "paragraphs" or "clauses" shall be to separate paragraphs or clauses of the section or subsection in which the reference occurs.

(iv) The words "herein", "hereof" and "hereunder" shall refer to this Agreement as a whole and not to any particular section or subsection of this Agreement; and the words "include", "includes" or "including" shall mean "including, but not limited to."

(v) The term "day" shall mean a calendar day, commencing at 12:00 a.m. (Eastern Time). The term "week" shall mean any seven consecutive day period commencing on a Sunday, and the term "month" shall mean a calendar month; provided that when a period measured in months commences on a date other than the first day of a month, the period shall run from the date on which it starts to the corresponding date in the next month and, as appropriate, to succeeding months thereafter. Whenever an event is to be performed or a payment is to be made by a particular date and the date in question falls on a day which is not a Business Day, the event shall be performed, or the payment shall be made, on the next succeeding Business Day; provided, however, that all calculations shall be made regardless of whether any given day is a Business Day and whether or not any given period ends on a Business Day.

(vi) All references to a particular Person shall include such Person's successors and permitted assigns unless otherwise specifically provided herein.

(vii) All references herein to any Law, Permit or Contract shall be to such Law, Permit or Contract as amended, supplemented or modified from time to time unless otherwise specifically provided herein.

(viii) The words "substantially in the form of" or words of similar effect when used with respect to the form of any Ancillary Agreement or other agreement or document that has been included as an Exhibit to this Agreement and that is to be executed and delivered by the Parties and/or any third party or third parties, or executed and delivered by one of the Parties or any third party or third parties, in either case after the Effective Date pursuant to, or in order to satisfy, any covenant, obligation or condition set forth in this Agreement shall refer to the applicable form that is attached to this Agreement with such changes as the Parties may otherwise agree are necessary or appropriate, with such agreement to be evidenced by the Parties' execution thereof, including, without limitation, the insertion of mutually agreeable legal descriptions following preparation of an American Land Title Association (ALTA) survey for any applicable real property; provided, that, if such agreement or document is not executed by both of the Parties and has been executed by all of the parties thereto in order to satisfy, any covenant, obligation or condition set forth in this Agreement, the Closing of the transactions contemplated by this Agreement shall evidence the Parties' agreement to any changes to such agreement or document.

(b) The titles of the articles, sections, schedules and exhibits herein have been inserted as a matter of convenience of reference only, and shall not control or affect the meaning or construction of any of the terms or provisions hereof.

(c) The Parties acknowledge and agree that (i) this Agreement (A) shall be construed and interpreted as an arms-length contract entered into by parties with equal bargaining power and (B) was negotiated and prepared by both Parties with advice of counsel to the extent deemed necessary by each Party, (ii) the Parties have agreed to the wording of this Agreement, and (iii) none of the provisions hereof shall be construed against one Party on the ground that such Party is the author of this Agreement or any part hereof.

(d) The Schedules and Exhibits hereto are incorporated in and are intended to be a part of this Agreement.

ARTICLE II
PURCHASE AND SALE

Section 2.1 Acquired Assets.

Upon the terms and subject to the satisfaction of the conditions contained in this Agreement, at the Closing, Seller will sell, assign, convey, transfer and deliver to Buyer, and Buyer will purchase and acquire from Seller, free and clear of all Encumbrances (except for Permitted Encumbrances), all of the property, assets and rights (other than the Excluded Assets), of every kind, nature, character and description, whether real, personal or mixed, tangible or intangible, owned (or hereafter acquired), wherever located, that relate to, or are used in or for,

the Vero Beach Electric Utility or the Business of the Vero Beach Electric Utility (collectively, the ***"Acquired Assets"***); provided that the Acquired Assets shall specifically include the following property, assets and rights (other than the Excluded Assets):

(a) the Vero Beach Power Plant;

(b) the Transmission Assets;

(c) the Distribution Assets;

(d) the Customer Service Assets;

(e) the leasehold interests under any Capital Leases in the Capital Lease Assets;

(f) the Vehicles;

(g) All machinery, mobile or otherwise, equipment (including computer hardware and communications equipment), tools, works in progress, fixtures, furniture and furnishings and other personal property that relate to, or are used in or for, the Vero Beach Electric Utility or the Business of the Vero Beach Electric Utility, including all Inventory;

(h) All books, operating records, licensing records, quality assurance records, purchasing records, equipment repair, maintenance or service records, operating, safety and maintenance manuals, inspection reports, environmental assessments, engineering design plans, documents, blueprints and as built plans, specifications, drawings, procedures and other similar items of Seller, wherever located, relating to or used in or for, the Vero Beach Electric Utility, other Acquired Assets or the Business of the Vero Beach Electric Utility, whether existing in hard copy or magnetic or electronic form (collectively, the ***"Business Books and Records"***);

(i) [***Reserved***];

(j) All rights, title and interest in, to and under the Real Property Interests, and any of Seller's improvements to the Real Property, together with all rights incidental or appurtenant thereto, including, without limitation, all related rights of ingress and egress;

(k) All rights, title and interest in, to and under the Transferable Permits (other than Excluded Liabilities thereunder);

(l) All rights, title and interest in, to and under Assumed Contracts (other than Excluded Liabilities thereunder) and other Seller Contracts (other than Excluded Liabilities thereunder), including any unexpired, warranties and guarantees from third parties;

(m) All rights, title and interest in, to and under the Intellectual Property Licenses;

(n) the Owned Intellectual Property;

(o) Seller's rights, title and interest in the FPUA Joint Facilities;

(p) the Streetlight Assets;

(q) the rights of Seller in and to any causes of action, Actions or claims (including, without limitation, rights under insurance policies to proceeds, refunds or distributions thereunder paid on or after the Closing Date with respect to periods before the Closing Date) and defenses against third parties (including indemnification and contribution) relating to any Assumed Liabilities, but excluding any defenses by virtue of sovereign immunity or defenses related thereto that may arise pursuant to F.S. 768.28;

(r) the Transferred Employee Records;

(s) the Electric Utility Accounting Records;

(t) emissions allowances and credits;

(u) All models and systems associated with the forecasting, modeling, management and operation of the Acquired Assets; and

(v) All property, assets and rights, excluding cash, associated with emergency or wind storm preparedness for the Vero Beach Power Plant or other Acquired Assets.

Notwithstanding the foregoing, the transfer of the Acquired Assets pursuant to this Agreement shall not include the assumption of any Liability related to the Acquired Assets unless Buyer expressly assumes that Liability pursuant to Section 2.3. Seller may retain a copy of all Business Books and Records and Electric Utility Accounting Records as deemed appropriate by Seller.

Section 2.2 Excluded Assets.

Notwithstanding anything to the contrary in this Agreement, nothing in this Agreement shall be construed as conferring on Buyer, and Buyer is not acquiring, any right, title or interest in or to the following specific property, assets and rights (the ***"Excluded Assets"***), which are hereby specifically excluded from the sale and the definition of Acquired Assets herein and which shall remain the property of Seller after the Closing:

(a) All cash, cash equivalents, bank deposits and bank accounts, and any income, sales, payroll or other receivables relating to Taxes, in each case relating to the Acquired Assets prior to the Closing Date;

(b) All personnel records of Seller relating to the Vero Beach Electric Utility, except the Transferred Employee Records;

(c) All Benefit Plan assets, including those held in any related trust or otherwise, including without limitation, all assets related to the Seller Defined Benefit Plan;

(d) Any refund or credit (i) of Pre-Closing Taxes paid by Seller in respect of the Acquired Assets, whether such refund is received as a payment or as a credit against future

Taxes, or (ii) of items paid by Seller that arose under any agreement which is part of the Acquired Assets and that relate to a period (or portion thereof) ending prior to the Closing Date;

(e) All rights in, to or under the Excluded Contracts, the Seller Ancillary Agreements and the Seller Executed Ancillary Agreements;

(f) All Customer accounts receivables for periods prior to the Closing Date;

(g) Fee ownership of the Vero Beach Power Plant Site;

(h) The Fiber Optic System;

(i) the Gas Transportation Contracts;

(j) Any vehicle that is not a Vehicle;

(k) Excluded Substations;

(l) Excluded Real Property;

(m) Excluded Inventory;

(n) the Customer Deposits;

(o) Any wastes or Hazardous Substances generated in relation to the Vero Beach Electric Utility or the Business of the Vero Beach Electric Utility prior to the Closing Date;

(p) All rights of Seller under this Agreement and the Ancillary Agreements; and

(q) All fuel oil stored at the Vero Beach Power Plant Site.

Section 2.3 Assumed Liabilities.

On the Closing Date, Buyer shall deliver to Seller the Assignment and Assumption Agreement pursuant to which Buyer shall assume and agree to discharge when due, all of the Liabilities of Seller specifically listed below, other than the Excluded Liabilities (collectively, ***"Assumed Liabilities"***):

(a) All Liabilities of Seller arising on or after the Closing Date under (i) the Real Property Interest Instruments, (ii) the Assumed Contracts, (iii) the Intellectual Property Licenses, and (iv) to the extent an Acquired Asset, the Transferable Permits, in each case under items (i), (ii), (iii) and (iv), in accordance with the terms thereof;

(b) The Assumed Pension Liability;

(c) All Liabilities of Seller with respect to Transferred Employees for which Buyer is responsible pursuant to Section 6.10; and

(d) All Liabilities for (i) Transfer Taxes for which Buyer is liable pursuant to Section 6.8(a) and (ii) Post-Closing Taxes, other than Income Taxes, if any, arising from the transactions contemplated by this Agreement.

Section 2.4 Excluded Liabilities.

Notwithstanding anything to the contrary in this Agreement, nothing in this Agreement shall be construed to impose on Buyer, and Buyer shall not assume or be obligated to pay, perform or otherwise discharge, the following Liabilities (the **"*Excluded Liabilities*"**), with all of such Excluded Liabilities remaining the responsibility, and as obligations hereunder, of Seller:

(a) Any Liabilities in respect of any Excluded Assets;

(b) Subject to Section 3.6, all Liabilities under or relating to the Real Property Interest Instruments, the Assumed Contracts, the Intellectual Property Licenses and the Transferable Permits (i) arising out of or relating to any event, condition, circumstance, act or omission occurring prior to the Closing Date, including any Breach that occurred prior to the Closing Date or any payment obligation arising prior to the Closing Date or invoice received prior to the Closing Date (other than invoices for Prepaid Expenses payable by Buyer pursuant to Section 3.3(a)(ii)), or (ii) for payment of goods delivered or services rendered prior to the Closing Date;

(c) All Liabilities under or relating to the Real Property Interest Instruments that are not assigned to Buyer at Closing;

(d) Any Liability under or relating to any Seller Contract that is not an Assumed Contract, including Intellectual Property Licenses that are not Assumed Contracts;

(e) All Liabilities under or related to Environmental Laws, Environmental Permits or Environmental Claims with respect to the Business of the Vero Beach Electric Utility or the Acquired Assets relating to or arising from any event, condition, circumstance, act or omission occurring prior to the Closing Date, including relating to or arising from the presence or Release of Hazardous Substances at, on, in, under, adjacent to or migrating from the Acquired Assets or the Real Property prior to the Closing Date ("***Excluded Environmental Liabilities***");

(f) All Liabilities for (i) Transfer Taxes for which Seller is liable pursuant to Section 6.8(a) and (ii) Pre-Closing Taxes, including for the avoidance of doubt Income Taxes, if any due by Seller, arising from the transactions contemplated by this Agreement;

(g) All Liabilities with respect to the Transferred Employees relating to or arising from any event, condition, circumstance, act or omission occurring prior to the Closing Date, other than Liabilities specifically assumed by Buyer in Section 2.3(c);

(h) All Liabilities with respect to Retained Employees;

(i) Except as otherwise set forth in Section 6.10, all Liabilities relating to any Seller Benefit Plans, or any other plan, program, arrangement or policy, including accrued sick pay, established or maintained in whole or in part by Seller or by any Person (whether or not

incorporated) which is or ever has been under common control, or which is or ever has been treated as a single employer, with Seller or to which Seller contributes or contributed, including, but not limited to any such Liability of Seller (i) for the termination or discontinuance of, or the Seller's withdrawal from, any such Benefit Plan (including any multiemployer plan as defined in Section 3(37) of ERISA), (ii) relating to benefits payable under any Seller Benefit Plans, (iii) with respect to noncompliance with the notice requirements of COBRA under ERISA or the Public Health Service Act, to the extent applicable, (iv) with respect to any noncompliance with the Code or any other applicable Laws, and (v) with respect to any suit, proceeding or claim which is brought against Seller, any Seller Benefit Plan or any fiduciary or former fiduciary of, any of the Seller Benefit Plans;

(j) Any Liabilities relating to the failure to hire, the employment or services or termination of employment or services of any individual, including wages, compensation, benefits, affirmative action, personal injury, discrimination, harassment, retaliation, wrongful discharge, unfair labor practices, or constructive termination by Seller of any individual, or any similar or related claim or cause of action attributable to any actions or inactions by Seller prior to the Closing Date with respect to the Acquired Assets, the Transferred Employees, independent contractors, applicants, and any other individuals who are determined by a court or by a Governmental Authority to have been applicants or employees of Seller; and

(k) Any other Liabilities not expressly assumed by Buyer pursuant to Section 2.3 or Liabilities expressly allocated to or retained by Seller in this Agreement.

Section 2.5 Capital Leases.

Notwithstanding anything to the contrary in this Agreement, Buyer shall have the option, by notice to Seller not less than thirty (30) days prior to the Closing Date, to lease any part or parts of the Acquired Assets pursuant to one or more Capital Leases in lieu of acquiring title to such part or parts of the Acquired Assets. The Buyer's notice shall describe in reasonable detail the Acquired Assets to be leased pursuant to each such Capital Lease ("***Capital Lease Assets***"). Such option may be exercised by Buyer one or more times. At Closing, Buyer and Seller will execute and deliver each of the Capital Leases and the applicable Acquired Assets that are subject to such Capital Leases shall not be included in the other instruments of transfer or leases executed and delivered by Seller at Closing pursuant to Section 3.7. The lease payment under the Capital Leases shall be determined by Buyer in its sole discretion, shall be paid by Buyer to Seller in full at Closing, and the amount of such lease payment shall reduce the Purchase Price on a dollar for dollar basis. The leasehold interests in the Capital Lease Assets shall be deemed Acquired Assets hereunder.

Section 2.6 Airport Warehouse Lease Agreement Option.

Notwithstanding anything to the contrary in this Agreement, Buyer shall have the option, by notice to Seller not less than thirty (30) days prior to the Closing Date, to lease a portion of Seller's airport warehouse property pursuant to the Airport Warehouse Lease Agreement (the "***Airport Warehouse Lease Agreement Option***"), on terms set forth in the Airport Warehouse Lease Agreement, including rent (subject to Section 6.4(g)) in the amount of $117,241.60 per year, multiplied by the percentage of the total square feet of the warehouse facility that Buyer

will use, payable in monthly installments. If Buyer exercises the Airport Warehouse Lease Agreement Option, then such agreement shall be an Ancillary Agreement hereunder.

ARTICLE III
THE CLOSING

Section 3.1 Closing.

Upon the terms and subject to the satisfaction of the conditions contained in this Agreement, the sale, assignment, conveyance, transfer and delivery of the Acquired Assets to Buyer shall take place at a closing (the "***Closing***"), to be held at 700 Universe Blvd, Juno Beach, FL 33408, at 10:00 a.m. local time, or another mutually acceptable time and location, on the date that is the first day of the month following the day on which the last of the conditions precedent to Closing set forth in Article VII of this Agreement have been either satisfied or waived by the Party for whose benefit such conditions precedent exist (except with respect to those conditions which by their terms are to be satisfied at Closing), but in no event earlier than January 1, 2014 or later than the Termination Date, unless the Parties mutually agree on another date. The date of Closing is hereinafter called the ***"Closing Date."*** Except as provided in Section 6.11, the Closing shall be effective for all purposes as of 12:01 a.m. on the Closing Date. Subject to Article VII, the Parties shall cause the Closing to occur as soon as possible after the Effective Date, but in no event earlier than January 1, 2014.

Section 3.2 Purchase Price.

Upon the terms and subject to the satisfaction of the conditions contained in this Agreement, in consideration of the aforesaid sale, assignment, conveyance, transfer and delivery of the Acquired Assets, Buyer will pay or cause to be paid to Seller in accordance with Section 3.4 the sum of One Hundred Eleven Million Five Hundred Thousand Dollars ($111,500,000) (the ***"Purchase Price"***), plus or minus any adjustments to such Purchase Price pursuant to the provisions of Section 3.3 below.

Section 3.3 Adjustment to Purchase Price.

(a) Subject to Sections 3.3(b) and 3.3(c), the Purchase Price shall be adjusted, without duplication, to account for the items set forth in this Section 3.3(a):

(i) The Purchase Price shall be adjusted to account for the items prorated as of the Closing Date pursuant to Section 3.6;

(ii) The Purchase Price shall be increased by the amount of Prepaid Expenses;

(iii) The Purchase Price shall be increased by the amount set forth in Section 5(d) of the Substation Access Agreement for Seller's removal of certain Fiber Optic System equipment from within substation premises; and

(iv) If FPUA exercises the FPUA Right of First Refusal, the Purchase Price shall be decreased by the amount of any proceeds paid or payable to Seller with respect to any transaction resulting from the exercise of the FPUA Right of First Refusal.

(v) The Purchase Price shall be adjusted in accordance with:

(1) Section 2.5;

(2) Section 6.11(b) and (c);

(3) Section 6.16;

(4) Section 6.17;

(5) Section 9.1(i);

(6) Section 9.1(c)(ii).

(b) No fewer than ten (10) Business Days prior to the Closing Date, Seller shall prepare in good faith and deliver to Buyer an estimated closing statement (the ***"Estimated Closing Statement"***) that shall set forth Seller's best estimate of all estimated adjustments to the Purchase Price required by Section 3.3(a) (collectively, the ***"Estimated Closing Adjustments"***) together with reasonable supporting information and documentation, which shall include a reasonably detailed explanation of the calculation of the Estimated Closing Adjustments and documentation sufficient to confirm the accuracy of such calculation. The Estimated Closing Statement shall be prepared using the same accounting principles, policies and methods as Seller has historically used in connection with the calculation of the items reflected on such Estimated Closing Statement.

(c) Within sixty (60) Business Days after the Closing Date, Seller shall prepare and deliver to Buyer a final closing statement (the ***"Post-Closing Statement"***) that shall set forth all adjustments, subject to Section 3.6(b), to the Purchase Price required by Section 3.3(a) (the ***"Proposed Post-Closing Adjustment"***) together with reasonable supporting information and documentation, which shall include a reasonably detailed explanation of the calculation of the Proposed Post-Closing Adjustments and documentation sufficient to confirm the accuracy of such calculation. The Post-Closing Statement shall be prepared using the same accounting principles, policies and methods as Seller has historically used in connection with the calculation of the items reflected on such Post-Closing Statement. Within thirty (30) days after the delivery of the Post-Closing Statement by Seller to Buyer, Buyer may object to the Proposed Post-Closing Adjustment in writing. Seller and Buyer agree to cooperate with one another to provide one another with the information used to prepare the Post-Closing Statement and information relating thereto. If Buyer objects to the Proposed Post-Closing Adjustment, the Parties shall attempt to resolve such dispute by negotiation. If the Parties are unable to resolve such dispute within thirty (30) days after any objection by Buyer, the Parties shall appoint the Independent Accounting Firm (with the cost of such Independent Accounting Firm to be borne equally by the Parties) to review the Proposed Post-Closing Adjustment and determine, subject to Section 3.6(b), the appropriate adjustment to the Purchase Price, if any, within thirty (30) days after such appointment. The Parties agree to cooperate with the Independent Accounting Firm and provide

it with such information as it reasonably requests to enable it to make such determination. The Independent Accounting Firm shall act as an expert and not as an arbitrator and shall make findings only with respect to the remaining disputes so submitted to it (and not by independent review). The finding of such Independent Accounting Firm shall be binding on the Parties hereto. Upon determination of the appropriate adjustment (the ***"Post-Closing Adjustment"***) by agreement of the Parties or by binding determination of the Independent Accounting Firm, the Party owing the difference shall deliver such amount to the other Party no later than thirty (30) days after such determination, in immediately available funds or in any other manner as reasonably requested by the payee.

Section 3.4 Payment of Purchase Price.

(a) At the Closing, Buyer shall pay Seller the Purchase Price (as adjusted by Section 3.3).

(b) Payment of the Purchase Price shall be made by wire transfer of immediately available funds denominated in U.S. dollars or by such other means as are agreed upon by Seller and Buyer.

Section 3.5 Allocation of Purchase Price.

(a) At least thirty (30) days prior to the Closing Date, Buyer shall use Commercially Reasonable Efforts to make an estimated allocation among the Acquired Assets of the sum of the Purchase Price and the Assumed Liabilities that is consistent with the allocation methodology provided by Section 1060 of the Code and the regulations promulgated thereunder (the ***"Estimated Allocation"***). The Estimated Allocation (or other allocation determined by Buyer in its sole discretion) will be used for transfer tax and for all other Closing document purposes.

(b) Within ninety (90) days after the Closing Date, Buyer shall make an allocation among the Acquired Assets of the sum of the Purchase Price (including any adjustments thereto) and the Assumed Liabilities (together with any other relevant items) that is consistent with the allocation methodology provided by Section 1060 of the Code and the regulations promulgated thereunder (the ***"Allocation"***). Seller (to the extent Seller is required to make any such reports) shall report the transactions contemplated by this Agreement for all purposes in a manner consistent with the Allocation. Subsequent to the preparation of the Estimated Allocation and the Allocation, Buyer and Seller agree to provide the other with any information required to complete Form 8594 or other filing or report within ten (10) days of the request for such information. Buyer and Seller shall notify and provide the other with reasonable assistance in the event of an examination, audit or other proceeding relating to the allocation of the Purchase Price pursuant to this Section 3.5. Buyer and Seller shall treat the transaction contemplated by this Agreement as the acquisition by Buyer of a trade or business for United States federal income Tax purposes and agree that no portion of the consideration shall be treated in whole or in part as the payment for services or future services.

Section 3.6 Prorations.

(a) Buyer and Seller agree that all of the items normally prorated, including those listed below (but not including Taxes), relating to the Acquired Assets and the Business of the Vero Beach Electric Utility shall be prorated as of the Closing Date to the extent such items are Assumed Liabilities, with Seller liable to the extent such items relate to any time period prior to the Closing Date, and Buyer liable to the extent such items relate to periods commencing with the Closing Date (measured in the same units used to compute the item in question, otherwise measured by calendar days):

(i) Assessments and other charges (other than Taxes), if any, relating to the ownership, use or business of the Acquired Assets;

(ii) Any prepaid expenses (including security deposits) relating to the Acquired Assets, but excluding any Prepaid Expenses payable by Buyer pursuant to Section 3.3(a)(ii);

(iii) Rent and all other items (including prepaid services or goods not included in Inventory) payable under any of the Assumed Contracts;

(iv) Any fees, charges or other payments with respect to any Transferable Permit;

(v) Sewer rents and charges for water, telephone, electricity and other utilities for the Vero Beach Power Plant and substations being acquired hereunder;

(vi) Fees or charges (other than Taxes) imposed by any Governmental Authority; and

(vii) Rent and other items (other than Taxes) payable and relating to the Real Property Interests.

(b) In connection with the prorations referred to in (a) above, in the event that actual figures are not available at the Closing Date, the proration shall be based upon the actual amounts accrued through the Closing Date or paid for the most recent year (or other appropriate period) for which actual amounts paid are available. Such prorated amounts shall be re-prorated and paid to the appropriate Party within sixty (60) days of the date that the previously unavailable actual figures become available. Prorations measured by calendar days shall be based on the number of days in a year or other appropriate period (i) before the Closing Date and (ii) including and after the Closing Date. Seller and Buyer agree to furnish each other with such documents and other records as may be reasonably requested in order to confirm all adjustment and proration calculations made pursuant to this Section 3.6.

(c) To the extent that the proration of an item under this Section 3.6 allocates a portion of such item to a period (or portion thereof) ending before the Closing Date, such portion shall constitute an Excluded Liability. To the extent that the proration of an item under this Section 3.6 allocates a portion of such item to a period (or portion thereof) ending on or after the Closing Date, such portion shall constitute an Assumed Liability.

Section 3.7 Deliveries by Seller.

At the Closing, Seller will deliver, or cause to be delivered, the following to Buyer:

(a) Deeds for the Acquired Land In Fee, duly executed by Seller and in recordable form;

(b) The Assignment of Easements and Other Real Property Interests, each duly executed by Seller and in recordable form;

(c) The Capital Leases, if any, duly executed by Seller, together with, if any real property is leased pursuant to any such Capital Lease, a related memorandum of such lease duly executed by Seller and in recordable form;

(d) The Vero Beach Power Plant Site Lease Agreement, duly executed by Seller, together with the related memorandum of such lease, duly executed by Seller and in recordable form;

(e) Each Airport Substation Lease Agreement, duly executed by Seller, together with the related memorandum of such lease, duly executed by Seller and in recordable form;

(f) If Buyer exercises the Airport Warehouse Lease Agreement Option, the Airport Warehouse Lease Agreement, duly executed by Seller, together with the related memorandum of such lease duly executed by Seller and in recordable form;

(g) The District Licenses, each duly executed by the District and Seller and in recordable form;

(h) The District Sublicenses, each duly executed by Seller and in recordable form;

(i) Releases or satisfactions of Encumbrances other than Permitted Encumbrances;

(j) The affidavit, substantially in the form of Exhibit D attached hereto, and such other affidavits, certificates and other documentation as is reasonably required by Buyer's title insurer;

(k) The Bill of Sale, duly executed by Seller;

(l) The Assignment and Assumption Agreement, duly executed by Seller;

(m) Copies of any and all Governmental Authority and other third party consents, waivers or approvals obtained by Seller with respect to the transfer of the Acquired Assets to Buyer, or the consummation of the transactions contemplated by this Agreement;

(n) All other Ancillary Agreements, duly executed by Seller, as applicable;

(o) All Seller Ancillary Agreements, duly executed by Seller and the other parties thereto, as applicable;

(p) Copies, certified by the City Clerk of Seller, of evidence of approval by the City Council of the Transaction, the Agreement, the Seller Ancillary Agreements, the Seller Executed Ancillary Agreements and the Ancillary Agreements and the consummation of the transactions contemplated hereby and thereby (including the execution and delivery hereof and thereof), in the form of a written resolution adopted by the City Council, signed by the Mayor of the Seller and attested to by the City Clerk;

(q) A copy, certified by the City Clerk of Seller, of a certificate of the City of Vero Beach Canvassing Board, filed with the City Clerk, evidencing that a majority of the votes cast voted in favor of the Referendum Question, at a referendum, duly called and held by the City of Vero Beach on a date not later than ninety (90) days after the Effective Date;

(r) To the extent available, originals of the Seller Contracts, the Transferred Employee Records and the Transferable Permits and, if not available, true and correct copies thereof, in all cases together with notices to and, if required by the terms thereof, consents by other Persons which are parties to the Assumed Contracts, Real Property Interest Instruments and Transferable Permits;

(s) All such other instruments of assignment, transfer or conveyance as shall, in the reasonable opinion of Buyer and its counsel, be necessary or desirable to transfer to Buyer Seller's interest in the Acquired Assets, in accordance with this Agreement and where necessary or desirable in recordable form;

(t) Such other agreements, consents, documents, instruments and writings as are required to be delivered by Seller at or prior to the Closing Date pursuant to this Agreement or the Ancillary Agreements;

(u) Estoppel certificates, substantially in the form of Exhibit W attached hereto, duly executed by each of the Persons other than Seller which are parties to the Assumed Contracts;

(v) A complete list of Seller Employees as of the Closing Date by name and by position;

(w) All documentation as shall, in the reasonable opinion of Buyer or its counsel, be necessary for Buyer to meet its obligations with respect to Section 6.10 of this Agreement; and

(x) Such affidavits, releases, certificates or other evidence required pursuant to the Buyer's title commitment in a form reasonably satisfactory to the title insurer to delete from such title commitment and final title insurance policy those matters set forth in Schedule 4.7(b) that are not Permitted Encumbrances.

Section 3.8 Deliveries by Buyer.

At the Closing, Buyer will deliver, or cause to be delivered, the following to Seller:

(a) The Purchase Price payable pursuant to Section 3.4(a), as adjusted pursuant to Section 3.3;

(b) The Vero Beach Power Plant Site Lease Agreement, duly executed by Buyer;

(c) Each Airport Substation Lease Agreement, duly executed by Buyer;

(d) If Buyer exercises the Airport Warehouse Lease Agreement Option, the Airport Warehouse Lease Agreement, duly executed by Buyer;

(e) The Capital Leases, if any, duly executed by Buyer;

(f) The District Sublicenses, each duly executed by Buyer;

(g) The Assignment of Easements and Other Real Property Interests, each duly executed by Buyer;

(h) All other Ancillary Agreements, duly executed by Buyer, as applicable;

(i) [RESERVED];

(j) A certificate of the Secretary or any Assistant Secretary of Buyer identifying the name and title and bearing the signatures of the officers of Buyer authorized to execute and deliver this Agreement, and the other agreements contemplated hereby;

(k) A certificate of active status with respect to Buyer, issued by the Secretary of State, Division of Corporations, of the State of Florida;

(l) All such other instruments of assumption as shall, in the reasonable opinion of Seller and its counsel, be necessary for Buyer to assume the Assumed Liabilities in accordance with this Agreement; and

(m) Such other agreements, documents, instruments and writings as are required to be delivered by Buyer at or prior to the Closing Date pursuant to this Agreement.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES OF SELLER

Seller hereby represents and warrants to Buyer as follows:

Section 4.1 Organization.

Seller is a duly created and validly existing municipal corporation under the Constitution and laws of the State of Florida and has all requisite power and authority to own, lease, and operate its properties and to carry on its business as is now being conducted.

Section 4.2 Authority Relative to this Agreement.

Seller has full power and authority to execute and deliver this Agreement, the Seller Ancillary Agreements, the Seller Executed Ancillary Agreements and the Ancillary Agreements and to consummate the transactions contemplated hereby and thereby. The execution and delivery of this Agreement, the Seller Ancillary Agreements, the Seller Executed Ancillary Agreements and the Ancillary Agreements and the consummation of the transactions contemplated hereby and thereby have been duly and validly authorized by all necessary action required on the part of Seller and no other proceedings on the part of Seller are necessary to authorize this Agreement, the Seller Ancillary Agreements, the Seller Executed Ancillary Agreements or the Ancillary Agreements or to consummate the transactions contemplated hereby and thereby, including authorization of the Mayor of the City to execute contracts and the City Manager to take all other actions on behalf of Seller (including the spending of monies) required for satisfaction of all conditions, covenants and obligations of Seller under the Agreement (including authorization to close the Transaction), the Seller Ancillary Agreements, the Seller Executed Ancillary Agreements and the Ancillary Agreements. This Agreement has been duly and validly executed and delivered by Seller and at Closing, the Seller Ancillary Agreements, the Seller Executed Ancillary Agreements and the Ancillary Agreements will be duly and validly executed and delivered by Seller, and assuming that this Agreement and the applicable Ancillary Agreements constitute valid and binding agreements of Buyer, this Agreement, the Seller Ancillary Agreements, the Seller Executed Ancillary Agreements and the Ancillary Agreements constitute the legal, valid and binding agreement of Seller, enforceable against Seller in accordance with their respective terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereinafter in effect relating to creditors' rights generally, and general equitable principles (whether considered in a proceeding in equity or at law).

Section 4.3 Consents and Approvals; No Violation

Subject to the receipt of the third-party consents set forth in Schedule 4.3, neither the execution and delivery of this Agreement, the Seller Ancillary Agreements, the Seller Executed Ancillary Agreements or the Ancillary Agreements by Seller nor the consummation by Seller of the transactions contemplated hereby or thereby will (i) conflict with or result in the breach or violation of any provision of the charter or other organizational or governing documents of Seller, or of resolutions of any governing body of Seller; (ii) require any consent or other action by any Person, or result in a default (or give rise to any right of termination, cancellation or acceleration), under any of the terms, conditions or provisions of any Contract to which Seller is a party or by which Seller or any of the Acquired Assets may be bound, except for such defaults (or rights of termination, cancellation or acceleration) as to which requisite waivers or consents have been obtained or which, with respect to Contracts that are not Real Property Interest Instruments, Assumed Contracts, Intellectual Property Licenses or Material Seller Contracts,

would not, individually or in the aggregate, have a Material Adverse Effect; (iii) violate any Law of, or applicable to, Seller or any of its assets, which violation, individually or in the aggregate, would create a Material Adverse Effect; or (iv) result in the imposition or creation of an Encumbrance (other than a Permitted Encumbrance) on any of the Acquired Assets.

Section 4.4 Reports.

Seller has filed or caused to be filed with the applicable federal, state and/or local utility commissions or regulatory bodies (including NERC and other national and regional electric reliability organizations), as the case may be, all material forms, statements, reports and documents (including all exhibits, amendments and supplements thereto) required to be filed by Seller with respect to the Acquired Assets or the Business of the Vero Beach Electric Utility under applicable Law. All such filings complied in all material respects with all applicable requirements therefor in effect on the date each such form, statement, report and document was filed.

Section 4.5 Undisclosed Liabilities.

Except as set forth in Schedule 4.5, the Acquired Assets are not subject to any Liability or obligation (whether absolute, accrued, contingent or otherwise) that is not reflected in the "Electric Utility" portion of the City of Vero Beach comprehensive annual financial report for 2011, including the notes thereto, as of September 30, 2011 and other than Liabilities incurred in the ordinary course of the Business of the Vero Beach Electric Utility.

Section 4.6 Absence of Material Adverse Effect.

Since September 30, 2011, except as set forth in Schedule 4.6, there has not been any Material Adverse Effect.

Section 4.7 Real Property, Title and Related Matters.

(a) [Reserved].

(b) Schedule 4.7(b) contains a list of all Encumbrances (other than Permitted Encumbrances) relating to or affecting the Acquired Land In Fee, the Vero Beach Power Plant Site, the Easements and any leasehold interests under any Lease Agreements for which Seller will secure a release or satisfaction before Closing.

(c) The Seller has good and marketable title to each parcel of Acquired Land In Fee, and to Seller's Knowledge for any real property as to which Seller has an option or purchase and sale agreement to acquire and which relates to the Business of the Vero Beach Electric Utility, the optionor or seller has good and marketable title to the real property subject to such option, free and clear of all Encumbrances, except Permitted Encumbrances. Seller has good and valid title to each Acquired Asset constituting personal property or a fixture free and clear of all Encumbrances, except Permitted Encumbrances. At the Closing, Buyer will receive: (A) with respect to each parcel of Acquired Land In Fee, good and marketable title, free and clear of all Encumbrances, except Permitted Encumbrances; (B) with respect to each Easement, to Seller's Knowledge, good and valid title, free and clear of all Encumbrances, except Permitted

Encumbrances; and (C) with respect to each Acquired Asset not constituting Acquired Land In Fee or an Easement, good and valid title, free and clear of all Encumbrances, except Permitted Encumbrances. Except for the FPUA Right of First Refusal, there are no outstanding rights, options, agreements or other commitments giving any Person any current or future right to require the Seller or, following the Closing, the Buyer, to sell or transfer to such Person or to any third Person any interest in any of the Acquired Assets.

(d) Except for the District Licenses, Seller does not lease any Real Property in connection with the Business of the Vero Beach Electrical Utility. Seller has the right to quiet enjoyment of the real property that is the subject of the Airport Property Lease Agreements for the full term of the applicable lease, free and clear of all Encumbrances other than Permitted Encumbrances. To the Knowledge of Seller, Seller has a valid and subsisting easement interest in, and the right to quiet enjoyment of, any parcel of the real property under easement by Seller for the full term of the applicable easement, free and clear of all Encumbrances other than Permitted Encumbrances. To the Knowledge of Seller, Seller has a valid and subsisting real property interest in, under and to any Other Real Property Interests instrument for the full term of the applicable instrument, free and clear of all Encumbrances other than Permitted Encumbrances. There have been no oral leases or oral amendments to any such lease.

(e) Each Real Property Interest Instrument with respect to any Acquired Land In Fee or with respect to real property that is the subject of any Lease Agreement is in full force and effect and constitutes a legal, valid and binding obligation of Seller and enforceable against Seller and, to Seller's knowledge, constitutes a legal, valid and binding obligation of the other parties thereto and enforceable against the other parties thereto. For Real Property Interests Instruments other than those relating to the Acquired Land in Fee and the Lease Agreements, to the Knowledge of Seller, each Real Property Interest Instrument with respect to any such Real Property Interest is in full force and effect and constitutes a legal, valid and binding obligation of Seller and enforceable against Seller and constitutes a legal, valid and binding obligation of the other parties thereto and enforceable against the other parties thereto.

(f) There is not, under any Real Property Interest Instrument with respect to any Acquired Land In Fee or with respect to real property that is the subject of any Lease Agreement, any material breach, violation or default (or any condition or event which, with notice or lapse of time or both, would constitute a default on the part of Seller, or to the Knowledge of Seller, on the part of any of the parties thereto). For Real Property Interest Instruments other than those relating to the Acquired Land in Fee and the Lease Agreements, to the Knowledge of Seller, there is not, under any such Real Property Interest Instrument with respect to any Real Property Interest, any material breach, violation or default (or any condition or event which, with notice or lapse of time or both, would constitute a default on the part of Seller, or to the Knowledge of Seller, on the part of any of the parties thereto).

(g) Except for the Real Property Interest Instruments, the MOU, the Seller Executed Ancillary Agreements and any other instruments identified in Schedule 4.7(b), to the Knowledge of Seller, there are no written or oral agreements between Seller and any other party regarding (i) the matters set forth in, or the transactions contemplated by, the Real Property Interest Instruments, the Seller Ancillary Agreements, the Seller Executed Ancillary Agreements or the Ancillary Agreements or (ii) the Real Property or the Real Property Interests.

(h) Each Real Property Interest Instrument with respect to any Acquired Land In Fee and with respect to real property that is the subject of the Vero Beach Power Plant Site Lease Agreement or the Airport Lease Agreements has been properly recorded, or a memorandum of such Real Property Interest Instrument has been properly recorded, in accordance with applicable Laws.

(i) To Seller's knowledge, each parcel of Real Property has not been abandoned by Seller and is in the possession or under the control of Seller.

(j) To Seller's Knowledge, there are no other third party real property interests or permitted uses which conflict in any material manner with the operation or maintenance of the Acquired Assets or the Business of the Vero Beach Electric Utility with respect to any of the Real Property Interests.

(k) [Reserved]

(l) All Real Property and Real Property Interests with respect to any Acquired Land In Fee or any Lease Agreement comply with all existing subdivision, land use and zoning ordinances, regulations and restrictions, and to Seller's knowledge, there is no Action pending by any Governmental Authority threatened against or affecting any Acquired Assets or any Real Property before any Governmental Authority. For Real Property Interests other than those relating to the Acquired Land in Fee and the Lease Agreements, to the Knowledge of Seller, all such Real Property and Real Property Interests comply with all existing subdivision, land use and zoning ordinances, regulations and restrictions, and there is no Action pending by any Governmental Authority, or to Seller's Knowledge, threatened against or affecting any such Real Property Interests before any Governmental Authority.

(m) There exist no outstanding covenants or agreements in connection with the zoning of the Real Property (or any portion thereof) relating to any Acquired Land In Fee or any Lease Agreement which would bind or require Buyer to perform any actions or pay any monies in connection therewith. To Seller's knowledge, there exist no outstanding covenants or agreements in connection with the zoning of the Real Property or any portion thereof (other than those relating to any Acquired Land In Fee or any Lease Agreement) which would bind or require Buyer to perform any actions or pay any monies in connection therewith

(n) Seller has delivered to Buyer prior to the Effective Date true and complete copies of all deeds, easements, leases, licenses, Permits, crossing agreements, right of entry agreements, mortgages, deeds of trust, site access agreements, certificates of occupancy, title insurance policies, updated title commitments or reports, and surveys and similar documents and amendments thereto which, after a complete and thorough review of Seller's records, are in Seller's possession relating to any Real Property Interests.

(o) [Reserved]

(p) Seller has not received written notice, and Seller does not have any Knowledge, of:

(i) except as disclosed in Schedule 4.7(p)(i), any pending or threatened proceedings in eminent domain, for rezoning or otherwise, which would affect any Real Property Interest, any Real Property or any portion thereof or any improvement thereon that is an Acquired Asset;

(ii) except as disclosed in Schedule 4.7(p)(ii), any pending or threatened public improvements or special assessments or Encumbrances by any Governmental Authority and/or violations that could reasonably be expected to result in any charge being levied or assumed or in the creation of any Encumbrance, that could reasonably be expected to affect any Real Property Interest, any Real Property, or any portion thereof or any improvement thereon that is an Acquired Asset;

(iii) except as disclosed in Schedule 4.7(p)(iii), any plan, study or effort by any Governmental Authority to widen, modify or realign any street or road in which any Acquired Assets are located, or providing access to the Real Property or any portion thereof, or that in any other way could reasonably be expected to materially affect Seller's current or intended use thereof;

(iv) any violations on the Real Property or any portion thereof of any covenants, conditions or restrictions applicable thereto or of any term or provision of any Real Property Interest Instrument;

(v) except for the Permitted Encumbrances, (i) Acquired Assets located on any Real Property encroaching onto adjoining lands, any easements, or other interests in favor of third parties, or (ii) any third party structures or improvements encroaching on portions of the Real Property occupied by Acquired Assets;

(vi) any material inaccuracies or omissions in any survey, map, plan, preliminary report or title policy, provided in final form, delivered to Buyer by or on behalf of Seller; or

(vii) except as disclosed in Schedule 4.7(p)(vii), (A) any mining, mineral or water extraction or development projects in progress or planned to commence on or under any Real Property or any portion thereof or (B) defects or conditions of the soil or land, including but not limited to any wetlands, which could reasonably be expected to impair the use of any Real Property Interests, any Real Property or any improvements thereon that are Acquired Assets.

(q) Except for amounts payable or receivable as set forth in Schedule 4.7(q) or as set forth in any Lease Agreement, there are no other rents, fees, royalties, water or sewer charges, taxes or assessments or other amounts payable or receivable by Seller or Buyer in connection with any Real Property Interest or Real Property or any tenancies, licenses, occupancies or co-tenancies related to any Real Property Interests, any Real Property or any improvements thereon that are Acquired Assets.

(r) No Real Property Interest or Real Property (or any portion thereof) relating to any Acquired Land In Fee or any Lease Agreement or any improvement thereon that is an Acquired Asset, or the uses conducted thereon, violate any Law or Order. To Seller's

knowledge, no Real Property Interest or Real Property (or any portion thereof) other than those relating to the Acquired Land in Fee and the Lease Agreements or any improvement thereon that is an Acquired Asset, or the uses conducted thereon, violate any Law or Order.

(s) Except for instruments constituting Permitted Encumbrances, the Lease Agreements and the Real Property Interests, there are no commitments or agreements with any Governmental Authority or public or private utility affecting any Real Property Interest, any Real Property or any portion thereof or any improvement thereon that is an Acquired Asset, Acquired Land In Fee or leasehold interests that are Real Property Interests, that are not disclosed in this Agreement. For Real Property Interests other than those relating to the Acquired Assets, Acquired Land in Fee or leasehold interests that are Real Property Interests, and the Lease Agreements, except for the Permitted Encumbrances, the Lease Agreements and the Real Property Interests, to the Knowledge of Seller, there are no commitments or agreements with any Governmental Authority or public or private utility affecting any such Real Property Interest, any Real Property or any portion thereof or any improvement thereon.

(t) Except for Permitted Encumbrances, or as disclosed in Schedule 4.7(t), there are no Encumbrances, covenants, conditions, reservations, restrictions, easements or other matters affecting any Acquired Land In Fee or leasehold interests pursuant to the Vero Beach Power Plant Site Lease Agreement and the Airport Property Lease Agreements. For Real Property Interests other than those relating to the Acquired Land in Fee, the Power Plant Site Lease Agreement and the Airport Property Lease Agreements, except for Permitted Encumbrances, or as disclosed in Schedule 4.7(t), to the Knowledge of Seller, there are no Encumbrances, covenants, conditions, reservations, restrictions, easements or other matters affecting any such Real Property Interest, any Real Property or any portion thereof or any improvement thereon that is an Acquired Asset.

(u) Except as disclosed in Schedule 4.7(u), to Seller's Knowledge, there are no other facts or conditions relating to any Real Property Interest, any Real Property or any portion thereof, or any improvement thereon, that could have a Material Adverse Effect.

(v) Schedule 4.7(v) contains a true and correct list of all mortgages, deeds of trusts and other agreements or instruments creating a security interest in any Real Property Interest, any Real Property or any portion thereof or any improvement thereon that is an Acquired Asset.

Section 4.8 Operability; Condition of the Vero Beach Electric Utility; Sufficiency of Real Property Interests.

(a) The Acquired Assets constitute all of the assets, property and rights used in, or necessary for, the Business of the Vero Beach Electric Utility in the manner in which it has been operated since January 1, 2011, and, except as disclosed in Schedule 4.8, the Acquired Assets are currently in conditions sufficient to operate the Vero Beach Electric Utility at its full capacity.

(b) Except as set forth in the Capital Expenditure and Maintenance Plan and taking into account the Vero Beach Power Plant Expectation, no Acquired Asset is in need of

any repair or replacement that either (i) is known to Seller or (ii) would be disclosed by visual inspection or Seller's Past Practices.

(c) As of the Closing Date and immediately after giving effect to the consummation of the transactions contemplated by this Agreement, Buyer will have acquired all of Seller's interest in Seller's Long Term Real Property Interests with respect to each parcel of real property (i) on which the Acquired Assets are located or (ii) that is used in or necessary for (A) the Business of the Vero Beach Electric Utility or (B) the operation or maintenance of the Acquired Assets.

Section 4.9 Insurance.

Schedule 4.9 sets forth all material policies of property damage, fire, liability, worker's compensation and other forms of insurance relating to the Acquired Assets. Such policies are in full force and effect, all premiums with respect thereto covering all periods up to and including the date as of which this representation is being made have been paid, and no written notice of cancellation, non-renewal or termination has been received with respect to any such policy which was not replaced on substantially similar terms prior to the date of such cancellation. No insurance with respect to the Acquired Assets has been refused nor has its coverage been limited by any insurance carrier to which it has applied for any such insurance or with which it has carried insurance during the past three (3) years, and all required notices have been sent to insurers to preserve all material claims under the aforementioned insurance policies.

Section 4.10 Environmental, Licensing and Governmental Approval Matters.

Except as disclosed in Schedule 4.10:

(a) Seller has obtained and holds all Environmental Permits, each such Environmental Permit is in full force and effect, Seller is in compliance with all of its obligations thereunder, there are no proceedings pending or, to Seller's Knowledge, threatened that would reasonably be expected to result in the revocation, termination, suspension, modification or amendment of any Environmental Permit, and the Seller has not failed to make in a timely fashion any application or other filing required for the renewal of any Environmental Permit which failure would reasonably be expected to result in any Environmental Permit being revoked, terminated, suspended or adversely modified. No Environmental Permit will terminate or be subject to termination or revocation as a result of the transactions contemplated by this Agreement;

(b) (i) The Real Property Interests and Real Property (or any portion thereof) relating to any Acquired Land In Fee, the Vero Beach Power Plant Site Lease Agreement or either of the Airport Property Lease Agreements or any improvement thereon that is an Acquired Asset, and the uses conducted thereon, and the Business of the Vero Beach Electric Utility that is related to the Real Property Interests and Real Property (or any portion thereof) relating to any Acquired Land In Fee, the Vero Beach Power Plant Site Lease Agreement or either of the Airport Property Lease Agreements or any improvement thereon that is an Acquired Asset, and the uses conducted thereon, are in compliance in all material respects with all terms, conditions and provisions of all Environmental Laws and Environmental Permits, (ii) to Seller's

Knowledge, the Real Property Interests and Real Property (or any portion thereof) and the Business of the Vero Beach Electric Utility (other than the Real Property Interests and Real Property (or any portion thereof) relating to the Acquired Land in Fee, the Vero Beach Power Plant Site Lease Agreement or either of the Airport Property Lease Agreements or any improvement thereon that is an Acquired Asset, and the uses conducted thereon, and the Business of the Vero Beach Electric Utility that is related to the Real Property Interests and Real Property (or any portion thereof) relating to any Acquired Land In Fee, the Vero Beach Power Plant Site Lease Agreement or either of the Airport Property Lease Agreements or any improvement thereon that is an Acquired Asset, and the uses conducted thereon), are in compliance in all material respects with all terms, conditions and provisions of all Environmental Laws and Environmental Permits, and (iii) Seller has not received any written notice from any Governmental Authority that the Acquired Assets, the Real Property and the Business of the Vero Beach Utility are not or have not been in compliance with, any Environmental Law or any Environmental Permit;

(c) (i) There are no Environmental Claims pending against Seller or, to Seller's Knowledge, threatened, with respect to any of the Real Property Interests or Real Property (or any portion thereof) relating to any Acquired Land In Fee, the Vero Beach Power Plant Site Lease Agreement or either of the Airport Property Lease Agreements or any improvement thereon that is an Acquired Asset, or the uses conducted thereon, or with respect to the Business of the Vero Beach Electric Utility as it related to the Real Property Interests or Real Property (or any portion thereof) relating to any Acquired Land in Fee, the Vero Beach Power Plant Site Lease Agreement or either of the Airport Property Lease Agreements or any improvement thereon that is an Acquired Asset, (ii) to Seller's Knowledge, there are no Environmental Claims pending against Seller or threatened with respect to the Acquired Assets or the Real Property (other than the Real Property (or any portion thereof) relating to the Acquired Land in Fee, the Vero Beach Power Plant Site Lease Agreement or either of the Airport Property Lease Agreements or any improvement thereon that is an Acquired Asset, or the uses conducted thereon), or with respect to the Business of the Vero Beach Electric Utility (other than as it related to the Real Property (or any portion thereof) relating to any Acquired Land in Fee, the Vero Beach Power Plant Site Lease Agreement or either of the Airport Property Lease Agreements or any improvement thereon that is an Acquired Asset), and (iii) Seller does not have Knowledge of any facts or circumstances which are reasonably likely to form the basis for any Environmental Claim against Seller with respect to the Acquired Assets, the Real Property or the Business of the Vero Beach Electric Utility;

(d) (i) No Releases of Hazardous Substances have occurred (1) at, from, on, or under, and no Hazardous Substances are present on or migrating from, any of the Real Property (or any portion thereof) relating to any Acquired Land In Fee, the Vero Beach Power Plant Site Lease Agreement or either of the Airport Property Lease Agreements or any improvement thereon that is an Acquired Asset, or (2) in the performance of the Business of the Vero Beach Electric Utility as it related to any of the Real Property (or any portion thereof) relating to any Acquired Land in Fee, the Vero Beach Power Plant Site Lease Agreement or either of the Airport Property Lease Agreements or any improvement thereon that is an Acquired Asset, in either case that are reasonably likely to give rise to an Environmental Claim against Seller or require any Remediation, (ii) to Seller's Knowledge, no Releases of Hazardous Substances have occurred (1) at, from, on, or under the Acquired Assets or the Real Property (other than Acquired

Assets or Real Property (or any portion thereof) relating to the Acquired Land in Fee, the Vero Beach Power Plant Site Lease Agreement or either of the Airport Property Lease Agreements or any improvement thereon that is an Acquired Asset) or (2) in the performance of the Business of the Vero Beach Electric Utility (other than as it related to Acquired Assets or Real Property (or any portion thereof) relating to the Acquired Land in Fee, the Vero Beach Power Plant Site Lease Agreement or either of the Airport Property Lease Agreements or any improvement thereon that is an Acquired Asset), (iii) to Seller's Knowledge, no Hazardous Substances are present on or migrating from any of the Real Property (or any portion thereof) relating to any Acquired Land In Fee, the Vero Beach Power Plant Site Lease Agreement or either of the Airport Property Lease Agreements or any improvement thereon that is an Acquired Asset that are reasonably likely to give rise to an Environmental Claim against Seller or require any Remediation, and (iv) to Seller's Knowledge, no Hazardous Substances are present on or migrating from the Acquired Assets or the Real Property (other than Acquired Assets and Real Property (or any portion thereof) relating to the Acquired Land in Fee, the Vero Beach Power Plant Site Lease Agreement or either of the Airport Property Lease Agreements or any improvement thereon that is an Acquired Asset) that are reasonably likely to give rise to an Environmental Claim against Seller or require any Remediation;

(e) (i) None of the Acquired Assets, the Real Property (or any portion thereof) relating to any Acquired Land In Fee, the Vero Beach Power Plant Site Lease Agreement or either of the Airport Property Lease Agreements or any improvement thereon that is an Acquired Asset is an Environmental Clean-up Site, and Seller has not transported or arranged for treatment, storage, handling, disposal or transportation of any Hazardous Substances from the Real Property (or any portion thereof) relating to any Acquired Land In Fee, the Vero Beach Power Plant Site Lease Agreement or either of the Airport Property Lease Agreements or any improvement thereon that is an Acquired Asset, or in performance of the Business of the Vero Beach Electric Utility as it related to any Real Property (or any portion thereof) relating to Acquired Land In Fee, the Vero Beach Power Plant Site Lease Agreement or either of the Airport Property Lease Agreements or any improvement thereon that is an Acquired Asset, to any location which is an Environmental Clean-up Site, and (ii) to Seller's Knowledge, none of the Acquired Assets, the Real Property or any portion thereof (other than Acquired Assets or Real Property (or any portion thereof) relating to the Acquired Land in Fee, the Vero Beach Power Plant Site Lease Agreement or either of the Airport Property Lease Agreements or any improvement thereon that is an Acquired Asset) is an Environmental Clean-up Site, and Seller has not transported or arranged for treatment, storage, handling, disposal or transportation of any Hazardous Substances from the Acquired Assets or the Real Property (other than Acquired Assets or Real Property (or any portion thereof) relating to the Acquired Land in Fee, the Vero Beach Power Plant Site Lease Agreement or either of the Airport Property Lease Agreements or any improvement thereon that is an Acquired Asset), or in performance of the Business of the Vero Beach Electric Utility (other than as it related to the Acquired Assets or Real Property (or any portion thereof) relating the Acquired Land in Fee, the Vero Beach Power Plant Site Lease Agreement or either of the Airport Property Lease Agreements or any improvement thereon that is an Acquired Asset), to any location which is an Environmental Clean-up Site;

(f) (i) There are no (1) underground storage tanks, active or abandoned, or (2) polychlorinated-biphenyl-containing equipment, located at, on, or under the Acquired Assets or the Real Property (or any portion thereof) relating to any Acquired Land In Fee, the Vero

Beach Power Plant Site Lease Agreement or either of the Airport Property Lease Agreements or any improvement thereon that is an Acquired Asset and (ii) to Seller's Knowledge, there are no (1) underground storage tanks, active or abandoned, or (2) polychlorinated-biphenyl-containing equipment, located at, on, or under the Acquired Assets or the Real Property (other than Acquired Assets or Real Property (or any portion thereof) relating to the Acquired Land in Fee, the Vero Beach Power Plant Site Lease Agreement or either of the Airport Property Lease Agreements or any improvement thereon that is an Acquired Asset);

(g) (i) There are no Encumbrances arising under or pursuant to any Environmental Law with respect to the Acquired Assets or the Real Property (or any portion thereof) relating to any Acquired Land In Fee, the Vero Beach Power Plant Site Lease Agreement or either of the Airport Property Lease Agreements or any improvement thereon that is an Acquired Asset or relating to the Business of the Vero Beach Electric Utility as it related to any Real Property (or any portion thereof) relating to any Acquired Land In Fee, the Vero Beach Power Plant Site Lease Agreement or either of the Airport Property Lease Agreements or any improvement thereon that is an Acquired Asset, (ii) to Seller' Knowledge, there are no Encumbrances arising under or pursuant to any Environmental Law with respect to the Acquired Assets or the Real Property (other than Acquired Assets or Real Property relating to the Acquired Land in Fee, the Vero Beach Power Plant Site Lease Agreement or either of the Airport Property Lease Agreements or any improvement thereon that is an Acquired Asset) or relating to the Business of the Vero Beach Electric Utility (other than as it related to any Acquired Assets or Real Property relating to Acquired Land In Fee, the Vero Beach Power Plant Site Lease Agreement or either of the Airport Property Lease Agreements or any improvement thereon that is an Acquired Asset), and (iii) Seller does not have Knowledge of any facts, circumstances or conditions that are reasonably likely to or result in any Encumbrance arising under or pursuant to any Environmental Law with respect to the Acquired Assets or the Real Property or relating to the Business of the Vero Beach Electric Utility;

(h) There have been no environmental audits or assessments with respect to the Acquired Assets, the Real Property or the Business of the Vero Beach Electric Utility by, on behalf of, or which are in the possession of Seller which have not been made available to Buyer prior to the execution of this Agreement; and

(i) There have been no claims by Seller against comprehensive general liability or excess insurance carriers for any Loss resulting from, relating to or arising from Environmental Claims (i) with respect to the Acquired Assets or the Real Property or (ii) relating to the Business of the Vero Beach Electric Utility.

(j) Schedule 4.10(j) sets forth all Environmental Permits.

Section 4.11 Labor Matters.

Schedule 4.11 sets forth all Seller Collective Bargaining Agreements and other written employment agreements that relate to the Seller Employees. True, correct, and complete copies of Seller Collective Bargaining Agreements and other written employment agreements, including all amendments thereto, have been made available to Buyer as of the date of this Agreement. Each Seller Employee is qualified, licensed, certified or trained, in accordance with

applicable government requirements or standards to perform the duties and responsibilities of their current job assignment.

Section 4.12 ERISA; Benefit Plans.

(a) Schedule 4.12(a) lists (as of the date of this Agreement) all Benefit Plans covering any Seller Employee, or maintained, administered or with respect to which contributions are made by Seller in respect of Seller Employees (***"Seller Benefit Plans"***). True, correct, and complete copies of all Seller Benefit Plans, including all amendments thereto have been provided to Buyer.

(b) All Seller Benefit Plans are governmental plans as defined in Section 3(32) of ERISA and Seller Benefits Plans are not subject to ERISA.

(c) Seller has no ERISA Affiliates.

(d) All Seller Benefit Plans are in material compliance with all applicable Laws.

(e) Seller has materially fulfilled its obligations under the funding requirements and filing requirements of all applicable Laws with respect to Seller Benefit Plans as of the Closing Date. No Seller Benefit Plan is a "multiemployer plan" as defined in Section 3(37) of ERISA and Seller has never participated in or made contributions to a multiemployer plan with respect to which any liability remains unsatisfied.

(f) Seller has not made any commitment and will not take any action to establish any new Benefit Plan or modify or amend any Seller Benefit Plan (except as required under applicable Laws), nor has any intention to do so been communicated to any Seller Employees, except with respect to (i) the adoption by Seller of new Benefit Plans (including a defined contribution plan) or (ii) modifications or amendments of Seller Benefit Plan, that in the case of (i) and (ii) do not in the aggregate increase the Total Compensation to Transferred Employees above the Total Compensation of Transferred Employees on the Effective Date.

Section 4.13 Location of Acquired Assets.

Except as set forth on Schedule 4.13, all of the physical Acquired Assets are located on the Real Property.

Section 4.14 Contracts.

(a) Excluding the Excluded Contracts, Schedule 4.14 sets forth a complete list of the following Seller Contracts (the ***"Material Seller Contracts"***):

(i) Contracts for the future purchase, exchange or sale of natural gas, fuel oil or other fuel;

(ii) Contracts for the future purchase, exchange or sale of electricity, energy, capacity or other energy-related products or ancillary services;

(iii) Contracts for the future transportation, storage, parking, loaning, distribution, wheeling, unloading, delivery, balancing, metering or compression of natural gas, fuel oil or other fuel;

(iv) Contracts for the future purchase, exchange, sale or transportation of water;

(v) Contracts for the future transmission of electricity;

(vi) interconnection Contracts;

(vii) Contracts (A) for the sale, transfer or other disposition of any Acquired Asset or (B) that grant a right or option to sell, transfer or otherwise dispose of any Acquired Asset, other than in each case under clause (A) or (B), any Contract entered into in the ordinary course of the Business of the Vero Beach Electric Utility with respect to Acquired Assets with a value of less than $25,000;

(viii) Contracts for the future receipt by Seller of any Acquired Assets or services requiring payments in excess of $25,000 for each individual Contract or in the aggregate for Contracts with the same Person;

(ix) Contracts under which it has created, incurred, assumed or guaranteed any outstanding Indebtedness;

(x) Attachment Agreements or any Contract granting the right to use, to attach to or of access to, any portion of the Acquired Assets;

(xi) outstanding futures, swap, collar, put, call, floor, cap, option or other Contracts that have underlying value and payment liability driven by or tied to fluctuations in the price of commodities, including electric power, natural gas, fuel oil, other fuel or securities;

(xii) Contracts that purport to limit Seller's freedom to compete in any line of business or in any geographic area or contain any exclusivity, most-favored nation or similar covenant; and

(xiii) (A) operation, maintenance or management Contracts, (B) water or wastewater supply, treatment or transportation Contracts or (C) Contracts relating to the purchase or sale of air pollutant emission allowances or credits.

(b) Excluding the Excluded Contracts, the Real Property Interest Instruments, the Assumed Contracts and the Intellectual Property Licenses and the Contracts listed on Schedule 4.14, Seller is not, as of the date of this Agreement, a party to any Contract that is material to the ownership or operation of the Acquired Assets or that is material to the Business of the Vero Beach Electric Utility.

(c) Each Seller Executed Ancillary Agreement, Assumed Contract, Intellectual Property License and Material Seller Contract is in full force and effect and constitutes a legal,

valid and binding obligation of Seller and enforceable against Seller and, to the Knowledge of Seller, constitutes a legal, valid and binding obligation of the other parties thereto and enforceable against the other parties thereto.

(d) There is not, under any Seller Executed Ancillary Agreement, Assumed Contract, Intellectual Property License or Material Seller Contract, any breach, violation or default (or any condition or event which, with notice or lapse of time or both, would constitute a default on the part of Seller, or to the Knowledge of Seller, on the part of any of the other parties thereto). To Seller's Knowledge, Seller has not received notice from any other party to any Real Property Interest Instrument, Seller Executed Ancillary Agreement, Assumed Contract, Intellectual Property License or Material Seller Contract that such other party intends to terminate or fail to renew at the end of its term any such Contract, as applicable, or materially reduce the level of any goods or services to be provided under any such Contract.

Section 4.15 Legal Proceedings, etc.

Except as described in Schedule 4.15, there is no claim or Action pending or, to Seller's Knowledge, threatened against (i) Seller that seeks to enjoin, prohibit, restrain or make illegal the performance of this Agreement, the Seller Ancillary Agreements, the Seller Executed Ancillary Agreements or any of the Ancillary Agreements or the consummation of any of the transactions contemplated hereby or thereby or (ii) or affecting any of the Acquired Assets or the Business of the Vero Beach Electric Utility. Seller is not subject to any outstanding Order affecting any of the Acquired Assets or the Business of the Vero Beach Electric Utility.

Section 4.16 Non-Environmental Permits; Compliance with Law.

(a) Seller has obtained and holds all Non-Environmental Permits, each such Non-Environmental Permit is in full force and effect, Seller is in compliance with all of its obligations thereunder, there are no proceedings pending or, to Seller's Knowledge, threatened that would reasonably be expected to result in the revocation, termination, suspension, modification or amendment of any Non-Environmental Permit, and the Seller has not failed to make in a timely fashion any application or other filing required for the renewal of any Non-Environmental Permit which failure would reasonably be expected to result in any Non-Environmental Permit being revoked, terminated, suspended or adversely modified. No Non-Environmental Permit will terminate or be subject to termination or revocation as a result of the transactions contemplated by this Agreement. The Acquired Assets, the Real Property and the Business of the Vero Beach Electric Utility are in compliance in all material respects with all terms, conditions and provisions of all Laws and Non-Environmental Permits, and Seller has not received any written notice from any Governmental Authority that they are not or have not been in compliance with, any Law or any Non-Environmental Permit. Seller is in compliance with all Non-Environmental Permits and all Laws applicable to the Acquired Assets, the Real Property or the Business of the Vero Beach Electric Utility.

(b) Schedule 4.16(b) sets forth all Non-Environmental Permits.

Section 4.17 Regulation as a Utility.

Seller is an electric utility within the meaning of Florida Statutes Section 366.02. Except with respect to local tax and zoning laws, Seller is not, as a result of its ownership or operation of the Acquired Assets or the Business of the Vero Beach Electric Utility, subject to regulation as a public utility or public service company (or similar designation) by any federal agency or state of the United States other than Florida, or any municipality or any political subdivision of the foregoing.

Section 4.18 Tax Matters

Except as set forth on Schedule 4.18, with respect to the Acquired Assets or the Business of the Vero Beach Electric Utility, (i) all Tax Returns of Seller, if any, required to be filed for taxable periods ending on or prior to the Closing Date have been timely filed, and all such Tax Returns are complete and accurate in all material respects, and (ii) Seller is not liable to pay, collect, withhold, or remit any Taxes (including any Taxes in connection with the transactions contemplated by this Agreement) with respect to the Acquired Assets or the Business of the Vero Beach Electric Utility, and has not received any notice from any Governmental Authority asserting any claim for Taxes.

Section 4.19 Intellectual Property.

Except as set forth in Schedule 4.19, Seller has ownership of, or a license to use, all of the Intellectual Property used in, or necessary for, the operation of the Acquired Assets or for the Business of the Vero Beach Electric Utility as conducted prior to the Effective Date and as conducted prior to the Closing Date. Except as set forth in Schedule 4.19 and pursuant to the transfer to Buyer of the Owned Intellectual Property and the other Acquired Assets on the Closing Date and assignment to Buyer of the Intellectual Property Licenses on the Closing Date, Buyer will have ownership of, or a license to use, all of the Intellectual Property used in or necessary for (a) the operation of the Acquired Assets or (b) the Business of the Vero Beach Electric Utility, in each case under clause (a) or (b), as conducted prior to the Effective Date and as conducted prior to the Closing Date. The rights of Seller in (i) Owned Intellectual Property are freely transferable to Buyer and (ii) the Intellectual Property Licenses are freely assignable to Buyer. Except as set forth in Schedule 4.19, Seller has not received written notice of any claims or demands of any other Person pertaining to any of the Owned Intellectual Property or the Licensed Intellectual Property and no Action has been instituted, or is pending or, to Seller's Knowledge, threatened, which challenge the rights of Seller in respect thereof. Seller has not granted any rights to any Person in respect of any Owned Intellectual Property or Licensed Intellectual Property. None of the Acquired Assets (including the Owned Intellectual Property) or the Licensed Intellectual Property infringes any Intellectual Property of any Person. Seller is not infringing or making any unauthorized disclosure or use of any Intellectual Property of any Person, including without limitation, of any former employer of any past or present Seller Employee, in its activities related to the Business of the Vero Beach Electric Utility or in performing its obligations under this Agreement.

Section 4.20 [Reserved]

Section 4.21 Service Territory.

The Delivery Point for each Person purchasing electricity from Seller is located within the Service Territory.

ARTICLE V
REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants with respect to itself to Seller as follows:

Section 5.1 Organization; Qualification.

Buyer is a corporation duly formed and validly existing under the laws of the State of Florida and its status is active. Buyer has all requisite corporate power and authority to own, lease and operate its properties and to carry on its business as is now being conducted. Buyer has heretofore delivered to Seller complete and correct copies of its articles of incorporation and bylaws as currently in effect.

Section 5.2 Authority Relative to This Agreement

Subject to the receipt of approval by the board of directors of its sole shareholder, NextEra Energy, Inc., Buyer has full corporate power and authority to execute and deliver this Agreement, the OUC-FPL PPAs, the Reliability Call Agreement and the Ancillary Agreements to which it is a party and to consummate the transactions contemplated hereby or thereby. The execution and delivery of this Agreement, the OUC-FPL PPAs, the Reliability Call Agreement and the Ancillary Agreement and the consummation of the transactions contemplated hereby or thereby, will have been duly and validly authorized by all necessary corporate action required on the part of Buyer following approval of the purchase of the Vero Beach Electric Utility after the Effective Date by the board of directors of NextEra Energy, Inc. (which approval may be withheld in such board's sole discretion), on or before February 28, 2013 (unless Buyer elects to terminate this Agreement in accordance with Section 9.1(h) on or before March 4, 2013), and no other corporate proceedings on the part of Buyer are necessary to authorize this Agreement, the OUC-FPL PPAs, the Reliability Call Agreement and the Ancillary Agreements or to consummate the transactions contemplated hereby or thereby. Following such approval after the Effective Date by the board of directors of NextEra Energy, Inc., this Agreement will have been duly and validly executed and delivered by Buyer, and assuming that this Agreement constitutes a valid and binding agreement of Seller, will constitute a valid and binding agreement of Buyer, enforceable against Buyer in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereinafter in effect relating to creditors' rights generally, and general equitable principles (whether considered in a proceeding in equity or at law).

Section 5.3 Consents and Approvals; No Violation.

(a) Subject to the receipt of the third-party consents set forth in Schedule 5.3(a) and the Buyer's Required Regulatory Approvals and the approval by the board of directors of NextEra Energy, Inc., neither the execution and delivery of this Agreement, the OUC-FPL PPAs, the Reliability Call Agreement and the Ancillary Agreements by Buyer nor the consummation by Buyer of the transactions contemplated hereby or thereby will (i) conflict with or result in any breach of any provision of the articles of incorporation and bylaws of Buyer, (ii) require any consent or other action by any Person, or result in a default (or give rise to any right of termination, cancellation or acceleration), under any of the terms, conditions or provisions of any Contract to which Buyer is a party or by which Buyer or any of its assets may be bound, except for such defaults (or rights of termination, cancellation or acceleration) as to which requisite waivers or consents have been obtained or which would not, individually or in the aggregate, have Material Adverse Effect, or (iii) violate any Laws applicable to Buyer, which violations, individually or in the aggregate, would create a Material Adverse Effect.

(b) Except as set forth in Schedule 5.3(b) (the Permits referred to in such Schedule are collectively referred to as the ***"Buyer's Required Regulatory Approvals"***), no Permit is necessary for the consummation by Buyer of the transactions contemplated hereby. Buyer has no Knowledge of any facts or circumstances that make it reasonably likely that Buyer's Required Regulatory Approvals will not be obtained.

Section 5.4 Availability of Funds.

Buyer currently has sufficient funds available to it through corporate funds, credit facilities and access to capital markets to provide sufficient funds to pay the Purchase Price on the Closing Date and to enable Buyer to timely perform all of its obligations under this Agreement.

Section 5.5 Legal Proceedings.

Except as set forth in Schedule 5.5, there are no claims or Actions pending or, to Buyer's Knowledge, threatened against (i) Buyer that seek to enjoin, prohibit, restrain or make illegal the performance of this Agreement, the Reliability Call Agreement or any of the OUC-FPL PPAs or Ancillary Agreements or the consummation of any of the transactions contemplated hereby or thereby.

Section 5.6 Certain Agreements.

The form of agreement attached as Exhibit K hereto is Buyer's form of pole attachment agreement with Governmental Authorities that is applicable on the Effective Date. The form of agreement attached as Exhibit J hereto is Buyer's form of street lighting agreement that is applicable on the Effective Date.

ARTICLE VI
COVENANTS OF THE PARTIES

Section 6.1 Conduct of Business Relating to the Acquired Assets.

(a) Seller retains the exclusive responsibility for safe operation of the Vero Beach Electric Utility until the Closing, and nothing in this Agreement shall in any way alter the Seller's duties or obligations under any Law or Permit. Except as described in Schedule 6.1(a), during the period from the Effective Date to the Closing Date (the ***"Interim Period"***), Seller shall (i) operate and maintain the Acquired Assets in the ordinary course consistent with Seller's Past Practices (taking into account the Vero Beach Power Plant Expectations) and the Capital Expenditure and Maintenance Plan and conduct the Business of the Vero Beach Electric Utility in the ordinary course consistent with Seller's Past Practices (taking into account the Vero Beach Power Plant Expectations) and the Capital Expenditure and Maintenance Plan, (ii) use Commercially Reasonable Efforts to preserve and protect in all material respects the Acquired Assets, taking into account the Vero Beach Power Plant Expectations, (iii) maintain the Transferable Permits and (iv) comply with all applicable Laws and Permits relating to the Acquired Assets or the Business of the Vero Beach Electric Utility. Without limiting the generality of the foregoing, and, except as contemplated in this Agreement or as described in Schedule 6.1(a), during the Interim Period, without the prior written consent of Buyer (unless such consent would be prohibited by Law), Seller shall not do any of the following with respect to the Acquired Assets:

(i) sell, transfer, remove, assign, convey, distribute or otherwise dispose of, any Acquired Assets unless such action is consistent with the Capital Expenditure and Maintenance Plan; provided, that, if capital expenditures and/or maintenance with respect to a specific Acquired Asset is not covered in the Capital Expenditure and Maintenance Plan, such Acquired Asset may be sold, transferred, removed, assigned, conveyed, distributed or otherwise disposed of in the ordinary course of the Business of the Vero Beach Electric Utility consistent with Seller's Past Practices;

(ii) except for Permitted Encumbrances (including amendments and/or replacements to the Permitted Encumbrances), create, permit or allow any Encumbrances to be imposed on or against any of the Acquired Assets;

(iii) grant any waiver of any material term under, exercise any material option under, or give any material consent with respect to any Real Property Interest Instrument, Seller Executed Ancillary Agreement, Assumed Contract, Intellectual Property License or Material Seller Contract, including waiving any material default by, or release, settle or compromise any material claim against, any other party thereto;

(iv) enter into, amend or voluntarily terminate prior to the expiration date thereof (i) any Real Property Interest Instrument, Seller Executed Ancillary Agreement, Assumed Contract, Intellectual Property License or Transferable Permit or (ii) any Material Seller Contract (other than Contracts that will be fully performed prior to Closing and that are entered into in the ordinary course of the Business of the Vero Beach Electric Utility consistent

with Seller's Past Practices (taking into account the Vero Beach Power Plant Expectations) and the Capital Expenditure and Maintenance Plan);

(v) amend in any material respect or cancel any property, liability or casualty insurance policies related to the Acquired Assets or the Business of the Vero Beach Electric Utility, or fail to maintain such insurance policies with current insurance companies who have issued such policies, their successors, or other financially responsible insurance companies in such amounts and against such risks and losses as are customary for such assets and businesses consistent with Seller's Past Practices;

(vi) except as required by any Law or accounting principles generally accepted in the United States, change, in any material respect, its Tax practice or policy (including making new Tax elections or changing Tax elections and settling Tax controversies not in the ordinary course of the Business of the Vero Beach Electric Utility) to the extent such change or settlement would be binding on Buyer;

(vii) take any action, fail to take any action, or enter into any transaction through the Closing that will result or may reasonably be anticipated to result in any misrepresentation or breach of any warranty of Seller hereunder as of the Closing Date;

(viii) settle any claim or Action that results in any obligation imposed on the Acquired Assets that could reasonably be likely to continue past the Closing Date;

(ix) (a) hire any individual (other than to replace any Seller Employee who may have resigned or have been terminated); or (b) increase the compensation or benefits payable to any Seller Employee, except as required under Seller Collective Bargaining Agreements;

(x) enter into or amend any Contract that (A) binds Buyer to adopt and/or implement the terms of any Seller Collective Bargaining Agreement (or any portion thereof) or (B) obligates Buyer to treat with or recognize any union; or

(xi) agree or commit to do any of the foregoing.

(b) During the Interim Period, in the interest of cooperation between Seller and Buyer and to perform diligence on the transactions contemplated hereunder (including the representations and warranties of Seller hereunder) and to plan for and facilitate an orderly and seamless transition from Seller to Buyer on the Closing Date of ownership and operation of the Acquired Assets and the Business of the Vero Beach Electric Utility, the Parties agree that at the sole expense of Buyer, and subject to compliance with all applicable Laws and Permits, Seller will permit designated Representatives of Buyer (***"Observers"***) to observe any and all aspects of the Business of the Vero Beach Electric Utility, and such observation will be permitted on a cooperative basis in the presence of one or more individuals designated by Seller (the "***Seller's Agent(s)"***); provided, however, that such Observers and their actions shall not interfere with the Business of the Vero Beach Electric Utility. Seller shall use Commercially Reasonable Efforts to provide to the Observers interim furnished office space and utilities at the Vero Beach Power Plant and Seller's T&D center, as reasonably necessary to allow Buyer to conduct its efforts

through the Closing Date; provided that Buyer shall be responsible for all of its costs relating thereto.

Section 6.2 Access to Information; Reporting.

(a) In addition to the rights granted by Sections 6.1(b), during the Interim Period, in the interest of cooperation between Seller and Buyer and to perform diligence on the transactions contemplated hereunder (including the representations and warranties of Seller hereunder) and to plan for and facilitate an orderly and seamless transition from Seller to Buyer on the Closing Date of ownership and operation of the Acquired Assets and the Business of the Vero Beach Electric Utility, Seller will (i) give Buyer and Buyer's Representatives reasonable access to (x) all management personnel engaged in the Business of the Vero Beach Electric Utility, (y) all books, documents, records and information (including financial and operating data and Permits, reports, schedules or other documents filed with or received from any Governmental Authority) relating to the Acquired Assets or the Business of the Vero Beach Electric Utility and furnish copies thereof as Buyer may from time to time reasonably request (z) all offices and other facilities and properties constituting the Acquired Assets or used in the Business of the Vero Beach Electric Utility; and (ii) permit Buyer and Buyer's Representatives to make such reasonable inspections thereof as Buyer may reasonably request; provided, however, that (A) any such investigation shall be conducted in such a manner as not to interfere unreasonably with the Business of the Vero Beach Electric Utility and (B) Seller need not supply Buyer with any information that Seller is legally prohibited from supplying.

(b) During the Interim Period, promptly after obtaining Knowledge thereof, Seller shall notify Buyer in writing of, (i) any fact, event, circumstance or condition that would reasonably be expected to have a Material Adverse Effect, (ii) any material unanticipated maintenance or repair of any of the Acquired Assets, (iii) any material emergency condition affecting, or material unscheduled interruption of, the operation of any of the Acquired Assets or the Business of the Vero Beach Electric Utility, or (iv) any receipt of a notice of a violation of any Law or Permit relating to the Acquired Assets or the Business of the Vero Beach Electric Utility.

(c) Within thirty (30) days after the Effective Date, Seller shall provide to Buyer true, complete and un-redacted copies of all Assumed Contracts, Intellectual Property Licenses, Transferable Permits and Material Seller Contracts and Seller shall provide an update thereto between sixty (60) and ninety (90) days prior to Closing.

Section 6.3 Expenses.

Except to the extent specifically provided herein, whether or not the transactions contemplated hereby are consummated, all costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby, including the cost of legal, technical and financial consultants, shall be borne by the Party incurring such costs and expenses; provided, however, that Buyer will bear the cost of filing for and prosecuting applications for Buyer's Required Regulatory Approvals.

Section 6.4 Further Assurances; Cooperation

(a) Subject to the terms and conditions of this Agreement, each of the Parties hereto will take, or cause to be taken, all action, and to do, or cause to be done, all things necessary, proper or advisable under applicable Laws to consummate and make effective the sale, transfer, conveyance, assignment and delivery of the Acquired Assets and the assignment of the Assumed Liabilities and the exclusion of the Excluded Liabilities pursuant to this Agreement, including, without limitation, ensuring satisfaction of the conditions precedent to each Party's obligations hereunder, including, without limitation, all regulatory approvals. To the extent that authorized representatives of the Parties determine that the implementation of any covenant or obligation under this Agreement of a Party is not consistent with, or may be likely to impede, the satisfaction of the conditions precedent to a Party's obligations hereunder, including, without limitation, obtaining all regulatory approvals, the Parties may by mutual written agreement (but without need for any amendment of this Agreement) agree to take alternative actions that the Parties determine are necessary or desirable to ensure satisfaction of the conditions precedent to each Party's obligations hereunder or to otherwise ensure consummation of the transactions contemplated by this Agreement. Neither Buyer nor Seller will, without the prior written consent of the other, advocate or take any action which would reasonably be expected to prevent or materially impede, interfere with or delay the transactions contemplated by this Agreement or which could reasonably be expected to cause, or to contribute to causing, the other to receive less favorable regulatory treatment than that sought by the other.

(b) From time to time after the Closing Date, Seller will execute and deliver such documents to Buyer as Buyer may reasonably request, at Buyer's expense, in order to more effectively consummate the sale and purchase, including the transfer, conveyance and assignment, of the Acquired Assets or to more effectively vest in Buyer such title to the Acquired Assets (or such rights to use, with respect to Acquired Assets not owned by Seller), as is provided for in Section 4.7, subject to the Permitted Encumbrances. From time to time after the Closing Date, without further consideration, Buyer will, at its own expense, execute and deliver such documents to Seller as Seller may reasonably request in order to evidence Buyer's assumption of the Assumed Liabilities.

(c) Without limiting the generality of the foregoing, and without limiting any of the other assets to be transferred hereunder, Seller, in consideration of payment of the Purchase Price and without further consideration, will make available to Buyer all of Seller's rights under any real property, deed, easement, right of way, permit, lease, license or franchise (collectively, the "***Rights of Way***") reasonably necessary for the Business of the Vero Beach Electric Utility or the operation or maintenance of the Acquired Assets by Buyer after the Closing Date. If any claim is made challenging Buyer's entitlement to such Rights of Way, at Buyer's option, Seller shall cooperate with Buyer, at Buyer's expense to the extent that any payments are required to be made to any third parties in connection therewith, to make available an alternative Right of Way reasonably adequate and acceptable to Buyer.

(d) Seller and Buyer agree to fully support execution of the District Licenses and the District Sublicenses in the forms attached hereto as Exhibits P and Q during the approval process thereof by the District. If the District does not approve one or more provisions of the District Licenses or the District Sublicenses in the forms attached hereto in Exhibits P and Q,

then the Parties agree to negotiate in good faith to finalize and obtain approval from the District of revised terms for each unacceptable provision and each other provision affected thereby (but not any of the other provisions) that will give effect, to the fullest extent possible, to the original intention of the Parties as reflected in Exhibits P and Q.

(e) Seller and Buyer agree to fully support execution of the Dark Fiber License Agreement in the form attached hereto as Exhibit L-1 during the approval process thereof by Indian River County and the School District of Indian River County. If Indian River County or the School District of Indian River County does not approve one or more provisions of the Dark Fiber License Agreement in the form attached hereto in Exhibit L-1, then the Parties agree to negotiate in good faith to finalize and obtain approval from Indian River County and the School District of Indian River County of revised terms for each unacceptable provision and each other provision affected thereby (but not any of the other provisions) that will give effect, to the fullest extent possible, to the original intention of the Parties as reflected in Exhibit L-1. To the extent that any of the Fiber Optic System that is attached to Acquired Assets is owned individually by Indian River County or the School District of Indian River County or jointly between any of them and/or with Seller, Seller and Buyer agree to fully support execution of one or more Pole Attachment Agreements for Seller Fiber Optic System in the form attached hereto as Exhibit K, between Buyer and the owner of each segment of such Fiber Optic System during the approval process thereof by Indian River County and the School District of Indian River County, as applicable. Any such Pole Attachment Agreement for Seller Fiber Optic System to which Indian River County and/or the School District of Indian River County is a party and to which Seller is also a party shall be deemed an Ancillary Agreement.

(f) Seller and Buyer agree to fully support execution of the Airport Substation Lease Agreements in the forms attached hereto as Exhibits I-1A and I-1B and Capital Leases (if any) in the form attached hereto as Exhibit O relating to the lease of assets on Airport property during the approval process thereof, if any, by the FAA or FDOT, including rent as set forth in the definitions of the Airport Substation Lease Agreements. If FAA or FDOT approval of any Airport Substation Lease Agreement or any Capital Lease relating to the lease of assets on Airport property is required by applicable Law or by the provisions of any applicable contract with or grant from the FAA or FDOT and the FAA or FDOT, as applicable, does not approve one or more provisions of the Airport Substation Lease Agreements (including approval of the rent amounts) in the forms attached hereto in Exhibit I-1A or I-1B or a Capital Lease (if any) in the form attached hereto as Exhibit O relating to the lease of assets on Airport property, then the Parties agree to negotiate in good faith to finalize and obtain approval from the FAA or FDOT, as applicable, of revised terms for each unacceptable provision and each other provision affected thereby (but not any of the other provisions) that will give effect, to the fullest extent possible, to the original intention of the Parties as reflected in Exhibits I-1A, I-1B or O, as applicable. For the avoidance of doubt, if the FAA or FDOT are required by applicable Law or by the provisions of any applicable contract with or grant from the FAA or FDOT to approve an Airport Substation Lease Agreement or a Capital Lease relating to the lease of assets on Airport property, Seller shall not be obligated to execute such Airport Substation Lease Agreement or a Capital Lease relating to lease of assets on Airport property, unless the form thereof has been approved by the FAA or FDOT, as applicable.

(g) Seller and Buyer agree to fully support execution of the Airport Warehouse Lease Agreement in the form attached hereto as Exhibit I-2 during the approval process thereof, if any, by the FAA or FDOT, including rent as set forth in Section 2.6. If Buyer exercises the Airport Warehouse Lease Agreement Option and if FAA or FDOT approval of the Airport Warehouse Lease Agreement is required by applicable Law or by the provisions of any applicable contract with or grant from the FAA or FDOT and the FAA or FDOT, as applicable, does not approve one or more provisions (including rent as set forth in Section 2.6) of the Airport Warehouse Lease Agreement in the form attached hereto in Exhibit I-2, then the Parties agree to negotiate in good faith to finalize and obtain approval from the FAA or FDOT, as applicable, of revised terms for each unacceptable provision and each other provision affected thereby (but not any of the other provisions) that will give effect, to the fullest extent possible, to the original intention of the Parties as reflected in Exhibit I-2. For the avoidance of doubt, if the FAA or FDOT are required by applicable Law or by the provisions of any applicable contract with or grant from the FAA or FDOT to approve the Airport Warehouse Lease Agreement, Seller shall not be obligated to execute such Airport Warehouse Lease Agreement, unless the form thereof has been approved by the FAA or FDOT, as applicable.

(h) Within thirty (30) days after the Effective Date, Seller and Buyer agree to negotiate and finalize a form of lease agreement for Buyer's use of the Grounding Equipment in grounding certain of the Acquired Assets as determined by Buyer ("***Form of Grounding Lease Agreement***"). Upon agreement by the Parties on the Form of Grounding Lease Agreement, the agreed upon Form of Grounding Lease Agreement shall automatically be attached hereto as Exhibit Y hereto. The Form of Grounding Lease Agreement shall (i) have a term of 99 years (and may be extended at FPL's discretion), (ii) prohibit the removal of the Grounding Equipment without Buyer's consent, (iii) provide a transfer of title to any Grounding Equipment upon the owner of such Grounding Equipment ceasing to provide fiber optic services, (iv) upon transfer to a third party of title to any of the Grounding Equipment, require the assignment of the Grounding Lease Agreement to such owner, and (iv) have a price of a one-time lease payment of ten dollars ($10). To the extent that any of the Grounding Equipment is owned individually by Indian River County or the School District of Indian River County or jointly between any of them and/or with Seller, Seller and Buyer agree to fully support execution of one or more Grounding Lease Agreements, in the form of the Form of the Grounding Lease Agreement, between Buyer and the owner of each segment of such Fiber Optic System during the approval process thereof by Indian River County and the School District of Indian River County, as applicable. Any such Grounding Lease Agreement to which Indian River County and/or the School District of Indian River County is a party and to which Seller is also a party shall be deemed an Ancillary Agreement.

Section 6.5 Public Statements.

(a) Any document submitted by a Party to the other under this Agreement or during the negotiation of this Agreement or any Ancillary Agreements (***"Public Document"***) will be a public record (as defined in Section 119.011, Florida Statutes) and may be open for inspection or copying by any person or entity except to the extent such document or certain information included in such document is exempted under Chapter 119, Florida Statutes. Buyer

may claim that certain information included in one or all of the Public Documents is, or has been treated as, being exempt from disclosure in accordance with Florida law. In the event that Seller is requested or required by legal or regulatory authority to disclose any Public Document, Seller shall within three (3) days notify Buyer of such request or requirement prior to disclosure so that Buyer may seek an appropriate protective order if Buyer believes certain information included in such Public Document is exempt from disclosure under Florida law. To the extent reasonably possible and permissible under Florida law, Seller shall endeavor to provide redacted versions of documents, upon request of Buyer if Seller reasonably agrees with Buyer's assertion that certain information included in such Public Document is exempt from public disclosure under Florida law.

(b) The Parties shall not issue any press release or other public disclosure with respect to this Agreement or the transactions contemplated hereby without first affording the non-disclosing Party the opportunity to review and comment on such press release or public disclosure, except for disclosure made in order to comply with applicable Law or stock exchange rules.

Section 6.6 Consents; Approvals.

(a) As promptly as practicable after the Effective Date, Seller and Buyer agree to negotiate and finalize a form of agreement ("***NERC Responsibility Agreement***"), documenting Buyer's agreement to have NERC compliance responsibility with respect to the Acquired Assets that are the subject of any Capital Leases, except that Buyer will not have such responsibility with respect to violations relating to the condition of, or Seller's ownership, use or operation of, the Acquired Assets prior to the Closing. Upon agreement by the Parties on the NERC Responsibility Agreement, the agreed upon NERC Responsibility Agreement shall automatically be attached hereto as Exhibit Z hereto. At least ninety (90) days prior to Closing, Buyer and Seller shall establish a joint registration organization (JRO) per the effective Rules of Procedure of NERC, Section 500 and Appendix 5A, by submitting a Change in Registration Form and the NERC Responsibility Agreement (each executed by Buyer and Seller) to the Florida Reliability Coordination Council (FRCC) for FRCC approval and subsequent submittal to NERC.

(b) As promptly as practicable after the Effective Date, Buyer and Seller, as applicable, shall make the filings listed on Schedule 6.6(b). In fulfilling their respective obligations under this Section 6.6(b), Buyer and Seller shall each use Commercially Reasonable Efforts to lodge or cause to be lodged any such filings within thirty (30) days after the Effective Date. Prior to any Party's submission of the applications contemplated by this Section 6.6(b), the submitting Party shall provide a draft of such application to the other Parties for review and comment and the submitting Party shall in good faith consider any revisions reasonably requested by the reviewing Parties. Each Party will bear its own costs for the preparation and review of any such filings.

(c) As promptly as practicable after the Effective Date, but no later than thirty (30) days after Seller supplies to Buyer all of the information regarding Seller that is required to be included in the application described in this Section 6.6(c), Buyer shall file with FERC, an application for approval of this transaction under Section 203 of the Federal Power Act. Seller

shall promptly provide Buyer any information requested in regards to such application. In fulfilling their respective obligations set forth in this Section 6.6(c), Seller and Buyer shall use their Commercially Reasonable Efforts. Prior to Buyer's submission of such application with FERC, Buyer shall submit such application to Seller for review and comment and Buyer shall consider any revisions reasonably requested by Seller. Seller and Buyer shall respond promptly to all requests from FERC or its staff for additional information regarding such application and use their respective Commercially Reasonable Efforts to participate in any hearings, settlement proceedings or other proceedings ordered by FERC with respect to the application. Buyer shall be solely responsible for the cost of filing this application, any petition(s) for rehearing, or any reapplication(s). Seller shall intervene in the proceeding before FERC and shall support the application. Each Party will bear its own costs of the review of such filings.

(d) Buyer will have primary responsibility for securing approval of the FPSC for: (i) authority under Rule 25-9.044, Florida Administrative Code, to charge Buyer's existing retail electric rates to former Customers of the Vero Beach Electric Utility; (ii) termination of the territorial agreement between Buyer and the Vero Beach Electric Utility; and (iii) any other matters for which approval of the FPSC is determined by Buyer to be necessary or advisable to consummate the transactions contemplated by this Agreement. Prior to Buyer's submission of any application for such approval by the FPSC, Buyer shall submit such application to Seller for review and comment and Buyer shall consider any revisions reasonably requested by Seller. Seller and Buyer shall respond promptly to all requests from the FPSC or its staff for additional information regarding such application and use their respective Commercially Reasonable Efforts to participate in any hearings, settlement proceedings or other proceedings ordered by the FPSC with respect to the application. Buyer shall be solely responsible for the cost of filing this application, any petition(s) for rehearing, or any reapplication(s). Seller shall intervene in any proceeding before the FPSC and shall support the application. Each Party will bear its own costs of the review of such filings.

(e) Seller and Buyer shall cooperate with each other and, as promptly as practicable after the Effective Date, (i) prepare and make with FERC, the Federal Communications Commission or any other Governmental Authority having jurisdiction over Seller, Buyer or the Acquired Assets, all necessary filings required to be made with respect to the transactions contemplated hereby (including those specified above), (ii) effect all necessary applications, notices, petitions and filings and execute all agreements and documents, (iii) use Commercially Reasonable Efforts to obtain the transfer or reissuance to Buyer of all necessary Transferable Permits, and (iv) use Commercially Reasonable Efforts to obtain all necessary consents, approvals and authorizations of all other parties; in the case of each of the foregoing clauses (i), (ii), (iii) and (iv), necessary or advisable to consummate the transactions contemplated by this Agreement (including, without limitation, Buyer's Required Regulatory Approvals). The Parties shall respond promptly to any requests for additional information made by such agencies, use their respective Commercially Reasonable Efforts to participate in any hearings, settlement proceedings or other proceedings ordered with respect to the applications, and use their respective Commercially Reasonable Efforts to cause regulatory approval to be obtained at the earliest possible date after the date of filing. Each Party will bear its own costs of the preparation and review of any such filing. Seller and Buyer shall have the right to review in advance all characterizations of the information relating to the transactions contemplated by this Agreement which appear in any filing made in connection with the transactions contemplated

hereby and the filing Party shall consider in good faith any revisions reasonably requested by the non-filing Party.

(f) Buyer shall have the primary responsibility for securing the transfer, reissuance or procurement of the Transferable Permits effective as of the Closing Date, and for those Transferable Permits that may not be transferred or reissued until after the transfer of ownership of the Acquired Assets, promptly after the Closing Date. Seller shall cooperate with Buyer's efforts in this regard and assist in any transfer or reissuance of Transferable Permits held by Seller or the procurement of any other Permit when so requested by Buyer, even after the Closing Date. In the event that Buyer is unable, despite its Commercially Reasonable Efforts, to obtain a transfer or reissuance of one or more of the Transferable Permits as of the Closing Date, Buyer may use the applicable Permit issued to Seller, provided (i) such use is not unlawful, (ii) Buyer continues to make Commercially Reasonable Efforts to obtain a transfer or reissuance of such Permit after the Closing Date, and (iii) Buyer indemnifies Seller for any losses, claims or penalties suffered by Seller in connection with such Permit that is not transferred or reissued as of the Closing Date resulting from Buyer's ownership or operation of the Acquired Assets following the Closing Date.

Section 6.7 Brokerage Fees and Commissions.

Seller and Buyer each represent and warrant to the other that no broker, finder or other Person is entitled to any brokerage fees, commissions or finder's fees in connection with the transaction contemplated hereby by reason of any action taken by the Party making such representation. Seller and Buyer will pay to the other or otherwise discharge, and will hold the other harmless from and against, and will pay, reimburse or fully compensate as the primary obligor the other for, any and all claims or liabilities for all brokerage fees, commissions and finder's fees incurred by reason of any action taken by the Party breaching its representation and warranty hereunder.

Section 6.8 Tax Matters.

(a) Seller and Buyer shall each pay any Transfer Taxes imposed on it by Law in connection with this Agreement and the transactions contemplated hereby. Buyer and Seller will file, to the extent required by applicable Law, all necessary Tax Returns and other documentation with respect to all such Transfer Taxes, and, if required by applicable Law, will each join in the execution of any such Tax Returns or other documentation.

(b) Buyer shall prepare and timely file all Tax Returns required to be filed after the Closing Date with respect to the Acquired Assets, if any, and shall duly and timely pay all such Taxes shown to be due on such Tax Returns. Buyer's preparation of any such Tax Returns shall be subject to Seller's approval (not to be unreasonably withheld, delayed or conditioned) to the extent that such Tax Returns include Pre-Closing Taxes for which Seller is responsible pursuant to this Agreement. Buyer shall make such Tax Returns and all schedules and working papers supporting such Tax Returns available for Seller's review and approval no later than thirty (30) Business Days prior to the due date for filing such Tax Return. Seller shall provide Buyer with any comments on the reporting of Pre-Closing Taxes shown in the Tax Return no later than ten (10) Business Days prior to the due date for filing such Tax Return, and Buyer

shall incorporate all such comments in the Tax Return unless and to the extent that Buyer determines such comments are incorrect or unreasonable. Subject to Section 6.8(d), not less than five (5) Business Days prior to the due date of any such Tax Return, Seller shall pay to Buyer any Pre-Closing Taxes shown on such Tax Return. Except for matters described in Section 3.5, in the event Buyer and Seller cannot agree as to the preparation or the reporting of any material Pre-Closing Taxes on a Tax Return to be filed by Buyer, the dispute shall be settled in the manner provided by Section 6.8(d) and the cost of such Independent Accounting Firm shall be borne equally by the Parties; provided, that if the Independent Accounting Firm has not made a determination as of the date that such Tax Return is required to be filed, such Tax Return required to be filed by Buyer may be filed by Buyer in a manner consistent with Buyer's position, and such Tax Return required to be filed by Seller may be filed by Seller in a manner consistent with Seller's position; provided, further, that with respect to any such Tax Return that is filed prior to a determination by the Independent Accounting Firm, Seller and Buyer shall take all commercially reasonable steps to amend such Tax Return, if necessary, to reflect any material determination made by the Independent Accounting Firm.

(c) Each of the Parties shall provide the other with such assistance as may reasonably be requested by the other Party in connection with the preparation of any Tax Return, any audit or other examination by any taxing authority, or any judicial or administrative proceedings relating to Liability for Taxes or effectuating the terms of this Agreement, and each will retain and provide the requesting Party with any records or information which may be relevant to such return, audit or examination, proceedings or determination. Any information obtained pursuant to this Section 6.8(c) or pursuant to any other Section hereof providing for the sharing of information or review of any Tax Return or other schedule relating to Taxes shall be kept confidential by the Parties hereto, except to the extent such information is required to be disclosed by Law.

(d) Except for matters described in Section 3.5, in the event that a dispute arises between Seller and Buyer as to the preparation or the reporting on a Tax Return to be filed by one Party of any material Tax for which the other Party would be liable pursuant to this Agreement, or as to the allocation of the responsibility for any Tax between Seller and Buyer, the Parties shall attempt in good faith to resolve such dispute, and any agreed amount shall be paid to the appropriate Party within ten (10) Business Days of the date on which the Parties reach agreement. If a dispute is not resolved within thirty (30) days of a Party having provided the other Party written notice of a dispute, the Parties shall submit the dispute for determination and resolution to the Independent Accounting Firm, which shall be instructed to determine and report to the Parties in writing, within thirty (30) days after such submission, upon such disputed amount, and such written report shall be final, conclusive and binding on the Parties. The Independent Accounting Firm shall act as an expert and not as an arbitrator and shall make findings only with respect to the remaining disputes so submitted to it (and not by independent review). Notwithstanding anything in this Agreement to the contrary, the fees and expenses of the Independent Accounting Firm in resolving the dispute shall be borne equally by Buyer and Seller. Any payment required to be made as a result of the resolution of the dispute by the Independent Accounting Firm shall be made within ten (10) days after such resolution, together with any interest determined by the Independent Accounting Firm to be appropriate. Submission of a dispute to the Independent Accounting Firm shall not relieve any Party from any obligation under this Agreement to timely file a Tax Return or pay a Tax.

Section 6.9 Updating Disclosure Schedules.

Prior to the Closing Date, Seller shall promptly (but no later than thirty (30) days after obtaining Knowledge thereof) notify Buyer of any changes or additions to the Schedules required by this Agreement with respect to any matter hereafter arising which, if existing or occurring at the date of this Agreement, would have been required to be set forth or described in such Schedules. No notice made pursuant to this Section shall be deemed to cure any breach of any representation or warranty made in this Agreement unless the Parties agree thereto in writing.

Section 6.10 Employees.

(a) Buyer shall offer employment commencing as of the Closing Date to all Seller Employees whose primary work responsibilities are with respect to the Acquired Assets and who are actively employed as of the Closing Date, which Seller Employees are set forth on Schedule 6.10(a) by position. Notwithstanding the foregoing, Buyer shall not be required to offer employment to any Seller Employees who were previously terminated for cause by Buyer or any of its Affiliates. The Parties shall cooperate in preparation of communications materials applicable to Transferred Employees. Seller agrees to provide to Buyer, within ten (10) Business Days following receipt of a request from Buyer at any time and from time to time during the Interim Period and at Closing, a complete list of Seller Employees by name and by position.

(b) Except as Buyer and any Unrepresented Transferred Employee or Converted Represented Transferred Employee may otherwise mutually agree and subject to Buyer's employee policies and procedures, for the period commencing on the Closing Date and ending twenty-four (24) months thereafter, Buyer shall provide Unrepresented Transferred Employees and Converted Represented Transferred Employees with Total Compensation which in the aggregate is comparable to the Total Compensation provided to similarly situated Buyer's employees. Notwithstanding the foregoing, Unrepresented Transferred Employees and Converted Represented Transferred Employees shall be granted a pension benefit under the Buyer's Retirement Plan (as defined below) as set forth in Section 6.10(f) below.

(c) Except as otherwise negotiated by the Buyer and the Union Representative and subject to any applicable collective bargaining agreement applicable to Buyer's employees and Buyer's employee policies and procedures, for the period commencing on the Closing Date and ending twenty-four (24) months thereafter, Buyer shall provide Represented Transferred Employees and Converted Unrepresented Transferred Employees with employment, Total Compensation and terms and conditions of employment as negotiated with the Union Representative.

(d) As of the Closing Date, all Transferred Employees shall cease to be eligible for active participation in the Seller Benefit Plans and shall commence participation (if applicable eligibility requirements are satisfied) in the Benefit Plans of Buyer, its ERISA Affiliates or, if applicable, the benefit plans negotiated by the Union Representative (***"Buyer Benefit Plans"***).

(e) Except as otherwise negotiated by the Buyer and the Union Representative,

with respect to Buyer Benefit Plans that are self-funded employee welfare benefit plans as defined in Section 3(1) of ERISA, Buyer shall (i) waive all waiting periods with respect to the Transferred Employees and (ii) provide each Transferred Employee with credit for any co-payments and deductibles for claims incurred during the plan year of the applicable Buyer Benefit Plan in which the Closing Date falls. Seller will use its reasonable best efforts to provide sufficient information to enable Buyer to provide such credits for co-payments and deductibles. To the extent Seller fails to provide such sufficient information, each Transferred Employee shall be responsible for providing written evidence to enable Buyer to provide accurate credit for such co-payments and deductibles.

(f) Except as otherwise negotiated by the Buyer and the Union Representative, all Transferred Employees shall be granted credit for all service with Seller under all Buyer Benefit Plans in which such Transferred Employees become participants for purposes of eligibility, vesting and service related level (except for purposes of qualifying for retiree welfare benefits and benefit accrual under the Buyer Retirement Plan as defined below).

(i) Buyer shall assume the obligation and liability for the Accrued Frozen Pension Benefit (as defined below) for all of the Transferred Employees (the "***Assumed Pension Liability***"). Except as otherwise negotiated by the Buyer and the Union Representative, effective as of the Closing Date, Buyer shall amend its tax-qualified defined benefit plan ("***Buyer Retirement Plan***") to provide each Transferred Employee with a vested benefit equal to a Transferred Employee's accrued benefit under the Seller Defined Benefit Plan as of the Closing Date calculated pursuant to the defined benefit formula applicable to each such Transferred Employee existing on the Effective Date and counting all service with the Seller for purposes of eligibility, benefit accrual, early retirement or any retirement-type subsidy or ancillary benefit through the Closing Date ("***Accrued Frozen Pension Benefit***") provided that the Accrued Frozen Pension Benefit of any Transferred Employee shall not include any duplication of benefits provided under Seller Defined Benefit Plan or any portion of any retirement benefit calculated pursuant to a defined contribution formula which may be adopted by Seller as contemplated under Section 4.12. The Accrued Frozen Pension Benefit for each Transferred Employee shall include (A) all optional forms of benefits under the Buyer Retirement Plan and Seller Defined Benefit Plan other than (1) the 10% lump sum option described in Section 6.2(C) of the Seller Defined Benefit Plan, and (2) the distribution of employee contributions as described in Section 7.2 of the Seller Defined Benefit Plan, (B) a disability benefit corresponding to the disability benefit under Article 8 of the Seller Defined Benefit Plan (if eligible), and (C) a death benefit corresponding to the death benefit under Article 9 of the Seller Defined Benefit Plan (if eligible). Seller will provide records to Buyer within ninety (90) days following the Closing Date setting forth detailed calculations of each Transferred Employee's Accrued Frozen Pension Benefit under the Seller Defined Benefit Plan as of the Closing Date, and will provide (or ensure that any third party administrator, if applicable, provides) upon Buyer's reasonable request copies of pension calculations for any distributions to Transferred Employees, including distributions of employee contributions under Seller's Defined Benefit Plan, to facilitate the Buyer Retirement Plan administrator to perform appropriate calculations to reflect that no duplication of benefit ensues with regard to the Seller Defined Benefit Plan. For the avoidance of doubt, in the event that a Transferred Employee receives a distribution of employee contributions under the Seller Defined Benefit Plan, pursuant to Section 7.3 of the Seller Defined Benefit Plan, no benefit shall be payable under Buyer's Retirement Plan (other than the benefit attributable to

the cash balance formula that accrues prospectively to such Transferred Employee commencing on the Closing Date set forth in subsection (ii) below).

(ii) Effective as of the Closing Date, except as otherwise negotiated by the Buyer and the Union Representative, Transferred Employees prospectively shall accrue pension benefits under the Buyer Retirement Plan cash balance formula on terms and conditions applicable to similarly situated Buyer employees. Notwithstanding the foregoing, effective as of the Closing Date and except as otherwise negotiated by the Buyer and the Union Representative, Transferred Employees will accrue pension credits at the same level as nonbargaining eligible employees of Buyer who have attained at least five years of service.

(g) Seller shall be responsible for extending COBRA continuation coverage, or its equivalent, to former Seller Employees and qualified beneficiaries of such former Seller Employees who become or became entitled to such COBRA continuation coverage on or before the Closing Date by reason of the occurrence of a qualifying event on or before the Closing Date, including those for whom the Closing Date occurs during their COBRA election period. Buyer shall be responsible for providing COBRA continuation coverage only to Transferred Employees and qualified beneficiaries of Transferred Employees for COBRA qualifying events occurring after the Closing Date.

(h) Seller shall remain responsible for paying Transferred Employees for: (a) all salary, wages, and Seller Benefit Plan benefits (other than the Assumed Pension Liability), and (b) all workers' compensation, disability benefits, or life insurance benefits for which entitlement to payment is based upon events occurring on or prior to the Closing Date including any incurred but unreported claims under the Seller Benefit Plans. Except as otherwise negotiated by the Buyer and the Union Representative, Buyer will assume liability for all floating holidays, sick days, vacation days and personal days of each Transferred Employee that have accrued but remain unused or unpaid by such Transferred Employee as of the Closing Date up to the accrual limits therefor under Buyer's employee policies and procedures for similarly situated employees of Buyer.

(i) Any individual who is otherwise a Transferred Employee but who on the Closing Date is not actively at work due to a leave of absence covered by the Family and Medical Leave Act or similar state or local Law, short-term disability or any other authorized leave of absence and who does not return to active-at-work status within 30 days of Closing, shall remain an employee of Seller and shall not become a Transferred Employee until such time as he or she returns to active-at-work status.

Section 6.11 Risk of Loss; Insurance.

(a) On or prior to the Closing, Buyer shall not bear any risk of loss or damage to the property included in the Acquired Assets. For the avoidance of doubt, the risk of loss or damage to the property included in the Acquired Assets shall not pass to Buyer until the actual time of the Closing, notwithstanding the effective time specified in Section 3.1. Seller shall replace or repair any damage to the Acquired Assets consistent with Seller's Past Practices (taking into account the Vero Beach Power Plant Expectations) and the Capital Expenditure and Maintenance Plan, except as otherwise provided in paragraphs (b) or (c) below.

(b) If, before the Closing, all or any portion of the Acquired Assets is taken by eminent domain or is the subject of a pending taking which has not been consummated, Seller shall notify Buyer promptly in writing of such fact, and Seller shall replace such portion of the Acquired Assets with reasonably comparable assets (such replacement to be reasonably satisfactory to Buyer), taking into account the Vero Beach Power Plant Expectations. If such replacement is not completed by the Closing, the Purchase Price shall be reduced by the amount of the reasonable cost of such replacement. At Seller's election, the Closing Date shall be extended by the time reasonably necessary for such replacement (not to exceed a six (6) months extension), which Closing Date extension shall also extend the Termination Date to the extent the Closing Date would be extended beyond the Termination Date pursuant to this sentence.

(c) If, before the Closing, all or any portion of the Acquired Assets is damaged or destroyed by fire or other casualty, Seller shall notify Buyer promptly in writing of such fact, and Seller shall cure such damage or destruction to a condition reasonably comparable to their prior condition (such cure to be reasonably satisfactory to Buyer), taking into account the Vero Beach Power Plant Expectations. Buyer and Buyer's Representatives shall be entitled to inspect and observe all aspects of such cure. If such cure is not completed by the Closing, the Purchase Price shall be reduced by the reasonable cost to perform such cure. At Seller's election if a notice of intent to terminate has not been given by Seller pursuant to Section 9.1(i), the Closing Date shall be extended by the time reasonably necessary for such cure (not to exceed a six (6) months extension), which Closing Date extension shall also extend the Termination Date to the extent the Closing Date would be extended beyond the Termination Date pursuant to this sentence.

(d) During the Interim Period, Seller shall continue to pay all premiums for insurance policies described in Schedule 4.9, and Seller shall not amend in any material respect or cancel or fail to maintain any such insurance policies with the current insurance companies or their successors or other financially responsible insurance companies in such amounts and against such risks and losses as are currently maintained. Prior to the Closing Date, Seller shall use Commercially Reasonable Efforts to purchase an extended reporting period of at least three (3) years on all claims-made policies included in Schedule 4.9 to allow for the reporting of any claims that may have taken place prior to the Closing Date that have yet to be reported. After the Closing Date, Seller further agrees to cooperate with Buyer concerning any and all incurred but not reported liability claims that may have taken place prior to the Closing Date covered by Seller's insurance as listed in Schedule 4.9, and Seller agrees to cooperate in the resolution of any pending or disputed property damage claims and shall cause their insurers to do the same.

Section 6.12 Assumed Contracts; Ancillary Agreements.

(a) Seller shall obtain any consents required to assign the Assumed Contracts, the Intellectual Property Licenses and the Transferable Permits to Buyer.

(b) At Closing and effective immediately after Closing, Buyer and Seller shall enter into the Ancillary Agreements. At or prior to Closing, Seller shall enter into each of the Seller Ancillary Agreements and shall cause the other parties thereto to enter into the applicable Seller Ancillary Agreements.

Section 6.13 OUC Agreements and FMPA Entitlements.

(a) As promptly as practicable after the Effective Date but no later than the Closing Date, Seller shall, at Seller's sole cost, cause the satisfaction of each of the following conditions precedent to the extent within its control and use reasonable efforts to cause the satisfaction of each of the following conditions precedent to the extent not within its control:

(i) each condition precedent to the termination of the OUC-Vero Beach PPA set forth in the OUC Termination Agreement; and

(ii) each condition precedent to the transfer and assignment to OUC of Seller's power entitlement shares in the Stanton I, Stanton II and St. Lucie II projects, and assumption by OUC of Seller's post-transfer obligations under the FMPA Agreements (other than the All-Requirements Contract), set forth in the OUC Assignment Agreements and the OUC Transfer Agreements.

(b) [***Reserved***]

(c) As promptly as practicable after the Effective Date but no later than the Closing Date, Seller shall terminate Seller's participation in, and the applicability to Seller of, the All-Requirements Contract as of no later than the Closing Date.

(d) As promptly as practicable after the Effective Date but no later than the Closing Date, Seller shall, at Seller's sole cost, obtain the written consent of FMPA to the assignment of the FMPA Agreements (other than the All-Requirements Contract) to OUC and other consents of FMPA, if any, necessary for the transfer of the applicable Acquired Assets to Buyer, each in form and substance (other than costs) reasonably satisfactory to Seller and Buyer and at costs reasonably foreseeable as of the Effective Date. For the avoidance of doubt, Unforeseen Costs shall be deemed "costs reasonably foreseeable as of the Effective Date" if Buyer agrees to increase the Purchase Price by the amount such Unforeseen Costs.

(e) During the Interim Period, (i) Seller shall continue to comply with and satisfy all of its obligations, if any, under each of the FMPA Agreements, the OUC-Vero Beach PPA, the OUC Termination Agreement, the OUC Assignment Agreements and the OUC Transfer Agreements, and Seller shall not cause or permit any Breach by Seller of any of such Contracts and (ii) Buyer shall perform and fulfill its obligations under the OUC-FPL PPAs.

(f) As promptly as practicable after the Effective Date but no later than the Closing Date, Buyer shall, at Buyer's sole cost, cause the satisfaction of each of the following conditions precedent to the extent within its control and use reasonable efforts to cause the satisfaction of each of the following conditions precedent to the extent not within its control:

(i) each condition precedent to OUC-FPL PPAs; and

(ii) each condition precedent to the Reliability Call Agreement.

Section 6.14 Separation of Seller Assets.

To the extent that the Acquired Assets need to be severed or separated from other Seller property, assets or rights, Seller shall perform and pay for such severance or separation at Seller's cost not to exceed $10,000.

Section 6.15 Franchise Ordinance.

Seller shall adopt the Franchise Ordinance by July 31, 2013.

Section 6.16 Capital Expenditure and Maintenance Plan.

Prior to the Closing Date, Seller agrees to perform the activities described in the Capital Expenditure and Maintenance Plan in accordance with the schedule therein. If Closing has not occurred by December 31, 2015, the Parties shall within six (6) months thereafter agree upon a Capital Expenditure and Maintenance Plan consistent with the Capital Expenditure and Maintenance Plan attached as Schedule 1.1(36) but that covers a period of five (5) years after such attached plan. The value (as set forth in the Capital Expenditure and Maintenance Plan) of each such activity not performed in accordance with such schedule by the Closing Date shall reduce the Purchase Price on a dollar-for-dollar basis; except to the extent that a Vice President of Buyer in consultation with Seller agrees in writing that such activity is not required to be performed. If Seller desires to incur any capital expenditure that materially improves the Acquired Assets and is not (x) described in the Capital Expenditure and Maintenance Plan or required to comply with any applicable Law or Permit or (y) a repair, replacement or cure required under Section 6.11, and Seller desires to increase the Purchase Price therefor, Seller shall notify Buyer of the cost of such capital expenditure, of its desire to increase the Purchase Price by such cost and of the expected material improvement to the Acquired Assets (such notice being, the ***"Capital Improvement Notice"***). If Buyer expressly approves such capital expenditure (which may be conditioned upon terms and conditions acceptable to Buyer) and expressly agrees to increase the Purchase Price by such cost by notice to Seller referencing this Section 6.16, (i) Seller shall be entitled to perform the work necessary to execute, and incur the cost for, such capital expenditure, and (ii) if after completion of such work, the Acquired Assets are materially improved as described in the Capital Improvement Notice, the Purchase Price shall be increased by an amount equal to Seller's costs incurred to execute such capital expenditure, except that such amount shall not exceed the cost described in the Capital Improvement Notice, without Buyer's written consent. All Seller Contracts for such work shall become Assumed Contracts, except that the price payable under such Contracts shall remain the obligation of Seller. Notwithstanding any provision herein to the contrary, the Purchase Price shall not be increased due to Seller's incurrence of any capital or other expenditure, expect as set forth in clause (ii) above.

Section 6.17 Customer Data Conversion.

The Parties shall cooperate with each other to facilitate an orderly and seamless transition from Seller to Buyer of the information systems, computer applications and processing of data for Buyer to commence conducting the Business of the Vero Beach Electric Utility as of the Closing Date in the manner and format acceptable to Buyer. At Buyer's option, (a) Buyer shall

with the cooperation of Seller engage Cayenta to convert Seller's Customer data to a format useable by Buyer as reasonably determined by Buyer or (b) Seller shall with the cooperation of Buyer engage Cayenta to convert Seller's Customer data to a format useable by Buyer as reasonably determined by Buyer and outlined in Schedules 6.17(a) and (b), on terms, conditions and pricing approved by Buyer. If option (b), above, is exercised by Buyer, the Purchase Price shall be increased by the price approved by Buyer for such data conversion that is charged by Cayenta to Seller.

Section 6.18 Seller as Customer.

Seller shall be a retail electric service customer of Buyer commencing with the Closing Date. Except with respect to facilities or other structures covered by a Buyer tariff designed to handle un-metered service, Seller shall be responsible for providing, prior to the Closing Date, all metering and other equipment necessary for Buyer to measure Seller's consumption of electricity at each facility or other structure of Seller (other than Acquired Assets) requiring electric service.

Section 6.19 Vero Beach Electric Utility Bonds and Other Indebtedness.

Simultaneous with the Closing, Seller shall deposit in trust under an escrow deposit agreement acceptable to Buyer with an independent trustee acceptable to Buyer either (i) monies in an amount that shall be sufficient, or (ii) non-callable Defeasance Obligations the principal of and the interest on which when due will provide monies which, together with other monies, if any, deposited in the escrow deposit agreement, shall be sufficient, in the case of (i) and (ii), to pay when due the principal or redemption price, if applicable, and interest due and to become due on the Vero Beach Electric Utility Bonds on or prior to the redemption date or maturity date thereof, as the case may be. The sufficiency of such deposit of monies and/or non-callable Defeasance Obligations shall be verified by an independent certified public accountant acceptable to Buyer and irrevocable instructions shall be provided under the escrow deposit agreement to the trustee thereunder to cause the publication and provision of any required redemption notice in accordance with the Bond Resolution, and there shall be delivered to the Parties opinions of bond counsel to Seller, in a form satisfactory to the Parties, to the effect that the Vero Beach Electric Utility Bonds have ceased to be entitled to any lien, benefit or security under the Bond Resolution, and all covenants, agreements and obligations of the Seller to the holders of such Vero Beach Electric Utility Bonds have thereupon ceased, terminated and become void and be discharged and satisfied, and the Bond Resolution is of no further force and effect. Simultaneously with the Closing, Seller shall redeem and pay in full the Vero Beach Revenue Note, and the holder of the Vero Beach Revenue Note shall acknowledge payment in full of the Vero Beach Revenue Note and satisfaction of Seller's obligations under the Loan Agreement dated June 10, 2008 related thereto, in a manner satisfactory to Seller and Buyer.

Section 6.20 Sale of Real Properties.

Prior to the Closing, Seller shall comply with the City of Vero Beach, Florida Code of Ordinances, Subpart A, Chapter 2, Article VIII, Division 3, Sec. 2-372, relating to the sale of the Acquired Land in Fee contemplated in this Agreement.

Section 6.21 Exclusivity.

Except as expressly permitted by this Agreement, Seller will not, directly or indirectly, or through an official, employee, representative or by or through the use of any other conduit (including any other Person), (a) offer to sell or transfer any of the Acquired Assets to (or offer to enter into any transaction contemplated by this Agreement with) any Person, or (b) request, solicit or otherwise encourage inquiries, proposals or offers from, or participate in any discussions or negotiations with, any Person other than Buyer with respect to the sale or transfer of any of the Acquired Assets or any transaction contemplated by this Agreement.

Section 6.22 No Seller Changes in Law.

On or prior to the Closing Date, Seller agrees not to promulgate, enact, adopt, repeal, amend, modify or make effective any Law or resolution, or take or support any action, that would adversely affect (a) Buyer's rights or Seller's obligations in the Agreement or Ancillary Agreements, (b) any of the transactions contemplated by this Agreement or Ancillary Agreements, or (c) the Business of the Vero Beach Electric Utility.

Section 6.23 Vero Beach Power Plant; Certain Environmental Liabilities.

(a) As a requirement to entering into the Transaction, Seller has required that Buyer agree todismantle, and Buyer hereby agrees to dismantle, after Closing during the term of the Vero Beach Power Plant Site Lease Agreement, all of the Vero Beach Power Plant and the Vero Beach Power Plant Substation in accordance with Schedule 1.1(57); provided that Buyer may be required by applicable law to dismantle more than what is required by Seller under Schedule 1.1(57). Buyer shall require any contractor to include Seller as an additional insured on any insurance policy obtained or provided in connection with such dismantling or removal of the Vero Beach Power Plant and the Vero Beach Power Plant Substation. Title to any portion of the Vero Beach Power Plant or the Vero Beach Power Plant Substation not dismantled or removed by Buyer or its contractor as described in Schedule 1.1(57) shall pass to Seller automatically upon completion of the dismantlement of the Vero Beach Power Plant and the Vero Beach Power Plant Substation. Seller shall be required to perform (or reimburse Buyer for the cost to perform if performed by Buyer or its contractor) all Remediation relating to the presence or Release of Hazardous Substances at, on, in, under, adjacent to or migrating from the Vero Beach Power Plant Site at any time before or after the Closing Date irrespective of the cause of such presence or Release, excluding the costs of Remediation of known, above ground Releases caused by Buyer after the Closing Date but prior to commencement of dismantling of the Vero Beach Power Plant or the Vero Beach Power Plant Substation (such excluded costs being, the "***Buyer Remediation Responsibility***"). Buyer agrees that, notwithstanding Seller's obligation in the preceding sentence or under Section 8.1(b)(iii) to indemnify, defend and hold the Buyer Indemnitees harmless from, and pay, reimburse and fully compensate as the primary obligor Buyer Indemnitees for, Excluded Environmental Liabilities, Buyer shall bear the first $500,000 of costs for Remediation of the Vero Beach Power Plant Site required by applicable Law in connection with Buyer's dismantling of the Vero Beach Power Plant and the Vero Beach Power Plant Substation (the "***Buyer Remediation Share***"); provided that if Seller does not direct Buyer to dismantle any portion of the Vero Beach Power Plant or the Vero Beach Power Plant Substation in accordance with this paragraph, then the Buyer Remediation Share shall be zero

dollars. The Buyer Remediation Share and the Buyer Remediation Responsibility is intended to constitute the Parties' agreement as to Buyer's sole and exclusive Liability related to the presence or Release of Hazardous Substances at, on, in, under, adjacent to or migrating from the Vero Beach Power Plant Site irrespective of the cause of such presence or Release, and Seller hereby releases Buyer from any Liability in excess of the Buyer Remediation Share and the Buyer Remediation Responsibility for Remediation related to the presence or Release of Hazardous Substances at, on, in, under, adjacent to or migrating from the Vero Beach Power Plant Site irrespective of the cause of such presence or Release (including Releases by Buyer).

(b) Prior to Closing, Seller shall use, in operation of the Vero Beach Power Plant, or remove all of the fuel oil stored at the Vero Beach Power Plant Site. Seller shall ensure that, at Closing, no fuel oil remains stored at the Vero Beach Power Plant Site.

Section 6.24 Customer Consumption Allocation.

(a) Seller shall use reasonable efforts to read the meters of all Customers of Seller within one (1) month (reading used for billing) prior to the Closing Date, and Buyer shall use reasonable efforts to read the meters of all such Customers within one (1) month after the Closing Date. The reading obtained by Seller (within one month prior to the Closing Date) shall be included in the Customer data conversion file from Seller to Buyer. Within sixty (60) days after the date that Buyer reads the last of the meters of such Customers, Buyer shall provide to Seller the date of the first meter reading of each such Customer occurring on and after the Closing Date and a prorated final bill reading (using the allocation method described below) for the Pre-Closing Consumption Period (as defined below). Irrespective of the actual consumption of electricity by a Customer during (a) the period (the ***"Pre-Closing Consumption Period"***) from and including the date of the last meter reading of such Customer occurring prior to the Closing Date and (b) the period (the ***"Post-Closing Consumption Period"*** and together with the Pre-Closing Consumption Period, the ***"Between Meter Readings Period"***) from and including the date of the first meter reading of such Customer occurring on or after the Closing Date, the Parties agree to allocate to the Pre-Closing Consumption Period and the Post-Closing Consumption Period a percentage of the actual consumption of electricity by each Customer during the Between Meter Readings Period pursuant to the following formulas (for the avoidance of doubt, the sum of the percentages allocated to the Pre-Closing Consumption Period and the Post-Closing Consumption Period of a particular Customer must equal 100%):

(i) Allocation to the Pre-Closing Consumption Period shall be: (A) (i) the total consumption of electricity by each Customer during the Between Meter Readings Period *divided by* (ii) the total number of days in the Between Meter Readings Period *multiplied by* (B) the total number of days in the Pre-Closing Consumption Period; and

(ii) Allocation to the Post-Closing Consumption Period shall be: (A) (i) the total consumption of electricity by each Customer during the Between Meter Readings Period *divided by* (ii) the total number of days in the Between Meter Readings Period *multiplied by* (B) the total number of days in the Post-Closing Consumption Period

(b) The Parties agree that Seller (and not Buyer) shall bill, and be entitled to collect payment from Customers, for electric service provided to Customers prior to the Closing

Date and that Buyer (and not Seller) shall bill, and be entitled to collect payment from Customers, for electric service provided to Customers on and after the Closing Date; provided that, in determining the amount of electricity consumed by a particular Customer that was provided by Seller or by Buyer during the Between Meter Readings Period for such Customer, the Parties agree that, irrespective of the actual amount of electricity provided by Seller or by Buyer during the Between Meter Readings Period, the amount of electricity provided by Seller shall be the amount of electricity deemed to be consumed by such Customer during the Pre-Closing Consumption Period as determined by this Section, and the amount of electricity provided by Buyer shall be the amount of electricity deemed to be consumed by such Customer during the Post-Closing Consumption Period as determined by this Section.

(c) Notwithstanding Section 6.24(a) and (b), if the FPSC requires Buyer to determine consumption of electricity by Customers during Post-Closing Consumption Period in manner different than in accordance with Section 6.24(a) and (b), then the allocation between Buyer and Seller of consumption of electricity by Customers during the Between Meter Readings Period shall be in accordance with the manner required by the FPSC for Buyer to determine the consumption of electricity by Customers during the Post-Closing Consumption Period.

Section 6.25 Seller's Responsibility for Environmental Liabilities.

At all times after the Closing Date and except to the extent of the Buyer Remediation Share, Seller agrees to be responsible for any and all Losses of Buyer, and pay and perform when due any and all Liabilities of Buyer, (a) under or related to Environmental Laws, Environmental Permits or Environmental Claims with respect to the Business of the Vero Beach Electric Utility and/or the Acquired Assets relating to or arising from any event, condition, circumstance, act or omission occurring prior to the Closing Date, or (b) relating to or arising from the presence or Release of Hazardous Substances at, on, in, under, adjacent to or migrating from the Acquired Assets or the Real Property prior to the Closing Date.

ARTICLE VII
CONDITIONS PRECEDENT

Section 7.1 Conditions Precedent to Obligations of Buyer.

The obligations of Buyer to purchase the Acquired Assets and to consummate the other transactions contemplated by this Agreement shall be subject to the fulfillment at or prior to the Closing Date of the following conditions precedent (except to the extent waived (in whole or in part) in writing by Buyer in its sole discretion):

(a) The representations and warranties (other than the Seller Fundamental Representations) of Seller set forth in this Agreement (without regard to any materiality or Material Adverse Effect qualification therein) shall be true and correct in all respects on and as of the Effective Date and on and as of the Closing Date as though made on and as of the Closing Date (except those representations and warranties that address matters only as of a specified date, the truth and correctness which shall be determined as of that specified date), except for such failures to be true and correct which would not reasonably be expected to constitute, individually

or in the aggregate with the financial or economic adverse effect on Buyer of breaches of covenants and agreements of Seller in Article VI, a Material Adverse Effect.

(b) The Seller Fundamental Representations shall be true and accurate in all respects on and as of the Effective Date and on and as of the Closing Date as though made on and as of the Closing Date (except those representations and warranties that address matters only as of a specified date, the truth and correctness which shall be determined as of that specified date).

(c) Seller shall have satisfied all of its obligation under Section 6.13 and:

(i) each condition precedent to the termination of the OUC-Vero Beach PPA set forth in the OUC Termination Agreement has been satisfied (or waived thereunder);

(ii) each condition precedent to the transfer and assignment to OUC of Seller's power entitlement shares in the Stanton I, Stanton II and St. Lucie II projects, and assumption by OUC of Seller's post-transfer obligations under the FMPA Agreements (other than the All-Requirements Contract), set forth in the OUC Assignment Agreements and the OUC Transfer Agreements has been satisfied (or waived thereunder);

(iii) has obtained the written consent of FMPA and all other Persons required under the FMPA Agreements (other than the All-Requirements Contract), for the transfer of the applicable Acquired Assets to Buyer in form and substance reasonably satisfactory to Buyer; and

(iv) has terminated Seller's participation in, and the applicability to Seller of, the All-Requirements Contract.

(d) No preliminary or permanent injunction or other Order by any Governmental Authority (other than Seller) which restrains or prevents the consummation of the transactions contemplated hereby shall have been issued and remain in effect (each Party agreeing to cooperate in all efforts to have any such injunction or Order lifted) and no Law shall have been enacted by any Governmental Authority which prohibits the consummation of the transactions contemplated hereby;

(e) Buyer shall have received all of Buyer's Required Regulatory Approvals, in form and substance satisfactory to Buyer in its discretion and such approvals shall be in full force and effect and either (i) shall be final and non-appealable or (ii) if not final and non-appealable, shall not be subject to the possibility of appeal, review or reconsideration which, in the reasonable opinion of Buyer, is likely to be successful;

(f) Seller shall have performed and complied in all material respects with the covenants and agreements contained in this Agreement which are required to be performed and complied with by Seller on or prior to the Closing Date or during the Interim Period;

(g) Buyer shall have received a certificate from the City Manager of Seller, dated the Closing Date, to the effect that, to such person's knowledge, the conditions set forth in this Sections 7.1 (a), (b) and (f) have been satisfied by Seller;

(h) Seller shall have delivered, or caused to be delivered, to Buyer at the Closing, Seller's closing deliveries described in Section 3.7;

(i) Since the Effective Date, no Material Adverse Effect shall have occurred and be continuing; provided, that for purposes of determining whether a Material Adverse Effect has occurred for purposes of this Section 7.1(i), any such violations or breaches by Seller of any representation or warranty contained in Section 4.7 shall be measured without regard to any Knowledge qualifiers in such representations and warranties of Seller (other than with respect to Seller's Knowledge as to the obligations of third parties that may be counterparties to any Real Property Interest Instrument);

(j) Seller shall have delivered to Buyer reasonably satisfactory evidence of (i) the satisfaction, discharge and payment in full of the Vero Beach Electric Utility Bonds and the Vero Beach Revenue Note in accordance with Section 6.19; and (ii) release of all Encumbrances on the Acquired Assets (other than Permitted Encumbrances);

(k) Buyer has received approval from the FPSC to charge Seller's Customers the same rates for retail electric service as Buyer charges its other electric utility customers;

(l) Buyer shall have secured, at Buyer's cost and expense, (i) title insurance policies, insurable at regular rates, in an amount satisfactory to Buyer, from a title insurance company authorized to do business in the State of Florida, insuring that Buyer has good, marketable and insurable title to the Acquired Land in Fee and the right to control, occupy and use the Acquired Land in Fee, free and clear of Encumbrances other than Permitted Encumbrances, (ii) title insurance policies, insurable at regular rates, in an amount satisfactory to Buyer, from a title insurance company authorized to do business in the State of Florida, insuring that Buyer has good, marketable and insurable leasehold interests in the Vero Beach Power Plant Site, the substation 5 and substation 6 real property and (if Buyer exercises the Airport Warehouse Lease Agreement Option) the Airport Warehouse (T&D) Building, and the right to control, occupy and use such property, free and clear of Encumbrances other than Permitted Encumbrances, and (iii) American Land Title Association (ALTA) surveys issued to Buyer and the title company secured by Buyer prepared by certified surveyors showing the Acquired Land In Fee, the substation 5 real property and the substation 6 real property and (if Buyer exercises the Airport Warehouse Lease Agreement Option) the Airport Warehouse (T&D) Building property with all physical encumbrances observed and all matters of record that affect the Acquired Land In Fee, the substation 5 real property and the substation 6 real property, and the Airport Warehouse (T&D) Building property, the form and substance of which are satisfactory to Buyer; and

(m) Buyer shall have received such other documents, and certificates as Buyer, or its counsel, shall reasonably request for conveying title to Acquired Assets by written notice to Seller given not less than ten (10) days prior to the Closing Date.

Section 7.2 Conditions Precedent to Obligations of Seller.

The obligation of Seller to sell the Acquired Assets and to consummate the other transactions contemplated by this Agreement shall be subject to the fulfillment at or prior to the Closing Date of the following conditions precedent (except to the extent waived (in whole or in part) in writing by Seller in its sole discretion):

(a) The representations and warranties (other than the Buyer Fundamental Representations) of Buyer set forth in this Agreement (without regard to any materiality or Material Adverse Effect qualification therein) shall be true and correct in all respects on and as of the Effective Date and on and as of the Closing Date as though made on and as of the Closing Date (except those representations and warranties that address matters only as of a specified date, the truth and correctness which shall be determined as of that specified date), except for such failures to be true and correct which would not reasonably be expected to constitute, individually or in the aggregate, a Material Adverse Effect.

(b) The Buyer Fundamental Representations shall be true and accurate in all respects on and as of the Effective Date and on and as of the Closing Date as though made on and as of the Closing Date (except those representations and warranties that address matters only as of a specified date, the truth and correctness which shall be determined as of that specified date).

(c) No preliminary or permanent injunction or other Order by Governmental Authority (other than Seller) which restrains or prevents the consummation of the transactions contemplated hereby shall have been issued and remain in effect (each Party agreeing to use its Commercially Reasonable Efforts to have any such injunction or Order lifted) and no Law shall have been enacted by any state or federal government or Governmental Authority (other than Seller) which prohibits the transactions contemplated hereby;

(d) Buyer shall have performed and complied with in all material respects the covenants and agreements contained in this Agreement which are required to be performed and complied with by Buyer on or prior to the Closing Date or during the Interim Period;

(e) Buyer has received approval from the FPSC to charge Seller's Customers the same rates for retail electric service as Buyer charges its other electric utility customers;

(f) Seller shall have received a certificate from an authorized officer of Buyer, dated the Closing Date, to the effect that, to such person's knowledge, the conditions set forth in this Sections 7.2 (a), (b) and (d) have been satisfied by Buyer;

(g) The following has occurred, except to the extent any of the following are within Seller's control (it being understood by Seller that performance of such matters within Seller's control shall not constitute conditions precedent under this Section 7.2 to the obligation of Seller to sell the Acquired Assets and to consummate the other transactions contemplated by this Agreement):

(i) Each condition precedent to the termination of the OUC-Vero Beach PPA set forth in the OUC Termination Agreement has been satisfied (or waived thereunder);

(ii) Each condition precedent to the transfer and assignment to OUC of Seller's power entitlement shares in the Stanton I, Stanton II and St. Lucie II projects, and assumption by OUC of Seller's post-transfer obligations under the FMPA Agreements (other than the All-Requirements Contract), set forth in the OUC Assignment Agreements and the OUC Transfer Agreements has been satisfied (or waived thereunder); and

(iii) The written consent of FMPA and all other Persons required under the FMPA Agreements (other than the All-Requirements Contract) for the transfer of the applicable Acquired Assets to Buyer has been obtained in form and substance reasonably satisfactory to Seller (other than costs) and at costs reasonably foreseeable as of the Effective Date. For the avoidance of doubt, Unforeseen Costs shall be deemed "costs reasonably foreseeable as of the Effective Date" if Buyer agrees to increase the Purchase Price by the amount such Unforeseen Costs.

(h) Buyer shall have delivered, or caused to be delivered, to Seller at the Closing, Buyer's closing deliveries described in Section 3.7.

ARTICLE VIII
INDEMNIFICATION AND PAYMENT FOR LOSSES

Section 8.1 Indemnification and Payment for Losses.

(a) From and after the Closing, Buyer shall, on an After-Tax Basis, indemnify, defend and hold harmless Seller and its elected and appointed officials, officers, employees and agents (each, a ***"Seller Indemnitee"***) from and against, and pay, reimburse and fully compensate as the primary obligor each Seller Indemnitee for, any and all Losses (each, a ***"Covered Loss"***), asserted against or suffered by any Seller Indemnitee relating to, resulting from or arising out of:

(i) any breach or inaccuracy of any Buyer Fundamental Representation as of the date hereof or as of the Closing Date as though such representations or warranties were made on the Closing Date (any such breach being determined and any resulting Loss measured without regard to any "materiality," "material adverse effect" or similar qualifiers in the representations and warranties of Buyer), except those representations and warranties that address matters only as of a specified date, the truth and correctness which shall be determined as of that specified date;

(ii) any breach of any covenant (including any covenant to indemnify, defend or hold a Person harmless from, or to pay, reimburse or fully compensate as the primary obligor a Person for Losses) or agreement of Buyer contained in this Agreement;

(iii) any Assumed Liability (other than any Excluded Liability);

(iv) any Assumed Contract (other than any Loss relating to, resulting from or arising out of any Excluded Liability); or

(v) any Third Party Claim against a Seller Indemnitee arising out of or in connection with (A) Buyer's ownership, use or operation of the Acquired Assets or (B) Buyer's performance of the Business of the Vero Beach Electric Utility, in each case under clause (A) or (B), following the Closing Date (other than any Loss relating to, resulting from or arising out of any Excluded Asset or Excluded Liability).

(b) From and after the Closing, Seller shall, on an After-Tax Basis, indemnify, defend and hold harmless Buyer and its Affiliates and its and their officers, directors, members, employees, shareholders and agents (each, a ***"Buyer Indemnitee"***) from and against, and pay, reimburse and fully compensate as the primary obligor each Buyer Indemnitee for, any and all Covered Losses asserted against or suffered by any Buyer Indemnitee relating to, resulting from or arising out of:

(i) any breach or inaccuracy of any Seller Fundamental Representation or any representation or warranty of Seller contained in Section 4.10 or 4.18 as of the date hereof or as of the Closing Date as though such representations or warranties were made on the Closing Date (any such breach being determined and any resulting Loss measured without regard to any "materiality," "material adverse effect" or similar qualifiers in the representations and warranties of Seller, other than (A) such references in the defined term "Material Seller Contract", and (B) with respect to the representations and warranties contained in Section 4.6), except those representations and warranties that address matters only as of a specified date, the truth and correctness which shall be determined as of that specified date;

(ii) any breach of any covenant (including any covenant to indemnify, defend or hold a Person harmless from, or to pay, reimburse or fully compensate as the primary obligor a Person for Losses) or agreement of Seller contained in this Agreement;

(iii) any Excluded Liability, except to the extent of the Buyer Remediation Share;

(iv) any Excluded Asset;

(v) any Third Party Claim against a Buyer Indemnitee arising out of or in connection with (A) Seller's ownership, use or operation of the Acquired Assets, or (B) the Business of the Vero Beach Electric Utility, in each case under clause (A) or (B), on or prior to the Closing Date (other than any Loss relating to, resulting from or arising out of any Assumed Liability);

(vi) the presence or Release of Hazardous Substances at, on, in, under, adjacent to or migrating from the Vero Beach Power Plant Site prior to or after the Closing Date irrespective of the cause of such presence or Release (including Releases by Buyer), except to the extent of the Buyer Remediation Share and the Buyer Remediation Responsibility; or

(vii) any demand, claim or Action relating to public assistance funds awarded to Seller relating to any damage caused by any hurricane or other named storm.

(c) Notwithstanding anything in this Agreement to the contrary:

(i) the representations and warranties contained in this Agreement shall not survive the Closing Date, except that (A) the Seller Fundamental Representations and the Buyer Fundamental Representations shall survive the Closing indefinitely, and (B) the representations and warranties set forth in Sections 4.10 and 4.18 shall survive until sixty (60) days following the expiration of the applicable statute of limitations with respect to the matters covered thereby; and

(ii) the covenants and obligations of the Parties set forth in this Agreement shall survive the Closing until sixty (60) days following the expiration of the applicable statute of limitations applicable to contracts, and each Party shall be entitled to the full performance thereof by the other Party within such time period, except that each Party's rights and obligations under this Article VIII, Section 6.4, Section 6.23, Section 6.25 and Section 9.1(i) shall survive the Closing indefinitely; and

(iii) (A) the end of the survival period for a representation, warranty, covenant or obligation as provided in subparagraphs (i) or (ii) of this Section 8.1(c) and the agreement of the Parties that a Party shall have no rights or remedies against the other Party (other than a potential right to terminate under Section 9.1(d) or (e)) for an alleged breach of representations and warranties which do not survive the Closing shall only affect an Indemnitee's ability to make a claim for a Covered Loss under Section 8.1(a) or Section 8.1(b) that is based upon one or more of the representations, warranties, covenants or obligations that no longer survive, and (B) no provision of this Section 8.1 (including, without limitation, Section 8.1(d) and Section 8.1(e)) shall be interpreted or applied in a manner that limits or adversely affects an Indemnitee's ability to make a claim for a Covered Loss under any provision of Section 8.1(a) or Section 8.1(b) with respect to any event or circumstance that can be made independent of, and without reliance upon, a claim of breach of any representation, warranty, covenant or obligation by a Party that has expired pursuant to subparagraphs (i) or (ii) of this Section 8.1(c) even if such event or circumstance might have also formed the basis for a claim in reliance upon such expired representation, warranty, covenant or obligation had such representation, warranty, covenant or obligation continued to survive.

(d) The expiration or termination of any representation, warranty, covenant or agreement shall not affect the Parties' obligations under this Section 8.1 if the Indemnitee provided the Person required to provide indemnification, or payment, reimbursement or full compensation as the primary obligor, for Losses under this Agreement (the ***"Indemnifying Party"***) with proper notice of the claim or event for which indemnification or payment, reimbursement or full compensation as the primary obligor for Losses is sought prior to such expiration, termination or extinguishment; except the foregoing shall not apply to any claim for an alleged breach of any of Seller's representations or warranties which do not survive the Closing, as provided in Section 8.1(c)(i).

(e) The rights and remedies of Seller and Buyer under this Article VIII are not exclusive, but shall be in addition to any and all other rights and remedies which Seller or Buyer may have under this Agreement or at law or in equity with respect to any breach of or failure to perform any covenant, agreement, representation or warranty of the other Party set forth in this Agreement; provided, however, Buyer shall have no rights or remedies against Seller (other than a potential right to terminate under Section 9.1(d)) for an alleged breach of any of Seller's

representations and warranties which do not survive the Closing, as provided in Section 8.1(c)(i). Notwithstanding any provision in this Agreement to the contrary, each Party shall have the express right to collect amounts payable under this Agreement pursuant to legal action.

Section 8.2 Defense of Claims.

(a) If any Indemnitee receives notice of the assertion of any claim or of the commencement of any claim, action, or proceeding made or brought by any Person who is not a Party to this Agreement or any Affiliate of a Party to this Agreement (a ***"Third Party Claim"***), including but not limited to an information document request or a notice of proposed disallowance issued by the IRS relating to a matter covered by Section 6.8, with respect to which indemnification is to be sought from an Indemnifying Party, the Indemnitee shall give such Indemnifying Party reasonably prompt written notice thereof, but in any event such notice shall not be given later than twenty (20) calendar days after the Indemnitee's receipt of notice of such Third Party Claim. Such notice shall describe the nature of the Third Party Claim in reasonable detail and shall indicate the estimated amount, if practicable, of the Covered Loss that has been or may be sustained by the Indemnitee. The Indemnifying Party will have the right to participate in or, by giving written notice to the Indemnitee, to elect to assume the defense of any Third Party Claim at such Indemnifying Party's expense and by such Indemnifying Party's own counsel, provided that the counsel for the Indemnifying Party who shall conduct the defense of such Third Party Claim shall be reasonably satisfactory to the Indemnitee. The Indemnitee shall cooperate in good faith in such defense at such Indemnitee's own expense. If an Indemnifying Party elects not to assume the defense of any Third Party Claim, the Indemnitee may compromise or settle such Third Party Claim over the objection of the Indemnifying Party, which settlement or compromise shall conclusively establish the Indemnifying Party's Liability pursuant to this Agreement; provided, however, that the Indemnitee provides written notice to the Indemnifying Party of its intent to settle and such notice reasonably describes the terms of such settlement at least ten (10) Business Days prior to entering into any settlement.

(b) (i) If, within twenty (20) calendar days after an Indemnitee provides written notice to the Indemnifying Party of any Third Party Claims, the Indemnitee receives written notice from the Indemnifying Party that such Indemnifying Party has elected to assume the defense of such Third Party Claim as provided in Section 8.2(a), the Indemnifying Party will not be liable for any legal expenses subsequently incurred by the Indemnitee in connection with the defense thereof; provided, however, that if the Indemnifying Party shall fail to take reasonable steps necessary to defend diligently such Third Party Claim within twenty (20) calendar days after receiving notice from the Indemnitee that the Indemnitee believes the Indemnifying Party has failed to take such steps, the Indemnitee may assume its own defense and the Indemnifying Party shall be liable for all reasonable expenses thereof.

(ii) Without the prior written consent of the Indemnitee, which consent shall not be unreasonably withheld, conditioned or delayed, the Indemnifying Party shall not enter into any settlement of any Third Party Claim which would lead to Liability or create any financial or other obligation on the part of the Indemnitee for which the Indemnitee is not entitled to indemnification, or payment, reimbursement or full compensation as the primary obligor, for Losses hereunder. If a firm offer is made to settle a Third Party Claim that would lead to a Liability or the creation of a financial or other obligation on the part of the Indemnitee

for which the Indemnitee is not entitled to indemnification, or payment, reimbursement or full compensation as the primary obligor, for Losses hereunder and the Indemnifying Party desires to accept and agree to such offer, the Indemnifying Party shall give written notice to the Indemnitee to that effect. If the Indemnitee fails to consent to such firm offer within twenty (20) calendar days after its receipt of such notice, the Indemnifying Party shall be relieved of its obligations to defend such Third Party Claim and the Indemnitee may contest or defend such Third Party Claim. In such event, the maximum Liability of the Indemnifying Party as to such Third Party Claim will be the amount of such settlement offer plus reasonable costs and expenses paid or incurred by Indemnitee up to the date of said notice.

(c) Any claim by an Indemnitee on account of a Covered Loss which does not result from a Third Party Claim (a ***"Direct Claim"***) shall be asserted by giving the Indemnifying Party reasonably prompt written notice thereof, stating the nature of such claim in reasonable detail and indicating the estimated amount, if practicable, but in any event such notice shall not be given later than twenty (20) calendar days after the Indemnitee becomes aware of such Direct Claim, and the Indemnifying Party shall have a period of twenty (20) calendar days within which to respond to such Direct Claim. If the Indemnifying Party does not respond within such twenty (20) calendar day period, the Indemnifying Party shall be deemed to have accepted such claim. If the Indemnifying Party rejects such claim, the Indemnitee will be free to seek enforcement of its right to indemnification, or payment, reimbursement or full compensation as the primary obligor, for Losses under this Agreement.

(d) The amount of any Covered Loss shall be reduced to the extent that the Indemnitee receives any insurance proceeds with respect to a Covered Loss. If the amount of any Covered Loss, at any time subsequent to the making of a payment in full in respect thereof, is reduced by recovery, settlement or otherwise under or pursuant to any insurance coverage, or pursuant to any claim, recovery, settlement or payment by, from or against any other entity, the amount of such reduction, less any costs, expenses or premiums incurred in connection therewith (together with interest thereon from the date of payment thereof to the date or repayment at the Prime Rate, but in no event more than the maximum rate permitted by applicable Law) shall promptly be repaid by the Indemnitee to the Indemnifying Party.

(e) A failure to give timely notice as provided in this Section 8.2 shall not affect the rights or obligations of any Party hereunder except if, and only to the extent that, as a result of such failure, the Party which was entitled to receive such notice was actually prejudiced as a result of such failure.

(f) Payment, reimbursement or full compensation of a Covered Loss shall be made by the relevant Party within thirty (30) days after demand therefor; provided, that this Section 8.2(f) shall not be construed to limit or impair such Party's ability to dispute its responsibility for payment, reimbursement or full compensation of a Covered Loss as otherwise permitted by this Agreement.

Section 8.3 Offset.

Buyer shall have the right to offset, on a dollar for dollar basis, any portion of any payment to be made under Article III or under the Franchise Ordinance against any amount

payable by Seller under any provision of this Agreement (including, without limitation, this Article VIII) that has not been paid when due to Buyer or any of the other Buyer Indemnitees or by Seller to Buyer under any of the Ancillary Agreements. If any Buyer Indemnitee incurs or suffers a Loss for which such Buyer Indemnitee is entitled to indemnification, or payment, reimbursement or full compensation as the primary obligor, by Seller for Losses pursuant to Section 8.1(b) or if Seller becomes obligated pursuant to any other provision of this Agreement or any of the Ancillary Agreements to indemnify, pay, reimburse or fully compensate Buyer for any other amount under this Agreement or under any of the Ancillary Agreements, then Buyer shall be entitled to offset an amount equal to such Loss and/or such other amount against any one or more payments due to be made to Seller under the Franchise Ordinance and such payments under the Franchise Ordinance shall be reduced by the amount so offset by Buyer; provided, that Buyer shall not be entitled to offset against any payment due within twelve (12) months after notice by Buyer to Seller of Buyer's exercise of its right to offset under this paragraph. Buyer shall charge Seller interest from the date of incurrence or suffering of such Loss or the date any such other amount becomes due from Seller to Buyer until the actual date of offset against payment under the Franchise Ordinance at the following rates: (i) during the first twelve (12) months after notice by Buyer to Seller of Buyer's exercise of its right to offset under this paragraph, the interest rate shall be the Prime Rate from time to time in effect, and (ii) after the end of such twelve (12) month period, the interest rate shall be at the Default Rate, but in no event more than the maximum rate permitted by applicable Law. Such interest may be offset by Buyer against such payment under the Franchise Ordinance or later payments thereunder. To the extent Buyer offsets any amount alleged to be due from Seller under Article VIII or otherwise, and it is determined Buyer offset more than what should have been offset, then Buyer shall reimburse Seller promptly upon such determination and Buyer shall pay Seller interest from the date of such excess offset on the amount to be reimbursed to Seller until the actual date of reimbursement at the following rates: (i) during the first twelve (12) months after Buyer exercise of its right to offset with respect to such excess amount, the interest rate shall be the Prime Rate from time to time in effect, and (ii) after the end of such twelve (12) month period, the interest rate shall be the Default Rate, but in no event more than the maximum rate permitted by applicable Law. For the avoidance of doubt, accrual or payment of interest on an obligation of a Party that has become due and payable, including interest at the Default Rate, shall not mean that the other Party is not entitled to pursue any other remedy available to such Party at law or in equity to enforce the obligations of the defaulting Party under this Agreement.

ARTICLE IX
TERMINATION

Section 9.1 Termination.

(a) This Agreement may be terminated at any time prior to the Closing Date by mutual written consent of Seller and Buyer.

(b) This Agreement may be terminated by Seller or Buyer, if (i) any federal or state court of competent jurisdiction shall have issued an Order permanently restraining, enjoining or otherwise prohibiting the Closing, and such Order, shall have become final and nonappealable; (ii) any Law shall have been enacted or issued by any Governmental Authority (other than Seller) which, directly or indirectly, prohibits the consummation of the Closing;

or(iii) each condition precedent in Section 7.1 has been satisfied (or waived by Buyer), each condition precedent in Section 7.2 has been satisfied (or waived by Seller) and the Closing contemplated hereby shall have not occurred on or before the Termination Date; provided, that the right to terminate this Agreement under this Section 9.1(b)(iii) shall not be available to any Party whose failure to fulfill any obligation under this Agreement has been the cause of, or resulted in, the failure of the Closing to occur on or before such date.

(c) (i) This Agreement may be terminated by Buyer if any of Buyer's Required Regulatory Approvals shall have been denied or shall have been granted but are not in form and substance satisfactory to Buyer in its discretion.

(ii) This Agreement may be terminated by Seller if the written consent of FMPA and all other Persons required under the FMPA Agreements (other than the All Requirements Contract) for the transfer of the applicable Acquired Assets to Buyer shall have been denied or shall have been granted but not in form and substance (other than costs) reasonably satisfactory to Seller and at costs reasonably foreseeable as of the Effective Date. Notwithstanding any provision herein to the contrary and for purposes of Sections 6.13(d), 7.2(g)(iii) and 9.1(c)(ii), costs to obtain the relevant consents described in such Sections that are not reasonably foreseeable as of the Effective Date ("***Unforeseen Costs***") shall be deemed to be "costs reasonably foreseeable as of the Effective Date" if Buyer agrees to increase the Purchase Price by the amount such Unforeseen Costs. For the avoidance of doubt, Seller shall not be entitled to terminate this Agreement pursuant to this Section 9.1(c)(ii) if Buyer agrees to increase the Purchase Price by the amount of such Unforeseen Costs.

(d) This Agreement may be terminated by Buyer if there has been one or more violations or breaches by Seller of any representation or warranty contained in this Agreement and such violation(s) or breach(es) (individually or in the aggregate) constitutes a Material Adverse Effect and is not cured by the earlier of the Closing Date or ninety (90) days after receipt by Seller (or by Buyer in the case of notice by Seller pursuant to Section 6.9) of written notice specifying particularly such violation(s) or breach(es) and the amount of any alleged Covered Losses. For purposes of determining whether a Material Adverse Effect has occurred for purposes of this Section 9.1(d), any such violations or breaches by Seller of any representation or warranty contained in Section 4.7 shall be measured without regard to any Knowledge qualifiers in such representations and warranties of Seller. Notwithstanding the foregoing, if Buyer gives Seller such notice of a violation or breach by Seller of any such representation or warranty within ninety (90) days before the Termination Date, Seller may elect by written notice to Buyer prior to the Closing Date to extend the Termination Date by up to ninety (90) days if Seller deems such additional time necessary for it to cure such violations or breaches of its representations and warranties.

(e) This Agreement may be terminated by Seller if there has been one or more violations or breaches by Buyer of any representation or warranty contained in this Agreement and such violation(s) or breach(es) (individually or in the aggregate) constitutes a Material Adverse Effect and is not cured by the earlier of the Closing Date or ninety (90) days after receipt by Buyer of written notice specifying particularly such violation(s) or breach(es) and the amount of any alleged Covered Losses. Notwithstanding the foregoing, if Seller gives Buyer such notice of a violation or breach by Buyer of any such representation or warranty within

ninety (90) days before the Termination Date, Buyer may elect by written notice to Seller prior to the Closing Date to extend the Termination Date by up to ninety (90) days if Buyer deems such additional time necessary for it to cure such violations or breaches of its representations and warranties.

(f) This Agreement may be terminated by a Party if there has been one or more material breaches by the other Party of any covenant or agreement contained in this Agreement and such breach(es) is not cured by ninety (90) days after receipt by the breaching Party of written notice specifying particularly such breach(es). Notwithstanding the foregoing, if a Party gives the other Party such notice of breach(es) within ninety (90) days before the Termination Date, the other Party may elect by written notice to such Party prior to the Closing Date to extend the Termination Date by up to ninety (90) days if the other Party deems such additional time necessary for it to cure such breach(es).

(g) This Agreement may be terminated by either Party if on or prior to ninety (90) days following the Effective Date a referendum election has been duly called and held by the City of Vero Beach on the Referendum Question and the Referendum Question was not approved by a majority of the votes cast in such referendum election; provided, that notice of termination of this Agreement under this Section 9.1(g) must be given by the terminating Party to the other Party not later than sixty (60) days following the date on which such referendum election was held.

(h) This Agreement may be terminated by Buyer if, by February 28, 2013, the board of directors of NextEra Energy, Inc. fails to approve Buyer's execution of this Agreement, which approval may be withheld in such board's sole discretion; provided, that notice of termination of this Agreement under this Section 9.1(h) must be given by Buyer to Seller not later than March 4, 2013.

(i) If, following the occurrence of any fire or other casualty that results in all or any portion of the Acquired Assets being damaged or destroyed, Seller reasonably estimates that the Cure Amount would exceed the sum of the Maximum Uncovered Loss Amount plus the Available Proceeds, then Seller may, within one (1) month following the date that such fire or other casualty ended, give notice to Buyer of its intent to terminate this Agreement, which notice shall set forth a detailed breakdown of Seller's reasonable estimate of the Cure Amount and Available Proceeds. Within sixty (60) days after Buyer's receipt of such notice (or such longer period as the Parties may mutually agree), the Parties shall reasonably agree upon the Cure Amount (the "***Final Cure Amount***"). At any time prior to sixty (60) days after agreement on the Final Cure Amount, Buyer shall (which Buyer may do prior to agreement on the Final Cure Amount) (a) accept Seller's notice of intent to terminate and the Agreement shall terminate, (b) elect (the "***Immediate Closing Election***") to proceed to Closing as soon as practicable, and Seller and Buyer shall cause Closing to occur as soon as practicable (subject to satisfaction (or waiver at the sole discretion of the Party for whose benefit such conditions precedent exist) of all conditions precedent under Sections 7.1 and 7.2) or (c) elect (the "***Delayed Closing Election***") to proceed to Closing no earlier than the end of the Recovery Period and the Termination Date shall not be earlier than sixty (60) days after the end of the Recovery Period, except that at any time prior to the end of the Recovery Period, Buyer may elect (the "***Partial Recovery Closing Election***") to proceed to Closing as soon as practicable with a Closing Date no earlier than

eighteen (18) months after the date of notice of the Delayed Closing Election, and Seller and Buyer shall cause Closing to occur as soon as practicable (subject to satisfaction (or waiver at the sole discretion of the Party for whose benefit such conditions precedent exist) of all conditions precedent under Sections 7.1 and 7.2). For the avoidance of doubt, neither Party is required to waive any condition precedent to Closing in order for Closing to occur pursuant to a Closing Election. If Buyer makes an Immediate Closing Election, the Purchase Price shall be increased by the Excess Uncovered Loss Amount. If Buyer makes a Partial Recovery Closing Election, the Purchase Price shall be increased by the product of (A) the Monthly Recovery Amount multiplied by (B) the number of months from the Closing Date to the end of the Recovery Period. If Buyer makes an Immediate Closing Election but Closing does not occur within eighteen (18) months after the date of notice of the Immediate Closing Election, then Buyer's election shall no longer be an Immediate Closing Election but shall be deemed to have been a Partial Recovery Closing Election. If Buyer makes a Closing Election and Closing occurs, Seller shall continue to make available to Buyer to effect such cure as determined by Buyer in its sole discretion the unexpended amount of all Available Proceeds; provided, however, if a Governmental Authority determines Buyer is not eligible to use any portion of the Available Proceeds provided by any Governmental Authority, such as the Federal Emergency Management Agency, then Seller will use such Available Proceeds and apply them to the repair of such damage or destruction as determined by Buyer in its sole discretion in compliance with the mandatory conditions of such Governmental Authority applicable to the use of such portion of the Available Proceeds. Schedule 9.1(i) attached hereto sets forth examples of the application of the provisions of this Section 9.1(i) and Section 6.11(c) to a hypothetical casualty event for illustrative purposes only.

(j) For the avoidance of doubt, if this Agreement is terminated by either Party under Section 9.1(g), by the Buyer under Section 9.1(h) or by Seller under Section 9.1(i), no termination fee will be payable under Sections 9.2(b) or Section 9.2(c).

Section 9.2 Effect of Termination.

(a) In the event of termination of this Agreement by Seller or Buyer pursuant to Section 9.1, written notice thereof shall promptly be given by the terminating Party to the other Party, and this Agreement shall thereupon terminate. Notwithstanding the foregoing, and subject to Sections 9.2(b) and (c), if this Agreement terminates pursuant to Section 9.1 (other than a termination under Section 9.1(d), (e) or (f) due to an intentional or willful violation or breach of any covenant, agreement, representation or warranty), this Agreement shall be null and void and neither Party shall have any liability or obligation to the other Party under this Agreement or as a result of the termination hereof. If this Agreement is terminated as provided herein, all filings, applications and other submissions made to any Governmental Authority shall, to the extent practicable, be withdrawn from the Governmental Authority to which they were made.

(b) Notwithstanding any provision herein to the contrary, if this Agreement is terminated by Buyer pursuant to Section 9.1(d) or (f), then, in any such case, Seller shall pay Buyer, by wire transfer of immediately available funds within three (3) Business Days following demand therefor $5,000,000. Other than in the case of a termination by Buyer under Section 9.1(d) or (f) due to an intentional or willful violation or breach by Seller of any covenant,

agreement, representation or warranty, this Section 9.2(b) shall be Buyer's sole and exclusive remedy as a result of a termination of this Agreement by Buyer pursuant to Section 9.1(d) or (f); provided, that nothing in this Section 9.1(b) shall limit Buyer's rights under Section 10.12.

(c) Notwithstanding any provision herein to the contrary, if this Agreement is terminated by Seller pursuant to Section 9.1(e) or (f), then, in any such case, Buyer shall pay Seller, by wire transfer of immediately available funds within three (3) Business Days following demand therefor $5,000,000. Other than in the case of a termination by Seller under Section 9.1(e) or (f) due to an intentional or willful violation or breach by Buyer of any covenant, agreement, representation or warranty, this Section 9.2(b) shall be Seller's sole and exclusive remedy as a result of a termination of this Agreement by Seller pursuant to Section 9.1(e) or (f); provided, that nothing in this Section 9.1(b) shall limit Seller's rights under Section 10.12.

(d) Seller and Buyer hereby acknowledge and agree that the fixed amounts payable pursuant to Sections 9.2(b) and (c) are reasonable liquidated damages considering the actual costs and losses that the non-breaching Party will sustain in the event of a termination of this Agreement under Section 9.1(d), (e) or (f), as applicable. Such amounts are agreed by the Parties and fixed hereunder by the Parties as liquidated damages because of the difficulty of ascertaining the exact amount of such actual costs and losses that will actually be sustained by the non-breaching Party in the event of such a termination, and the Parties hereby agree that the amounts specified in Sections 9.2(b) and (c), respectively, are a reasonable estimate of the non-breaching Party's probable costs and losses (and not a penalty) and that they shall be applicable regardless of the amount of the costs and losses that the non-breaching Party actually sustains.

ARTICLE X
MISCELLANEOUS PROVISIONS

Section 10.1 Amendment and Modification.

This Agreement may not be amended, modified or supplemented, except by written agreement of Seller and Buyer.

Section 10.2 Waiver of Compliance; Consents.

Any term or condition of this Agreement may be waived at any time by the Party that is entitled to the benefit thereof, but no such waiver shall be effective unless set forth in a written instrument duly executed by or on behalf of the Party waiving such term or condition. Any waiver by any Party of any condition, or of the breach of any provision, term, covenant, representation or warranty contained in this Agreement, in any one or more instances, shall not invalidate this Agreement, nor shall such waiver be deemed to be nor construed as a furthering or continuing waiver of any such condition, or of the breach of any other provision, term, covenant, representation or warranty of this Agreement. Except as otherwise provided herein, the failure of a Party to this Agreement to assert any of its rights under this Agreement or otherwise shall not constitute a waiver of such rights. A waiver by a Party of the performance of any covenant, condition, representation or warranty of the other Party shall not invalidate this Agreement, nor shall such waiver be construed as a waiver of any other covenant, condition, representation or warranty. A waiver by a Party of the time for performing any act shall not constitute a waiver of

the time for performing any other act or the time for performing an identical act required to be performed at a later time. All remedies, either under this Agreement or by Law or otherwise afforded, will be cumulative and not alternative.

Section 10.3 Third Party Beneficiaries.

(a) Except for the provisions of Article VIII which are intended to be for the benefit of the Persons identified therein, the terms and provisions of this Agreement are intended solely for the benefit of the Parties and their respective successors or permitted assigns, and it is not the intention of the Parties to confer third-party beneficiary rights upon any other Person, including without limitation any employee or any beneficiaries or dependents thereof. No provision of this Agreement shall create any third party beneficiary rights in any employee or former employee of Seller (including any beneficiary or dependent thereof) in respect of continued employment or resumed employment, and no provision of this Agreement shall create any rights in any such Persons in respect of any benefits that may be provided, directly or indirectly, under any employee benefit plan or arrangement except as expressly provided for thereunder.

Section 10.4 Notices.

All notices and other communications hereunder shall be in writing and shall be deemed given if delivered personally or mailed by overnight courier or registered or certified mail (return receipt requested), postage prepaid, to the recipient Party at its address (or at such other address for a Party as shall be specified by like notice; provided, however, that notices of a change of address shall be effective only upon receipt thereof):

(a) If to Seller, to:

City of Vero Beach
1053 20th Place
Vero Beach, FL 32960
Attention: City Manager

with copies to:

City of Vero Beach
1053 20th Place
Vero Beach, FL 32960
Attention: City Attorney

and

Edwards Wildman Palmer LLP
525 Okeechobee Boulevard
Suite 1600
West Palm Beach, FL 33401
Attention: John G. Igoe, P.A.

(b) if to Buyer, to:

Florida Power & Light Company
700 Universe Boulevard EMT/JB
Juno Beach, FL 33408
Attention: EMT Contracts Department

with a copy to:

Florida Power & Light Company
700 Universe Boulevard JB/Law
Juno Beach, FL 33408
Attention: General Counsel

Section 10.5 Assignment.

Neither this Agreement nor any right, interest or obligation hereunder may be assigned by any Party without the prior written consent of the other Party, except that, from and after the Closing, Buyer may (without the consent of any other Party) assign this Agreement or all or any portion of Buyer's rights, interests or obligations hereunder to any Affiliate of Buyer or any Person providing financing to Buyer or any of its their Affiliates, but no such assignment shall release Buyer of its obligations under this Agreement. Subject to this Section 10.5, this Agreement is binding upon, inures to the benefit of and is enforceable by the Parties and their respective successors and permitted assigns.

Section 10.6 Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of Florida (without giving effect to conflict of law principles) as to all matters, including but not limited to matters of validity, construction, effect, performance and remedies. THE PARTIES HERETO AGREE THAT VENUE IN ANY AND ALL ACTIONS AND PROCEEDINGS RELATED TO THE SUBJECT MATTER OF THIS AGREEMENT SHALL BE IN THE COURT OF THE STATE OF FLORIDA IN INDIAN RIVER COUNTY, FLORIDA, WHICH COURT SHALL HAVE EXCLUSIVE JURISDICTION FOR SUCH PURPOSE AND THE PARTIES HERETO IRREVOCABLY SUBMIT TO THE EXCLUSIVE JURISDICTION OF SUCH COURT AND IRREVOCABLY WAIVE THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF ANY SUCH ACTION OR PROCEEDING. SERVICE OF PROCESS MAY BE MADE IN ANY MANNER RECOGNIZED BY SUCH COURT. EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES ITS RIGHT TO A JURY TRIAL WITH RESPECT TO ANY ACTION OR CLAIM ARISING OUT OF ANY DISPUTE IN CONNECTION WITH THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES HERETO TO ENTER INTO THIS AGREEMENT, AND SHALL SURVIVE THE CLOSING OR TERMINATION OF THIS AGREEMENT.

Section 10.7 Counterparts.

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Section 10.8 Schedules and Exhibits.

Except as otherwise provided in this Agreement, all Exhibits and Schedules referred to herein are intended to be and hereby are specifically made a part of this Agreement.

Section 10.9 Entire Agreement.

Except for the MOU, the Seller Executed Ancillary Agreements, this Agreement and the Ancillary Agreements, including the Exhibits, Schedules, documents, certificates and instruments referred to herein or therein, embody the entire agreement and understanding of the Parties hereto in respect of the transactions contemplated by this Agreement and shall supersede all previous oral and written agreements and understandings and all contemporaneous oral negotiations, commitments and understandings including, without limitation, (a) that certain Letter of Intent dated May 6, 2011, between Seller and Buyer, as amended, and (b) all documents or communications, whether oral, written or electronic, submitted or made by (i) Buyer or any of its representatives to Seller or any of its representatives or (ii) Seller or any of its representatives to Buyer or any of its representatives, in connection with the sale process that occurred prior to the execution of this Agreement or otherwise in connection with the negotiation and execution of this Agreement.

Section 10.10 No Joint Venture.

Nothing in this Agreement creates or is intended to create an association, trust, partnership, joint venture or other entity or similar legal relationship among the Parties, or impose a trust, partnership or fiduciary duty, obligation, or liability on or with respect to the Parties.

Section 10.11 Change in Law.

If and to the extent that any Laws (other than Laws of Seller) that govern any aspect of this Agreement shall change, so as to make any aspect of this transaction unlawful, then the Parties agree to make such modifications to this Agreement as may be reasonably necessary for this Agreement to accommodate any such legal or regulatory changes, without materially changing the overall benefits or consideration expected hereunder by any Party.

Section 10.12 Specific Performance.

Each Party acknowledges and agrees that the other Party would be damaged irreparably in the event any of the provisions of this Agreement are not performed in accordance with their specific terms or otherwise are breached. Accordingly, each Party agrees that the other Party shall be entitled to an injunction or injunctions to prevent breaches of the provisions of this Agreement and to enforce specifically this Agreement and the terms and provisions hereof in addition to any other remedy to which it may be entitled, at law or in equity. For the avoidance

of doubt, if a Party seeks and is granted specific performance of the obligations of a breaching Party under this Agreement and the Closing occurs in the manner contemplated by this Agreement, then neither Party shall be obligated to make the respective payments contemplated by Sections 9.2(b) or 9.2(c).

Section 10.13 Severability.

If any provision of this Agreement is held to be illegal, invalid or unenforceable under any present or future Law, and if the rights or obligations of any Party under this Agreement will not be materially and adversely affected thereby, such provision will be fully severable, this Agreement will be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof, the remaining provisions of this Agreement will remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance herefrom and in lieu of such illegal, invalid or unenforceable provision, Seller and Buyer shall negotiate in good faith to restore insofar as practicable the benefits to each party that were affected by such ruling and to include as a part of this Agreement a legal, valid and enforceable provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible.

[Signatures appear on the following page]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed by their respective duly authorized officers as of the date first above written.

FLORIDA POWER & LIGHT COMPANY

By: _____

Name: _____

Title: _____

(Seal)

ATTEST:

_____
Tammy K. Vock
City Clerk

CITY OF VERO BEACH, FLORIDA

_____
A. Craig Fletcher
Mayor

(City Seal)

Approved as to form and legal sufficiency:

_____
Wayne R. Coment
City Attorney

Approved as conforming to municipal policy:

_____
James R. O'Connor
City Manager

[NOTE: THE EXHIBITS AND SCHEDULES TO THE PSA WERE FILED AT FERC BUT ARE NOT INCLUDED HERE IN ORDER TO REDUCE THE SIZE OF THE DOCUMENT]

Exhibit J-1

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Florida Power & Light Company	**)**	**Docket No. EC13-___-000**

APPLICATION
UNDER SECTION 203 OF THE FEDERAL POWER ACT

PREPARED DIRECT TESTIMONY AND EXHIBITS OF
JULIE R. SOLOMON
ON BEHALF OF APPLICANT

Exhibit J-1

DIRECT TESTIMONY OF
JULIE R. SOLOMON

Table of Contents

I. PURPOSE, SUMMARY OF ANALYSIS AND CONCLUSIONS 1

Introduction 1

Purpose 1

Description of Transaction 2

Summary of Analysis and Conclusions 3

II. DESCRIPTION OF THE PARTIES 6

FPL 6

Vero Beach 8

III. FRAMEWORK FOR THE ANALYSIS 9

Horizontal Market Power Issues 10

Vertical Market Power Issues 14

IV. DESCRIPTION OF METHODOLOGY 16

V. IMPACT OF THE MERGER ON COMPETITION 24

Horizontal Market Power 24

Available Economic Capacity 31

Economic Capacity 38

Vertical Market Power 38

VI. CONCLUSION 40

I. PURPOSE, SUMMARY OF ANALYSIS AND CONCLUSIONS

Introduction

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Julie R. Solomon. I am a Managing Director of Navigant Consulting ("Navigant"). My business address is 1200 19th Street, NW, Suite 700, Washington, DC 20036.

Q. PLEASE SUMMARIZE YOUR RELEVANT PROFESSIONAL BACKGROUND.

A. A large portion of my consulting activities involves electric utility industry restructuring and the transition from regulation to competition. I have been involved extensively in consulting on market power issues concerning mergers, other asset transactions and market rate applications for the past 15 years. I frequently file testimony and affidavits before the Federal Energy Regulatory Commission ("FERC" or "Commission") in connection with electric utility mergers, the purchase and sale of jurisdictional assets, applications for market-based rates, and triennial updates. My resume is attached as Exhibit J-2.

Purpose

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. I have been asked by counsel for Florida Power & Light Company ("FPL" or "Applicant"), to evaluate the potential competitive impact on relevant electricity markets of a transaction under which FPL acquires the electric generation, transmission and distribution assets of the City of Vero Beach ("Vero Beach") (the "Transaction"). I performed the Competitive Analysis Screen described in Appendix A to the Commission's Merger Policy Statement ("Order No. 592"),[1] as modified in the Revised Filing Requirements Under Part 33 of the Commission's Regulations.[2] The Competitive

---

[1] *Inquiry Concerning the Comm'n's Merger Policy Under the Fed. Power Act: Policy Statement*, Order No. 592, FERC Stats. & Regs. ¶ 31,044 (1996), *reconsideration denied*, Order No. 592-A, 79 FERC ¶ 61,321 (1997).

[2] *Revised Filing Requirements Under Part 33 of the Comm'n's Regulations*, Order No. 642, FERC Stats. & Regs. ¶ 31,111 (2000), *order on reh'g*, Order No. 642-A, 94 FERC ¶ 61,289 (2001) ("Revised Filing Requirements" or "Order No. 642").

Analysis Screen is intended to comport with the 1992 Department of Justice and Federal Trade Commission ("DOJ/FTC") Horizontal Merger Guidelines ("Merger Guidelines").

The primary focus of my testimony is to analyze whether the combination of the electric generating assets owned or controlled by FPL and those owned or controlled by Vero Beach potentially could create or enhance FPL's ability to increase prices in the relevant geographic electricity markets. I also address the potential impact of the Transaction on vertical market power, including barriers to entry that might undercut the presumption that long-run generation markets are competitive and, more specifically, the potential to use control over fuel supplies, fuel transportation facilities, or electric transmission to exert vertical market power to increase competitors' costs.

Description of Transaction

Q. PLEASE SUMMARIZE THE SALIENT ELEMENTS OF THE TRANSACTION IN THE CONTEXT OF YOUR ANALYSIS.

A. The following are the key elements of the Transaction of relevance to the competitive analysis. FPL will acquire Vero Beach's owned generation (150 MW).[3] Vero Beach will relinquish its current entitlements to portions of the St. Lucie 2, Stanton 1 and Stanton 2 generating units. FPL will enter into a contract with Orlando Utilities Commission ("OUC") for the equivalent capacity from Stanton 1 and 2 (38 MW), for a contract term not to exceed three years (and, in any event the contract will terminate no later than December 31, 2017). FPL will acquire sole responsibility for serving Vero Beach load, and Vero Beach's existing partial requirements contract with OUC will be terminated. FPL will retire the Vero Beach generating station (150 MW) within three years and return the site to the city for public use.[4] The three least efficient of the Vero Beach generating units, comprising 102 MW, will be retired immediately upon the closing of the

[3] Unless otherwise noted specifically or by context, references to generation megawatts refer to summer ratings as reported by the Energy Information Administration, Annual Electric Generator data, Form EIA-860, http://www.eia.gov/electricity/data/eia860/. These ratings may not precisely match ratings used for other purposes.

[4] There is an option to extend the site lease for one year if more time is needed to dismantle the plants. Thus, in any event, all of the Vero Beach units will be retired within four years at the outside.

Transaction. Finally Vero Beach will assign to OUC its existing firm natural gas transportation agreement with Florida Gas Transmission ("FGT").

Summary of Analysis and Conclusions

Q. DOES YOUR ANALYSIS INDICATE THAT THE TRANSACTION RAISES COMPETITIVE CONCERNS?

A. No. The key relevant markets potentially affected by this Transaction are the balancing authority areas ("BAAs") of FPL, where FPL's generation is located, and the Florida Municipal Power Pool ("FMPP"), where Vero Beach's generation is located. The Vero Beach generation and load will reside in the FPL BAA once the Transaction is completed. As described below, FPL serves wholesale and retail customers in Florida, and its generation is committed to serving those loads. Vero Beach serves customers located in the City of Vero Beach and adjoining areas.

There is, in effect, no retail access in Florida (other than a choice to self-supply), and it is unlikely that the state will adopt retail access in the foreseeable future. The Commission's policy in these circumstances has been to focus on the Available Economic Capacity ("AEC") branch of the Commission's Delivered Price Test ("DPT") in evaluating the competitive impacts of the transaction. I therefore have focused on the AEC analysis. Nevertheless, I also conducted an Economic Capacity ("EC") analysis, as required by the Commission.

My analysis demonstrates that the Transaction does not raise competitive concerns for the following reasons:

First, the Transaction results in a *de minimis* increase in additional capacity for FPL even before taking into account Vero Beach's load obligations. FPL is acquiring only 188 MW of generation capacity as a result of the Transaction, which is less than one percent of the more than 27,000 MW of capacity that FPL owns, purchases, or has under near-term development. *See* Table 1 and page 25.

Second, when Vero Beach's load obligations, and the performance characteristics and high operating costs of the Vero Beach generation are taken into account, the increase in

FPL's AEC is zero. Likewise, even ignoring the economics of the Vero Beach capacity, FPL is acquiring only about 4 MW of capacity over and above Vero Beach's peak load and associated planning reserve requirements. *See* Table 2 and pages 26-27.

Third, as I noted, three of the Vero Beach generating units, comprising 102 MW, will be retired immediately upon the closing of the Transaction, and the remaining 48 MW will be retired no later than four years later. (*See* Testimony of Sam Forrest, Exhibit J-14). With the immediate retirement of 102 MW, FPL will be acquiring only 86 MW of generation and purchases relative to Vero Beach's forecasted summer peak load of 152 MW. With or without the immediate retirement of these units, there is no additional AEC being added in any of the DPT time/load periods in the FPL market. The 102 MW of generation that will be retired is rarely economic and, therefore, operates infrequently. My understanding is that these units are not run for economic reasons. These units are run for either testing purposes, or for security purposes (to keep one of the other Vero Beach units that is not on-line at the time available to supply contingency reserves). *See* pages 28-31.

Fourth, at base case prices, the DPT results indicate no screen failures in the FPL market, in the FMPP market, or any of the other relevant first-tier markets I analyzed. *See* Table 6, Table 7, and Table 8, and page 32-35. With one exception, the same is true with respect to the price sensitivities. The exception is the FMPP market, where there is a screen failure in a single time period in each of the up 10 percent and down 10 percent price sensitivity cases. As I demonstrate below, neither of these screen failures raises material concerns. FPL's market share in the FMPP market does not increase at all as a consequence of the Transaction. One of the two screen failures in the price sensitivity case was a by-product of an increase in OUC's AEC caused by Vero Beach's termination of its partial requirements contract with OUC. I view the fact that OUC will have additional AEC freed-up by the Transaction as beneficial to the competitive situation and not a cause to view the Transaction as creating competitive concerns. The second single period screen failure in my price sensitivity cases occurred as a consequence of a very small reduction in the size of the FMPP market, resulting from the elimination of a small

amount of Vero Beach capacity that is deemed economic when market prices are higher by 10 percent. The reduction in market size is truly trivial – 6 MW or a 0.6 percent reduction – but because the market size falls, OUC's market share increases, and the Herfindahl-Hirschman Index ("HHI") change exceeds the screen.

Related to this previous point, I determined that a key driver of these results for the FMPP market is the presumption that the import capability into FMPP is zero, or near zero. As I detail below, this implies that participants in the FMPP BAA cannot displace their own network resources with non-network resources and, in effect, cannot purchase short-term power from outside of the BAA. However, the facts do not support either this presumption or its implication. FPL, for example, commonly delivers non-network resource energy under secondary service for Florida Municipal Power Agency ("FMPA"), a wholesale power agency owned by a number of municipal electric utilities. FMPA is a member of FMPP, and, indeed is the largest FMPP participant. FPL also delivers energy from FMPA network resources to non-network customers in FMPP under point-to-point transmission. When I test the effect of including imports into FMPP (scaled to be equivalent to 25 percent to 100 percent of FMPP seasonal peak load), I find that the screen failures disappear entirely.

Finally, there also are no vertical market power issues in connection with this Transaction. FPL is not acquiring any transmission other than the facilities necessary to interconnect Vero Beach's generation facilities to the grid. FPL's transmission is subject to a Commission-approved Open Access Transmission Tariff ("OATT"). FPL is not acquiring any natural gas assets from Vero Beach as part of the Transaction. Neither Vero Beach nor FPL operates any natural gas local distribution companies, nor does either own any interstate gas transmission pipelines.

II. DESCRIPTION OF THE PARTIES

FPL

Q. PLEASE DESCRIBE FPL.

A. FPL is a vertically-integrated, regulated electric utility engaged primarily in the generation, transmission, distribution and sale of electric energy in Peninsular Florida. Its parent, NextEra Energy, Inc. ("NEE"), is a public utility holding company. NEE's other principal operating subsidiary is NextEra Energy Resources, LLC ("NEER"), which owns generation throughout the United States. None of NEER's generation is located in Peninsular Florida or in any market first-tier to the FPL BAA.

FPL's retail customers include a number of municipalities and counties that are served under franchise agreements or under general obligations to serve.

Retail customers in Florida may elect to self-supply, but, as a practical matter, few customers choose to do so. FPL also faces competition from other suppliers of electrical energy to wholesale customers, who can purchase from alternative suppliers and industrial customers that can self-generate. However, in 2012, FPL's energy sales to wholesale customers were less than 2 percent of its total energy sales (in MWhs).

FPL has authority to sell at market-based rates in all markets other than Peninsular Florida. FPL sells at cost-based rates in Peninsular Florida, including sales within its own BAA.

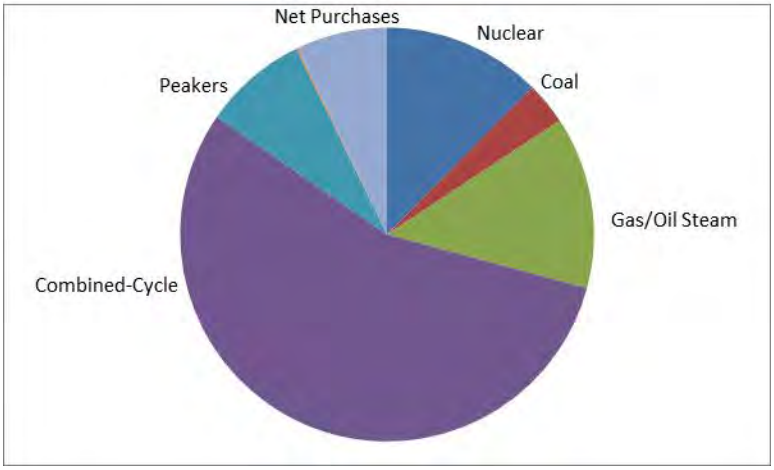
Q. PLEASE PROVIDE ADDITIONAL DETAIL ON FPL's GENERATION.

A. FPL's generation is detailed in Exhibit J-3, which reflects current generation and generation expected to be on-line by 2014.[5] FPL will own or purchase 27,288 MW of generation, consisting of 3,385 MW of nuclear capacity, 900 MW of coal-fired capacity, 15,135 MW of combined-cycle capacity, 3,672 MW of oil/gas-fired steam capacity, 2,223

[5] In particular, new builds include the approximately 1,200 MW Cape Canaveral and 1,200 MW Riviera Beach combined-cycle plants expected to be in-service in June 2013 and June 2014, respectively.

MW of oil/gas-fired peaking capacity, 110 MW of solar[6] and 1,939 MW of purchases. Figure 1 shows this breakout of capacity, by type.

Figure 1: FPL Generation, by Type



Q. DOES FPL OWN ANY NATURAL GAS PIPELINE OR DISTRIBUTION ASSETS?

A. No. FPL does not have a natural gas distribution company. It does not currently own any inter- or intrastate natural gas pipelines. FPL has firm gas transportation contracts for delivery into Florida, and also purchases interruptible transportation. FPL obtains natural gas through supply contracts and spot market purchases, and has an agreement for gas storage.

FPL has issued a request for proposals for a new natural gas pipeline into Florida to be operational no earlier than 2017. The proposed pipeline is composed of an upstream segment (from Alabama to a new Central Florida hub, where it can interconnect with Peninsular Florida's two existing natural gas pipelines); and a downstream segment (from the new Central Florida hub to Martin County, Florida). FPL has proposed a self-build option for the downstream segment. Construction and operation of the pipeline will be subject to regulatory approvals, including the Commission.

[6] 75 MW of this solar generation is used to replace steam produced at FPL's Martin facility and hence is not incremental to FPL's total generation.

Vero Beach

Q. PLEASE DESCRIBE VERO BEACH.

A. The City of Vero Beach currently operates a municipal electric utility company. The City of Vero Beach is a member of the FMPA, a wholesale power agency owned by a number of municipal electric utilities.

Vero Beach owns five generating units, consisting of a two-unit combined-cycle plant (48 MW), and three natural gas-fired steam units (102 MW), all located in the FMPP BAA. Vero Beach also has generation entitlements through its participation in FMPA to shares of St. Lucie Unit 2 (operated by FPL) and Stanton Units 1 and 2 (operated by OUC and located in the FMPP BAA).[7] Vero Beach's share is 12 MW of St. Lucie Unit 2, 21 MW of Stanton Unit 1 and 17 MW of Stanton Unit 2. The remainder of Vero Beach's load is served pursuant a partial requirements contract with OUC. (For planning purposes, OUC assumes 102 MW of peak load being supplied to Vero Beach in 2014.)[8] The City of Vero Beach municipal electric utility supplies retail power to the residents of Vero Beach, the Town of Indian River Shores, and Indian River County.

---

[7] FMPA owns shares of St. Lucie Unit 2 (8.81 percent), Stanton Unit 1 (14.82 percent) and Stanton Unit 2 (23.2 percent). Vero Beach's entitlements are with respect to a portion of FMPA's share (15.202 percent, 32.521 percent and 16.4887 percent, respectively). Vero Beach's shares of each of the unit's capacity are 1.34 percent (12 MW), 4.81 percent (21 MW) and 3.83 percent (17 MW), respectively.

[8] *OUC 2012 Ten-Year Site Plan*, Table 2-2, http://www.floridapsc.com/library/filings/12/02361-12/02361-12.pdf.

III. FRAMEWORK FOR THE ANALYSIS

Q. WHAT ARE THE GENERAL MARKET POWER ISSUES RAISED BY MERGER PROPOSALS?

A. Market power is the ability of a firm profitably to maintain prices above competitive levels for a significant period of time. Market power analysis of a merger or transaction proposal examines whether the merger/transaction would cause a material increase in the relevant firm's or firms' market power or a significant reduction in the competitiveness of relevant markets. The focus is on the effects of the merger or transaction, which means that the analysis examines those business areas in which the merging or transacting firms are competitors. This is referred to as horizontal market power assessment. In most instances, a merger or transaction will not affect competition in markets in which the relevant firms do not compete. In the context of the proposed transaction, therefore, the focus is properly on those markets in which FPL and Vero Beach are actual or (under some circumstances) potential competitors. The analysis is intended to measure the adverse impact, if any, of the elimination of a competitor as a result of the combination.

Potential vertical market effects of the merger relate to the firm's or firms' ability and incentives to use their market position over a product or service to affect competition in a related business or market. For example, vertical effects could result if the merger of two electric utilities created an opportunity and incentive to operate transmission in a manner that created market power for the generation activity of the merged company that did not exist previously. The Commission has identified market power as also arising from dominant control over potential generation sites or over fuel supplies and delivery systems. Such dominant control could undercut the presumption that long-run generation markets are competitive.

Q. WHAT ARE THE MAIN ELEMENTS IN DEVELOPING AN ANALYSIS OF MARKET POWER?

A. Understanding the competitive impact of a merger or transaction requires defining the relevant market (or markets) in which the merging or transacting firms participate.

Participants in a relevant market include all suppliers, and in some instances potential suppliers, who can compete to supply the products produced by the merging or transacting parties and whose ability to do so diminishes the ability of the merging parties to increase prices. Hence, determining the scope of a market is fundamentally an analysis of the potential for competitors to respond to an attempted price increase. Typically, markets are defined in two dimensions: geographic and product. Thus, the relevant market is composed of companies that can supply a given product (or its close substitute) to customers in a given geographic area.

Horizontal Market Power Issues

Q. HOW HAS THE COMMISSION TYPICALLY EXAMINED PROPOSED MERGERS INVOLVING ELECTRIC UTILITIES?

A. In December 1996, the Commission issued Order No. 592,[9] the "Merger Policy Statement," which provides a detailed analytic framework for assessing the horizontal market power arising from electric utility mergers. This analytic framework is organized around a market concentration analysis. The Commission adopted the DOJ/FTC 1992 *Horizontal Merger Guidelines* methodology of measuring market concentration levels by the HHI as its principal screen for merger-related market power. To determine whether a proposed merger requires further investigation because of a potential for a significant anti-competitive impact, the DOJ and FTC consider the level of the HHI after the merger (the post-merger HHI) and the change in the HHI that results from the combination of the market shares of the merging entities. The Commission adopted the then-current *Merger Guidelines*' standards for market classification. Markets with a post-merger HHI of less than 1000 are considered "unconcentrated." The DOJ and FTC generally consider mergers in such markets to have no anti-competitive impact. Markets with post-merger HHIs of 1000 to 1800 are considered "moderately concentrated." In those markets, mergers that result in an HHI change of 100 points or fewer are considered unlikely to have anti-competitive effects. Finally, post-merger HHIs of more than 1800 are considered to indicate "highly concentrated" markets. The *Merger Guidelines* suggest

[9] Order No. 592, FERC Stats and Regs. ¶ 31,044 (1996).

that in these markets, mergers that increase the HHI by 50 points or fewer are unlikely to have a significant anti-competitive impact, while mergers that increase the HHI by more than 100 points are considered likely to reduce market competitiveness. On November 15, 2000, the Commission issued its Revised Filing Requirements Under Part 33 of the Commission's Regulations,[10] which affirmed the screening approach to mergers consistent with the Appendix A analysis set forth in the Merger Policy Statement, and codified the need to file a screen analysis and the exceptions therefrom. In 2010, the DOJ/FTC *Merger Guidelines* were revised, incorporating changes in the market concentration standards based on HHIs. The Commission's policy relying on the 1992 *Merger Guidelines* with respect to market concentration was reaffirmed on February 16, 2012.[11]

Appendix A of the Merger Policy Statement, the Competitive Analysis Screen, specifies a "delivered price" screening test, referred to as the DPT herein, to measure EC, defined as energy that can be delivered into a destination market at a delivered cost less than 105 percent of the destination market price. The DPT screening test also provides for an analysis of AEC, defined as EC over and above that required to meet native load and other long-term obligations that meets the delivered price test.

If a proposed merger raises no market power concerns (*i.e.*, passes the Appendix A screen), the inquiry generally is terminated. Both the Merger Policy Statement and the Revised Filing Requirements accept that merger applications involving no overlap in relevant geographic markets do not require a screen analysis or filing of the data needed for the screen analysis.[12]

The DPT is intended to be a conservative screen to determine whether further analysis of market power is necessary. If the Appendix A analysis shows that a company will not be able to exercise market power in the destination markets where their generation resides, it

---

[10] Order No. 642, Final Rule in Docket No. RM98-4-000, 18 CFR Part 33, 93 FERC ¶ 61,164 (2000) ("Revised Filing Requirements").

[11] *Analysis of Horizontal Market Power under the Federal Power Act*, 138 FERC ¶ 61,109 (2012).

[12] 18 C.F.R. ¶ 33.3(a)(2)(i).

generally follows that the applicants will not have market power in more broadly defined and more geographically remote markets. The screen is the first step in determining whether there is a need for further investigation. If the screening test is not passed, leaving open the issue of whether the merger will create market power, the Commission invites applicants to propose mitigation remedies targeted to reduce potential anti-competitive effects to safe harbor levels. In the alternative, the Commission will undertake a proceeding to determine whether unmitigated market power concerns mean that the merger is contrary to the public interest.

Q. WHAT PRODUCTS HAS THE COMMISSION GENERALLY CONSIDERED?

A. The Commission generally has been concerned with three relevant product markets: non-firm energy, short-term capacity (firm energy) and long-term capacity. Both EC and AEC are used as measures of energy. Depending on the markets being analyzed, one or the other of these measures can be deemed more important. Here, as in other non-restructured markets, the proper focus is on AEC.

Under the EC and AEC measures, energy production capability that is attributed to a market participant is that capacity controlled by it that can reach the destination market, taking transmission constraints and costs into account, at a variable cost no higher than 105 percent of the destination market price. As described above, the two measures differ as to the treatment of capacity used to meet native load requirements.

The Commission has determined that long-term capacity markets are presumed to be competitive, unless special factors exist that limit the ability of new generation to be sited or receive fuel.[13]

---

[13] The market for long-term capacity generally does not need to be analyzed since the Commission has concluded as a generic matter that the potential for entry ensures that the long-term capacity market is competitive. *See Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Servs. by Pub. Utils.; Recovery of Stranded Costs by Pub. Utils. & Transmitting Utils.*, Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,657 (1996). The presumption that long-term capacity markets are competitive can be overcome if the applicants have dominant control over power plant sites or fuel supplies and delivery systems. This exception is addressed below.

Order No. 642 directs applicants to analyze relevant ancillary services markets (specifically, reserves and imbalance energy) "when the necessary data are available." In Peninsular Florida, which is the focus of the competition analysis, there are no formalized ancillary services or capacity markets.

Q. HOW HAS THE COMMISSION ANALYZED GEOGRAPHIC MARKETS?

A. Traditionally, the Commission has defined the relevant geographic markets as centered on the areas where applicants own generation and on the BAAs directly interconnected with the applicants' generation. Both Order No. 592 and the Revised Filing Requirements continue to define the relevant geographic market in terms of destination markets.[14] Further, in a merger context, the Commission considers as potential additional destination markets other utilities that historically have been customers of the applicants.

Destination markets typically are defined as individual BAAs (previously, control areas). However, the Commission's practice has been to aggregate customers that have the same supply alternatives into a single destination market, and Regional Transmission Organizations ("RTOs") and Independent System Operators ("ISOs") generally are default markets where applicable.[15] Where transmission constraints exist within an RTO/ISO, the Commission also has considered submarkets as separate geographic markets.[16]

In the context of the instant transaction, as discussed above, the appropriate focus of the competitive analysis is on the FPL and FMPP BAAs, and the BAAs that are directly interconnected with FPL.

---

[14] 18 C.F.R. 33.3(c)(2). "Identify each wholesale power sales customer or set of customers (destination market) affected by the proposed transaction. Affected customers are, at a minimum, those entities directly interconnected to any of the merging entities and entities that have purchased electricity at wholesale from any of the merging entities during the two years prior to the date of the application." *Id.*

[15] Order No. 642, FERC Stats. & Regs. ¶ 31,111 at 31,890-1 (2000), *citing Atlantic City Elec. Co.*, 80 FERC ¶ 61,126 (1997); *Consolidated Edison, Inc.*, 91 FERC ¶ 61,225 (2000). To the extent there are internal transmission constraints within these markets, the Commission has considered smaller markets within these single control areas as potentially relevant. Likewise, the Commission's indicative screens for purposes of determining eligibility to obtain authority to sell at market-based rates also use BAAs or RTOs/ISOs as default geographic markets. *Order No. 697* at P 231.

[16] *Id.* at P 246 (citing to a number of Commission decisions involving electric utility mergers).

Vertical Market Power Issues

Q. WHAT ARE THE POTENTIALLY RELEVANT VERTICAL MARKET POWER ISSUES?

A. In the Revised Filing Requirements, the Commission set out several vertical issues potentially arising from mergers with input suppliers. The principal issue identified is whether the merger may create or enhance the ability of the merged firm to exercise market power in downstream electricity markets by control over the supply of inputs used by rival producers of electricity. Three potential abuses have been identified: the upstream firm has the ability to raise rivals' costs or foreclose them from the market in order to increase prices received by the downstream affiliate; the upstream firm has the ability to facilitate collusion among downstream firms; or transactions between vertical affiliates could be used to frustrate regulatory oversight of the cost/price relationship of prices charged by the downstream electricity supplier.[17] The downstream products to be analyzed in a vertical analysis are the same as in the horizontal analysis. However, the vertical market power analysis focuses on the structural competitiveness of downstream and upstream product markets, as measured by HHIs, rather than the change in HHIs resulting from a merger or transaction.

The Commission's concerns regarding vertical issues primarily have arisen in the context of mergers between electric utilities and gas transportation providers. The Commission also has expressed the concern that an entity that controls electric transmission could use that control to favor its own generation.

I have not conducted a vertical analysis of this merger because the "merging entities currently do not provide inputs to electricity products (i.e., upstream relevant products) and electricity products (i.e., downstream relevant products) in the same geographic markets."[18] Neither FPL nor Vero Beach owns natural gas distribution assets, or inter- or

---

[17] While Order No. 642 identifies these three types of effects, the third is more properly an effect on rates and regulation, review criteria that exist separately from market power.

[18] 18 CFR 33.4(a)(2)(i).

intra-state natural gas pipelines. Any gas transportation contracts currently held by Vero Beach are not being acquired by FPL as part of the Transaction.

With respect to ownership of electric transmission facilities, the Commission in the past has focused on the extent to which the transmission owner provides open-access transmission or has transferred operational control over its transmission facilities to an ISO or an RTO. FPL's transmission system is subject to a Commission-approved OATT. Further, the transmission that FPL is acquiring as part of the Transaction consists only of facilities necessary to connect the Vero Beach generation and distribution facilities to the relevant substations.

IV. DESCRIPTION OF METHODOLOGY

Q. PLEASE SUMMARIZE THE METHODOLOGY THAT YOU USED TO ANALYZE THE COMPETITIVE EFFECTS OF THE MERGER.

A. I evaluated the competitive effects of the merger using the DPT outlined in Appendix A and the Revised Filing Requirements. The source and methodology for the data required to conduct the DPT are described in Exhibit J-5.

Q. WHAT DESTINATION MARKETS DID YOU CONSIDER?

A. Consistent with the instructions in the Revised Filing Requirements, I identified the destination markets that could potentially be impacted by the Transaction. The first step in determining the potentially relevant markets is to identify where FPL and Vero Beach own or control generation, namely the FPL and FMPP BAAs.

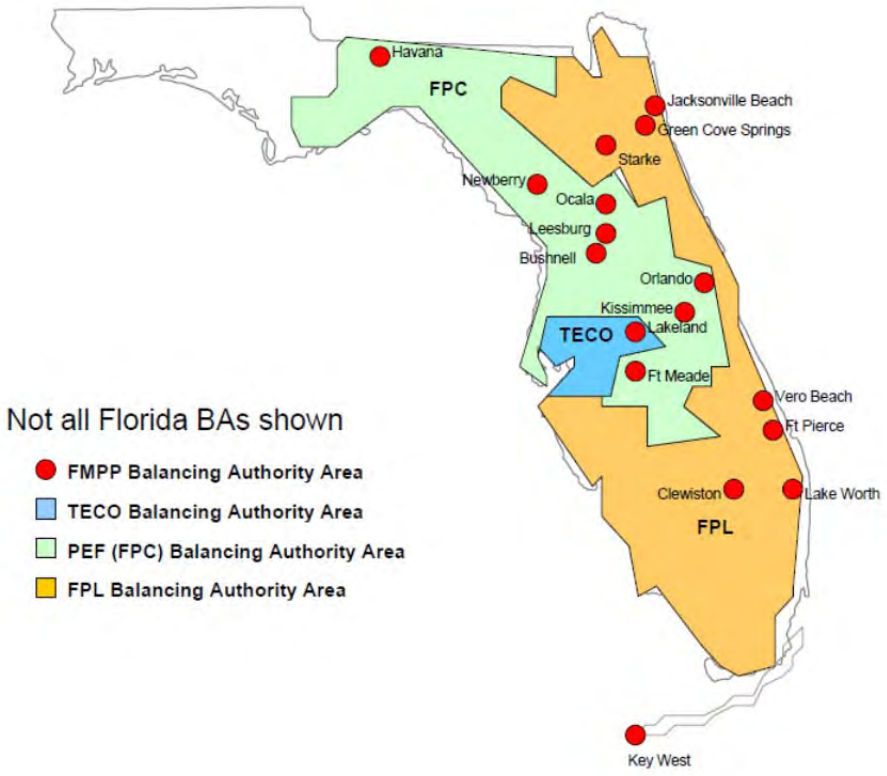
My focus is on the potential horizontal impact of the Transaction, primarily on the FPL BAA (where FPL owns generation) and the FMPP BAA (where Vero Beach's generation and load currently reside). I also examine potential impacts on markets directly interconnected to the FPL and FMPP BAAs (*i.e.*, first-tier markets). These include two BAAs interconnected to both FPL and FMPP (Florida Power Corporation ("FPC") and Tampa Electric Company ("TECO")) and six interconnected only to FPL (JEA, New Smyrna Beach ("NSB"), City of Homestead ("HST"), Seminole Electric Cooperative ("SEC"), Gainesville Regional Utilities ("GVL"), and Southern Company Services, Inc. ("SOCO")). Other than SOCO, all of these BAAs are in Peninsular Florida.

Based on FPL's Electric Quarterly Reports ("EQRs"), all of its sales in recent years were limited to Peninsular Florida or the SOCO BAA, and Vero Beach makes essentially no wholesale sales. Therefore no other markets need to be analyzed.

FMPP is a somewhat unique "market". FMPP is a power pool comprised of municipal utilities, including FMPA, OUC, Kissimmee and Lakeland Electric. It is a group of non-contiguous, non-interconnected, systems, generally located large distances from each other within Peninsular Florida. It is not a typical BAA in that its members are spread

out throughout much of Florida (as shown in Figure 2 below),[19] and they rely significantly on third-party pseudo ties and transmission services to operate as a common BAA. FMPP operates this pooling arrangement that allows its members to balance their local and remote network resources and loads. FMPP is not itself a transmission provider. While some FMPP members own discrete transmission facilities within their individual municipal boundaries, some wholesale customers in FMPP are dependent on FPL, FPC and TECO transmission for delivery of energy.

Figure 2: Map of FMPP Locations in Florida



The assumption that FMPP has little or no import capability significantly affects the DPT results. It causes the FMPP market to look like a cluster of small, isolated, electrical islands with little or no ability to secure supplies from off the island. With such a small market, even trivial changes in supply can cause large changes in market shares, which, in turn, can cause HHI changes that exceed screens.

[19] Not all FMPA members are reflected on this map.

The unique characteristics of the FMPP market have an impact on the determination that the Simultaneous Import Limit ("SIL") into FMPP is essentially zero.[20] Most of the transmission that ties together the FMPP market is not FMPP-owned transmission, but rather transmission purchased from FPL, FPC, TECO and others. The DPT analysis based on a zero or near zero SIL assumes that FMPP members do not have access to transmission services to "shop around" for generation outside the FMPP market. Such an assumption overlooks the ability of FMPP members either to redirect their transmission rights so that they might acquire and import generation from non-FMPP suppliers or, alternatively, to purchase additional transmission rights to supplement their existing supplies.[21] To understand how the assumption of a zero SIL affects the DPT analysis, I examined the FMPP market with SILs at various levels up to and including equivalent to the seasonal peak load of its participants, as discussed below.

Q. WHAT TIME PERIODS/LOAD CONDITIONS DID YOU ANALYZE FOR YOUR DPT?

A. I examined ten time periods/load conditions for both the EC and AEC analyses. The DPT time periods are intended to provide snapshots that reflect a broad range of system conditions. Broadly, I evaluated hourly load data to aggregate similar hours. I defined periods within three seasons (Summer, Winter and Shoulder) to reflect the differences in unit availability, load and transmission capacity. Hours were first separated into seasons to reflect differences in generating availability and then further differentiated by load levels during each season.[22] For each season, hours were segmented into peak- and off-

---

[20] *Puget Sound Energy, Inc.*, 135 FERC ¶ 61,254 at Appendix B, Table 1 (2011).

[21] The use in the DPT analysis of a zero (or near zero) SIL into FMPP clearly is inconsistent with the facts. First, OASIS postings show non-firm transmission available into FMPP. Second, during 2012, FPL delivered more than 134,500 MWh of non-network resource energy under secondary service for FMPA, and more than 87,000 MWh of energy from network resources to non-network customers in FMPP under point-to-point transmission reservations. In addition, FMPP participants can at any time add additional network resources or substitute one network resource for another under their network service arrangements.

[22] Appendix A requires applicants to evaluate the merger's impact on competition under different system conditions. For example, aggregating summer peak and shoulder peak conditions may mask important differences in unit availability and, therefore, a merger could potentially affect competition differently in these seasons. Thus, applicants are directed to evaluate enough sufficiently different conditions to show the merger's impact across a range of system conditions. On the other hand, the DOJ/FTC *Horizontal Merger Guidelines* discuss the ability to "sustain" a price increase, and a finding that a structural test (like the HHI statistic)

peak periods.[23] The periods evaluated (and the designations used to refer to these periods in exhibits) are:

SUMMER (June-July-August)

Super Peak 1 (S_SP1):	Top load hour
Super Peak 2 (S_SP2):	Top 10% of peak load hours
Peak (S_P):	Remaining peak hours
Off-peak (S_OP):	All off-peak hours

WINTER (December-January-February)

Super Peak (W_SP):	Top 10% of peak load hours
Peak (W_P):	Remaining peak hours
Off-peak (W_OP):	All off-peak hours

SHOULDER (March-April-May-September-October-November)

Super Peak (SH_SP):	Top 10% of peak load hours
Peak (SH_P):	Remaining peak hours
Off-peak (SH_OP):	All off-peak hours

Q. WHAT "COMPETITIVE" PRICE LEVELS DID YOU ANALYZE IN YOUR ANALYSES?

A. I evaluated conditions assuming destination market prices ranging from prices in the Off-Peak periods in which only baseload generation is economic to high prices in the highest Summer Super Peak period during which all but the least economic generation is in merit. In Order No. 642, the Commission indicated that sub-periods within a season should be determined by load levels rather than by time periods. For my base case prices, consistent with Commission guidance, I rely on two years of historical price data reported in the EQRs, adjusted to reflect forecasted fuel prices for 2014.[24] Also consistent with

---

violates the safe harbor for some small subset of hours during the year may not be indicative of any market power problems.

[23] On-peak hours include Hour Ending (HE) 0700−HE 2200 EST Monday through Friday.

[24] *NRG Energy, Inc.*, 141 FERC ¶ 61,207 at P 63 (2012) ("Moreover, we expect applicants performing DPTs to conduct their studies using two years of market data in the DPT model for each relevant geographic market when determining the destination market price for each season/load period"). I determined that the best EQR

Commission guidance, I conducted sensitivity analyses using higher and lower prices[25] (changing prices by 10 percent).

Q. PLEASE DESCRIBE THE BASIC ANALYTIC APPROACH APPLIED IN ANALYZING THIS TRANSACTION.

A. I performed the DPT analysis using a model that includes each potential supplier as a distinct "node" or area that is connected via a transportation (or "pipes") representation of the transmission network. Each link in the network has its own non-simultaneous limit and cost, and a SIL is imposed across these individual limits. Potential suppliers may use economically and physically feasible links or paths to reach the destination market. This generally is a conservative approach as it limits import supply to a smaller group of potential market participants. To the extent more generation meets the economic element of the DPT (*e.g.*, 105 percent of the market price)[26] than can actually be delivered on the transmission network, scarce transmission capacity is allocated based on the relative amount of economic generation that each party controls at a constrained interface.

Q. HOW DID YOU ALLOCATE TRANSMISSION CAPACITY?

A. Appendix A notes that there are various methods for allocating transmission and that applicants should support the method used.[27] I allocated transmission on a pro rata basis, based on relative ownership shares of capacity, such that imports consist of the pro rata shares of EC (or AEC) that are economically and physically feasible to deliver to the destination market. Consistent with recent Commission's guidance, I did not allocate

---

coverage was for the FPL market, and that, based on available data, it was reasonable to use the same market prices across the BAAs examined. *See* workpapers.

[25] *Duke Energy Corporation*, 136 FERC ¶ 61,245 at P 118 (2011) ([E]very Delivered Price Test should address three scenarios: the Base Case, in which applicants should use appropriate forecasted market prices to model post-merger competition in the study area, and sensitivity analyses of the Base Case that measure the effect of increasing or decreasing the market prices relative to the Base Case.").

[26] *See* 18 C.F.R. 33.3(c)(4).

[27] *See* Order No. 592, FERC Stats. and Regs., ¶ 31,044 at 30,133. "In many cases, multiple suppliers could be subject to the same transmission path limitation to reach the same destination market and the sum of their economic generation capacity could exceed the transmission capability available to them. In these cases, the ATC must be allocated among the potential suppliers for analytic purposes. There are various methods for accomplishing this allocation. Applicants should support the method used." *Id.*

imports at each interface into the destination market, but rather aggregated potential first-tier supply from all sources and assigned a pro rata share to that supply.[28]

Q. WHAT MEASURE OF SIL DID YOU USE?

A. The transmission planning group at FPL calculated the seasonal SILs for the FPL BAA. For FMPP and other first-tier markets, I used the SILs that the Commission approved in the most recent round of triennial filings for the Southeast Region.[29]

Q. WHAT YEAR DID YOUR ANALYSIS COVER?

A. I analyzed 2014 market conditions, consistent with the Order No. 642 requirement that the analysis be forward looking.

Even though my analysis approximates 2014 market conditions, the primary source of data on generation and transmission is current and recent historical data. Where appropriate, I adjusted relevant data to approximate expected 2014 conditions. As described in Exhibit J-5, this includes load and generation dispatch (*i.e.*, fuel and other variable) costs.

Q. HOW DO YOU ACCOUNT FOR LONG-TERM PURCHASES AND SALES?

A. I assumed that FPL's long-term power arrangements are controlled by FPL. This treatment is conservative inasmuch as not all of these contracts necessarily provide FPL with dispatch rights.

---

[28] *NRG Energy, Inc.*, 141 FERC ¶ 61,207 at P 63 (2012) stating that applicants should allocate "…uncommitted capacity from an aggregated first tier" consistent with the approach used in studies for market-based rates. *Id.*, note 112 ("In Order No. 697, the Commission clarified that *pro rata* allocation is used to assign shares of simultaneous transmission import capability to uncommitted generation capacity in aggregated first-tier BAAs to determine how much uncommitted generation capacity can enter the study area. *See Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, Order No. 697, FERC Stats. & Regs. ¶ 31,252 at n.361 & P 375, *clarified*, 121 FERC ¶ 61,260 (2007), *order on reh'g*, Order No. 697-A, FERC Stats. & Regs. ¶ 31,268, *clarified*, 124 FERC ¶ 61,055, *order on reh'g*, Order No. 697-B, FERC Stats. & Regs. ¶ 31,285 (2008), *order on reh'g*, Order No. 697-C, FERC Stats. & Regs. ¶ 31,291 (2009), *order on reh'g*, Order No. 697-D, FERC Stats. & Regs. ¶ 31,305 (2010), *aff'd sub nom. Montana Consumer Counsel v. FERC*, 659 F.3d 910 (9th Cir. 2011).)

[29] *Duke Energy Carolinas, LLC*, 138 FERC ¶ 61,134 at Appendix A (2012). No SIL data were reported for GVL, HST and NSB. Based on the SILs the Commission reported for other small BAAs in Florida, the SIL into these markets possibly also would have been calculated to be zero. While the base case results assumed a zero SIL for these three BAAs, I tested the effect of a positive SIL (capped at seasonal peak load), and the screens also were readily passed. *See* Exhibit J-5 and workpapers.

Q. WHAT PLANNED GENERATION RETIREMENTS AND ADDITIONS DO YOU REFLECT FOR FPL?

A. As I noted earlier, I reflected FPL's proposed generation additions through 2014.[30] This includes the new, approximately 1,200 MW Cape Canaveral and 1,200 MW Riviera Beach combined-cycle plants expected to be in-service in June 2013 and June 2014, respectively. I also reflected any plant uprates and retirements scheduled to occur by 2014.

Q. HOW DID YOU TREAT JOINTLY-OWNED CAPACITY?

A. Jointly-owned plants are attributed based on ownership shares, consistent with Commission guidance.[31]

Q. HOW DID YOU DEVELOP VARIABLE OPERATING COSTS WITH RESPECT TO THE CAPACITY YOU MODELED?

A. Consistent with the approach I typically use, I derived incremental costs using publicly-available or third-party estimates of heat rates, fuel costs, variable operations and maintenance costs and environmental costs. With respect to Vero Beach's generation specifically, I incorporated the actual heat rates reported by Vero Beach (*see* Table 3 at page 29).

Three of the Vero Beach units have heat rates that make them economic only under high peak load/price conditions. These units, however, have operating characteristics that would cause them to be dispatched far less often than conventional combustion turbines peakers. The three Vero Beach units are steam boiler plants that require 6 to 8 hours of fuel burn before the boilers can achieve operating temperatures and pressures. Appropriately, I took the significant start-up costs into consideration when determining the incremental costs of operating these and other comparable units in Florida.

---

[30] *See* note 5.

[31] Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 188 ("there may be situations where a jointly-owned generation facility is operated by one of the joint-owners for the benefit of and on behalf of all of the joint-owners. Under these circumstances, it may be reasonable to allocate capacity based on ownership percentages"). *See also Kansas Energy LLC*, 138 FERC ¶ 61,107 at P 29 (2012).

Q. DID THE INCLUSION OF THESE START-UP COSTS IN THE DPT ANALYSIS CAUSE THESE UNITS TO BE DEEMED ECONOMIC LESS FREQUENTLY THAN THEIR DISPATCH IN ACTUAL DAY-TO-DAY OPERATIONS?

A. No. As demonstrated later in my testimony (*see* page 31), even with this adjustment to the operating costs of such units, the DPT results suggest that the Vero Beach generation operates more often than their actual operating history would suggest. I believe this is because other operating characteristics of these units, such as their lengthy startup and min run times, limit the flexible of the units and consequently they are called on far less frequently by system dispatchers than the DPT analysis would suggest.

V. IMPACT OF THE MERGER ON COMPETITION

Horizontal Market Power

Q. PLEASE IDENTIFY AGAIN THE MARKETS YOU ANALYZED.

A. I analyzed the FPL and FMPP BAAs, and their first-tier markets, consisting of FPC, TECO, JEA, NSB, HST, SEC, GVL and SOCO.

Q. WHAT SPECIFIC ANALYSES DID YOU CONDUCT?

A. I conducted a DPT for the relevant markets. Consistent with the guidance in the *Merger Policy Statement*, I analyzed both EC and AEC. Based on Commission precedent, the focus is on the results of the AEC analyses. This is consistent with the Commission's primary reliance on the results of AEC analyses in non-restructured markets (*i.e.*, where traditional vertically integrated suppliers maintain load-serving responsibility).[32]

Consistent with the Commission's requirement that merger analyses be forward-looking, my analysis is based on expected market conditions in 2014. These conditions are similar to market conditions at present and/or in the recent past, but take into account expected generation additions and additional customer load and any expected changes in costs/market prices.

Q. PLEASE DESCRIBE, AGAIN, THE GENERATION RELEVANT TO YOUR ANALYSIS.

A. As detailed in Exhibit JRS-3, FPL owns, purchases, or has under near-term development approximately 27,000 MW of generation located in the FPL BAA.[33] Vero Beach owns or has entitlements to 200 MW of generation located in the FMPP BAA, as detailed in Exhibit J-4.

---

[32] *See Duke Energy Corporation*, 136 FERC ¶ 61,245 at P 124 (2011) ("the AEC measure is more appropriate for markets where there is no retail competition and no indication that retail competition will be implemented in the near future"). *See also, Great Plains Energy, Inc.*, 121 FERC ¶ 61,069 at P 34 & n.44 (2007), *reh'g denied*, 122 FERC ¶ 61,177 (2008); *Nat'l Grid, plc.*,117 FERC ¶ 61,080 at P 27-28 (2006), *reh'g denied*, 122 FERC ¶ 61,096 (2008); *Westar Energy, Inc.*, 115 FERC ¶ 61,228 at P 72, *reh'g denied*, 117 FERC ¶ 61,011 at P 39 (2006); and *Nev. Power Co.*, 113 FERC ¶ 61,265 at P 15 (2005)).

[33] This includes some owned generation physically located outside of the FPL BAA, but dynamically scheduled into FPL, as well as long-term purchases.

As part of the Transaction, Vero Beach will relinquish its firm contract entitlement rights through its participation in the FMPA, consisting of small shares of Stanton units 1 and 2 (totaling 38 MW) and St. Lucie unit 2 (12 MW). These entitlements, totaling 50 MW, will be assigned to OUC. Vero Beach's current partial requirements contract with OUC also will be terminated as part of the Transaction.

Concurrent with the Transaction, FPL is entering into a contract with OUC to purchase approximately 38 MW of the output of Stanton units 1 and 2 (equivalent to Vero Beach's current entitlements from the Stanton units) for a term not to exceed three years (and, in any event the contract will terminate no later than December 31, 2017).

Thus, under the Transaction, FPL acquires Vero Beach generation facilities (150 MW), plus 38 MW of additional purchases (for a total of 188 MW). FPL will immediately retire 102 MW of that generation, which consists of older, high-cost steam units, as discussed in Mr. Forrest's testimony (Exhibit J-14). With this generation immediately retired, FPL will have 114 MW less of generation than Vero Beach previously owned or had entitlements to. This is shown in Table 1 (top panel) below.

Table 1: Summary of Generation Impact of Transaction (Summer MW)

	With 102 MW Retired Immediately		
	Pre-Transaction	**Post-Transaction**	**Net Change**
FPL	27,288	27,374	86
Vero Beach	200	0	-200
Combined	27,488	27,374	-114
	No Retirement		
	Pre-Transaction	**Post-Transaction**	**Net Change**
FPL	27,288	27,476	188
Vero Beach	200	0	-200
Combined	27,488	27,476	-12

Even absent the immediate retirement of 102 MW, FPL would be acquiring 12 MW less of generation than Vero Beach previously owned or had entitlements to.[34] *See* Table 1

[34] This table does not take into account Vero Beach's pre-Transaction partial requirements contract with OUC.

(bottom panel) above. Relative to FPL's planning reserve margin criterion of 20 percent,[35] FPL is gaining only about 4 MW of "excess" supply if the immediate retirement is not taken into account.

FPL has agreed with Vero Beach's condition to shut down all 150 MW of Vero Beach's generation capacity (including the 48 MW not being immediately retired) within four years, as described by Mr. Forrest.[36] At that time, the generation facilities will be dismantled and the site converted to public use.

Q. HOW MUCH AEC IS VERO BEACH REALLY BRINGING INTO THE TRANSACTION?

A. None. With or without the immediate retirement of 102 MW of the Vero Beach generation, FPL is acquiring no AEC and, indeed, because Vero Beach's load obligation will exceed the economic capacity being acquired, FPL will see its own net AEC reduced.

This is illustrated in Table 2 below. The left portion of the table reflects the results with immediate retirement of 102 MW of Vero Beach generation. The right portion of the table reflects the results assuming no immediate retirement. The bottom line is that, under either assumption, FPL acquires no additional AEC as a result of the Transaction.

---

[35] *2012 Ten Year Power Plant Site Plan*, Florida Power & Light Company, April 2, 2012, p. 39, http://www.floridapsc.com/library/filings/12/01983-12/01983-12.pdf. FPL's uses a 20 percent reserve margin planning target, approved by the Florida Public Service Commission.

[36] The agreement with Vero Beach contemplates retirement within three years, but provides for a one-year extension of the site lease term, if more time is needed to dismantle the plant.

Table 2: Vero Beach's Contribution to FPL's AEC

		Retirement of 102 MW				No Retirement			
(a)	(b)	(c)	(d)	(e)	(f)	(c)'	(d)'	(e)'	(f)'
Period	Market Price	Generation Added [1/]	Economic Generation Added [2/]	Vero Beach Load	AEC [3/]	Generation Added [4/]	Economic Generation Added [2/]	Vero Beach Load	AEC [3/]
S_SP1	$72	86	79	152	(73)	188	128	152	(24)
S_SP2	$64	86	79	139	(60)	188	79	139	(60)
S_P	$55	86	79	118	(39)	188	79	118	(39)
S_OP	$45	86	35	92	(57)	188	35	92	(57)
W_SP	$55	86	77	100	(23)	188	77	100	(23)
W_P	$40	86	31	99	(68)	188	31	99	(68)
W_OP	$38	86	14	90	(77)	188	14	90	(77)
SH_SP	$59	86	71	126	(55)	188	71	126	(55)
SH_P	$47	86	71	98	(26)	188	71	98	(26)
SH_OP	$42	86	30	79	(49)	188	30	79	(49)

[1/] Vero Beach's owned generation (less 102 MW being retired) plus the generation attributable to FPL under its 3-year purchase from OUC.
[2/] Reflects generation that is economic under DPT, adjusted for forced and planned outages.
[3/] Negative AEC reflects load in excess of economic generation. Because AEC cannot be negative, equivalent to zero AEC.
[4/] Vero Beach's owned generation plus the generation attributable to FPL under its 3-year purchase agreement with OUC.

Columns (a) and (b) of Table 2 designate the time periods analyzed and the base case destination market prices, respectively. Under the Transaction, FPL will be acquiring a net of 188 MW of generation (see Table 1 above, and will immediately retire 102 MW, leaving 86 MW acquired, as shown in Column (c)). Column (d) reflects the portion of that 86 MW that is economic under the DPT base case prices (also taking into account planned and forced outages). Column (e) reflects Vero Beach's forecasted 2014 load. Because Vero Beach's load (Column (e)) is well in excess of the economic generation in all time periods (Column (d)), FPL is acquiring no AEC, as reflected in Column (f). Indeed, the net AEC acquired is negative, and FPL will make up any Vero Beach shortfall with its own AEC.

Q. IF THE IMMEDIATE RETIREMENT OF 102 MW OF VERO BEACH GENERATION IS NOT TAKEN INTO ACCOUNT, IS FPL ACQUIRING ADDITIONAL AEC AS A RESULT OF THE TRANSACTION?

A. Again, no. As shown in Table 2, columns (c)′ to (f)′, Vero Beach's load (column (c)′) in each of the ten seasonal time periods exceeds the economic generation added in the

Transaction, even ignoring the immediate retirement of 102 MW. In any event, within four years, FPL has committed to retire all the Vero Beach generation and its power purchase agreement with OUC will end. With both of these events occurring, there will be absolutely no AEC acquired as a result of the Transaction, and FPL will have to use even more of its own AEC to meet Vero Beach's load.

Q. YOU INDICATED THAT THE 102 MW OF VERO BEACH GENERATION IS RARELY ECONOMIC. PLEASE DESCRIBE THE OPERATING CHARACTERISTICS OF THIS GENERATION.

A. Mr. Forrest discusses some of the operating characteristics in his testimony. I address below the historical operation of the relevant generation and the characteristics of this generation in the context of the DPT.

The 102 MW of generation that will be retired immediately consists of three small natural gas-fired steam boiler units:[37] Unit 1 (13 MW) entered commercial operation in 1961; Unit 3 (33 MW) in 1969 and Unit 4 (56 MW) in 1976. These units are not at all like typical combustion turbine peakers. They are very inefficient, as Mr. Forrest describes, "with lengthy start-up times, high start-up costs, and high heat rates."[38] The relatively poor economics of these units means that they rarely operate, and, in the context of the DPT, one would not expect them to be deemed economic.

Units 1 and 3 have a 6 hour (cold start) start-up time, and unit 4 has an 8 hour start-up time. Each has 6 hour minimum run times. Each of the unit's heat rates are quite high, with heat rates (net of station service for generator-related auxiliaries) ranging from about 12,800 Btu/kWh to about 15,500 Btu/kWh. These characteristics are summarized in Table 3 below. (Units 2/5 refer to the 48 MW Vero Beach combined-cycle plant that will be retired within four years.)

---

[37] Although this generation also is capable of operating on fuel oil, fuel oil was not used in 2011 and 2012. As Mr. Forrest explains, the fuel oil storage tanks are being dismantled prior to the closing of the Transaction in order to mitigate potential environmental liabilities.

[38] Exhibit J-14, p. 2.

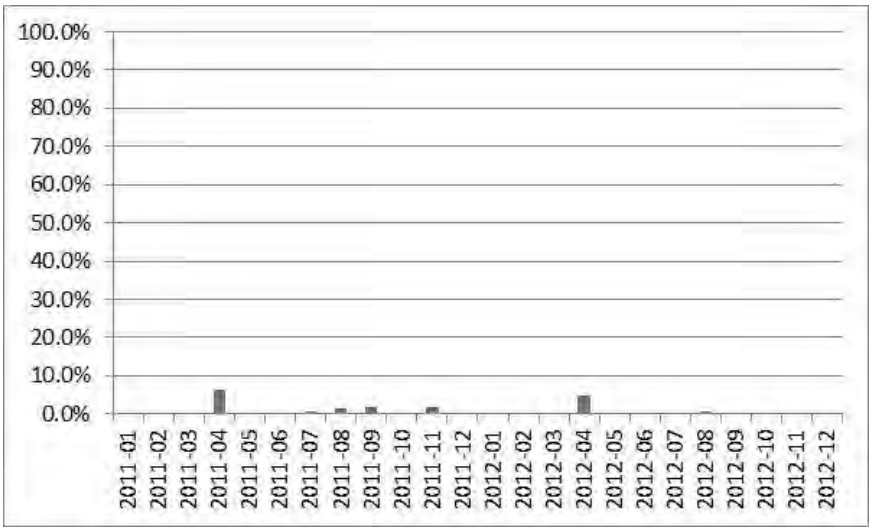
Table 3: Characteristics of Vero Beach Generation

COVB Electric Utility Generation

Unit	Gross Heat rate Natural Gas Btu/kwh	Net Heat rate Natural Gas Btu/kwh	Gross Heat rate Fuel Oil Btu/kwh	Start Up Times (Cold Start) Hours	Minimum Run Times Hours
1	14,628	15,469	14,439	6	6
3	13,350	14,046	14,184	6	6
4	11,915	12,778	11,845	8	6
2/5	9,189	9,397	8,321	2 15 min for unit 5 in simple cycle	8

Figure 3 below shows how rarely Units 1, 3 and 4 operate. On an aggregate basis, there were only two months in the past two years when their combined capacity factor reached 5-6 percent. As I noted earlier, my understanding is that these units are not run for economic reasons. These units are run for either testing purposes, or for security purposes (to keep one of the other Vero Beach units (Unit 2) that is not on-line at the time available to supply contingency reserves).

Figure 3: Monthly Capacity Factor for Vero Beach Steam Units, 2011-12



In 2012, Unit 1 operated in just 6 hours (starting up only a single time), Unit 3 operated in only 37 hours (0.42 percent of annual hours), and Unit 4 operated 159 hours (1.81

percent of annual hours). *See* Table 4 below. The units' respective annual capacity factors were likewise extremely low, each well less than one percent.

Table 4: Operation of Vero Beach Steam Unit

	Unit 1	Unit 3	Unit 4
MW	13	33	56
MWh Output	29	545	4204
Hours of Operation	6	37	159
Annual Capacity Factor	0.025%	0.188%	0.855%

Q. WHAT RELEVANCE DO THESE CHARACTERISTICS HAVE IN THE CONTEXT OF THE DPT?

A. The DPT typically is based on a derived unit cost that is essentially fuel costs times heat rates (there also are environmental adders, operation and maintenance expenses and transmission costs), and start-up costs or ramping costs typically are not reflected in the analysis. Further, in the DPT, units are either economic or not in any given time period, such that capacity is either at 100 percent output or zero output.[39]

As discussed earlier, in the context of the Vero Beach steam generation, start-up costs are a key component of the decision to turn on the units based on economics. Thus, my analysis includes an estimate of start-up costs for all such boiler peaking units in Florida. In the DPT, with base case prices, Unit 4 is economic in only one time period in the DPT at base case prices, and Units 1 and 3 are not economic.[40] The Vero Beach combined-cycle units (Unit 2/5) are economic in six of the ten time periods. This is reflected in Table 5 below.

This table shows Vero Beach supply calculated in the DPT (column (b), and the actual average output of the Vero Beach units in 2012, in the ten DPT periods (column (c). As

[39] The DPT capacity reflects forced or planned outages. In the DPT, one could adjust a unit's output to reflect a minimum operating level, but such a refinement typically is more relevant for a baseload unit staying on-line overnight to be available during peak periods.

[40] In the sensitivity analysis assuming 10 percent higher prices, Unit 4 is economic in two time periods and Unit 3 is economic in one time period in the DPT. Note also that the inclusion of start-up costs has no effect on the results for the FPL market in the scenario in which these units are immediately retired.

shown in column (d), actual average output of the Vero Beach generation is much lower than the output predicted by the DPT results. Thus, my DPT results are conservative, in that the DPT assigns more "economic" supply to the Vero Beach generation than in fact occurs.

Table 5: Vero Beach Supply, Actual (2012) vs. DPT

(a)	(b)	(c)	(d)
Period	Vero Beach Generation in the DPT	Actual Average 2012 Vero Beach Generation	Actual vs. DPT (c)-(b)
S_SP1	93	0	-93
S_SP2	43	12	-32
S_P	43	3	-41
S_OP	0	0	0
W_SP	46	5	-41
W_P	0	1	1
W_OP	0	0	0
SH_SP	41	16	-25
SH_P	41	8	-33
SH_OP	0	2	2

Available Economic Capacity

FPL Market

Q. WHAT ARE THE DPT RESULTS FOR AEC IN THE FPL MARKET?

A. The screens are readily passed for AEC in the FPL market, as reflected in Table 6 below. These results reflect the immediate retirement of 102 MW of the Vero Beach generation. Because FPL will meet all of Vero Beach's shortfall in AEC, FPL's own AEC actually falls as a result of the Transaction in each time period. The market is highly concentrated, but market concentration is reduced by the Transaction. As is evident in Table 6 (and Exhibit J-6, page 1), the FPL market size shrinks slightly post-Transaction as FPL's AEC is reduced by serving Vero Beach's load, FPL's market share falls slightly and, as a result, market concentration falls.

Table 6: Available Economic Capacity, FPL (102 MW Retired Immediately)

		Pre-Transaction						Post-Transaction				
		FPL		Vero Beach				FPL				
Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
S_SP1	$ 72	1,114	54.3%	-	0.0%	2,052	3,192	997	51.5%	1,935	2,930	(262)
S_SP2	$ 64	2,058	68.7%	-	0.0%	2,996	4,855	1,954	67.6%	2,892	4,712	(144)
S_P	$ 55	6,872	88.0%	-	0.0%	7,810	7,779	6,789	87.9%	7,727	7,757	(22)
S_OP	$ 45	6,110	86.7%	-	0.0%	7,048	7,576	6,053	86.6%	6,991	7,558	(18)
W_SP	$ 55	6,472	81.1%	-	0.0%	7,977	6,663	6,403	81.0%	7,908	6,638	(25)
W_P	$ 40	6,810	83.1%	-	0.0%	8,196	7,041	6,742	82.9%	8,128	7,018	(22)
W_OP	$ 38	6,040	65.4%	-	0.0%	9,232	4,794	5,963	65.1%	9,155	4,763	(31)
SH_SP	$ 59	2,629	72.7%	-	0.0%	3,617	5,380	2,532	71.9%	3,520	5,277	(103)
SH_P	$ 47	6,481	86.8%	-	0.0%	7,469	7,575	6,413	86.7%	7,401	7,554	(20)
SH_OP	$ 42	7,021	87.7%	-	0.0%	8,009	7,738	6,971	87.6%	7,959	7,725	(13)

Q. HOW DO THE RESULTS CHANGE IF YOU DO NOT TAKE INTO CONSIDERATION THE RETIREMENT OF 102 MW OF VERO BEACH GENERATION?

A. Consistent with my earlier discussion that FPL will not acquire any AEC even if I do not take into consideration the immediate retirement (*see* Table 2), the AEC results for the FPL market, summarized in Table 7 below (and Exhibit J-6, page 1), also evidence no screen failures. Again, the market is highly concentrated, and the HHI changes evidence market deconcentration.

Table 7: Available Economic Capacity, FPL (No Retirements)

		Pre-Transaction						Post-Transaction				
		FPL		Vero Beach				FPL				
Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
S_SP1	$ 72	1,114	54.3%	-	0.0%	2,052	3,192	1,090	53.8%	2,028	3,140	(52)
S_SP2	$ 64	2,058	68.7%	-	0.0%	2,996	4,855	1,998	68.1%	2,935	4,772	(83)
S_P	$ 55	6,872	88.0%	-	0.0%	7,810	7,779	6,833	87.9%	7,771	7,768	(10)
S_OP	$ 45	6,110	86.7%	-	0.0%	7,048	7,576	6,053	86.6%	6,991	7,558	(18)
W_SP	$ 55	6,472	81.1%	-	0.0%	7,977	6,663	6,449	81.1%	7,954	6,655	(8)
W_P	$ 40	6,810	83.1%	-	0.0%	8,196	7,041	6,742	82.9%	8,128	7,018	(22)
W_OP	$ 38	6,040	65.4%	-	0.0%	9,232	4,794	5,963	65.1%	9,155	4,763	(31)
SH_SP	$ 59	2,629	72.7%	-	0.0%	3,617	5,380	2,573	72.3%	3,562	5,322	(59)
SH_P	$ 47	6,481	86.8%	-	0.0%	7,469	7,575	6,455	86.7%	7,443	7,567	(8)
SH_OP	$ 42	7,021	87.7%	-	0.0%	8,009	7,738	6,971	87.6%	7,959	7,725	(13)

Q. DO THE RESULTS FOR THE FPL MARKET CHANGE BASED ON PRICE SENSITIVITIES?

A. Not materially. As shown in Exhibit J-6 (page 2), relative to the scenario where I do not take into consideration the immediate retirement of the 102 MW of Vero Beach generation,[41] there are no screen failures even with destination market prices increased by 10 percent or reduced by 10 percent relative to base case prices.

FMPP Market

Q. WHAT IS THE EFFECT OF THE TRANSACTION ON THE FMPP MARKET?

A. Before discussing the DPT results for the FMPP market, it is helpful to consider how the Transaction affects this market. The SIL into FMPP is zero in summer and winter and only a very small amount in the shoulder season. As a consequence, the Transaction does not cause any increase in FPL's market share in FMPP and correspondingly, any ability of FPL to exercise market power in the FMPP market. However, as I discuss below, I also test the results in the FMPP market using higher SIL values. With higher SILs, FPL gets some share of import supply into FMPP, but there are no screen failures.

Instead, the principal effect of the Transaction in the FMPP market is to increase the amount of OUC's AEC. This is because Vero Beach is terminating its partial requirements contract with OUC, which frees up AEC that OUC previously used to supply Vero Beach. Of course, increasing the amount of supply in a market is a pro-competitive result, and therefore this result of the Transaction should be deemed by the Commission to be beneficial.

The Transaction also does remove Vero Beach's generation facilities from the FMPP market, as these facilities will be owned by FPL and will be in the FPL market. In addition, OUC will be selling 38 MW of capacity to FPL for three years (or until the end

[41] Because the no retirement case is more conservative (i.e., yields relatively worse results), I did not conduct price sensitivities with respect to the case with the immediate retirement of 102 MW of Vero Beach generation. Nevertheless, I note that the immediate retirement case is a more accurate representation of the post-Transaction plans.

of 2017 at the latest). However, because Vero Beach's units are uneconomic and operate so infrequently, the amount of capacity removed from the FMPP market is in all but one instance exceeded by the amount of OUC's AEC freed-up by the termination of its partial requirements contract with Vero Beach. Thus, the net effect of the Transaction is generally to increase the amount of OUC's AEC in the FMPP market, which is a beneficial result.

Under the DPT analysis, however, increasing OUC's AEC at the same time that the Vero Beach generation and the 38 MW of its entitlements are removed from the FMPP market has the effect of increasing OUC's market share. Although the increase in market share does not cause any screen violations in my base case analysis, it does result in a single screen violation in each of the price sensitivities. These results are discussed in more detail below. In evaluating the results, it is important to take into consideration that the Transaction almost universally increases the supply of AEC in the FMPP market while not increasing FPL's market share. This is a beneficial consequence of the Transaction and should not be viewed as raising a competitive concern.

Q. PLEASE DESCRIBE THE DPT RESULTS FOR THE FMPP MARKET.

A. The screens are passed for AEC in the FMPP market at base case prices, as reflected in Table 8 (and Exhibit J-7, page 1) below. As shown on Exhibit J-7, the results are the same regardless of whether I assume that the 102 MW of Vero Beach generation is immediately retired (because post-Transaction the Vero Beach generation moves from FMPP to the FPL BAA). In each of the time periods, the market size increases as a result of the Transaction (because OUC has more AEC as a result of no longer having to meet the partial requirements of Vero Beach).

Table 8: Available Economic Capacity, FMPP (Base Case Prices)

		Pre-Transaction						Post-Transaction				
		FPL		Vero Beach				FPL				
Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
S_SP1	$ 72	-	0%	-	0.0%	1,032	4,228	-	0%	1,056	4,235	6
S_SP2	$ 64	-	0%	-	0.0%	1,206	4,073	-	0%	1,266	4,085	12
S_P	$ 55	-	0%	-	0.0%	1,540	3,759	-	0%	1,579	3,755	(4)
S_OP	$ 45	-	0%	-	0.0%	1,658	4,039	-	0%	1,715	4,063	25
W_SP	$ 55	-	0%	-	0.0%	1,682	3,734	-	0%	1,705	3,725	(9)
W_P	$ 40	-	0%	-	0.0%	1,279	5,116	-	0%	1,347	5,044	(72)
W_OP	$ 38	-	0%	-	0.0%	1,091	4,939	-	0%	1,168	4,824	(115)
SH_SP	$ 59	11	1%	-	0.0%	1,087	3,817	10	1%	1,142	3,791	(26)
SH_P	$ 47	14	1%	-	0.0%	1,338	3,934	14	1%	1,364	3,947	13
SH_OP	$ 42	17	1%	-	0.0%	1,381	4,809	17	1%	1,431	4,776	(33)

Q. DO THE DPT RESULTS IN THE FMPP MARKET CHANGE MATERIALLY IN THE PRICE SENSITIVITIES?

A. They do change a bit, for one of two reasons, although, as in the base case, the principal effect is to increase the market size. First, in the sensitivity with prices increased by 10 percent, one additional Vero Beach steam unit is economic in the S_SP1 period. As a result, pre-Transaction, Vero Beach has 18 MW of AEC in that time period. As shown in Table 9 below (and Exhibit J-7, page 2), the effect of transferring that capacity to FPL as part of the Transaction is to reduce the size of the FMPP market by a very small amount (6 MW). (OUC's AEC increases by 12 MW in this time period, equivalent to the 12 MW of St. Lucie supply that OUC obtains in the Transaction.) This small reduction in the size of the FMPP market causes an HHI change that exceeds the safe harbor threshold. FPL has a zero market share (imports are zero). Given that this 6 MW represents merely a 0.6 percent reduction in the market size, and that the assumed destination market price under this price sensitivity is artificially high relative to the EQR prices (with no corresponding adjustment in costs),[42] this screen failure should not be concerning.[43] In each of the other

[42] Recall that the base case price, based on EQRs, was $72/MWh. All generation with a dispatch cost of less than $74.6/MWh would be deemed economic ($72*1.05). The plus 10 percent sensitivity yields a market price of $79.2/MWh, and hence all generation with a dispatch cost of less than $83.2/MWh would be deemed economic ($79.2*1.05). This means that there is a $7.6/MWh increase in the price of economic generation, which is 15.5 percent greater than the original EQR-based price, with no corresponding changes in dispatch cost or load levels.

time periods, the market size increases as a result of OUC (and hence, FMPP) having more AEC post-Transaction, and thus there are no other screen violations.

Table 9: Available Economic Capacity, FMPP (+10% Price Sensitivity)

		Pre-Transaction						Post-Transaction				
		FPL		Vero Beach				FPL				
Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
S_SP1	$ 79	-	0.0%	18	1.6%	1,095	4,032	-	0.0%	1,089	4,166	134
S_SP2	$ 70	-	0.0%	1	0.1%	1,255	4,071	-	0.0%	1,266	4,085	13
S_P	$ 61	-	0.0%	-	0.0%	1,734	3,833	-	0.0%	1,773	3,837	3
S_OP	$ 50	-	0.0%	-	0.0%	1,701	4,056	-	0.0%	1,715	4,063	7
W_SP	$ 61	-	0.0%	-	0.0%	1,910	3,802	-	0.0%	1,933	3,798	(4)
W_P	$ 44	-	0.0%	-	0.0%	1,673	3,912	-	0.0%	1,741	3,922	10
W_OP	$ 42	-	0.0%	-	0.0%	1,618	4,916	-	0.0%	1,678	4,872	(44)
SH_SP	$ 65	10	0.9%	-	0.0%	1,177	3,821	10	0.8%	1,232	3,825	5
SH_P	$ 52	19	1.3%	-	0.0%	1,498	3,435	19	1.3%	1,524	3,448	13
SH_OP	$ 46	17	1.0%	3	0.1%	1,751	3,805	17	1.0%	1,759	3,821	16

Second, and similar to the results for most of the time periods in the increased price sensitivity case just described, when prices decrease by 10 percent, the market size increases in each time period. Likewise, the market size changes are the result of OUC having more AEC post-Transaction than pre-Transaction due to the termination of its partial requirements contract with Vero Beach. This is shown in Table 10 below (and Exhibit J-7, page 2) below. Yet, in one time period, W_OP, the HHI changes is high enough to create a screen failure. What is different about this time period is merely that there is little market AEC, i.e., the market size is relatively small. This single screen failure clearly is a false positive with respect to assessing the competitive effect of the Transaction. The market size increases by 90 MW, an increase of more than 30 percent relative to pre-Transaction levels. This increase in supply flows through to FMPP as additional supply. However, because OUC's market share increases, the HHI increases. Ultimately, the increase in OUC's AEC, and concomitant increase in supply to the FMPP market, is pro-competitive, and I would not characterize this as a screen failure that raises a competitive concern.

[43] The HHI changes are relatively higher than one would expect with such a small change in market size because there are only a few material suppliers in FMPP (OUC, Lakeland, and FMPA), and imports in this time period are zero.

Table 10: Available Economic Capacity, FMPP (-10% Price Sensitivity)

		Pre-Transaction						Post-Transaction				
		FPL		Vero Beach				FPL				
Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
S_SP1	$ 65	-	0.0%	-	0.0%	982	4,234	-	0.0%	1,056	4,235	0
S_SP2	$ 58	-	0.0%	-	0.0%	1,006	4,109	-	0.0%	1,066	4,041	(68)
S_P	$ 50	-	0.0%	-	0.0%	1,215	4,317	-	0.0%	1,254	4,338	21
S_OP	$ 41	-	0.0%	-	0.0%	1,290	5,039	-	0.0%	1,347	5,009	(30)
W_SP	$ 50	-	0.0%	-	0.0%	1,365	4,054	-	0.0%	1,387	4,057	4
W_P	$ 36	-	0.0%	-	0.0%	446	8,841	-	0.0%	545	6,440	(2,401)
W_OP	$ 34	-	0.0%	-	0.0%	266	4,605	-	0.0%	356	5,521	916
SH_SP	$ 53	13	1.7%	-	0.0%	768	3,342	13	1.5%	823	3,384	42
SH_P	$ 42	15	1.4%	-	0.0%	1,054	4,808	14	1.3%	1,121	4,725	(83)
SH_OP	$ 38	12	1.4%	-	0.0%	881	4,783	12	1.3%	947	4,676	(107)

Q. YOU SAID EARLIER THAT YOU TESTED THE EFFECT OF HIGHER SILS IN FMPP. WHAT WAS THE EFFECT?

A. The effect is to eliminate any screen failures. As discussed at length earlier (see pages 5 and 16-18), the zero (or near zero SILs) into FMPP likely understate significantly the ability of FMPA and others to access alternative supplies from outside of FMPP. I prepared a sensitivity analysis that assumes the SILs into FMPP are 25 percent, 50 percent, 75 percent, or 100 percent of seasonal peak load. As shown in Exhibit J-8, there are no screen failures in FMPP under this set of assumptions.

First-Tier Markets

Q. WHAT ARE THE DPT RESULTS FOR THE RELEVANT FIRST-TIER MARKETS?

A. As shown in Exhibit J-9, there are no screen failures for any first-tier markets. This exhibit reflects the scenario with immediate retirement of the 102 MW of Vero Beach generation; however, even assuming no such retirement, the results are not materially different (*see* Exhibit J-10). Likewise, there are no material differences in the price sensitivity results (*see* Exhibit J-11).

Economic Capacity

Q. PLEASE SUMMARIZE THE EC RESULTS FOR FPL AND OTHER RELEVANT MARKETS.

A. As I noted earlier, the Commission focuses on AEC analyses for transactions in non-restructured markets such as these. Nevertheless, consistent with the filing requirements, I include the EC results in my Exhibit J-12 (for FPL and FMPP) and Exhibit J-13 (for first-tier markets). Additional results (i.e., price sensitivities and the no retirement scenario) are included in workpapers.

Although the EC results are not particularly relevant in the context of these non-restructured markets, I note that the EC results for the FPL market are passed. The screen failures in the FMPP market reflect some significant HHI screen failures as the market size shrinks slightly and OUC's market share increases. Consistent with precedent, the Commission's primarily reliance in evaluating the competitive effect of a Transaction in a non-restructured market is on AEC, not EC.[44] There are no screen failures for EC in any of the first-tier markets.

Vertical Market Power

Q. DOES THE TRANSACTION CREATE ANY VERTICAL MARKET POWER CONCERNS THAT WOULD AFFECT COMPETITION IN THE RELEVANT MARKETS?

A. No. The potential vertical market power concerns involve control over electric transmission, fuel supplies and transportation systems and generating sites.

With respect to transmission, the only transmission that FPL is acquiring as part of the Transaction consists of facilities necessary to connect the Vero Beach generation and distribution facilities to the relevant substations. FPL's transmission is subject to a Commission-approved OATT.

---

[44] *See* note 32.

With respect to fuel supplies and transportation systems, FPL is not acquiring any fuel supplies or fuel delivery systems as part of the Transaction. Vero Beach has a fuel transportation agreement with FGT that is not being acquired by FPL. FPL currently does not own any natural gas distribution or natural gas pipelines.

With respect to generating sites, FPL is not acquiring control over any additional generating sites. Further, FPL has no dominance with respect to generating sites that would create a barrier to entry.

In sum, the Transaction does not create or enhance vertical market power.

Q. EARLIER, YOU STATED THAT THE COMMISSION HAS FOUND LONG-TERM MARKETS TO BE PRESUMPTIVELY COMPETITIVE. PLEASE ELABORATE.

A. In Order No. 888, the Commission in referring to a decision in *Entergy Services, Inc*., noted that "after examining generation dominance in many different cases over the years, we have yet to find an instance of generation dominance in long-run bulk power markets."[45] While the Commission has indicated its intent to review the presumption that long-term markets are competitive, there is no evidence to overcome that presumption in this case.

[45] Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,649 n.86 (citation omitted).

VI. CONCLUSION

Q. PLEASE SUMMARIZE YOUR RECOMMENDATION.

A. I recommend that the Commission determine that this Transaction will not have an adverse effect on competition in markets subject to its jurisdiction.

Q. DOES THIS COMPLETE YOUR TESTIMONY?

A. Yes.

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Florida Power & Light Company) **Docket No. EC13-___-000**

AFFIDAVIT

District of Columbia §
§
§

JULIE R. SOLOMON being duly sworn, deposes and states: that she prepared the Testimony and Exhibits of Julie R. Solomon and that the statements contained therein and the Exhibits attached hereto are true and correct to the best of her knowledge and belief.

Julie R Solomon
Julie R. Solomon

SUBSCRIBED AND SWORN TO BEFORE ME, this the 9th day of April 2013.

Janet P. Cashion
Notary Public, District of Columbia

Printed Name: Janet P. Cashion

My Commission Expires: July 14, 2017

NAVIGANT

Exhibit J-2

Julie R. Solomon

Julie R. Solomon
Managing Director

Navigant Consulting
Suite 700
1200 19th Street NW
Washington, DC 20036
Tel: 202-481-8492
Fax: 202 973-2401

julie.solomon@navigant.com

Professional History

- Managing Director, Navigant Consulting - 2010-Present
- Vice President, Charles River Associates - 2001-2010
- Senior Vice President, Putnam, Hayes and Bartlett, Inc. and PHB Hagler Bailly, Inc., Washington, DC - 1986-2000
- Economist, Economic Consulting Services, Inc., Washington, DC - 1979-1986
- Economist, U.S. Department of Labor, Washington, DC - 1976-1979

Education

- M.B.A. Finance, The Wharton School University of Pennsylvania
- B.A. Economics, Connecticut College

Testimony

- Written testimony provided in more than 150 regulatory proceedings

Julie Solomon is a Managing Director at Navigant Consulting, Inc. in the Energy Practice's Power Systems, Markets & Pricing group. She has more than 20 years of consulting experience, specializing in the areas of regulatory and utility economics, financial analysis and business valuation. Ms. Solomon has participated in analysis of proposed regulatory reforms, supply options and utility industry restructuring in the gas and electric industries. She also has advised utility clients in corporate strategy and corporate restructuring, and consulted to legal counsel on a variety of litigation and regulatory matters, including antitrust litigation and contract disputes. She has filed testimony in numerous proceedings before the Federal Energy Regulatory Commission. Much of her current practice focuses on regulatory and market power issues concerning mergers and acquisitions and compliance filings in the electricity market.

» Advised clients in the electric and gas utility industry on competition issues, including the impact of mergers on competition. Directed a large number of analytic studies relating to obtaining merger approval from regulatory authorities.

» Advised clients in the electric utility industry on restructuring strategies, including potential mergers and acquisitions, functional unbundling and cost savings.

» Consulted in the electric and gas utility industries in a variety of regulatory and competition matters, including rate proceedings, prudence reviews, proposed regulatory reforms, analysis of supply options, privatization and restructuring.

» Advised utility and non-utility clients on many aspects of the competitive independent power industry, including strategic and financial consulting assignments.

» Consulted legal counsel on a variety of litigation matters, including the development of expert testimony on liability issues and the calculation of damages in a variety of industries.

» Provided strategic and economic analyses for clients in trade regulatory proceedings such as dumping and subsidies.

» Provided financial and business valuation analyses in a number of transactions, including fair market value for taxation purposes and valuation of family-owned businesses.

Professional Experience

Electric and Gas Utilities

Mergers and Acquisitions (Market Power and Competition Issues)

» Advised clients and conducted analytic studies in connection with a large number of major electric and electric-gas mergers and asset transactions of regulated companies. Provided testimony to FERC for a number of these types of transactions.

» Advised clients and provided confidential pre-screening analyses for potential mergers and acquisitions.

» Conducted numerous analytic studies in connection with FERC market-based rate applications and compliance filings for electricity sellers. Provided testimony to FERC for a number of these types of transactions.

» Conducted numerous analytic studies in connection with FERC market-based rate applications and compliance filings for gas storage facilities. Provided testimony to FERC for a number of these types of transactions.

Utility Restructuring and Stranded Cost

» Conducted analytic studies and provided litigation support in connection with state stranded cost proceedings in Ohio (Cincinnati Gas & Electric and Dayton Power & Light); West Virginia (Monongahela Power and Potomac Edison); Maryland (Potomac Edison) and Pennsylvania (West Penn Power).

» Provided analytic support evaluating the benefits of Public Service of Colorado's proposed DC transmission line between Colorado and Kansas in support of a regulatory proceeding.

» Assisted in studies relating to privatization of the electricity industry in the United Kingdom, including development of a computer model to simulate electricity dispatch and project future prices, capacity needs and utility revenues under various scenarios. During temporary assignment to London office.

» Participated in antitrust litigation involving a utility and a cogenerator, including preparation of an expert report on liability and damage issues, preparation of expert witnesses for deposition, and assistance in preparation for depositions of opposing expert and in-house witnesses.

» Assisted in the valuation of the interests of several firms in various cogeneration projects for the purpose of combining these interests into a new entity or selling interests to third parties.

» Analyzed the financial feasibility and viability of a large number of cogeneration projects, assisted in the preparation of presentations and filings and presented testimony to the relevant public utility commission. Ms. Solomon also assisted in the development of a PC-based financial model to analyze various cogeneration projects.

» Participated in a study to analyze the financial effects of a variety of restructuring options for a utility, including transfer and/or sale of assets and subsequent sale-leasebacks, and debt restructuring alternatives. In addition, she developed a PC-based financial model with applications to utility restructuring plans.

» Provided litigation support in major utility rate proceedings, including assisting in the preparation of responses to interrogatories and data requests, preparation of company and outside expert witnesses for deposition and hearings, and assistance in the deposition and cross-examination of intervenor witnesses.

» Participated in proceedings involving regulation of an oil pipeline, which included evaluating the business risks faced by the company.

Business Valuation

» Participated in a valuation study involving the fair market value of a privately held company for purposes of an IRS proceeding.

» Participated in a valuation study in a divorce proceeding, where the assets being valued included a privately held business.

» Participated in two strategic engagements that developed business plans and identified potential acquisition candidates for the client.

» Provided advice to a client concerning the benefits and potential risks of developing a partnership with a competitor.

Testimony or Expert Report Experience

- Affidavit on behalf of Blythe Energy LLC, et al., Docket No. EC13-89, application for authorization of disposition of jurisdictional facilities, April 2, 2013.
- Affidavit on behalf of New Harquahala Generating Company, LLC, Docket No. ER10-3310, market-based rate triennial filing, March 29, 2013.
- Affidavit on behalf of Dominion Energy Brayton Point, et al., Docket No. EC13-82, application for authorization of disposition of jurisdictional facilities, March 21, 2013.
- Affidavit on behalf of Duke Energy Carolinas, LLC et al., Docket No. ER10-2566, et al., notice of change in status, January 29, 2013.
- Affidavit on behalf of CCI Roseton LLC, Docket No. ER13-773, market-based rate application, January 17, 2013.
- Affidavit on behalf of CCI Roseton LLC, Docket No. EC13-63, application for authorization of disposition of jurisdictional facilities, January 16, 2013.
- Affidavit on behalf of Calpine Oneta Power, LLC, Docket No. ER11-3777, et al., market-based rate triennial filing, December 31, 2012.
- Affidavit on behalf of NextEra Energy Companies, Docket No. ER12-569, et al., market-based rate triennial filing, December 27, 2012.
- Affidavit on behalf of Nevada Power Company, Docket No. ER10-2474, market-based rate triennial filing, December 26, 2012.
- Testimony on behalf of Powerex Corp re Puget Sound Energy, Inc v. All Jurisdictional Sellers of Energy & Capacity, Docket No. EL01-10, December 17, 2012.
- Affidavit on behalf of AES Beaver Valley, LLC, Docket No. ER13-442, market-based rate application, November 21, 2012.
- Affidavit on behalf of Broad River Energy LLC, et al., Docket No. EC13-42, application for authorization of disposition of jurisdictional facilities, November 16, 2012.
- Affidavit on behalf of Westar Energy, Inc., Docket No. ER10-2507, notice of change in status, October 29, 2012.
- Affidavit on behalf of Homer City Generation, L.P., Docket No. ER13-55, market-based rate application, October 9, 2012.
- Affidavit on behalf of Homer City Generation, L.P., et al., Docket No. EC13-9, application for authorization of disposition of jurisdictional facilities, October 9, 2012.
- Affidavit on behalf of GenOn Marsh Landing, LLC, Docket No. ER12-2545, market-based rate application, August 29, 2012.
- Affidavit on behalf of High Mesa Energy, LLC, Docket No. ER12-2528, market-based rate application, August 27, 2012.

- Affidavit on behalf of Brandon Shores LLC, et al., Docket No. EC12-137, application for authorization of disposition of jurisdictional facilities, August 23, 2012.
- Affidavit on behalf of North Sky River Energy, LLC, Docket No. ER12-2444, market-based rate application, August 14, 2012.
- Affidavit on behalf of Duke Energy Carolinas, LLC et al., Docket No. ER10-2566, et al., notice of change in status, August 1, 2012.
- Affidavit on behalf of Canandaigua Power Partners, LLC et al., Docket No. ER10-2460, notice of change in status, July 16, 2012.
- Affidavit on behalf of Limon Wind I and Limon Wind II, LLC, Docket Nos. ER12-2225 and -2226, market-based rate application, July 10, 2012.
- Affidavit on behalf of Ensign Wind, LLC, Docket No. ER12-2227, market-based rate application, July 10, 2012.
- Affidavit on behalf of NextEra Energy Companies, Docket No. ER10-1836, et al., market-based rate triennial filing, July 2, 2012.
- Affidavit on behalf of Iberdrola Renewables, LLC, et al., Docket No. ER10-2994, et al., market-based rate triennial filing, June 29, 2012.
- Affidavit on behalf of The Empire District Electric Company, Docket No. ER10-2738, market-based rate triennial filing, June 29, 2012.
- Affidavit on behalf of Wisconsin Electric Power Company, Docket No. ER10-2563, market-based rate triennial filing, June 29, 2012.
- Affidavit on behalf of Baltimore Gas and Electric Company, et al., Docket No. ER10-2172, et al., market-based rate triennial filing, June 29, 2012.
- Affidavit on behalf of Westar Energy, Inc., Docket No. ER12-2124, market-based rate triennial filing, June 28, 2012.
- Affidavit on behalf of Duke Energy Beckjord, LLC, et al., Docket No. ER12-1946 et al., market-based rate application, June 5, 2012.
- Affidavit on behalf of Minco Wind III, LLC, Docket No. ER12-1880, market-based rate application, May 31, 2012.
- Affidavit on behalf of Tuscola Bay Wind, LLC, Docket No. ER12-1660, market-based rate application, April 30, 2012.
- Affidavit on behalf of Powerex Corp., Docket No. ER11-2664, notice of change in status, April 13, 2012.
- Affidavit on behalf of Safe Harbor Water Power Corporation, Docket No. ER11-2780, notice of change in status, April 11, 2012.
- Affidavit on behalf of Hot Spring Power Company, LLC, Docket No. EC12-87, application for authorization of disposition of jurisdictional facilities, March 28, 2012.

- Affidavit on behalf of High Majestic Wind II, LLC, Docket No. ER12-1228, market-based rate application, March 8, 2012.
- Affidavit on behalf of Duke Energy Indiana, Inc. et al., Docket No. ER10-2034 et al., notice of change in status, January 31, 2012.
- Affidavit on behalf of CPV Cimarron Renewable Energy Company, LLC, Docket No. ER12-775, market-based rate application, January 6, 2012.
- Affidavit on behalf of LS Power Marketing, LLC, et al., Docket No. ER10-2739, et al., market-based rate triennial filing, January 3, 2012.
- Affidavit on behalf of Auburndale Peaker Energy Center, LLC, et al., Docket No. ER10-1945, et al., market-based rate triennial filing, January 3, 2012.
- Affidavit on behalf of Duke Energy Indiana, Inc., et al., Docket No. ER10-2034, et al., market-based rate triennial filing, December 28, 2011.
- Affidavit on behalf of Northern Indiana Public Service Company, Docket No. ER10-1781, market-based rate triennial filing, December 28, 2011.
- Affidavit on behalf of Baltimore Gas and Electric Company, et al., Docket No. ER10-2172, et al., market-based rate triennial filing, December 28, 2011.
- Affidavit on behalf of Duke Energy Carolinas, LLC Docket No. ER10-2566, notice of change in status, December 27, 2011.
- Affidavit on behalf of AEE2, L.L.C., et al., Docket No. ER10-3142, et al., market-based rate triennial filing, December 23, 2011.
- Affidavit on behalf of Exelon Generation Company, LLC, et al., Docket No. ER10-1144, et al., market-based rate triennial filing, December 23, 2011.
- Affidavit on behalf of AEE2, L.L.C., et al., Docket No. ER10-3142, et al., notice of change in status, December 23, 2011.
- Affidavit on behalf of Perrin Ranch, LLC, Docket No. ER12-676, market-based rate application, December 22, 2011.
- Affidavit on behalf of GenOn Energy Management, LLC, et al., Docket No. ER10-1869, et al., market-based rate triennial filing, December 16, 2011.
- Affidavit on behalf of Blackwell Wind, LLC, Docket No. ER12-569, market-based rate application, December 7, 2011.
- Affidavit on behalf of Bluegrass Generation Company, L.L.C. et al., Docket No. EC12-29, application for authorization of disposition of jurisdictional facilities, November 14, 2011.
- Affidavit on behalf of Dynegy Danskammer, L.L.C., et al., Docket No. EC12-27, application for authorization of disposition of jurisdictional facilities, November 8, 2011.
- Affidavit on behalf of LSP Energy Limited Partnership, et al., Docket No. EC12-19, application for authorization of disposition of jurisdictional facilities, November 1, 2011.

- Affidavit on behalf of Tenaska Power Management, LLC, Docket No. ER12-60, market-based rate application, October 11, 2011.
- Testimony on behalf of Florida Power & Light Company, Docket No. ER12-46, October 7, 2011.
- Affidavit on behalf of Montezuma Wind II, LLC and Vasco Winds, LLC, Docket No. ER11-4677 and ER11-4678, market-based rate applications, September 28, 2011.
- Affidavit of Amsterdam Generating Company, LLC, et al. under Docket No. EC11-118, application for authorization of disposition of jurisdictional facilities, September 9, 2011.
- Affidavit on behalf of Minco Wind II, LLC, Docket No. ER11-4428, market-based rate application, September 2, 2011.
- Affidavit on behalf of Osage Wind, LLC, Docket No. ER11-4363, market-based rate application, August 24, 2011.
- Affidavit on behalf of Baltimore Gas and Electric Company, et al., Docket No. ER10-2172, et al. and Calvert Cliffs Nuclear Power Plant, LLC, et al. Docket No. ER10-2179, et al. Notice of Change in Status, August 19, 2011.
- Affidavit on behalf of Michigan Wind II, LLC, Docket No. ER11-3989, market-based rate application, August 17, 2011.
- Affidavit on behalf of Morgan Stanley Capital Group, Docket No. EC11-97, application for authorization of disposition of jurisdictional facilities, July 22, 2011.
- Affidavit on behalf of Calpine Energy Services, L.P., et al., Docket No. ER10-2042, et al., Supplemental market-based rate filing, July 22, 2011.
- Affidavit on behalf of South Carolina Electric & Gas Co, Docket No. ER10-2498, market-based rate triennial filing, July 14, 2011.
- Affidavit on behalf of Duke Energy Carolinas, LLC, Docket No. ER10-2566, market-based rate triennial filing, June 30, 2011.
- Affidavit on behalf of North Allegheny Wind, LLC, Docket No. ER10-1330, et al.., market-based rate triennial filing, June 30, 2011.
- Affidavit on behalf of NextEra Energy Companies, Docket No. ER10-1838, market-based rate triennial filing, June 30, 2011.
- Affidavit on behalf of NextEra Energy Companies, Docket No. ER10-1852, market-based rate triennial filing, June 30, 2011.
- Affidavit on behalf of AES MBR Affiliates, Docket No. ER10-3142 et al., market-based rate triennial filing, June 30, 2011.
- Affidavit on behalf of MATEP Limited Partnership, Docket No. ER10-3194, market-based rate triennial filing, June 30, 2011.
- Affidavit on behalf of Morgan Stanley Capital Group Inc., Docket No. ER94-1384 et al., market-based rate triennial filing, June 30, 2011.

- Affidavit on behalf of Louisville Gas and Electric Company et al., Docket No. ER10-1511 et al., market-based rate triennial filing, June 30, 2011.
- Affidavit on behalf of Progress Companies, Docket No. ER10-1760 et al., market-based rate triennial filing, June 30, 2011.
- Affidavit on behalf of Mojave Solar, LLC, Docket No. ER11-3917, market-based rate application, June 29, 2011.
- Affidavit on behalf of GDF SUEZ Northeast MBR Sellers, Docket No. ER10-2670 et al., market-based rate triennial filing, June 24, 2011.
- Affidavit on behalf of Alcoa Companies, Docket No. ER10-3069 et al., market-based rate triennial filing, June 23, 2011.
- Affidavit on behalf of Northwestern Corporation, Docket No. EC11-88, application for authorization of disposition of jurisdictional facilities, June 6, 2011.
- Testimony, with Joe D. Pace, on behalf of Exelon Corporation and Constellation Energy Group, Inc., Docket No. EC11-83, merger application, May 20, 2011.
- Affidavit on behalf of The AES Corporation and DPL Inc., Docket No. EC11-81, application for authorization of disposition of jurisdictional facilities, May 18, 2011.
- Affidavit on behalf of Wildcat Power Holdings, LLC, Docket No. ER11-3336, market-based rate application, April 15, 2011.
- Affidavit on behalf of TPF Generation Holdings, LLC, University Park Energy, LLC, and LSP Park Generating, LLC, Docket No. EC11-61, application for authorization of disposition of jurisdictional facilities, April 4, 2011.
- Affidavit on behalf of Entegra Power Group LLC, Gila River Power, L.P., and Wildcat Power Holdings, LLC, Docket No. EC11-54, application for authorization of disposition of jurisdictional facilities, May 22, 2011.
- Affidavit on behalf of Safe Harbor Water Power Corporation, Docket No. ER11-2780, market-based rate triennial filing, January 28, 2011.
- Supplemental Affidavit on behalf of NorthWestern Corp et al., Docket No. ER03-329-010 et al., triennial market-based rate update, January 21, 2011.
- Affidavit on behalf of Mountain View Power Partners IV, LLC, Docket No. ER11-2701, market-based rate application, January 19, 2011.
- Affidavit on behalf of Calpine Energy Services, L.P., et al., Docket No. ER10-2042, et al., market-based rate triennial filing, January 3, 2011.
- Affidavit on behalf of J.P. Morgan Ventures Energy Corporation, Docket No. ER05-1232, market-based rate triennial filing, December 31, 2010.
- Affidavit on behalf of the Exelon MBR Companies, Docket No. ER10-1048, et al., market-based rate triennial filing, December 30, 2010.

- Affidavit on behalf of First Wind Energy Marketing, LLC, et al., Docket No. ER09-1549, et al. , market-based rate application, December 30, 2010.
- Affidavit on behalf of the IRI MBR Companies, Docket No. ER11-2462, et al., market-based rate triennial filing, December 29, 2010.
- Affidavit on behalf of Green Mountain Power Corporation, Docket No. ER01-989, market-based rate triennial filing, December 29, 2010.
- Affidavit on behalf of Baltimore Gas and Electric Company et al., Docket Nos. ER10-2172 et al., market-based rate triennial filing, December 29, 2010.
- Affidavit on behalf of Dominion Resources Services, Inc., on behalf of Virginia Electric and Power Company and affiliates, Docket No. ER01-468, et al., market-based rate triennial filing, December 27, 2010.
- Affidavit on behalf of NextEra Companies, Docket No. ER98-2494, et al., market-based rate triennial filing, December 27, 2010.
- Affidavit on behalf of Atlantic City Electric Company et al., Docket No. ER96-1351 et al., market-based rate triennial filing, December 27, 2010.
- Affidavit on behalf of Allegheny Companies, Docket No. ER11-2481 et al., market-based rate triennial filing, December 27, 2010.
- Affidavit on behalf of Red Mesa Wind, LLC, Docket No. ER11-2192, market-based rate application, November 25, 2010.
- Affidavit on behalf of Duke Energy Vermillion II, LLC; Duke Energy Hanging Rock II, LLC; Duke Energy Lee II, LLC; Duke Energy Washington II, LLC; Duke Energy Fayette II, LLC; Docket Nos. ER11- 2063-6 and 2069, market-based rate application, November 10, 2010.
- Affidavit on behalf of Elk City II Wind, LLC, Docket No. ER11-2037, market-based rate application, November 5, 2010.
- Affidavit on behalf of AES Laurel Mountain, LLC, Docket No. ER11-2036, market-based rate application, November 5, 2010.
- Supplemental Affidavit on behalf of GDF SUEZ S.A. and International Power Plc, Docket No. EC10-98, application for authorization of disposition of jurisdictional facilities, October 29, 2010.
- Supplemental Affidavit on behalf of NorthWestern Corp et al., Docket No. ER03-329-010 et al., triennial market-based rate update, October 18, 2010.
- Supplemental Affidavit on behalf of Fore River Development, LLC, et al., Docket No. EC10-85, application for authorization of disposition of jurisdictional facilities, October 8, 2010.
- Affidavit on behalf of Harbor Gen Holdings, LLC, et al., Docket No. EC11-3, application for authorization of disposition of jurisdictional facilities, October 6, 2010.
- Affidavit on behalf of Ashtabula Wind III, LLC, Docket No. ER11-26, market-based rate application, October 5, 2010.

- Affidavit on behalf of LSP Safe Harbor Holdings, LLC, Docket No. ER11-27, market-based rate application, October 5, 2010.
- Affidavit on behalf of Exelon Corporation, et al., Docket No. EC10-105, application for authorization of disposition of jurisdictional facilities, September 30, 2010.
- Supplemental Affidavit on behalf of Constellation Mystic Power, LLC, Docket No. ER10-2281, September 23, 2010.
- Affidavit on behalf of GDF SUEZ S.A. and International Power Plc, Docket No. EC10-98, application for authorization of disposition of jurisdictional facilities, September 23, 2010.
- Affidavit on behalf of Minco Wind, LLC, Docket No. ER10-2720, market-based rate application, September 17, 2010.
- Affidavit on behalf of Baldwin Wind, LLC, Docket No. ER10-2551, market-based rate application, September 7, 2010.
- Affidavit on behalf of Fore River Development, LLC, et al., Docket No. EC10-85, application for authorization of disposition of jurisdictional facilities, August 18, 2010.
- Affidavit on behalf of Constellation Mystic Power, LLC, Docket No. ER10-2281, market-based rate application, August 18, 2010.
- Affidavit on behalf of Calpine Mid-Atlantic Marketing, LLC, Docket No. ER10-2029, market-based rate application, July 29, 2010.
- Affidavit on behalf of Sundevil Power Holdings, LLC, Docket No. ER10-1777, market-based rate application, July 14, 2010.
- Supplemental affidavit on behalf of Shell Energy North America (US), Docket No. ER08-656, triennial market-based rate update, July 9, 2010.
- Affidavit on behalf of NextEra Companies, Docket No. ER02-2018 et al., triennial market-based rate update, June 30, 2010.
- Affidavit on behalf of NorthWestern Corp et al., Docket No. ER03-329 et al., triennial market-based rate update, June 30, 2010.
- Affidavit on behalf of Mirant, Docket No. ER01-1270 et al., triennial market-based rate update, June 30, 2010.
- Affidavit on behalf of CalPeak Entities and Tyr Energy, LLC, Docket No. ER06-1331, et al., triennial market-based rate update, June 30, 2010.
- Affidavit on behalf of Starwood Power-Midway, Docket No. LLC under ER08-110, triennial market-based rate update, June 30, 2010.
- Affidavit on behalf of J.P. Morgan Ventures Energy Corporation and BE CA LLC in ER05-1232, et al., triennial market-based rate update, June 30, 2010.
- Affidavit on behalf of AES 2, L.L.C., et al. Docket No. ER99-2284, et al., triennial market-based rate update, June 29, 2010.

- Affidavit on behalf of Sierra Pacific Power Company and Nevada Power Company, Docket No. ER01-1527 et al., triennial market-based rate update, June 28, 2010.
- Affidavit on behalf of Dynegy Marketing and Trade, LLC, et al., Docket No. ER09-629, et al., triennial market power update, June 23, 2010.
- Affidavit on behalf of Mirant Corporation and RRI Energy, Inc., application for authorization to transfer jurisdictional facilities, Docket No. EC10-70, May 14, 2010.
- Affidavit on behalf of New Development Holdings, LLC et al., application for authorization to transfer jurisdictional facilities, Docket No. EC10-64, May 6, 2010.
- Supplemental affidavit on behalf of JPMorgan Chase, Docket No. ER07-1358 et al., notice of change in status regarding market-based rate authorization, April 16, 2010.
- Supplemental affidavit on behalf of Shell Energy North America (US), Docket No. ER08-656, triennial market-based rate update, April 12, 2010.
- Supplemental affidavit on behalf of Dogwood Energy LLC, Docket No. ER07-312, triennial market-based rate update, April 9, 2010.
- Affidavit on behalf of Big Horn Wind Project LLC and Juniper Canyon Wind Power LLC, Docket Nos. ER10-974 and 975, market-based rate application, March 31, 2010.
- Affidavit on behalf of CER Generation, LLC Docket No. ER10-662, market-based rate application, March 19, 2010.
- Affidavit on behalf of Calpine Corporation, Docket No. ER00-3562 et al., triennial market-based rate update, March 16, 2010.
- Affidavit on behalf of NV Energy, Docket No. ER01-1529 et al., triennial market-based rate update, March 8, 2010.
- Affidavit on behalf of Day County Wind, LLC, Docket No. ER10-825, market-based rate application, March 4, 2010.
- Affidavit on behalf of Dogwood Energy LLC, Docket No. ER07-312, triennial market-based rate update, March 1, 2010.
- Affidavit on behalf of NextEra Companies, Docket No. ER10-149 et al., triennial market-based rate update, March 1, 2010.
- Supplemental affidavit on behalf of The Empire District Company, Docket No. ER99-1757, triennial market-based rate update, February 22, 2010.
- Supplemental affidavit on behalf of Oklahoma Gas and Electric Company & OGE Energy Resources, Inc., Docket No. ER98-511 and ER97-4345, triennial market-based rate update, February 19, 2010.
- Supplemental affidavit on behalf of Westar Energy, Inc., ER98-2157 et al., triennial market-based rate update, February 18, 2010.
- Affidavit on behalf of AES ES Westover, LLC, Docket No. ER10-712, market-based rate application, February 5, 2010.

- Affidavit on behalf of RRI Florida MBR Companies, Docket No ER09-1110 et al. notice of change in status regarding market-based rate authorization, February 1, 2010.
- Affidavit on behalf of Wolverine Power Supply Cooperative, Inc. and FirstEnergy Generation Corp., Docket No. EC10-41, January 21, 2010.
- Affidavit on behalf of FPL Energy Illinois Wind, LLC, Docket No. ER10-402, market-based rate application, December 10, 2009.
- Affidavit on behalf of NextEra Companies, Docket No. ER09-832, et al., notice of change in status regarding market-based rate authorization, December 7, 2009.
- Affidavit on behalf of Garden Wind, LLC, Docket No. ER10-296 and Crystal Lake Wind III, LLC, Docket No. ER10-297, market-based rate application, November 23, 2009.
- Affidavit on behalf of Stateline II, LLC, Docket No. ER10-256, market-based rate application, November 16, 2009.
- Affidavit on behalf of Elk City Wind, LLC, Docket No. ER10-149, market-based rate application, November 2, 2009.
- Affidavit on behalf of Alcoa Power Generating, Inc. et al., Docket No. ER07-496 et al., triennial market-based rate update, October 30, 2009.
- Affidavit on behalf of CPV Keenan II Renewable Energy Co, LLC, Docket No. ER10-64, market-based rate application, October 16, 2009.
- Supplemental Affidavit on behalf of Florida Power & Light Co et al., Docket No. ER97-3359 et al., triennial market-based rate update, October 7, 2009.
- Affidavit on behalf of High Majestic Wind Energy Center, LLC, Butler Ridge Wind Energy Center, LLC, and Wessington Wind Energy Center, LLC, Docket Nos. ER10-1-3, market-based rate applications, October 6, 2009.
- Affidavit on behalf of Powerex Corp. in State of California, ex rel. Lockyer v. British Columbia Power Exchange Corp., et al., Docket No. EL02-71, September 17, 2009.
- Affidavit on behalf of Alcoa Power Generating, Inc. et al., Docket No. ER07-496 et al., triennial market-based rate update, September 14, 2009.
- Affidavit on behalf of Powerex Corp. in State of California, ex rel. Edmund G. Brown, Attorney General for the State of California v. Powerex Corp. (f/k/a British Columbia Power Exchange Corp.), et al., Docket No. EL09-56, September 3, 2009.
- Affidavit on behalf of Ashtabula Wind II, LLC, Docket No. ER09-1656, market-based rate application, September 1, 2009.
- Affidavit on behalf of Oklahoma Gas and Electric Company et al., Docket No. ER98-511 et al., triennial market power update, July 30, 2009.
- Affidavit on behalf of Westar Energy, Inc & Kansas Gas and Electric Company, Docket No. ER98-2157 et al., triennial market power update, July 30, 2009.

- Affidavit on behalf of The Empire District Electric Company, Docket No .ER99-1757, triennial market power update, July 30, 2009.
- Affidavit on behalf of NextEra Companies, Docket No. ER08-1297, et al., triennial market power update, June 30, 2009.
- Affidavit on behalf of Calpine Energy Services, L.P., et al., Docket No. ER00-3562, et al. triennial market power update, June 30, 2009.
- Affidavit on behalf of Dominion Energy Kewaunee, Inc., Docket No. ER04-318, triennial market power update, June 30, 2009.
- Affidavit on behalf of CinCap IV, LLC, Docket No. ER05-1372 et al., triennial market power update, June 30, 2009.
- Affidavit on behalf of Wisconsin Electric Power Company, Docket No. ER98-855, triennial market power update, June 30, 2009.
- Affidavit on behalf of J.P. Morgan Ventures Energy Corporation, et al., Docket No. ER05-1232, et al., triennial market power update, June 30, 2009.
- Affidavit on behalf of Iberdrola Renewables, Inc et al., Docket No. ER08-912 et al., triennial market power update, June 30, 2009.
- Affidavit on behalf of Exelon Generation Co, LLC et al., Docket No. ER00-3251 et al., triennial market power update, June 30, 2009.
- Affidavit on behalf of Dynegy Marketing and Trade, LLC, et al., Docket No. ER09-629, et al., triennial market power update, June 26, 2009.
- Affidavit on behalf of GenConn Middletown, LLC and GenConn Devon, LLC, Docket Nos. ER09-1300-1301, market-based rate application, June 15, 2009.
- Affidavit on behalf of Northern Colorado Wind Energy, Docket No. ER09-1297, market-based rate application, June 12, 2009.
- Affidavit on behalf of Fox Energy Company LLC, Docket No. ER03-983, triennial market power update, June 3, 2009.
- Affidavit on behalf of the KGen Companies, Docket No .ER04-1181 et al., market-based rate change in status filing, April 2, 2009.
- Affidavit on behalf of Victory Garden Phase IV, LLC, Sky River LLC, FPL Energy Cabazon Wind LLC, Docket Nos. ER09-900-902, market-based rate application, April 1, 2009.
- Affidavit on behalf of the KGen Companies, Docket No. EC07-30 et al., March 31, 2009.
- Affidavit on behalf of TransAlta Energy Marketing Corporation, Docket No. ER09-884, market-based rate application, March 25, 2009.
- Affidavit on behalf of NorthWestern Energy, Docket No. ER03-329, triennial market-based rate update, December 30, 2008.
- Affidavit on behalf of Calpine Corporation re Broad River Energy LLC et al., Docket No. ER00-38 et al., triennial market-based rate update, December 30, 2008.

- Affidavit on behalf of Constellation MBR Entities, Docket No. ER99-2948 et al., triennial market-based rate update, December 30, 2008.
- Affidavit on behalf of LS Power Marketing, LLC, Docket No. ER96-1947 et al., triennial market-based rate update, December 29, 2008.
- Affidavit on behalf of Tenaska Alabama Partners, L.P., et al., Docket No. ER00-840 et al., triennial market-based rate update, December 24, 2008.
- Affidavit on behalf of Bluegrass Generation Company, LLC., et al., Docket No. ER02-506 et al., triennial market-based rate update, December 24, 2008
- Affidavit on behalf of KGen Hinds, LLC, et al., Docket No. ER04-1181 et al., triennial market-based rate update, December 23, 2008
- Affidavit on behalf of Reliant SE MBR Entities, FERC Docket No. ER05-143 et al., triennial market-based rate update, December 23, 2008.
- Affidavit on behalf of Exelon Generation Company, LLC, Docket No. ER00-3251 triennial market-based rate update, December 18, 2008.
- Affidavit on behalf of Northern Indiana Public Service Co. et al., Docket No. ER00-2173 et al., triennial market-based rate update, December 18, 2008.
- Affidavit on behalf of Duke Energy Indiana, Inc., et al., Docket No. ER07-189 et al., triennial market-based rate update, December 17, 2008.
- Affidavit on behalf of Shady Hills Power Company, LLC, Docket No. ER02-527, triennial market-based rate update, December 4, 2008.
- Affidavit on behalf of Farmers City Wind, LLC, Docket No. ER09-31, market-based rate application, October 6, 2008.
- Affidavit on behalf of Elm Creek Wind, LLC, Docket No. ER09-30, market-based rate application, October 6, 2008.
- Affidavit on behalf of Dynegy Marketing and Trade, Docket No. ER09-20, market-based rate application, October 6, 2008.
- Affidavit on behalf of LS Power Development, LLC and Luminus Management, LLC, Docket No. EC08-126, September 24, 2008.
- Affidavit on behalf of Public Utility District 2 of Grant County, WA, in NorthWestern Corporation, in connection with market-based rates for ancillary services, Docket No. ER08-1529, September 12, 2008.
- Affidavit on behalf of LG&E Energy Marketing Inc. et al., Docket No. ER94-1188 et al., triennial market-based rate update, September 2, 2008.
- Affidavit on behalf of Alcoa Power Generating, Inc. et al., Docket No. ER07-496 et al., triennial market-based rate update, September 2, 2008.
- Affidavit on behalf of Calpine Corporation re Bethpage Energy Center 3, LLC et al., Docket No. ER04-1099 et al., September 2, 2008.

- Supplemental Affidavit on behalf of Virginia Electric and Power Co. et al., Docket No. ER01-468 et al., triennial market-based rate update, September 2, 2008.
- Affidavit on behalf of South Carolina Electric & Gas Company, Docket No. ER96-1085, triennial market-based rate update, September 2, 2008.
- Affidavit on behalf of Florida Power & Light Co et al., Docket No. ER97-3359 et al., triennial market-based rate update, September 2, 2008.
- Affidavit on behalf of Progress Energy Inc. et al., Docket No. ER99-2311 et al., triennial market-based rate update, September 2, 2008.
- Affidavit on behalf of the EME Companies, Docket No. ER96-2652 et al., triennial market-based rate update, August 29, 2008.
- Affidavit on behalf of Bridgeport Energy, LLC et al., Docket No. ER98-2783. triennial market-based rate update, August 29, 2008.
- Affidavit on behalf of Duke Energy Carolinas, LLC, Docket No. ER07-188, triennial market-based rate update, August 29, 2008.
- Supplemental Affidavit on behalf of PHI Entities, Docket No. ER96-1361 et al., triennial market-based rate update, August 21, 2008.
- Supplemental Affidavit on behalf of Constellation MBR Entities, Docket No. ER99-2948 et al., triennial market-based rate update, August 18, 2008.
- Supplemental Affidavit on behalf of Exelon MBR Companies, Docket No. ER00-3251 et al., triennial market-based rate update, August 15, 2008.
- Affidavit on behalf of Fowler Ridge Wind Farm, LLC, Docket No. ER08-1323, application for market-based rates, August 1, 2008.
- Affidavit on behalf of FPL Energy, LLC, Docket No. ER08-1300 et al., application for market-based rates, July 24, 2008.
- Affidavit on behalf of Naturener Montana Wind Energy, LLC, Docket No. ER08-1261, application for market-based rates, July 15, 2008.
- Affidavit on behalf of FPLE Companies, FERC Docket No. ER02-2559 et al., triennial market-based rate update, June 30, 2008.
- Affidavit on behalf of Duke Energy MBR Companies, FERC Docket No. ER07-189 et al., triennial market-based rate update, June 30, 2008.
- Affidavit on behalf of Bear Energy LP et al., FERC Docket No. ER06-864 et al., triennial market-based rate update, June 30, 2008.
- Affidavit on behalf of Reliant NE MBR Entities, FERC Docket No. ER00-2129 et al., triennial market-based rate update, June 30, 2008.
- Affidavit on behalf of Noble Altona Windpark, LLC et al., FERC Docket No. ER06-1409 et al., triennial market-based rate update, June 30, 2008.

- Affidavit on behalf of NRG Companies, FERC Docket No. ER97-4281 et al., triennial market-based rate update, June 30, 2008.
- Affidavit on behalf of BG Dighton Power, LLC et al., FERC Docket No. ER06-1367 et al., triennial market-based rate update, June 30, 2008.
- Affidavit on behalf of Mirant Canal, LLC et al., FERC Docket No. ER01-1268 et al., triennial market-based rate update, June 30, 2008.
- Affidavit on behalf of CPV Liberty, LLC, FERC Docket No. ER07-1193, triennial market-based rate update, June 30, 2008.
- Affidavit on behalf of Tenaska Energy, Inc. et al., FERC Docket No. ER02-24 et al., triennial market-based rate update, June 30, 2008.
- Affidavit on behalf of Birchwood Power Partners LP et al., FERC Docket No. ER07-501 et al., triennial market-based rate update, June 27, 2008.
- Affidavit on behalf of Wisconsin Electric Power Company, FERC Docket No. ER08-1176, application for market-based rates, June 27, 2008.
- Affidavit on behalf of New Athens Generating Co., LLC and Millennium Power Partners, LP, triennial market-based rate update, FERC Docket No. ER98-830 et al., June 27, 2008.
- Affidavit on behalf of Granite Ridge Energy, LLC, FERC Docket No. ER05-287, triennial market-based rate update, June 27, 2008.
- Affidavit on behalf of Astoria Generating Co. LP et al., FERC Docket No. ER99-3168 et al., triennial market-based rate update, June 24, 2008.
- Affidavit on behalf of Duke Energy Carolinas, LLC, FERC Docket No. EC08-94, application for sale of jurisdictional assets, May 30, 2008.
- Supplemental Affidavit on behalf of Allegheny Energy Supply Company, LLC et al., triennial market-based rate update, FERC Docket No. ER98-1466, April 21, 2008.
- Supplemental Affidavit on behalf of Baltimore Gas and Electric Company et al., triennial market-based rate update, FERC Docket No. ER99-2948, April 21, 2008.
- Affidavit on behalf of JPMorgan Chase & Co. and The Bear Stearns Companies Inc., application for sale of jurisdictional assets, FERC Docket No. EC08-66, March 31, 2008.
- Affidavit on behalf of Oklahoma Gas & Electric Company, et al., application for sale of jurisdictional assets, FERC Docket No. EC08-58, March 20, 2008.
- Affidavit on behalf of NRG Southaven, LLC et al., FERC Docket No. EC08-57, March 20, 2008.
- Affidavit on behalf of Shell Energy North America (US), LP, application for market-based rates, FERC Docket No. ER08-656, March 11, 2008.
- Affidavit on behalf of EFS Parlin Holdings, LLC, application for market-based rates, FERC Docket No. ER08-649, March 10, 2008.
- Affidavit on behalf of Safe Harbor Power Corporation, application for market-based rates, FERC Docket No. ER08-537, February 5, 2008.

- Affidavit on behalf of Auburndale Peaker Energy Center, LLC et al., FERC Docket No. ER02-1633, change in status, January 31, 2008.
- Affidavit on behalf of Calpine Corp. and LS Power Development, LLC et al., FERC Docket No. EC08-39-000, January 22, 2008.
- Supplemental Affidavit on behalf of Langdon Wind, LLC, application for market-based rate authority, FERC Docket No. ER08-250-000, January 15, 2008.
- Affidavit on behalf of AES Western Wind MV Acquisition, Docket No. EC08-37, January 15, 2008.
- Affidavit on behalf of Dominion Energy Marketing, Inc. et al., application for market-based rate authority, FERC Docket No. ER01-468, January 14, 2008.
- Affidavit on behalf of Baltimore Gas and Electric Company et al., updated market-based rate filing, FERC Docket No. ER99-2948, January 14, 2008.
- Affidavit on behalf of Allegheny Energy Supply Company, LLC et al., updated market-based rate filing, FERC Docket No. ER98-1466, January 14, 2008.
- Affidavit on behalf of Exelon Generation Company, LLC et al., updated market-based rate filing, FERC Docket No. ER00-3251, January 14, 2008.
- Affidavit on behalf of Pepco Holdings, Inc., et al., updated market-based rate filing, FERC Docket No. ER96-1361, January 14, 2008.
- Affidavit on behalf of Green Mountain Power Corporation, updated market-based rate filing, FERC Docket No. ER01-0989, January 14, 2008.
- Affidavit on behalf of Duquesne Light Company et al., updated market-based rate filing, FERC Docket No. ER98-4159 et al., January 11, 2008.
- Affidavit on behalf of Central Hudson Gas and Electric Corporation, updated market-based rate filing, FERC Docket No. Docket No. ER97-2872 et al., January 11, 2008.
- Affidavit on behalf of Bicent (California) Malburg, LLC, application for market-based rate authority, FERC Docket No. ER08-314-000, December 7, 2007.
- Affidavit on behalf of Northern Indiana Public Service Co. and Broadway Gen Funding, LLC, application and related exhibits requesting authorization for a transaction to transfer a generating facility, FERC Docket No. EC08-21-000, December 6, 2007.
- Affidavit on behalf of Langdon Wind, LLC, application for market-based rate authority, FERC Docket No. ER08-250-000, November 21, 2007.
- Affidavit on behalf of Calpine Corp. and Harbinger Capital Partners Master Fund I, Ltd. et al., joint application for approval of the proposed distribution of common stock of a reorganized Calpine to Acquirors, FERC Docket No. EC08-15-000, November 16, 2007.
- Affidavit on behalf of Waterbury Generation, LLC, application for market-based rate authority, FERC Docket No. ER08-200-000, November 9, 2007.
- Affidavit on behalf of FPL Energy Oliver Wind II, LLC, application for market-based rate authority, FERC Docket No. ER08-197-000, November 8, 2007.

- Affidavit on behalf of Central Power & Lime, Inc., application for market-based rate authority, FERC Docket No. ER08-148-000, November 1, 2007.
- Affidavit on behalf of Gilberton Power Company, application for market-based rate authority, FERC Docket No. ER08-83-000, October 23, 2007.
- Affidavit on behalf of Black Bayou Storage, LLC, application for market-based rate authority for a natural gas storage facility, FERC Docket No. CP07-451, September 25, 2007.
- Affidavit on behalf of NedPower Mount Storm, LLC, application for market-based rate authority, FERC Docket No. ER07-1306-000, August 23, 2007.
- Affidavit on behalf of Sempra Energy Trading Corp. in connection with market-based rate authority, FERC Docket No. ER03-1413-005, July 25, 2007.
- Affidavit on behalf of KGen Acquisition I, LLC et al., application for disposition of jurisdictional facilities, FERC Docket No. EC07-116-000, July 13, 2007.
- Supplemental Affidavit on behalf of Williams Power Company, Inc., application for market-based rate authority, FERC Docket No. EC07-106-000, June 28, 2007.
- Affidavit on behalf of Williams Power Co, Inc and Bear Energy LP, joint application for authorization of the disposition of jurisdictional facilities, FERC Docket No. EC07-106-000, June 14, 2007.
- Affidavit on behalf of Bluegrass Generation Company, LLC et al., notice of non-material change in status, FERC Docket No. ER02-506-008 et al., May 31, 2007.
- Affidavit on behalf of BG Dighton Power, LLC et al., notice of non-material change in status, FERC Docket Nos. ER06-1367-003 et al., May 30, 2007.
- Affidavit on behalf of FPL Energy Point Beach, LLC, application for market-based rate authority, FERC Docket No. ER07-904-000, May 16, 2007.
- Affidavit on behalf of Copiah Storage, LLC, application for market-based rate authority for a natural gas storage facility, FERC Docket No, CP02-24, March 29, 2007.
- Affidavit on behalf of NRG Power Marketing, Inc. and thirty-one affiliates most of which own generating facilities, triennial market power update and notice of change in status, FERC Docket Nos. ER97-4281-016 et al., March 26, 2007.
- Affidavit on behalf of Egan Hub Storage, application for market-based rate authority for a natural gas storage facility, FERC Docket No. CP07-88, February 20, 2007.
- Affidavit on behalf of Wisconsin Electric Power Co. and FPL Energy Point Beach, LLC, joint application for authorization to dispose of jurisdictional facilities, FERC Docket No. EC07-57-000, February 1, 2007.
- Affidavit on behalf of Lake Road Generating Company, LP et al., joint application for authorization of the disposition of jurisdictional facilities pursuant to Section 203 of the Federal Power Act, FERC Docket No. EC07-50-000, January 22, 2007.
- Affidavit on behalf of Exelon Generation Company, LLC et al., notice of non-material change in status, FERC Docket Nos. ER00-3251-013 et al., December 15, 2006.

- Revised Affidavit on behalf of Calpine Energy Services, LP, triennial market analysis, FERC Docket No. ER00-3562-004, December 13, 2006.
- Affidavit on behalf of Dynegy Entities and LSP Entities, notice of non-material change in status, FERC Docket Nos. ER02-506-007 et al., November 2, 2006.
- Affidavit on behalf of Wisconsin Energy Corp.'s, Wisconsin Electric Power Co. et al. for authorization to dispose of jurisdictional facilities, FERC Docket No. ER07-14-000, November 2, 2006.
- Affidavit on behalf of Calpine Energy Services, LP, updated triennial market power analysis, FERC Docket No. ER00-3562-004, October 30, 2006.
- Affidavit on behalf of Dynegy, application for authorization of transactions pursuant to Section 203 of the Federal Power Act, FERC Docket No. EC07-9-000, October 26, 2006.
- Affidavit on behalf of Coral Power, LLC et al., triennial updated market analysis, FERC Docket Nos. ER96-25-028 et al., October 23, 2006.
- Affidavit on behalf of Westar Energy, Inc. and Kansas Gas and Electric, request for rehearing, FERC Docket Nos. ER03-9-007 et al., October 6, 2006.
- Affidavit on behalf of The Empire District Electric, request for rehearing, FERC Docket Nos. ER99-1757-011 et al., September 14, 2006.
- Joint Affidavit (with William H. Hieronymus) on behalf of Powerex Corp., errata to its 7/31/06 triennial market power update, FERC Docket No. ER01-48-007, September 11, 2006.
- Affidavit on behalf of FPLE Companies, joint triennial market power update, FERC Docket Nos. ER02-2559-007 et al., August 28, 2006.
- Affidavit on behalf of FPL Energy Oliver Wind, LLC application for market-based rates, FERC Docket No. ER06-1392-000, August 23, 2006.
- Affidavit on behalf of The Constellation MBR Entities, errata to their joint triennial market power update submitted on 8/14/06, FERC Docket Nos. ER99-2948-009 et al., August 16, 2006.
- Affidavit on behalf of Constellation MBR Entities, joint triennial market power update, FERC Docket Nos. ER99-2948-009 et al., August 14, 2006.
- Affidavit on behalf of Sempra Energy Trading Corp., updated market analysis, FERC Docket No. ER03-1413-005, August 1, 2006.
- Joint Affidavit (with William H. Hieronymus) on behalf of Powerex Corp, triennial market power analysis in support of its continued authority to sell power at market-based rates, FERC Docket No. ER01-48-007, July 31, 2006.
- Affidavit on behalf of Reliant Energy Power Supply, LLC, application for market-based rates, FERC Docket No. ER06-1272-000, July 20-21, 2006.
- Affidavit on behalf of Lincoln Generating Facility, LLC, fka Allegheny Energy Supply, updated generation market power study, FERC Docket No. ER05-524-001, June 19, 2006.

- Affidavit on behalf of Alcoa Power Generating, Inc & Alcoa Power Marketing, Inc., amendment to triennial, updated market analysis under ER02-2074 et al., FERC Docket Nos. ER02-2074-002 et al., May 17, 2006.
- Affidavit on behalf of Alcoa Power Generating, Inc. and Alcoa Power Marketing, Inc., updated market analysis of the triennial review of market-based rate authority, FERC Docket Nos. ER02-2074-002 et al., April 13, 2006.
- Affidavit on behalf of Morgan Energy Center, LLC et al., Calpine Gilroy Cogen, LP, Los Medanos Energy Center, LLC, and KIAC Partners et al., market-based rate filings, FERC Docket Nos. ER06-741-000 et al., March 16, 2006.
- Affidavit on behalf of Midland Cogeneration Venture Limited Partnership, market-based rate application, FERC Docket No. ER06-733-000, March 15, 2006.
- Affidavit on behalf of Duke Power Co, LLC et al., notice of change in status filing, FERC Docket Nos. ER96-110-020 et al., March 1, 2006.
- Affidavit on behalf of Westar Energy Inc & ONEOK Energy Services Co, LP, answer to protests filed by Oklahoma Municipal Power Authority et al., FERC Docket No. ER06-48-000, February 21, 2006.
- Affidavit on behalf of Edgecombe Genco, LLC and Spruance Genco, LLC, market-based rate application, FERC Docket No. ER06-635-000 and ER06-634-000, February 13, 2006.
- Affidavit on behalf of NRG Energy, Inc. et al., joint application for authorization under Section 203 of the Federal Power Act to transfer jurisdictional facilities, FERC Docket No. EC06-66-000, January 20, 2006.
- Affidavit on behalf of Westar Energy, Inc. et al. joint application for authorization under Section 203 of the Federal Power Act for the disposition of jurisdictional facilities, FERC Docket No. EC06-48-000, December 21, 2005.
- Affidavit on behalf of Calpine Energy Center, LLC, joint updated market power analysis, FERC Docket Nos. ER02-2227-003 et al., August 30, 2005.
- Affidavit on behalf of Allegheny Power, Allegheny Energy Supply Co., LLC, Allegheny Energy Supply Gleason Generating Facility, Inc et al., combined triennial market power report, FERC Docket Nos. ER98-1466-003 et al., August 11, 2005.
- Affidavit on behalf of Hermiston Power Partnership et al., joint updated market power analysis, filed on 5/3/05, FERC Docket Nos. ER02-1257-003 et al., August 5, 2005.
- Affidavit on behalf of MidAmerican Energy Co., in connection with market-based rate update, FERC Docket No. ER96-719-006, August 1, 2005.
- Affidavit on behalf of Occidental Power Services Inc., updated market power analysis, FERC Docket No. ER02-1947-006, August 1, 2005.
- Affidavit on behalf of FPL Energy Duane Arnold LLC, joint application for approval of disposition of jurisdictional facilities, FERC Docket Nos. EC05-114-000 et al., July 29, 2005.

- Affidavit on behalf of FPL Energy Duane Arnold, LLC, authorization to sell at market-based rates, FERC Docket No. ER05-1281-000, July 29, 2005.
- Affidavit on behalf of MidAmerican Energy Holdings Co. et al., application for approval of disposition of jurisdictional facilities under Section 203 of the Federal Power Act, FERC Docket No. EC05-110-000, July 22, 2005.
- Affidavit on behalf of Calpine Entities, joint updated market power analysis, FERC Docket Nos. EC02-1367-003 et al., July 18, 2005.
- Affidavit on behalf of Bayonne Plant Holding, LLC, as successor in interest of Cogen Technologies NJ Venture et al.,, as successor in interest to Camden Cogen et al., triennial updated market analysis, FERC Docket Nos. EC02-1486-003 et al., July 15, 2005.
- Affidavit on behalf of Cabazon Wind Partners, LLC & Whitewater Hill Wind Partners, consolidated triennial updated market analysis, FERC Docket Nos. ER02-1695-003 et al., June 24, 2005.
- Affidavit on behalf of TransAlta Energy Marketing (U.S.) Inc. et al., in connection with market-based rate authority, FERC Docket Nos. ER05-1014-000 et al., May 24, 2005.
- Affidavit on behalf of Minergy Neenah, LLC, updated triennial market power analysis, FERC Docket No. ER99-3125-001, May 16, 2005.
- Affidavit on behalf of Hermiston Power Partnership et al., joint updated market power analysis, FERC Docket Nos. ER02-1257-002 et al., May 3, 2005.
- Affidavit on behalf of CES Marketing VI, LLC et al., market-based rate application, FERC Docket Nos. ER05-816-000 et al., April 13, 2005.
- Affidavit on behalf of Onondaga Cogeneration Limited Partnership, triennial updated market analysis, FERC Docket No. ER00-895-006, March 24, 2005.
- Affidavit on behalf of The Williams Entities' (Williams Power Co. Inc. et al.), joint triennial market power update, FERC Docket Nos. ER03-1331-004 et al., March 24, 2005.
- Affidavit on behalf of J Aron & Co and Power Receivable Finance LLC, errata to triennial updated market analysis submitted on 12/30/04, FERC Docket Nos. ER02-237-003 et al., February 25, 2005.
- Affidavit on behalf of Delta Energy Center, LLC, updated power analysis, FERC Docket No. ER02-600-003, February 14, 2005.
- Affidavit on behalf of Wisconsin Electric Power Company, market-based rate filing, FERC Docket No. ER05-540-000, February 4, 2005.
- Affidavit on behalf of J Aron & Co. and Power Receivable Finance, LLC, consolidated triennial updated market analysis, December 30, 2004.
- Affidavit on behalf MidAmerican Energy Co., supplement to 10/29/04 market-power update filing, FERC Docket No. ER96-719-004, November 23, 2004.

- Affidavit in connection with Comments of Cinergy Services, Inc. re Reporting Requirement for Changes in Status for Public Utilities with Market-Based Rate Authority under RM04-14, FERC Docket No. RM04-14-000, November 15, 2004.
- Affidavit on behalf of Metcalf Energy Center, LLC and Pastoria Energy Center, LLC, market-based rate application, FERC Docket No. ER05-68-000 and ER05-67-000, October 25, 2004.
- Affidavit on behalf Calpine Bethpage 3, LLC and TBG Cogen Partners, market-based rate filing, FERC Docket No. ER05-48-000 and ER04-1100-000, August 4, 2004.
- Affidavit on behalf of The Empire District Electric Co., updated market power analysis, FERC Docket No. ER99-1757-005, September 27, 2004.
- Affidavit on behalf of Wisconsin Electric Power Co, revised generation market power portion of its pending three-year market power update, FERC Docket No. ER98-855-004, September 27, 2004.
- Affidavit on behalf of Duke Power, a Division of Duke Energy Corp., market power analysis, FERC Docket No. ER96-110-010, August 11, 2004.
- Affidavit on behalf of Virginia Electric & Power Co et al., application for the proposed transfer of substantially all of the assets of Multitrade to Dominion Power, FERC Docket No. EC04-139-000, July 30, 2004.
- Affidavit on behalf of Goldendale Energy Center, market-based rate application, FERC Docket No. ER04-1038-000, July 23, 2004.
- Affidavit on behalf of Calumet Energy Team, LLC, updated triennial market power analysis, FERC Docket No. ER01-389-001, July 20, 2004.
- Affidavit on behalf of Calpine Parlin, LLC, market-based rate filing, FERC Docket No. ER04-832-000, May 11, 2004.
- Affidavit on behalf of Calpine Newark, LLC, market-based rate filing, FERC Docket No. ER04-831-000, May 11, 2004.
- Affidavit on behalf of Virginia Electric & Power Co, application for market-based rates, FERC Docket No. ER04-834-000, May 11, 2004.
- Affidavit on behalf of Virginia Electric and Power Co., UAE Mecklenburg Cogeneration, LP et al., authorization for the proposed transfer of 100% of the ownership interests of Cogenco etc., FERC Docket No. EC04-104-000, May 6, 2004.
- Affidavit on behalf of Occidental Power Marketing, LP, triennial market power analysis, FERC Docket No. ER99-3665-004, April 14-15, 2004.
- Affidavit on behalf of The Williams Entities, joint triennial market power update, FERC Docket Nos. ER03-1331-003 et al., March 12, 2004.
- Affidavit on behalf of Wisconsin Electric Power Co., updated triennial market-power analysis, FERC Docket No. ER98-855-003, January 29, 2004.
- Affidavit on behalf of GEN~SYS Energy, triennial update market power analysis, FERC Docket No. ER97-4335-006, October 17, 2003.

- Affidavit on behalf of Calpine Energy Services LP, updated market power analysis, FERC Docket No. ER00-3562-001, September 22, 2003.
- Affidavit on behalf of Rocky Mountain Energy Center, LLC, application for market-based rates, FERC Docket No. ER03-1288-000, September 3, 2003.
- Affidavit on behalf of Fox Energy Co, LLC, application for market-based rates, FERC Docket No. ER03-983-000, June 24, 2003.
- Affidavit on behalf of Chehalis Power Generating Limited Partnership, application for market-based rates etc., FERC Docket No. ER03-717-000, April 7, 2003.
- Affidavit on behalf of Calpine Northbrook Energy Marketing, LLC, triennial updated market power analysis, FERC Docket No. ER03-717-000, October 23, 2002.
- Affidavit on behalf of Choctaw Generation Limited Partnership, updated triennial market power analysis, FERC Docket No. ER98-3774-001, October 17, 2002.
- Affidavit on behalf of Riverside Energy Center, LLC, market-based rate filing, FERC Docket No. ER03-49-000, October 16, 2002.
- Affidavit on behalf of Blue Spruce Energy Center, LLC, market-based rate filing, FERC Docket No. ER03-25-000, October 8, 2002.
- Prepared Responsive Testimony on behalf of Calpine Energy Services, LP et al. re: San Diego Gas & Electric Co. v. Sellers of Energy & Ancillary Services etc. under EL00-95 et al., FERC Docket Nos. EL00-95-045 et al., September 27, 2002.
- Affidavit on behalf of Duke Power Co., a division of Duke Energy Corp., market-based rate filing, FERC Docket No. ER96-110-007, December 17, 2001.

Generation Owned or Purchased by Florida Power & Light

BAA	Plant Name	Total Capacity (MW) Summer	Total Capacity (MW) Winter	Ownership Share	Owned Capacity (MW) Summer	Owned Capacity (MW) Winter
FPL	DeSoto	25	25	100.0%	25	25
FPL	Fort Myers	2,395	2,580	100.0%	2,395	2,580
FPL	Lauderdale	1,724	1,930	100.0%	1,724	1,930
FPL	Manatee	2,735	2,831	100.0%	2,735	2,831
FPL	Martin	3,695	3,840	100.0%	3,695	3,840
FPL	Port Everglades	420	480	100.0%	420	480
FPL	Putnam	498	530	100.0%	498	530
FPL	Sanford	1,912	2,077	100.0%	1,912	2,077
FPL	Space Coast	10	10	100.0%	10	10
FPL	St. Lucie	1,891	1,919	92.7%	1,753	1,778
FPL	Turkey Point	3,176	3,257	100.0%	3,176	3,257
FPL	West County	3,669	4,019	100.0%	3,669	4,019
FPL	Scherer [1/]	850	866	76.4%	649	662
FPL	St Johns River Power Park [2/]	1,252	1,276	20.0%	250	255
Subtotal, Existing Generation					22,911	24,274
FPL	Cape Canaveral (Dec 2013)	1,219	1,355	100.0%	1,219	1,355
FPL	Riviera (Jun 2014)	1,219	1,344	100.0%	1,219	1,344
Subtotal, Planned Generation					2,438	2,699
Total Generation					25,349	26,973
Purchases						
	Jacksonville Electric Authority				375	383
	Southern Company (UPS)				928	928
	Cedar Bay				250	250
	Indiantown Cogen				330	330
	Wheelabrator South Broward				4	4
	Wheelabrator North Broward				12	12
	Palm Beach SWA				40	40
Subtotal Purchases and Sales					1,939	1,947
TOTAL Generation and Purchases					27,288	28,920

1/ The Scherer plant is located in SOCO, but is dynamically scheduled into FPL.

2/ The St Johns River plant is located in JEA, but is dynamically scheduled into FPL.

Generation Owned/Controlled by Vero Beach

BAA	Plant Name	Total Capacity (MW) Summer	Total Capacity (MW) Winter	Ownership/ Entitlement Share	Owned/Entitlement Capacity (MW) Summer	Owned/Entitlement Capacity (MW) Winter
FMPP	Vero Beach Municipal Power Plant, Unit 1	13	13	100.0%	13	13
FMPP	Vero Beach Municipal Power Plant, Units 2+5	48	53	100.0%	48	53
FMPP	Vero Beach Municipal Power Plant, Unit 3	33	33	100.0%	33	33
FMPP	Vero Beach Municipal Power Plant, Unit 4	56	56	100.0%	56	56
FMPP	Stanton 1	440	443	4.8%	21	21
FMPP	Stanton 2	446	446	3.8%	17	17
FPL	St Lucie 2	923	937	1.3%	12	13
					200	205

Generation being Acquired as Part of the Transaction

BAA	Plant Name	Total Capacity (MW) Summer	Total Capacity (MW) Winter	Ownership	FPL Owned or Purchased Summer	FPL Owned or Purchased Winter
FPL	Vero Beach Municipal Power Plant [1/]	150	155	100.0%	150	155
FMPP	Stanton 1 [2/]	-	-		21	21
FMPP	Stanton 2 [2/]	-	-		17	17
					188	193

1/ FPL plans to immediately retire units 1, 3, 4 (102 MW). Per agreement between FPL and Vero Beach all of the units will be retired within three years.

2/ As part of the Transaction, FPL is entering into a three-year agreement with Orlando Utilities Commission to purchase 38 MW of the output of Stanton 1 and 2.

MODELING AND DATA INPUTS

The model includes each potential supplier as a distinct "node" or area that is connected via a transportation (or "pipes") representation of the transmission network. Each link in the network has its own non-simultaneous limit and cost. Potential suppliers are allowed to use all economically and physically feasible links or paths to reach the destination market. In instances where more generation meets the economic facet of the delivered price test than can actually be delivered on the transmission network, scarce transmission capacity is allocated based on the relative amount of economic generation that each party controls. The model incorporates Simultaneous Import Limits ("SILs"), and allocates a pro rata share of aggregated potential first-tier supply from all sources, consistent with recent guidance by the Commission.

I conducted the competitive analysis screen using the existing market structure of Florida Reliability Coordinating Council, Inc. ("FRCC") and the Southern Company balancing authority area ("SOCO"). My analysis relies primarily on publicly available data on generating resources, loads and transmission capacity. The data inputs were adjusted to reflect the year 2014 conditions.

I included as potential suppliers all entities in the FRCC and SOCO. The model includes all significant generation sources including traditional utilities, merchant generators, municipal utilities and cooperatives. Each entity is generally modeled as an individual "node."[1]

A. Generating Resources

The data on generating plant capability is mainly from Ventyx, The Velocity Suite's databases ("Ventyx"),[2] which are also largely based on public reports such as the EIA-860 and the EIA-411 reports. These data sources provide information on capacity (nameplate and seasonal (summer and winter) net dependable capacity ("NDC") ratings), planned retirements and additions, operating status, primary and secondary fuel, and ownership, including jointly-owned units. Seasonal NDC ratings were used for the analyses, with the summer ratings used

---

[1] The term "nodes" is used to denote a region or bubble where load, generation, or transmission assets are aggregated.

[2] Ventyx, The Velocity Suite is a set of databases, analytical tools and forecasts that is widely used in the industry.

for the shoulder time periods. All units with operating status listed as "Operating" or planned to be on-line by mid-2014 were included in the analysis. For jointly-owned plants, shares were assigned to each of the respective owners. I also reviewed companies' ten year site plans and other information from FRCC or the Florida Public Service Commission.

Each supplier's generating resources were adjusted to reflect long-term (one year or more) capacity purchases and sales where they could be identified from publicly available data.[3] Generation ownership was adjusted to reflect the transfer of control by assuming that the sale resulted in a decrease in capacity for the seller and a corresponding increase in capacity for the buyer.[4] Consistent with guidance provided in Appendix A, it was assumed that system power sales were comprised of the lowest-cost supply for the seller unless a more representative price could be identified.[5] Public data on purchases and sales, however, are not entirely complete or consistent across sources.

Because the delivered price test is intended to evaluate energy products, seasonal capacity was de-rated to approximate the actual availability of the units in each period. That is, it was assumed that generation capacity would be unavailable during some hours of the year for either (planned) maintenance or forced (unplanned) outages. Data reported in the NERC "Generating Availability Data System" ("GADS") was used to calculate the "average equivalent availability factor" to estimate total outages, and the "average equivalent forced outage rate" to estimate forced outages for fossil and nuclear plants.[6] Based on a review of

---

[3] Sources for such information include FERC Form 1 and EIA Forms 411 and 412, utility resource plans and NERC's Electricity Supply and Demand database (as compiled by Ventyx). Requirements contracts are treated as the equivalent of native load and potential supplier's Economic Capacity was not adjusted to reflect them.

[4] The Revised Filing Requirements direct applicants to consider whether operational control of a unit is transferred to the buyer. Such information generally is not readily available for non-applicants.

[5] "[T]he lowest running cost units are used to serve native load and other firm contractual obligations" (Order No. 592 at 30,132). The lowest-cost supply that was available year-round (i.e., excluding hydro) was used. To the extent that long-term sales could be identified specifically as unit sales, the capacity of the specific generating unit was adjusted to reflect the sale, and the variable element of the purchase price attributed to the sale was the variable cost of the unit. The dispatch price for system purchases was based on the energy price reported for long-term purchases in FERC Form 1 where such purchases could be identified and a variable cost price determined. In instances where the purchases could not be matched with FERC Form 1 data, the dispatch price was estimated.

[6] GADs reported data from 2006-2010 was used in most instances. In addition to thermal unit availability, hydro unit availability and generation are specified for each time period. Hydro capacity factors have been assigned to each unit based on historical operation. Capacity factors for hydro units were based on five years

historical planned outages (as reported in FPL's FERC Form 714), scheduled maintenance was assumed to occur mostly in the shoulder season (70 percent), with remainder scheduled during the winter season. Forced outages were assumed to occur uniformly throughout the year.

Supply curves were developed for each potential supplier, based on estimates of each unit's incremental costs. The incremental cost is calculated by multiplying the fuel cost for the unit by the unit's efficiency (heat rate) and adding any additional variable costs that may apply, such as costs for variable operations and maintenance ("VO&M") and costs for environmental controls.

Data used to derive incremental cost estimates for each unit were taken from the following sources:

- Heat Rates – Heat rates were generally taken from Ventyx, which provides information on heat rates and their sources. As discussed in Exhibit J-1, I used more company-specific information on the heat rates for Vero Beach's generating units. I also verified that the Ventyx information for FPL's generating units was generally consistent with the information in Ventyx's database.

- Fuel Costs - Regional dispatch costs for fossil fuel units were from projected fuel prices. For gas-fired units, I relied on Ventyx's natural gas prices forecast for the FRCC region. For oil fired units I used 2012 EIA daily fuel prices, for the relevant fuel type used at each unit, escalated to 2014 based on NYMEX ClearPort and Future crude oil prices. For coal-fired units, I used plant specific coal spot prices from the detailed coal transactions reported in FERC Form 423 supplemented by Ventyx's Spot prices. In instances where no spot price was available for a given unit, I used regional average price estimate as my default. As described in Exhibit J-1, Vero Beach units 1, 3 and 4 and similar, older steam peaking capacity, I also included an estimate of start-up fuel costs to reflect the minimum run time for any start, and to include these start up fuel costs in any decision regarding whether such units are economic to operate. I used unit specific information from Vero Beach to derive these costs for Vero Beach units 1, 3 and 4 (about a $5/MWh adder to their incremental dispatch costs) and applied this same estimate to other similar units included as potential suppliers in the analyses.

- Variable O&M – VO&M were generally assigned to each unit based on the unit's characteristics. These generic estimates are based on information in Ventyx and other trade and industry sources. These VO&M costs are generic estimates by plant type and do not necessarily match actual

---

of Form 923 monthly generation data, reported maximum capacities and, where necessary, assumptions regarding minimum capacity (assumed to be 15 percent of maximum if no data is available).

individual unit VO&M costs. Notably, VO&M accounts for a minor portion of the dispatch costs used in the analysis, and, importantly, the specific VO&M assumption tends not to alter the merit order of the generic types of generation.

- Environmental Costs – All units are assessed a variable dispatch adder to cover costs associated with SO2 emissions. This unit-specific cost is calculated using the SO2 content of fuel burned at the unit as reported in FERC Form 423 and supplemented by Ventyx's unit specific data and an SO2 allowance cost of $16.59/ton.[7] In addition to SO2, the unit dispatch costs also reflect the impact of existing NOx trading programs in the Northeast (OTR). Unit-specific data on NOx rates (lbs/mmBtu) were taken from Ventyx. The NOx allowance price for the Ozone Transport Region was assumed to be $45.03/ton.[8]

B. Transmission

The Commission's Appendix A analysis specifies that the transmission system be modeled on the basis of inter-balancing authority area transmission capability using transmission prices based on transmission providers' maximum non-firm OATT rates, except where lower rates can be clearly documented.

C. SILs and Allocation of Limited Transmission

As noted in the testimony, the transmission planning group at FPL calculated the seasonal SILs for the FPL BAA.[9] For FMPP and other first-tier markets, I used the SILs that the Commission approved in the most recent round of triennial filings for the Southeast Region.[10] However, no SILs were reported for GVL, HST and NSB. Based on the SILs the Commission reported into other small BAAs, the SIL into these markets likely is zero, and that is what is reflected in the results reported in Exhibits. I tested the effect of a positive SIL, using seasonal peak load as a proxy for the SIL, consistent with the Commission's approach

---

[7] SO2 rates were from Ventyx, The Velocity Suite database and SO_2 allowance price is from FERC National Electric Market Overview report of February 2012.

[8] NOx rates were from Ventyx, The Velocity Suite database and NOx allowance price is from FERC National Electric Market Overview report of February 2012.

[9] These SILs were calculated in a manner consistent with the Commission's most recent order providing direction on how to conduct SIL studies. *Puget Sound Energy, Inc.*, 135 FERC ¶ 61,254 (2011), Appendix B. My confidential workpapers include the requisite documentation and model for the SIL study.

[10] *Duke Energy Carolinas, LLC*, 138 FERC ¶ 61,134 (2012) at Appendix A.

that limits SILs to no more than peak load.[11] As noted in the testimony, I also conducted sensitivity analyses around a range of SILs into FMPP.

Appendix A notes that there are various methods for allocating transmission, and that applicants should support the method used.[12] For purposes of this analysis, limited transmission capacity was allocated using a pro rata method, consistent with recent Commission guidance in *NRG Energy Inc.*[13] Under this method, shares of simultaneous transmission import capability are allocated to uncommitted generation capacity in aggregated first-tier BAAs. When there is economic supply (*i.e.*, having a delivered cost less than 105 percent of the destination market price) competing to get into a market, the transmission capability is allocated to the suppliers in proportion to the amount of economic supply each supplier has located in first-tier markets. To allocate imports from markets second-tier to the destination market into markets first-tier to the destination market, limited transmission capacity was allocated on a pro rata basis to committed supply at each transmission interface into the first-tier market.[14] I also conducted a sensitivity analysis that limited imports from first-tier markets such that they do not exceed either individual interface limits or the SIL.

---

11 *Puget Sound Energy, Inc.*, 135 FERC ¶ 61,254 (2011), at Endnotes to Table 1, note vi.

12 *See Inquiry Concerning the Commission's Merger Policy Under the Federal Power Act: Policy Statement*, Order No. 592, FERC Stats. & Regs.[Regs. Preambles 1996-2000] ¶ 31,044 at 30,133(1996) ("Merger Policy Statement" or "Order No. 592") ("In many cases, multiple suppliers could be subject to the same transmission path limitation to reach the same destination market and the sum of their economic generation capacity could exceed the transmission capability available to them. In these cases, the ATC must be allocated among the potential suppliers for analytic purposes. There are various methods for accomplishing this allocation. Applicants should support the method used."), *reconsideration denied*, Order No. 592-A, 79 FERC ¶ 61,321 (1997).

13 *NRG Energy, Inc., 141 FERC ¶ 61,207 (2012) at P 63.* Clarified in Order No. 697 "Pro rata allocation is used to assign shares of simultaneous transmission import capability to uncommitted generation capacity in aggregated first-tier BAAs to determine how much uncommitted generation capacity can enter the study area."

14 Non-simultaneous limits were included, where applicable, based on information from OASIS. Transmission rates were assumed to be $2/MWh and $1/MWh peak and off-peak and I did not apply a loss factor in the analysis. These assumptions on non-simultaneous limits and transmission costs have a *de minimis* impact on the analysis, given the structure of the FRCC region and the Commission's guidance in *NRG Energy, Inc.*

Delivered Price Test Results - Available Economic Capacity

Scenario: Base Case Prices, 102 MW Retired Immediately

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
FPL	S_SP1	$ 72	1,114	54.3%	-	0.0%	2,052	3,192	997	51.5%	1,935	2,930	(262)
FPL	S_SP2	$ 64	2,058	68.7%	-	0.0%	2,996	4,855	1,954	67.6%	2,892	4,712	(144)
FPL	S_P	$ 55	6,872	88.0%	-	0.0%	7,810	7,779	6,789	87.9%	7,727	7,757	(22)
FPL	S_OP	$ 45	6,110	86.7%	-	0.0%	7,048	7,576	6,053	86.6%	6,991	7,558	(18)
FPL	W_SP	$ 55	6,472	81.1%	-	0.0%	7,977	6,663	6,403	81.0%	7,908	6,638	(25)
FPL	W_P	$ 40	6,810	83.1%	-	0.0%	8,196	7,041	6,742	82.9%	8,128	7,018	(22)
FPL	W_OP	$ 38	6,040	65.4%	-	0.0%	9,232	4,794	5,963	65.1%	9,155	4,763	(31)
FPL	SH_SP	$ 59	2,629	72.7%	-	0.0%	3,617	5,380	2,532	71.9%	3,520	5,277	(103)
FPL	SH_P	$ 47	6,481	86.8%	-	0.0%	7,469	7,575	6,413	86.7%	7,401	7,554	(20)
FPL	SH_OP	$ 42	7,021	87.7%	-	0.0%	8,009	7,738	6,971	87.6%	7,959	7,725	(13)

Scenario: Base Case Prices, No Immediate Retirement

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
FPL	S_SP1	$ 72	1,114	54.3%	-	0.0%	2,052	3,192	1,090	53.8%	2,028	3,140	(52)
FPL	S_SP2	$ 64	2,058	68.7%	-	0.0%	2,996	4,855	1,998	68.1%	2,935	4,772	(83)
FPL	S_P	$ 55	6,872	88.0%	-	0.0%	7,810	7,779	6,833	87.9%	7,771	7,768	(10)
FPL	S_OP	$ 45	6,110	86.7%	-	0.0%	7,048	7,576	6,053	86.6%	6,991	7,558	(18)
FPL	W_SP	$ 55	6,472	81.1%	-	0.0%	7,977	6,663	6,449	81.1%	7,954	6,655	(8)
FPL	W_P	$ 40	6,810	83.1%	-	0.0%	8,196	7,041	6,742	82.9%	8,128	7,018	(22)
FPL	W_OP	$ 38	6,040	65.4%	-	0.0%	9,232	4,794	5,963	65.1%	9,155	4,763	(31)
FPL	SH_SP	$ 59	2,629	72.7%	-	0.0%	3,617	5,380	2,573	72.3%	3,562	5,322	(59)
FPL	SH_P	$ 47	6,481	86.8%	-	0.0%	7,469	7,575	6,455	86.7%	7,443	7,567	(8)
FPL	SH_OP	$ 42	7,021	87.7%	-	0.0%	8,009	7,738	6,971	87.6%	7,959	7,725	(13)

Scenario: Price Sensitivity (+10%), No Immediate Retirement

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
FPL	S_SP1	$ 79	1,398	59.9%	2	0.1%	2,336	3,769	1,404	59.9%	2,341	3,780	11
FPL	S_SP2	$ 70	2,089	69.0%	0	0.0%	3,027	4,898	2,079	68.9%	3,016	4,884	(14)
FPL	S_P	$ 61	6,903	88.0%	-	0.0%	7,841	7,783	6,864	88.0%	7,802	7,773	(10)
FPL	S_OP	$ 50	9,702	91.2%	-	0.0%	10,640	8,339	9,689	91.2%	10,626	8,337	(2)
FPL	W_SP	$ 61	6,507	81.2%	-	0.0%	8,012	6,672	6,484	81.2%	7,989	6,664	(8)
FPL	W_P	$ 44	7,042	82.4%	-	0.0%	8,547	6,892	6,974	82.2%	8,479	6,870	(22)
FPL	W_OP	$ 42	9,302	86.1%	-	0.0%	10,807	7,478	9,242	86.0%	10,748	7,465	(13)
FPL	SH_SP	$ 65	2,660	72.9%	-	0.0%	3,648	5,415	2,604	72.5%	3,593	5,357	(58)
FPL	SH_P	$ 52	7,604	88.5%	-	0.0%	8,592	7,865	7,578	88.5%	8,566	7,859	(6)
FPL	SH_OP	$ 46	7,733	88.7%	0	0.0%	8,721	7,904	7,724	88.7%	8,713	7,902	(2)

Scenario: Price Sensitivity (-10%), No Immediate Retirement

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
FPL	S_SP1	$ 65	1,052	52.9%	-	0.0%	1,989	3,058	978	51.1%	1,916	2,889	(168)
FPL	S_SP2	$ 58	1,996	68.0%	-	0.0%	2,934	4,784	1,935	67.4%	2,873	4,698	(85)
FPL	S_P	$ 50	6,581	87.5%	-	0.0%	7,519	7,700	6,541	87.5%	7,479	7,689	(11)
FPL	S_OP	$ 41	5,885	87.3%	-	0.0%	6,744	7,684	5,828	87.2%	6,687	7,665	(18)
FPL	W_SP	$ 50	6,155	80.4%	-	0.0%	7,660	6,557	6,132	80.3%	7,638	6,548	(9)
FPL	W_P	$ 36	-	0.0%	-	0.0%	3,567	5,702	-	0.0%	3,553	5,655	(47)
FPL	W_OP	$ 34	1,440	28.0%	-	0.0%	5,144	4,610	1,350	26.8%	5,042	4,647	37
FPL	SH_SP	$ 53	2,597	72.4%	-	0.0%	3,586	5,351	2,542	72.0%	3,530	5,292	(60)
FPL	SH_P	$ 42	4,245	82.8%	-	0.0%	5,128	6,955	4,177	82.5%	5,060	6,918	(37)
FPL	SH_OP	$ 38	3,908	61.6%	-	0.0%	6,341	4,547	3,842	61.3%	6,270	4,514	(33)

Delivered Price Test Results - Available Economic Capacity

Scenario: Base Case Prices, 102 MW Retired Immediately

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
FMPP	S_SP1	$ 72	-	0%	-	0.0%	1,032	4,228	-	0%	1,056	4,235	6
FMPP	S_SP2	$ 64	-	0%	-	0.0%	1,206	4,073	-	0%	1,266	4,085	12
FMPP	S_P	$ 55	-	0%	-	0.0%	1,540	3,759	-	0%	1,579	3,755	(4)
FMPP	S_OP	$ 45	-	0%	-	0.0%	1,658	4,039	-	0%	1,715	4,063	25
FMPP	W_SP	$ 55	-	0%	-	0.0%	1,682	3,734	-	0%	1,705	3,725	(9)
FMPP	W_P	$ 40	-	0%	-	0.0%	1,279	5,116	-	0%	1,347	5,044	(72)
FMPP	W_OP	$ 38	-	0%	-	0.0%	1,091	4,939	-	0%	1,168	4,824	(115)
FMPP	SH_SP	$ 59	11	1%	-	0.0%	1,087	3,817	10	1%	1,142	3,791	(26)
FMPP	SH_P	$ 47	14	1%	-	0.0%	1,338	3,934	14	1%	1,364	3,947	13
FMPP	SH_OP	$ 42	17	1%	-	0.0%	1,381	4,809	17	1%	1,431	4,776	(33)

Scenario: Base Case Prices, No Immediate Retirement

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
FMPP	S_SP1	$ 72	-	0.0%	-	0.0%	1,032	4,228	-	0.0%	1,056	4,235	6
FMPP	S_SP2	$ 64	-	0.0%	-	0.0%	1,206	4,073	-	0.0%	1,266	4,085	12
FMPP	S_P	$ 55	-	0.0%	-	0.0%	1,540	3,759	-	0.0%	1,579	3,755	(4)
FMPP	S_OP	$ 45	-	0.0%	-	0.0%	1,658	4,039	-	0.0%	1,715	4,063	25
FMPP	W_SP	$ 55	-	0.0%	-	0.0%	1,682	3,734	-	0.0%	1,705	3,725	(9)
FMPP	W_P	$ 40	-	0.0%	-	0.0%	1,279	5,116	-	0.0%	1,347	5,044	(72)
FMPP	W_OP	$ 38	-	0.0%	-	0.0%	1,091	4,939	-	0.0%	1,168	4,824	(115)
FMPP	SH_SP	$ 59	11	1.0%	-	0.0%	1,087	3,817	10	0.9%	1,142	3,791	(26)
FMPP	SH_P	$ 47	14	1.1%	-	0.0%	1,338	3,934	14	1.0%	1,364	3,947	13
FMPP	SH_OP	$ 42	17	1.2%	-	0.0%	1,381	4,809	17	1.2%	1,431	4,776	(33)

Scenario: Price Sensitivity (+10%), No Immediate Retirement

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
FMPP	S_SP1	$ 79	-	0.0%	18	1.6%	1,095	4,032	-	0.0%	1,089	4,166	134
FMPP	S_SP2	$ 70	-	0.0%	1	0.1%	1,255	4,071	-	0.0%	1,266	4,085	13
FMPP	S_P	$ 61	-	0.0%	-	0.0%	1,734	3,833	-	0.0%	1,773	3,837	3
FMPP	S_OP	$ 50	-	0.0%	-	0.0%	1,701	4,056	-	0.0%	1,715	4,063	7
FMPP	W_SP	$ 61	-	0.0%	-	0.0%	1,910	3,802	-	0.0%	1,933	3,798	(4)
FMPP	W_P	$ 44	-	0.0%	-	0.0%	1,673	3,912	-	0.0%	1,741	3,922	10
FMPP	W_OP	$ 42	-	0.0%	-	0.0%	1,618	4,916	-	0.0%	1,678	4,872	(44)
FMPP	SH_SP	$ 65	10	0.9%	-	0.0%	1,177	3,821	10	0.8%	1,232	3,825	5
FMPP	SH_P	$ 52	19	1.3%	-	0.0%	1,498	3,435	19	1.3%	1,524	3,448	13
FMPP	SH_OP	$ 46	17	1.0%	3	0.1%	1,751	3,805	17	1.0%	1,759	3,821	16

Scenario: Price Sensitivity (-10%), No Immediate Retirement

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
FMPP	S_SP1	$ 65	-	0.0%	-	0.0%	982	4,234	-	0.0%	1,056	4,235	0
FMPP	S_SP2	$ 58	-	0.0%	-	0.0%	1,006	4,109	-	0.0%	1,066	4,041	(68)
FMPP	S_P	$ 50	-	0.0%	-	0.0%	1,215	4,317	-	0.0%	1,254	4,338	21
FMPP	S_OP	$ 41	-	0.0%	-	0.0%	1,290	5,039	-	0.0%	1,347	5,009	(30)
FMPP	W_SP	$ 50	-	0.0%	-	0.0%	1,365	4,054	-	0.0%	1,387	4,057	4
FMPP	W_P	$ 36	-	0.0%	-	0.0%	446	8,841	-	0.0%	545	6,440	(2,401)
FMPP	W_OP	$ 34	-	0.0%	-	0.0%	266	4,605	-	0.0%	356	5,521	916
FMPP	SH_SP	$ 53	13	1.7%	-	0.0%	768	3,342	13	1.5%	823	3,384	42
FMPP	SH_P	$ 42	15	1.4%	-	0.0%	1,054	4,808	14	1.3%	1,121	4,725	(83)
FMPP	SH_OP	$ 38	12	1.4%	-	0.0%	881	4,783	12	1.3%	947	4,676	(107)

Delivered Price Test Results - Available Economic Capacity (FMPP Sensitivities)

SIL values set to 25% of FMPP Forecast Peak Load in 2014

Base Case Prices

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share			Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
FMPP	S_SP1	$ 72	118	6.5%	-	0.0%	1,804	1,561	116	6.4%	1,828	1,585	24
FMPP	S_SP2	$ 64	165	8.3%	-	0.0%	1,978	1,701	161	7.9%	2,038	1,752	50
FMPP	S_P	$ 55	368	15.9%	-	0.0%	2,312	1,972	367	15.6%	2,351	1,987	15
FMPP	S_OP	$ 45	320	13.2%	-	0.0%	2,430	2,113	318	12.8%	2,487	2,153	40
FMPP	W_SP	$ 55	327	13.4%	-	0.0%	2,435	2,009	326	13.3%	2,458	2,015	6
FMPP	W_P	$ 40	352	17.3%	-	0.0%	2,033	2,413	349	16.6%	2,101	2,433	20
FMPP	W_OP	$ 38	289	15.7%	-	0.0%	1,845	2,113	286	14.9%	1,921	2,133	21
FMPP	SH_SP	$ 59	212	11.6%	-	0.0%	1,821	1,612	209	11.1%	1,876	1,640	28
FMPP	SH_P	$ 47	283	13.6%	-	0.0%	2,071	1,917	282	13.4%	2,098	1,938	20
FMPP	SH_OP	$ 42	340	16.1%	-	0.0%	2,115	2,385	338	15.6%	2,164	2,404	19

+10% Prices

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share			Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
FMPP	S_SP1	$ 79	120	6.4%	18	1.0%	1,867	1,553	120	6.5%	1,862	1,594	41
FMPP	S_SP2	$ 70	165	8.1%	1	0.1%	2,028	1,731	164	8.0%	2,038	1,744	13
FMPP	S_P	$ 61	325	13.0%	-	0.0%	2,506	2,053	324	12.7%	2,545	2,072	20
FMPP	S_OP	$ 50	402	16.2%	-	0.0%	2,473	2,221	401	16.1%	2,487	2,230	9
FMPP	W_SP	$ 61	288	10.8%	-	0.0%	2,664	2,120	288	10.7%	2,687	2,128	8
FMPP	W_P	$ 44	335	13.8%	-	0.0%	2,426	2,103	334	13.4%	2,494	2,139	36
FMPP	W_OP	$ 42	353	14.9%	-	0.0%	2,372	2,563	352	14.5%	2,432	2,580	17
FMPP	SH_SP	$ 65	202	10.6%	-	0.0%	1,911	1,668	199	10.1%	1,966	1,707	39
FMPP	SH_P	$ 52	388	17.4%	-	0.0%	2,232	1,893	387	17.2%	2,258	1,908	15
FMPP	SH_OP	$ 46	337	13.6%	3	0.1%	2,485	2,127	337	13.5%	2,493	2,138	11

Delivered Price Test Results - Available Economic Capacity (FMPP Sensitivities)

-10% Prices

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share			Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
FMPP	S_SP1	$ 65	118	6.7%	-	0.0%	1,754	1,527	112	6.1%	1,828	1,595	68
FMPP	S_SP2	$ 58	174	9.8%	-	0.0%	1,778	1,565	170	9.3%	1,838	1,591	26
FMPP	S_P	$ 50	366	18.4%	-	0.0%	1,987	2,013	365	18.0%	2,026	2,044	31
FMPP	S_OP	$ 41	299	14.5%	-	0.0%	2,062	2,289	296	14.0%	2,119	2,321	33
FMPP	W_SP	$ 50	332	15.7%	-	0.0%	2,118	1,991	331	15.5%	2,141	2,006	14
FMPP	W_P	$ 36	-	0.0%	-	0.0%	1,200	3,327	-	0.0%	1,298	2,931	(396)
FMPP	W_OP	$ 34	-	0.0%	-	0.0%	1,020	4,013	-	0.0%	1,110	3,691	(323)
FMPP	SH_SP	$ 53	257	17.1%	-	0.0%	1,502	1,299	253	16.2%	1,557	1,335	36
FMPP	SH_P	$ 42	294	16.4%	-	0.0%	1,787	2,064	291	15.7%	1,855	2,088	24
FMPP	SH_OP	$ 38	245	15.2%	-	0.0%	1,615	1,896	240	14.3%	1,681	1,916	20

SIL values set to 50% of FMPP Forecast Peak Load in 2014

Base Case Prices

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share			Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
FMPP	S_SP1	$ 72	236	9.2%	-	0.0%	2,577	1,020	232	8.9%	2,600	1,032	12
FMPP	S_SP2	$ 64	330	12.0%	-	0.0%	2,750	1,172	322	11.5%	2,811	1,198	26
FMPP	S_P	$ 55	735	23.8%	-	0.0%	3,084	1,623	733	23.5%	3,124	1,626	3
FMPP	S_OP	$ 45	640	20.0%	-	0.0%	3,202	1,621	637	19.5%	3,259	1,642	21
FMPP	W_SP	$ 55	654	20.5%	-	0.0%	3,189	1,573	653	20.3%	3,212	1,575	2
FMPP	W_P	$ 40	705	25.3%	-	0.0%	2,787	1,900	698	24.5%	2,855	1,898	(1)
FMPP	W_OP	$ 38	578	22.3%	-	0.0%	2,598	1,648	571	21.4%	2,675	1,645	(2)
FMPP	SH_SP	$ 59	424	16.4%	-	0.0%	2,593	1,164	418	15.8%	2,648	1,173	9
FMPP	SH_P	$ 47	565	19.9%	-	0.0%	2,844	1,464	563	19.6%	2,870	1,472	8
FMPP	SH_OP	$ 42	680	23.5%	-	0.0%	2,887	1,820	677	23.1%	2,937	1,826	6

Delivered Price Test Results - Available Economic Capacity (FMPP Sensitivities)

SIL values set to 50% of FMPP Forecast Peak Load in 2014

+10% Prices

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share			Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
FMPP	S_SP1	$ 79	239	9.1%	18	0.7%	2,640	1,020	240	9.1%	2,634	1,040	20
FMPP	S_SP2	$ 70	329	11.8%	1	0.0%	2,800	1,175	328	11.7%	2,811	1,182	7
FMPP	S_P	$ 61	650	19.8%	-	0.0%	3,278	1,581	648	19.5%	3,318	1,591	10
FMPP	S_OP	$ 50	803	24.7%	-	0.0%	3,246	1,817	803	24.6%	3,259	1,821	4
FMPP	W_SP	$ 61	576	16.9%	-	0.0%	3,418	1,589	575	16.7%	3,441	1,595	5
FMPP	W_P	$ 44	671	21.1%	-	0.0%	3,180	1,652	667	20.5%	3,248	1,669	17
FMPP	W_OP	$ 42	705	22.6%	-	0.0%	3,126	1,950	703	22.1%	3,186	1,958	8
FMPP	SH_SP	$ 65	404	15.1%	-	0.0%	2,683	1,177	398	14.5%	2,738	1,194	17
FMPP	SH_P	$ 52	776	25.8%	-	0.0%	3,004	1,621	775	25.6%	3,030	1,624	3
FMPP	SH_OP	$ 46	675	20.7%	3	0.1%	3,257	1,655	674	20.6%	3,265	1,661	6

-10% Prices

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share			Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
FMPP	S_SP1	$ 65	236	9.3%	-	0.0%	2,527	1,017	224	8.6%	2,600	1,051	34
FMPP	S_SP2	$ 58	348	13.7%	-	0.0%	2,550	1,119	341	13.1%	2,611	1,128	9
FMPP	S_P	$ 50	731	26.5%	-	0.0%	2,759	1,667	729	26.1%	2,799	1,675	8
FMPP	S_OP	$ 41	597	21.1%	-	0.0%	2,834	1,717	592	20.5%	2,891	1,729	12
FMPP	W_SP	$ 50	663	23.1%	-	0.0%	2,872	1,591	662	22.9%	2,895	1,595	5
FMPP	W_P	$ 36	-	0.0%	-	0.0%	1,755	3,628	-	0.0%	1,853	3,297	(332)
FMPP	W_OP	$ 34	-	0.0%	-	0.0%	1,575	4,953	-	0.0%	1,665	4,565	(388)
FMPP	SH_SP	$ 53	513	22.6%	-	0.0%	2,274	1,123	506	21.7%	2,329	1,118	(5)
FMPP	SH_P	$ 42	588	23.0%	-	0.0%	2,560	1,591	582	22.1%	2,627	1,590	(1)
FMPP	SH_OP	$ 38	490	20.5%	-	0.0%	2,387	1,512	480	19.6%	2,453	1,504	(9)

Delivered Price Test Results - Available Economic Capacity (FMPP Sensitivities)

SIL values set to 75% of FMPP Forecast Peak Load in 2014

Base Case Prices

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share			Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
FMPP	S_SP1	$ 72	354	10.6%	-	0.0%	3,349	848	348	10.3%	3,372	853	6
FMPP	S_SP2	$ 64	495	14.0%	-	0.0%	3,522	1,007	483	13.5%	3,583	1,018	10
FMPP	S_P	$ 55	1,103	28.6%	-	0.0%	3,856	1,590	1,100	28.2%	3,896	1,584	(6)
FMPP	S_OP	$ 45	960	24.2%	-	0.0%	3,974	1,492	955	23.7%	4,032	1,497	6
FMPP	W_SP	$ 55	981	24.9%	-	0.0%	3,943	1,469	979	24.7%	3,966	1,467	(2)
FMPP	W_P	$ 40	1,057	29.9%	-	0.0%	3,541	1,809	1,048	29.0%	3,609	1,791	(19)
FMPP	W_OP	$ 38	867	25.9%	-	0.0%	3,352	1,574	857	25.0%	3,429	1,555	(20)
FMPP	SH_SP	$ 59	636	18.9%	-	0.0%	3,365	1,050	627	18.3%	3,420	1,046	(3)
FMPP	SH_P	$ 47	848	23.4%	-	0.0%	3,616	1,371	845	23.2%	3,642	1,371	0
FMPP	SH_OP	$ 42	1,019	27.9%	-	0.0%	3,660	1,694	1,015	27.4%	3,709	1,689	(6)

+10% Prices

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share			Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
FMPP	S_SP1	$ 79	359	10.5%	18	0.5%	3,412	844	360	10.6%	3,406	857	13
FMPP	S_SP2	$ 70	494	13.8%	1	0.0%	3,572	993	492	13.7%	3,583	997	3
FMPP	S_P	$ 61	975	24.1%	-	0.0%	4,050	1,453	972	23.8%	4,090	1,455	2
FMPP	S_OP	$ 50	1,205	30.0%	-	0.0%	4,018	1,760	1,204	29.9%	4,032	1,760	(0)
FMPP	W_SP	$ 61	864	20.7%	-	0.0%	4,172	1,404	863	20.6%	4,195	1,406	2
FMPP	W_P	$ 44	1,006	25.6%	-	0.0%	3,934	1,546	1,001	25.0%	4,002	1,547	1
FMPP	W_OP	$ 42	1,058	27.3%	-	0.0%	3,880	1,779	1,055	26.8%	3,939	1,776	(3)
FMPP	SH_SP	$ 65	607	17.6%	-	0.0%	3,456	1,035	598	17.0%	3,511	1,039	3
FMPP	SH_P	$ 52	1,164	30.8%	-	0.0%	3,776	1,635	1,162	30.6%	3,803	1,630	(4)
FMPP	SH_OP	$ 46	1,012	25.1%	3	0.1%	4,029	1,536	1,011	25.0%	4,037	1,539	3

Delivered Price Test Results - Available Economic Capacity (FMPP Sensitivities)

SIL values set to 75% of FMPP Forecast Peak Load in 2014

-10% Prices

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share			Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
FMPP	S_SP1	$ 65	354	10.7%	-	0.0%	3,299	863	336	10.0%	3,372	877	14
FMPP	S_SP2	$ 58	522	15.7%	-	0.0%	3,322	1,005	511	15.1%	3,383	1,001	(3)
FMPP	S_P	$ 50	1,097	31.1%	-	0.0%	3,531	1,655	1,094	30.6%	3,571	1,649	(6)
FMPP	S_OP	$ 41	896	24.8%	-	0.0%	3,607	1,585	888	24.2%	3,664	1,581	(4)
FMPP	W_SP	$ 50	995	27.4%	-	0.0%	3,626	1,531	993	27.2%	3,649	1,530	(2)
FMPP	W_P	$ 36	-	0.0%	-	0.0%	1,755	3,628	-	0.0%	1,853	3,297	(332)
FMPP	W_OP	$ 34	-	0.0%	-	0.0%	1,575	4,953	-	0.0%	1,665	4,565	(388)
FMPP	SH_SP	$ 53	770	25.3%	-	0.0%	3,046	1,141	758	24.5%	3,101	1,120	(21)
FMPP	SH_P	$ 42	882	26.5%	-	0.0%	3,332	1,523	873	25.7%	3,400	1,505	(17)
FMPP	SH_OP	$ 38	735	23.3%	-	0.0%	3,159	1,463	720	22.3%	3,225	1,439	(24)

SIL values set to FMPP Forecast Peak Load in 2014

Base Case Prices

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share			Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
FMPP	S_SP1	$ 72	472	11.4%	-	0.0%	4,121	779	465	11.2%	4,145	781	2
FMPP	S_SP2	$ 64	660	15.4%	-	0.0%	4,295	944	644	14.8%	4,355	945	1
FMPP	S_P	$ 55	1,471	31.8%	-	0.0%	4,629	1,643	1,466	31.4%	4,668	1,631	(12)
FMPP	S_OP	$ 45	1,280	27.0%	-	0.0%	4,747	1,478	1,273	26.5%	4,804	1,475	(4)
FMPP	W_SP	$ 55	1,308	27.9%	-	0.0%	4,697	1,471	1,306	27.7%	4,720	1,466	(5)
FMPP	W_P	$ 40	1,409	32.8%	-	0.0%	4,294	1,828	1,397	32.0%	4,362	1,799	(29)
FMPP	W_OP	$ 38	1,157	28.2%	-	0.0%	4,106	1,595	1,143	27.3%	4,183	1,566	(30)
FMPP	SH_SP	$ 59	848	20.5%	-	0.0%	4,137	1,021	835	19.9%	4,192	1,010	(10)
FMPP	SH_P	$ 47	1,130	25.8%	-	0.0%	4,388	1,380	1,126	25.5%	4,415	1,376	(4)
FMPP	SH_OP	$ 42	1,359	30.7%	-	0.0%	4,432	1,693	1,354	30.2%	4,481	1,680	(13)

Delivered Price Test Results - Available Economic Capacity (FMPP Sensitivities)

SIL values set to FMPP Forecast Peak Load in 2014

+10% Prices

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share			Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
FMPP	S_SP1	$ 79	479	11.4%	18	0.4%	4,184	774	480	11.5%	4,178	783	9
FMPP	S_SP2	$ 70	659	15.2%	1	0.0%	4,344	921	656	15.1%	4,355	922	1
FMPP	S_P	$ 61	1,300	27.0%	-	0.0%	4,823	1,437	1,296	26.7%	4,862	1,433	(4)
FMPP	S_OP	$ 50	1,606	33.5%	-	0.0%	4,790	1,804	1,605	33.4%	4,804	1,802	(2)
FMPP	W_SP	$ 61	1,153	23.4%	-	0.0%	4,925	1,346	1,150	23.2%	4,948	1,345	(1)
FMPP	W_P	$ 44	1,342	28.6%	-	0.0%	4,688	1,550	1,335	28.1%	4,756	1,541	(9)
FMPP	W_OP	$ 42	1,411	30.4%	-	0.0%	4,633	1,751	1,406	30.0%	4,693	1,741	(11)
FMPP	SH_SP	$ 65	809	19.1%	-	0.0%	4,228	992	797	18.6%	4,283	987	(5)
FMPP	SH_P	$ 52	1,552	34.1%	-	0.0%	4,548	1,716	1,550	33.9%	4,575	1,708	(9)
FMPP	SH_OP	$ 46	1,349	28.1%	3	0.1%	4,801	1,531	1,348	28.0%	4,810	1,532	1

-10% Prices

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share			Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
FMPP	S_SP1	$ 65	472	11.6%	-	0.0%	4,071	804	448	10.8%	4,145	807	3
FMPP	S_SP2	$ 58	697	17.0%	-	0.0%	4,095	972	682	16.4%	4,155	962	(10)
FMPP	S_P	$ 50	1,463	34.0%	-	0.0%	4,304	1,718	1,458	33.6%	4,343	1,705	(13)
FMPP	S_OP	$ 41	1,194	27.3%	-	0.0%	4,379	1,578	1,184	26.7%	4,436	1,565	(13)
FMPP	W_SP	$ 50	1,327	30.3%	-	0.0%	4,380	1,565	1,324	30.1%	4,402	1,559	(6)
FMPP	W_P	$ 36	-	0.0%	-	0.0%	1,755	3,628	-	0.0%	1,853	3,297	(332)
FMPP	W_OP	$ 34	-	0.0%	-	0.0%	1,575	4,953	-	0.0%	1,665	4,565	(388)
FMPP	SH_SP	$ 53	1,027	29.4%	-	0.0%	3,488	1,303	1,011	28.6%	3,532	1,273	(31)
FMPP	SH_P	$ 42	1,176	28.6%	-	0.0%	4,104	1,551	1,163	27.9%	4,172	1,525	(26)
FMPP	SH_OP	$ 38	980	25.7%	-	0.0%	3,815	1,494	960	24.8%	3,865	1,463	(30)

Delivered Price Test Results - Available Economic Capacity

Scenario: Base Case Prices, 102 MW Retired Immediately

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
FPC	S_SP1	$ 72	169	9.3%	-	0.0%	1,819	1,199	166	9.1%	1,819	1,198	(1)
FPC	S_SP2	$ 64	179	9.9%	-	0.0%	1,819	1,213	177	9.7%	1,819	1,211	(2)
FPC	S_P	$ 55	221	12.9%	-	0.0%	1,716	1,456	220	12.8%	1,716	1,455	(1)
FPC	S_OP	$ 45	206	17.7%	-	0.0%	1,165	2,024	205	17.6%	1,165	2,021	(3)
FPC	W_SP	$ 55	12	0.8%	-	0.0%	1,598	5,583	12	0.8%	1,598	5,583	0
FPC	W_P	$ 40	11	2.6%	-	0.0%	425	7,328	11	2.6%	425	7,328	(0)
FPC	W_OP	$ 38	10	1.7%	-	0.0%	572	7,967	10	1.7%	572	7,967	(0)
FPC	SH_SP	$ 59	319	14.3%	-	0.0%	2,229	1,068	315	14.1%	2,229	1,064	(4)
FPC	SH_P	$ 47	351	18.8%	-	0.0%	1,861	1,705	348	18.7%	1,861	1,703	(2)
FPC	SH_OP	$ 42	393	20.5%	-	0.0%	1,915	2,090	391	20.4%	1,915	2,086	(3)

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
JEA	S_SP1	$ 72	154	24.4%	-	0.0%	630	1,662	152	24.1%	630	1,656	(6)
JEA	S_SP2	$ 64	156	24.8%	-	0.0%	630	1,963	155	24.6%	630	1,960	(3)
JEA	S_P	$ 55	177	23.8%	-	0.0%	745	2,241	176	23.7%	745	2,241	(0)
JEA	S_OP	$ 45	164	26.1%	-	0.0%	630	3,618	164	26.0%	630	3,620	3
JEA	W_SP	$ 55	35	7.6%	-	0.0%	462	5,591	35	7.6%	462	5,591	(0)
JEA	W_P	$ 40	29	23.3%	-	0.0%	123	3,884	28	23.1%	123	3,891	7
JEA	W_OP	$ 38	141	21.6%	-	0.0%	656	4,248	140	21.4%	656	4,257	9
JEA	SH_SP	$ 59	169	25.8%	-	0.0%	656	1,871	168	25.6%	656	1,867	(4)
JEA	SH_P	$ 47	180	27.4%	-	0.0%	656	3,074	178	27.2%	656	3,075	2
JEA	SH_OP	$ 42	197	30.0%	-	0.0%	656	3,763	197	30.0%	656	3,765	2

Delivered Price Test Results - Available Economic Capacity

Scenario: Base Case Prices, 102 MW Retired Immediately

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
SEC	S_SP1	$ 72	38	3.6%	-	0.0%	1,038	3,065	35	3.4%	1,038	3,063	(1)
SEC	S_SP2	$ 64	55	4.4%	-	0.0%	1,255	3,863	53	4.2%	1,255	3,862	(1)
SEC	S_P	$ 55	115	7.7%	-	0.0%	1,495	4,624	115	7.7%	1,495	4,623	(1)
SEC	S_OP	$ 45	106	9.8%	-	0.0%	1,091	3,342	106	9.7%	1,091	3,341	(1)
SEC	W_SP	$ 55	123	7.2%	-	0.0%	1,696	5,048	122	7.2%	1,696	5,047	(0)
SEC	W_P	$ 40	138	13.2%	-	0.0%	1,045	3,980	137	13.1%	1,044	3,983	3
SEC	W_OP	$ 38	117	7.9%	-	0.0%	1,469	4,498	115	7.9%	1,469	4,497	(1)
SEC	SH_SP	$ 59	51	4.9%	-	0.0%	1,029	4,007	49	4.8%	1,029	4,006	(1)
SEC	SH_P	$ 47	65	9.9%	-	0.0%	651	2,308	64	9.8%	651	2,307	(1)
SEC	SH_OP	$ 42	83	7.8%	-	0.0%	1,057	4,154	83	7.8%	1,057	4,153	(0)

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
TEC	S_SP1	$ 72	60	6.4%	-	0.0%	929	1,741	55	6.0%	929	1,738	(3)
TEC	S_SP2	$ 64	90	7.4%	-	0.0%	1,220	2,132	87	7.1%	1,220	2,130	(2)
TEC	S_P	$ 55	190	9.8%	-	0.0%	1,934	4,525	188	9.7%	1,934	4,524	(1)
TEC	S_OP	$ 45	171	8.9%	-	0.0%	1,911	4,464	170	8.9%	1,911	4,463	(1)
TEC	W_SP	$ 55	-	0.0%	-	0.0%	1,968	7,117	-	0.0%	1,968	7,117	-
TEC	W_P	$ 40	-	0.0%	-	0.0%	1,459	7,432	-	0.0%	1,459	7,432	-
TEC	W_OP	$ 38	-	0.0%	-	0.0%	768	10,000	-	0.0%	768	10,000	-
TEC	SH_SP	$ 59	263	16.0%	-	0.0%	1,639	1,321	256	15.6%	1,639	1,313	(8)
TEC	SH_P	$ 47	361	17.7%	-	0.0%	2,039	2,320	357	17.5%	2,039	2,316	(4)
TEC	SH_OP	$ 42	438	19.7%	-	0.0%	2,226	3,200	436	19.6%	2,226	3,197	(3)

Delivered Price Test Results - Available Economic Capacity

Scenario: Base Case Prices, 102 MW Retired Immediately

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
GVL	S_SP1	$ 72	-	0.0%	-	0.0%	188	10,000	-	0.0%	188	10,000	-
GVL	S_SP2	$ 64	-	0.0%	-	0.0%	63	10,000	-	0.0%	63	10,000	-
GVL	S_P	$ 55	-	0.0%	-	0.0%	78	10,000	-	0.0%	78	10,000	-
GVL	S_OP	$ 45	-	0.0%	-	0.0%	142	10,000	-	0.0%	142	10,000	-
GVL	W_SP	$ 55	-	0.0%	-	0.0%	87	10,000	-	0.0%	87	10,000	-
GVL	W_P	$ 40	-	0.0%	-	0.0%	135	10,000	-	0.0%	135	10,000	-
GVL	W_OP	$ 38	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
GVL	SH_SP	$ 59	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
GVL	SH_P	$ 47	-	0.0%	-	0.0%	84	10,000	-	0.0%	84	10,000	-
GVL	SH_OP	$ 42	-	0.0%	-	0.0%	142	10,000	-	0.0%	142	10,000	-

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
HST	S_SP1	$ 72	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
HST	S_SP2	$ 64	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
HST	S_P	$ 55	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
HST	S_OP	$ 45	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
HST	W_SP	$ 55	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
HST	W_P	$ 40	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
HST	W_OP	$ 38	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
HST	SH_SP	$ 59	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
HST	SH_P	$ 47	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
HST	SH_OP	$ 42	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-

Delivered Price Test Results - Available Economic Capacity

Scenario: Base Case Prices, 102 MW Retired Immediately

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
NSB	S_SP1	$ 72	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
NSB	S_SP2	$ 64	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
NSB	S_P	$ 55	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
NSB	S_OP	$ 45	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
NSB	W_SP	$ 55	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
NSB	W_P	$ 40	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
NSB	W_OP	$ 38	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
NSB	SH_SP	$ 59	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
NSB	SH_P	$ 47	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
NSB	SH_OP	$ 42	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
SOCO	S_SP1	$ 72	505	3.6%	-	0.0%	13,877	1,101	464	3.3%	13,877	1,102	1
SOCO	S_SP2	$ 64	770	4.7%	-	0.0%	16,270	1,512	742	4.6%	16,270	1,512	0
SOCO	S_P	$ 55	1,143	5.2%	-	0.0%	21,810	2,641	1,133	5.2%	21,810	2,641	(0)
SOCO	S_OP	$ 45	1,057	4.7%	-	0.0%	22,686	3,611	1,050	4.6%	22,686	3,611	(0)
SOCO	W_SP	$ 55	2,022	8.0%	-	0.0%	25,296	2,259	2,008	7.9%	25,296	2,259	(0)
SOCO	W_P	$ 40	1,603	6.8%	-	0.0%	23,639	3,005	1,584	6.7%	23,639	3,005	(0)
SOCO	W_OP	$ 38	1,303	4.8%	-	0.0%	26,955	3,596	1,285	4.8%	26,955	3,596	(0)
SOCO	SH_SP	$ 59	1,512	8.5%	-	0.0%	17,791	1,121	1,472	8.3%	17,791	1,119	(2)
SOCO	SH_P	$ 47	1,859	8.5%	-	0.0%	21,952	1,996	1,838	8.4%	21,952	1,995	(1)
SOCO	SH_OP	$ 42	2,080	8.7%	-	0.0%	23,918	3,011	2,070	8.7%	23,918	3,010	(0)

Delivered Price Test Results - Available Economic Capacity

Scenario: Base Case Prices, No Immediate Retirement

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
FPC	S_SP1	$ 72	169	9.3%	-	0.0%	1,819	1,199	168	9.2%	1,819	1,198	(1)
FPC	S_SP2	$ 64	179	9.9%	-	0.0%	1,819	1,213	178	9.8%	1,819	1,212	(2)
FPC	S_P	$ 55	221	12.9%	-	0.0%	1,716	1,456	220	12.8%	1,716	1,455	(1)
FPC	S_OP	$ 45	206	17.7%	-	0.0%	1,165	2,024	205	17.6%	1,165	2,021	(3)
FPC	W_SP	$ 55	12	0.8%	-	0.0%	1,598	5,583	12	0.8%	1,598	5,583	(0)
FPC	W_P	$ 40	11	2.6%	-	0.0%	425	7,328	11	2.6%	425	7,328	(0)
FPC	W_OP	$ 38	10	1.7%	-	0.0%	572	7,967	10	1.7%	572	7,967	(0)
FPC	SH_SP	$ 59	319	14.3%	-	0.0%	2,229	1,068	317	14.2%	2,229	1,065	(3)
FPC	SH_P	$ 47	351	18.8%	-	0.0%	1,861	1,705	349	18.8%	1,861	1,703	(2)
FPC	SH_OP	$ 42	393	20.5%	-	0.0%	1,915	2,090	391	20.4%	1,915	2,086	(3)

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
JEA	S_SP1	$ 72	154	24.4%	-	0.0%	630	1,662	153	24.3%	630	1,661	(1)
JEA	S_SP2	$ 64	156	24.8%	-	0.0%	630	1,963	155	24.7%	630	1,961	(2)
JEA	S_P	$ 55	177	23.8%	-	0.0%	745	2,241	177	23.7%	745	2,241	(0)
JEA	S_OP	$ 45	164	26.1%	-	0.0%	630	3,618	164	26.0%	630	3,620	3
JEA	W_SP	$ 55	35	7.6%	-	0.0%	462	5,591	35	7.6%	462	5,591	(0)
JEA	W_P	$ 40	29	23.3%	-	0.0%	123	3,884	28	23.1%	123	3,891	7
JEA	W_OP	$ 38	141	21.6%	-	0.0%	656	4,248	140	21.4%	656	4,257	9
JEA	SH_SP	$ 59	169	25.8%	-	0.0%	656	1,871	168	25.7%	656	1,869	(2)
JEA	SH_P	$ 47	180	27.4%	-	0.0%	656	3,074	179	27.3%	656	3,074	1
JEA	SH_OP	$ 42	197	30.0%	-	0.0%	656	3,763	197	30.0%	656	3,765	2

Delivered Price Test Results - Available Economic Capacity

Scenario: Base Case Prices, No Immediate Retirement

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
SEC	S_SP1	$ 72	38	3.6%	-	0.0%	1,038	3,065	37	3.6%	1,038	3,064	(0)
SEC	S_SP2	$ 64	55	4.4%	-	0.0%	1,255	3,863	54	4.3%	1,255	3,862	(0)
SEC	S_P	$ 55	115	7.7%	-	0.0%	1,495	4,624	115	7.7%	1,495	4,623	(0)
SEC	S_OP	$ 45	106	9.8%	-	0.0%	1,091	3,342	106	9.7%	1,091	3,341	(1)
SEC	W_SP	$ 55	123	7.2%	-	0.0%	1,696	5,048	122	7.2%	1,696	5,047	(0)
SEC	W_P	$ 40	138	13.2%	-	0.0%	1,045	3,980	137	13.1%	1,044	3,983	3
SEC	W_OP	$ 38	117	7.9%	-	0.0%	1,469	4,498	115	7.9%	1,469	4,497	(1)
SEC	SH_SP	$ 59	51	4.9%	-	0.0%	1,029	4,007	50	4.8%	1,029	4,006	(0)
SEC	SH_P	$ 47	65	9.9%	-	0.0%	651	2,308	64	9.9%	651	2,307	(0)
SEC	SH_OP	$ 42	83	7.8%	-	0.0%	1,057	4,154	83	7.8%	1,057	4,153	(0)

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
TEC	S_SP1	$ 72	60	6.4%	-	0.0%	929	1,741	59	6.3%	929	1,741	(0)
TEC	S_SP2	$ 64	90	7.4%	-	0.0%	1,220	2,132	88	7.2%	1,220	2,131	(1)
TEC	S_P	$ 55	190	9.8%	-	0.0%	1,934	4,525	189	9.8%	1,934	4,525	(0)
TEC	S_OP	$ 45	171	8.9%	-	0.0%	1,911	4,464	170	8.9%	1,911	4,463	(1)
TEC	W_SP	$ 55	-	0.0%	-	0.0%	1,968	7,117	-	0.0%	1,968	7,117	-
TEC	W_P	$ 40	-	0.0%	-	0.0%	1,459	7,432	-	0.0%	1,459	7,432	-
TEC	W_OP	$ 38	-	0.0%	-	0.0%	768	10,000	-	0.0%	768	10,000	-
TEC	SH_SP	$ 59	263	16.0%	-	0.0%	1,639	1,321	259	15.8%	1,639	1,317	(4)
TEC	SH_P	$ 47	361	17.7%	-	0.0%	2,039	2,320	359	17.6%	2,039	2,318	(2)
TEC	SH_OP	$ 42	438	19.7%	-	0.0%	2,226	3,200	436	19.6%	2,226	3,197	(3)

Delivered Price Test Results - Available Economic Capacity

Scenario: Base Case Prices, No Immediate Retirement

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
GVL	S_SP1	$ 72	-	0.0%	-	0.0%	188	10,000	-	0.0%	188	10,000	-
GVL	S_SP2	$ 64	-	0.0%	-	0.0%	63	10,000	-	0.0%	63	10,000	-
GVL	S_P	$ 55	-	0.0%	-	0.0%	78	10,000	-	0.0%	78	10,000	-
GVL	S_OP	$ 45	-	0.0%	-	0.0%	142	10,000	-	0.0%	142	10,000	-
GVL	W_SP	$ 55	-	0.0%	-	0.0%	87	10,000	-	0.0%	87	10,000	-
GVL	W_P	$ 40	-	0.0%	-	0.0%	135	10,000	-	0.0%	135	10,000	-
GVL	W_OP	$ 38	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
GVL	SH_SP	$ 59	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
GVL	SH_P	$ 47	-	0.0%	-	0.0%	84	10,000	-	0.0%	84	10,000	-
GVL	SH_OP	$ 42	-	0.0%	-	0.0%	142	10,000	-	0.0%	142	10,000	-

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
HST	S_SP1	$ 72	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
HST	S_SP2	$ 64	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
HST	S_P	$ 55	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
HST	S_OP	$ 45	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
HST	W_SP	$ 55	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
HST	W_P	$ 40	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
HST	W_OP	$ 38	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
HST	SH_SP	$ 59	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
HST	SH_P	$ 47	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
HST	SH_OP	$ 42	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-

Delivered Price Test Results - Available Economic Capacity

Scenario: Base Case Prices, No Immediate Retirement

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
NSB	S_SP1	$ 72	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
NSB	S_SP2	$ 64	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
NSB	S_P	$ 55	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
NSB	S_OP	$ 45	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
NSB	W_SP	$ 55	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
NSB	W_P	$ 40	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
NSB	W_OP	$ 38	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
NSB	SH_SP	$ 59	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
NSB	SH_P	$ 47	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
NSB	SH_OP	$ 42	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
SOCO	S_SP1	$ 72	505	3.6%	-	0.0%	13,877	1,101	497	3.6%	13,877	1,101	0
SOCO	S_SP2	$ 64	770	4.7%	-	0.0%	16,270	1,512	753	4.6%	16,270	1,512	(0)
SOCO	S_P	$ 55	1,143	5.2%	-	0.0%	21,810	2,641	1,138	5.2%	21,810	2,641	(0)
SOCO	S_OP	$ 45	1,057	4.7%	-	0.0%	22,686	3,611	1,050	4.6%	22,686	3,611	(0)
SOCO	W_SP	$ 55	2,022	8.0%	-	0.0%	25,296	2,259	2,018	8.0%	25,296	2,259	(0)
SOCO	W_P	$ 40	1,603	6.8%	-	0.0%	23,639	3,005	1,584	6.7%	23,639	3,005	(0)
SOCO	W_OP	$ 38	1,303	4.8%	-	0.0%	26,955	3,596	1,285	4.8%	26,955	3,596	(0)
SOCO	SH_SP	$ 59	1,512	8.5%	-	0.0%	17,791	1,121	1,489	8.4%	17,791	1,119	(1)
SOCO	SH_P	$ 47	1,859	8.5%	-	0.0%	21,952	1,996	1,851	8.4%	21,952	1,995	(0)
SOCO	SH_OP	$ 42	2,080	8.7%	-	0.0%	23,918	3,011	2,070	8.7%	23,918	3,010	(0)

Delivered Price Test Results - Available Economic Capacity

Scenario: Price Sensitivity (+10%), 102 MW Retired Immediately

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
FPC	S_SP1	$ 79	170	9.3%	2	0.1%	1,819	1,196	167	9.2%	1,819	1,195	(0)
FPC	S_SP2	$ 70	179	9.9%	0	0.0%	1,819	1,211	178	9.8%	1,819	1,210	(1)
FPC	S_P	$ 61	217	9.8%	-	0.0%	2,221	1,313	215	9.7%	2,221	1,313	(1)
FPC	S_OP	$ 50	240	18.6%	-	0.0%	1,291	1,661	239	18.5%	1,291	1,661	(1)
FPC	W_SP	$ 61	12	0.6%	-	0.0%	2,073	4,133	12	0.6%	2,073	4,133	0
FPC	W_P	$ 44	13	2.0%	-	0.0%	669	3,635	13	2.0%	669	3,635	(0)
FPC	W_OP	$ 42	14	0.9%	-	0.0%	1,568	7,664	14	0.9%	1,568	7,664	(0)
FPC	SH_SP	$ 65	321	13.8%	-	0.0%	2,330	1,113	318	13.6%	2,330	1,109	(4)
FPC	SH_P	$ 52	398	21.4%	-	0.0%	1,861	1,663	396	21.3%	1,861	1,661	(2)
FPC	SH_OP	$ 46	363	18.0%	0	0.0%	2,019	1,848	362	17.9%	2,019	1,848	0

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
JEA	S_SP1	$ 79	155	24.6%	0	0.0%	630	1,666	153	24.3%	630	1,660	(6)
JEA	S_SP2	$ 70	159	25.2%	0	0.0%	630	1,980	157	25.0%	630	1,977	(3)
JEA	S_P	$ 61	180	24.1%	-	0.0%	745	2,232	179	24.0%	745	2,232	(0)
JEA	S_OP	$ 50	189	30.0%	-	0.0%	630	3,290	189	29.9%	630	3,290	1
JEA	W_SP	$ 61	33	7.2%	-	0.0%	462	5,585	33	7.2%	462	5,585	0
JEA	W_P	$ 44	36	29.6%	-	0.0%	123	3,706	36	29.5%	123	3,709	3
JEA	W_OP	$ 42	203	22.7%	-	0.0%	897	2,805	203	22.6%	897	2,806	1
JEA	SH_SP	$ 65	173	26.4%	-	0.0%	656	1,920	172	26.3%	656	1,917	(4)
JEA	SH_P	$ 52	198	30.2%	-	0.0%	656	2,828	197	30.1%	656	2,827	(1)
JEA	SH_OP	$ 46	184	28.1%	0	0.0%	656	3,601	184	28.0%	656	3,603	2

Delivered Price Test Results - Available Economic Capacity

Scenario: Price Sensitivity (+10%), 102 MW Retired Immediately

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
SEC	S_SP1	$ 79	38	3.7%	1	0.1%	1,038	3,064	35	3.4%	1,038	3,063	(1)
SEC	S_SP2	$ 70	55	4.4%	0	0.0%	1,255	3,861	53	4.2%	1,255	3,861	(1)
SEC	S_P	$ 61	110	5.9%	-	0.0%	1,879	5,490	109	5.8%	1,879	5,490	(0)
SEC	S_OP	$ 50	134	12.3%	-	0.0%	1,091	3,380	134	12.3%	1,091	3,379	(1)
SEC	W_SP	$ 61	115	5.6%	-	0.0%	2,058	5,758	114	5.5%	2,058	5,758	(0)
SEC	W_P	$ 44	133	11.7%	-	0.0%	1,132	3,409	132	11.7%	1,132	3,408	(1)
SEC	W_OP	$ 42	143	9.7%	-	0.0%	1,469	4,507	142	9.7%	1,469	4,506	(0)
SEC	SH_SP	$ 65	49	4.5%	-	0.0%	1,077	4,191	48	4.4%	1,077	4,190	(1)
SEC	SH_P	$ 52	91	13.9%	-	0.0%	651	2,364	90	13.8%	651	2,362	(1)
SEC	SH_OP	$ 46	82	7.8%	0	0.0%	1,057	4,150	82	7.8%	1,057	4,149	(0)

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
TEC	S_SP1	$ 79	61	6.5%	2	0.2%	929	1,738	56	6.0%	929	1,737	(1)
TEC	S_SP2	$ 70	90	7.3%	0	0.0%	1,220	2,125	86	7.1%	1,220	2,123	(2)
TEC	S_P	$ 61	171	8.3%	-	0.0%	2,058	4,131	170	8.3%	2,058	4,131	(1)
TEC	S_OP	$ 50	209	10.4%	-	0.0%	2,011	4,699	209	10.4%	2,011	4,698	(0)
TEC	W_SP	$ 61	-	0.0%	-	0.0%	2,118	6,342	-	0.0%	2,118	6,342	-
TEC	W_P	$ 44	-	0.0%	-	0.0%	1,672	6,696	-	0.0%	1,672	6,696	-
TEC	W_OP	$ 42	-	0.0%	-	0.0%	1,911	7,957	-	0.0%	1,911	7,957	-
TEC	SH_SP	$ 65	259	15.2%	-	0.0%	1,701	1,327	253	14.9%	1,701	1,320	(8)
TEC	SH_P	$ 52	479	22.1%	-	0.0%	2,165	2,719	478	22.1%	2,165	2,716	(3)
TEC	SH_OP	$ 46	443	17.1%	0	0.0%	2,584	3,365	441	17.1%	2,584	3,364	(2)

Delivered Price Test Results - Available Economic Capacity

Scenario: Price Sensitivity (+10%), 102 MW Retired Immediately

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
GVL	S_SP1	$ 79	-	0.0%	-	0.0%	188	10,000	-	0.0%	188	10,000	-
GVL	S_SP2	$ 70	-	0.0%	-	0.0%	188	10,000	-	0.0%	188	10,000	-
GVL	S_P	$ 61	-	0.0%	-	0.0%	78	10,000	-	0.0%	78	10,000	-
GVL	S_OP	$ 50	-	0.0%	-	0.0%	142	10,000	-	0.0%	142	10,000	-
GVL	W_SP	$ 61	-	0.0%	-	0.0%	87	10,000	-	0.0%	87	10,000	-
GVL	W_P	$ 44	-	0.0%	-	0.0%	135	10,000	-	0.0%	135	10,000	-
GVL	W_OP	$ 42	-	0.0%	-	0.0%	183	10,000	-	0.0%	183	10,000	-
GVL	SH_SP	$ 65	-	0.0%	-	0.0%	59	10,000	-	0.0%	59	10,000	-
GVL	SH_P	$ 52	-	0.0%	-	0.0%	88	10,000	-	0.0%	88	10,000	-
GVL	SH_OP	$ 46	-	0.0%	-	0.0%	142	10,000	-	0.0%	142	10,000	-

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
HST	S_SP1	$ 79	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
HST	S_SP2	$ 70	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
HST	S_P	$ 61	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
HST	S_OP	$ 50	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
HST	W_SP	$ 61	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
HST	W_P	$ 44	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
HST	W_OP	$ 42	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
HST	SH_SP	$ 65	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
HST	SH_P	$ 52	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
HST	SH_OP	$ 46	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-

Delivered Price Test Results - Available Economic Capacity

Scenario: Price Sensitivity (+10%), 102 MW Retired Immediately

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
NSB	S_SP1	$ 79	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
NSB	S_SP2	$ 70	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
NSB	S_P	$ 61	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
NSB	S_OP	$ 50	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
NSB	W_SP	$ 61	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
NSB	W_P	$ 44	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
NSB	W_OP	$ 42	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
NSB	SH_SP	$ 65	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
NSB	SH_P	$ 52	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
NSB	SH_OP	$ 46	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
SOCO	S_SP1	$ 79	512	3.7%	13	0.1%	13,877	1,098	472	3.4%	13,877	1,100	2
SOCO	S_SP2	$ 70	772	4.7%	1	0.0%	16,307	1,520	744	4.6%	16,307	1,520	(0)
SOCO	S_P	$ 61	1,117	5.0%	-	0.0%	22,434	2,750	1,108	4.9%	22,434	2,750	(0)
SOCO	S_OP	$ 50	1,223	5.0%	-	0.0%	24,666	3,365	1,218	4.9%	24,666	3,365	(0)
SOCO	W_SP	$ 61	1,835	6.8%	-	0.0%	27,072	2,471	1,822	6.7%	27,072	2,471	(0)
SOCO	W_P	$ 44	1,896	7.9%	-	0.0%	24,152	3,045	1,884	7.8%	24,152	3,045	(0)
SOCO	W_OP	$ 42	2,002	7.4%	-	0.0%	27,091	3,625	1,994	7.4%	27,091	3,624	(0)
SOCO	SH_SP	$ 65	1,501	8.4%	-	0.0%	17,864	1,128	1,462	8.2%	17,864	1,126	(2)
SOCO	SH_P	$ 52	2,280	10.2%	-	0.0%	22,406	2,037	2,266	10.1%	22,406	2,037	(1)
SOCO	SH_OP	$ 46	1,809	6.9%	1	0.0%	26,209	2,816	1,800	6.9%	26,209	2,816	(0)

Delivered Price Test Results - Available Economic Capacity

Scenario: Price Sensitivity (-10%), 102 MW Retired Immediately

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
FPC	S_SP1	$ 65	165	9.1%	-	0.0%	1,819	1,204	163	9%	1,819	1,204	(0)
FPC	S_SP2	$ 58	176	10.3%	-	0.0%	1,708	1,161	173	10%	1,708	1,158	(3)
FPC	S_P	$ 50	220	17.0%	-	0.0%	1,291	1,485	218	17%	1,291	1,483	(2)
FPC	S_OP	$ 41	214	23.3%	-	0.0%	915	2,928	212	23%	915	2,923	(5)
FPC	W_SP	$ 50	13	3.0%	-	0.0%	423	2,546	13	3%	423	2,546	0
FPC	W_P	$ 36	-	0.0%	-	0.0%	59	4,209	-	0%	59	4,174	(35)
FPC	W_OP	$ 34	-	0.0%	-	0.0%	60	5,368	-	0%	60	5,329	(38)
FPC	SH_SP	$ 53	300	16.1%	-	0.0%	1,861	1,145	298	16%	1,861	1,140	(5)
FPC	SH_P	$ 42	368	21.0%	-	0.0%	1,752	2,021	365	21%	1,752	2,014	(7)
FPC	SH_OP	$ 38	249	16.4%	-	0.0%	1,514	3,605	249	16%	1,514	3,589	(16)

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
JEA	S_SP1	$ 65	150	23.9%	-	0.0%	630	1,648	149	24%	630	1,644	(5)
JEA	S_SP2	$ 58	145	23.0%	-	0.0%	630	1,907	144	23%	630	1,904	(3)
JEA	S_P	$ 50	175	27.8%	-	0.0%	630	2,783	174	28%	630	2,783	0
JEA	S_OP	$ 41	169	26.9%	-	0.0%	630	3,802	168	27%	630	3,807	5
JEA	W_SP	$ 50	35	28.6%	-	0.0%	123	3,000	35	29%	123	3,000	1
JEA	W_P	$ 36	-	0.0%	-	0.0%	116	5,961	-	0%	115	5,961	(0)
JEA	W_OP	$ 34	-	0.0%	-	0.0%	624	7,579	-	0%	622	7,579	0
JEA	SH_SP	$ 53	152	23.2%	-	0.0%	656	1,633	152	23%	656	1,632	(1)
JEA	SH_P	$ 42	184	28.1%	-	0.0%	656	3,271	183	28%	656	3,273	2
JEA	SH_OP	$ 38	118	17.9%	-	0.0%	656	4,208	118	18%	656	4,206	(1)

Delivered Price Test Results - Available Economic Capacity

Scenario: Price Sensitivity (-10%), 102 MW Retired Immediately

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
SEC	S_SP1	$ 65	38	3.6%	-	0.0%	1,038	3,066	35	3%	1,038	3,064	(1)
SEC	S_SP2	$ 58	57	4.9%	-	0.0%	1,159	3,536	55	5%	1,159	3,535	(1)
SEC	S_P	$ 50	114	18.4%	-	0.0%	618	1,799	113	18%	618	1,795	(4)
SEC	S_OP	$ 41	99	9.7%	-	0.0%	1,026	3,750	98	10%	1,026	3,751	2
SEC	W_SP	$ 50	125	16.4%	-	0.0%	764	1,921	124	16%	764	1,919	(3)
SEC	W_P	$ 36	-	0.0%	-	0.0%	507	2,052	-	0%	502	1,994	(58)
SEC	W_OP	$ 34	-	0.0%	-	0.0%	273	3,539	-	0%	267	3,253	(286)
SEC	SH_SP	$ 53	56	13.8%	-	0.0%	405	2,230	54	13%	405	2,219	(11)
SEC	SH_P	$ 42	67	11.2%	-	0.0%	596	2,724	66	11%	595	2,724	1
SEC	SH_OP	$ 38	61	6.1%	-	0.0%	989	4,708	59	6%	988	4,715	7

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
TEC	S_SP1	$ 65	60	6.5%	-	0.0%	929	1,753	55	6%	929	1,751	(2)
TEC	S_SP2	$ 58	90	8.3%	-	0.0%	1,095	2,114	88	8%	1,095	2,111	(3)
TEC	S_P	$ 50	182	13.2%	-	0.0%	1,375	3,116	181	13%	1,375	3,114	(2)
TEC	S_OP	$ 41	159	9.7%	-	0.0%	1,647	4,628	158	10%	1,647	4,627	(1)
TEC	W_SP	$ 50	-	0.0%	-	0.0%	1,346	6,073	-	0%	1,346	6,073	-
TEC	W_P	$ 36	-	0.0%	-	0.0%	-	-	-	0%	-	-	-
TEC	W_OP	$ 34	-	0.0%	-	0.0%	-	-	-	0%	-	-	-
TEC	SH_SP	$ 53	280	17.8%	-	0.0%	1,577	1,341	269	17%	1,577	1,327	(14)
TEC	SH_P	$ 42	353	21.0%	-	0.0%	1,681	2,080	349	21%	1,681	2,074	(6)
TEC	SH_OP	$ 38	277	23.9%	-	0.0%	1,156	1,676	267	23%	1,156	1,656	(20)

Delivered Price Test Results - Available Economic Capacity

Scenario: Price Sensitivity (-10%), 102 MW Retired Immediately

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
GVL	S_SP1	$ 65	-	0.0%	-	0.0%	33	10,000	-	0%	33	10,000	-
GVL	S_SP2	$ 58	-	0.0%	-	0.0%	-	-	-	0%	-	-	-
GVL	S_P	$ 50	-	0.0%	-	0.0%	74	10,000	-	0%	74	10,000	-
GVL	S_OP	$ 41	-	0.0%	-	0.0%	142	10,000	-	0%	142	10,000	-
GVL	W_SP	$ 50	-	0.0%	-	0.0%	87	10,000	-	0%	87	10,000	-
GVL	W_P	$ 36	-	0.0%	-	0.0%	-	-	-	0%	-	-	-
GVL	W_OP	$ 34	-	0.0%	-	0.0%	-	-	-	0%	-	-	-
GVL	SH_SP	$ 53	-	0.0%	-	0.0%	-	-	-	0%	-	-	-
GVL	SH_P	$ 42	-	0.0%	-	0.0%	84	10,000	-	0%	84	10,000	-
GVL	SH_OP	$ 38	-	0.0%	-	0.0%	-	-	-	0%	-	-	-

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
HST	S_SP1	$ 65	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
HST	S_SP2	$ 58	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
HST	S_P	$ 50	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
HST	S_OP	$ 41	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
HST	W_SP	$ 50	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
HST	W_P	$ 36	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
HST	W_OP	$ 34	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
HST	SH_SP	$ 53	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
HST	SH_P	$ 42	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
HST	SH_OP	$ 38	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-

Delivered Price Test Results - Available Economic Capacity

Scenario: Price Sensitivity (-10%), 102 MW Retired Immediately

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
NSB	S_SP1	$ 65	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
NSB	S_SP2	$ 58	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
NSB	S_P	$ 50	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
NSB	S_OP	$ 41	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
NSB	W_SP	$ 50	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
NSB	W_P	$ 36	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
NSB	W_OP	$ 34	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
NSB	SH_SP	$ 53	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
NSB	SH_P	$ 42	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
NSB	SH_OP	$ 38	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
SOCO	S_SP1	$ 65	505	3.7%	-	0.0%	13,840	1,105	460	3%	13,840	1,105	0
SOCO	S_SP2	$ 58	743	4.7%	-	0.0%	15,969	1,470	716	4%	15,969	1,470	0
SOCO	S_P	$ 50	1,264	6.4%	-	0.0%	19,718	2,402	1,252	6%	19,718	2,402	(0)
SOCO	S_OP	$ 41	1,056	4.9%	-	0.0%	21,360	3,747	1,045	5%	21,360	3,747	(0)
SOCO	W_SP	$ 50	2,250	9.5%	-	0.0%	23,567	2,282	2,233	9%	23,567	2,281	(1)
SOCO	W_P	$ 36	-	0.0%	-	0.0%	23,518	3,102	-	0%	23,518	3,096	(6)
SOCO	W_OP	$ 34	-	0.0%	-	0.0%	26,727	3,671	-	0%	26,727	3,668	(4)
SOCO	SH_SP	$ 53	1,490	9.9%	-	0.0%	15,058	1,083	1,430	10%	15,049	1,078	(6)
SOCO	SH_P	$ 42	1,964	10.3%	-	0.0%	19,005	2,177	1,940	10%	19,061	2,165	(13)
SOCO	SH_OP	$ 38	1,160	4.9%	-	0.0%	23,474	2,948	1,124	5%	23,482	2,944	(3)

Delivered Price Test Results - Economic Capacity

Scenario: Base Case Prices, 102 MW Retired Immediately

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
FPL	S_SP1	$ 72	23,914	96%	2	0.0%	24,882	9,240	23,949	96%	24,917	9,241	1
FPL	S_SP2	$ 64	23,852	96%	2	0.0%	24,820	9,238	23,887	96%	24,855	9,240	1
FPL	S_P	$ 55	23,789	96%	2	0.0%	24,758	9,237	23,825	96%	24,793	9,238	1
FPL	S_OP	$ 45	19,906	95%	1	0.0%	20,874	9,100	19,941	95%	20,909	9,101	1
FPL	W_SP	$ 55	23,695	94%	3	0.0%	25,229	8,830	23,726	94%	25,260	8,831	1
FPL	W_P	$ 40	19,722	93%	2	0.0%	21,256	8,624	19,753	93%	21,287	8,626	2
FPL	W_OP	$ 38	16,692	84%	3	0.0%	19,912	7,109	16,705	84%	19,926	7,111	2
FPL	SH_SP	$ 59	22,368	96%	2	0.0%	23,384	9,154	22,398	96%	23,414	9,155	1
FPL	SH_P	$ 47	20,949	95%	2	0.0%	21,966	9,102	20,979	95%	21,996	9,103	1
FPL	SH_OP	$ 42	18,713	95%	1	0.0%	19,729	9,004	18,743	95%	19,759	9,005	1

Scenario: Base Case Prices, No Immediate Retirement

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
FPL	S_SP1	$ 72	23,914	96.1%	2	0.0%	24,882	9,240	24,042	96.1%	25,011	9,244	4
FPL	S_SP2	$ 64	23,852	96.1%	2	0.0%	24,820	9,238	23,930	96.1%	24,899	9,241	2
FPL	S_P	$ 55	23,789	96.1%	2	0.0%	24,758	9,237	23,868	96.1%	24,836	9,239	2
FPL	S_OP	$ 45	19,906	95.4%	1	0.0%	20,874	9,100	19,941	95.4%	20,909	9,101	1
FPL	W_SP	$ 55	23,695	93.9%	3	0.0%	25,229	8,830	23,772	93.9%	25,306	8,833	3
FPL	W_P	$ 40	19,722	92.8%	2	0.0%	21,256	8,624	19,753	92.8%	21,287	8,626	2
FPL	W_OP	$ 38	16,692	83.8%	3	0.0%	19,912	7,109	16,705	83.8%	19,926	7,111	2
FPL	SH_SP	$ 59	22,368	95.7%	2	0.0%	23,384	9,154	22,439	95.7%	23,455	9,157	2
FPL	SH_P	$ 47	20,949	95.4%	2	0.0%	21,966	9,102	21,021	95.4%	22,037	9,105	3
FPL	SH_OP	$ 42	18,713	94.8%	1	0.0%	19,729	9,004	18,743	94.9%	19,759	9,005	1

Scenario: Base Case Prices, 102 MW Retired Immediately

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
FMPP	S_SP1	$ 72	-	0.0%	140	3.3%	4,273	3,441	-	0.0%	4,145	3,669	228
FMPP	S_SP2	$ 64	-	0.0%	91	2.1%	4,223	3,516	-	0.0%	4,145	3,669	153
FMPP	S_P	$ 55	-	0.0%	91	2.3%	3,929	3,454	-	0.0%	3,850	3,615	161
FMPP	S_OP	$ 45	-	0.0%	47	1.3%	3,561	3,653	-	0.0%	3,526	3,753	100
FMPP	W_SP	$ 55	-	0.0%	88	2.3%	3,772	3,444	-	0.0%	3,695	3,605	161
FMPP	W_P	$ 40	-	0.0%	42	1.4%	2,971	4,001	-	0.0%	2,940	4,115	114
FMPP	W_OP	$ 38	-	0.0%	25	1.0%	2,487	3,915	-	0.0%	2,473	3,993	78
FMPP	SH_SP	$ 59	21	0.5%	82	2.1%	3,819	3,432	21	0.6%	3,748	3,581	148
FMPP	SH_P	$ 47	21	0.6%	82	2.4%	3,340	3,487	21	0.6%	3,269	3,661	174
FMPP	SH_OP	$ 42	21	0.7%	41	1.4%	2,928	3,947	21	0.7%	2,898	4,057	111

Scenario: Base Case Prices, No Immediate Retirement

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
FMPP	S_SP1	$ 72	-	0.0%	140	3.3%	4,273	3,441	-	0.0%	4,145	3,669	228
FMPP	S_SP2	$ 64	-	0.0%	91	2.1%	4,223	3,516	-	0.0%	4,145	3,669	153
FMPP	S_P	$ 55	-	0.0%	91	2.3%	3,929	3,454	-	0.0%	3,850	3,615	161
FMPP	S_OP	$ 45	-	0.0%	47	1.3%	3,561	3,653	-	0.0%	3,526	3,753	100
FMPP	W_SP	$ 55	-	0.0%	88	2.3%	3,772	3,444	-	0.0%	3,695	3,605	161
FMPP	W_P	$ 40	-	0.0%	42	1.4%	2,971	4,001	-	0.0%	2,940	4,115	114
FMPP	W_OP	$ 38	-	0.0%	25	1.0%	2,487	3,915	-	0.0%	2,473	3,993	78
FMPP	SH_SP	$ 59	21	0.5%	82	2.1%	3,819	3,432	21	0.6%	3,748	3,581	148
FMPP	SH_P	$ 47	21	0.6%	82	2.4%	3,340	3,487	21	0.6%	3,269	3,661	174
FMPP	SH_OP	$ 42	21	0.7%	41	1.4%	2,928	3,947	21	0.7%	2,898	4,057	111

Delivered Price Test Results - Economic Capacity

Scenario: Base Case Prices, 102 MW Retired Immediately

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
FPC	S_SP1	$ 72	228	2.2%	2	0.0%	10,269	6,701	228	2.2%	10,269	6,701	0
FPC	S_SP2	$ 64	228	2.2%	1	0.0%	10,150	6,667	229	2.3%	10,150	6,667	0
FPC	S_P	$ 55	238	2.7%	1	0.0%	8,746	7,164	239	2.7%	8,746	7,164	0
FPC	S_OP	$ 45	229	3.5%	1	0.0%	6,622	6,678	229	3.5%	6,622	6,678	0
FPC	W_SP	$ 55	14	0.2%	0	0.0%	7,764	8,786	14	0.2%	7,764	8,786	0
FPC	W_P	$ 40	13	0.2%	0	0.0%	5,494	9,537	13	0.2%	5,494	9,537	0
FPC	W_OP	$ 38	12	0.3%	0	0.0%	4,638	9,453	12	0.3%	4,638	9,453	0
FPC	SH_SP	$ 59	389	4.3%	2	0.0%	9,017	5,649	390	4.3%	9,017	5,649	0
FPC	SH_P	$ 47	387	5.6%	2	0.0%	6,861	5,317	388	5.6%	6,861	5,317	0
FPC	SH_OP	$ 42	396	6.0%	1	0.0%	6,607	5,641	396	6.0%	6,607	5,642	0

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
JEA	S_SP1	$ 72	184	6.0%	0	0.0%	3,076	6,456	184	6.0%	3,076	6,456	(0)
JEA	S_SP2	$ 64	184	6.0%	0	0.0%	3,076	6,456	184	6.0%	3,076	6,456	(0)
JEA	S_P	$ 55	192	6.2%	0	0.0%	3,076	6,457	192	6.2%	3,076	6,457	(0)
JEA	S_OP	$ 45	186	7.9%	0	0.0%	2,361	5,623	186	7.9%	2,361	5,623	(0)
JEA	W_SP	$ 55	38	1.5%	0	0.0%	2,505	9,050	38	1.5%	2,505	9,050	(0)
JEA	W_P	$ 40	35	2.8%	0	0.0%	1,257	8,172	35	2.8%	1,257	8,172	(0)
JEA	W_OP	$ 38	174	10.8%	0	0.0%	1,618	4,126	174	10.8%	1,618	4,126	0
JEA	SH_SP	$ 59	196	7.1%	0	0.0%	2,766	5,995	196	7.1%	2,766	5,995	(0)
JEA	SH_P	$ 47	197	9.3%	0	0.0%	2,118	5,094	197	9.3%	2,118	5,094	(0)
JEA	SH_OP	$ 42	200	9.5%	0	0.0%	2,118	5,104	201	9.5%	2,118	5,104	(0)

Delivered Price Test Results - Economic Capacity

Scenario: Base Case Prices, 102 MW Retired Immediately

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
SEC	S_SP1	$ 72	133	3.2%	0	0.0%	4,215	7,776	133	3.2%	4,215	7,776	0
SEC	S_SP2	$ 64	135	3.2%	0	0.0%	4,215	7,776	135	3.2%	4,215	7,776	0
SEC	S_P	$ 55	141	3.7%	0	0.0%	3,831	7,573	141	3.7%	3,831	7,573	0
SEC	S_OP	$ 45	137	4.6%	0	0.0%	2,954	6,936	137	4.6%	2,954	6,936	0
SEC	W_SP	$ 55	162	4.3%	0	0.0%	3,743	7,497	162	4.3%	3,743	7,497	0
SEC	W_P	$ 40	167	6.0%	0	0.0%	2,812	6,772	167	6.0%	2,812	6,772	0
SEC	W_OP	$ 38	156	5.5%	0	0.0%	2,812	6,769	156	5.5%	2,812	6,769	0
SEC	SH_SP	$ 59	100	2.7%	0	0.0%	3,709	7,964	100	2.7%	3,709	7,964	0
SEC	SH_P	$ 47	100	3.8%	0	0.0%	2,610	7,198	100	3.8%	2,610	7,198	0
SEC	SH_OP	$ 42	101	3.9%	0	0.0%	2,610	7,198	101	3.9%	2,610	7,198	0

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
TEC	S_SP1	$ 72	190	3.7%	1	0.0%	5,195	7,238	190	3.7%	5,195	7,238	0
TEC	S_SP2	$ 64	193	3.7%	0	0.0%	5,195	7,239	193	3.7%	5,195	7,239	0
TEC	S_P	$ 55	208	4.1%	0	0.0%	5,071	7,575	208	4.1%	5,071	7,575	0
TEC	S_OP	$ 45	198	4.5%	0	0.0%	4,412	7,248	198	4.5%	4,412	7,248	0
TEC	W_SP	$ 55	-	0.0%	-	0.0%	4,717	8,693	-	0.0%	4,717	8,693	-
TEC	W_P	$ 40	-	0.0%	-	0.0%	3,714	8,882	-	0.0%	3,714	8,882	-
TEC	W_OP	$ 38	-	0.0%	-	0.0%	2,571	10,000	-	0.0%	2,571	10,000	-
TEC	SH_SP	$ 59	477	9.1%	1	0.0%	5,238	5,954	477	9.1%	5,238	5,954	0
TEC	SH_P	$ 47	481	10.3%	2	0.0%	4,670	5,740	481	10.3%	4,670	5,740	0
TEC	SH_OP	$ 42	480	11.1%	1	0.0%	4,311	5,808	480	11.1%	4,311	5,808	0

Delivered Price Test Results - Economic Capacity

Scenario: Base Case Prices, 102 MW Retired Immediately

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
GVL	S_SP1	$ 72	-	0.0%	-	0.0%	639	10,000	-	0.0%	639	10,000	-
GVL	S_SP2	$ 64	-	0.0%	-	0.0%	484	10,000	-	0.0%	484	10,000	-
GVL	S_P	$ 55	-	0.0%	-	0.0%	410	10,000	-	0.0%	410	10,000	-
GVL	S_OP	$ 45	-	0.0%	-	0.0%	406	10,000	-	0.0%	406	10,000	-
GVL	W_SP	$ 55	-	0.0%	-	0.0%	377	10,000	-	0.0%	377	10,000	-
GVL	W_P	$ 40	-	0.0%	-	0.0%	374	10,000	-	0.0%	374	10,000	-
GVL	W_OP	$ 38	-	0.0%	-	0.0%	88	10,000	-	0.0%	88	10,000	-
GVL	SH_SP	$ 59	-	0.0%	-	0.0%	366	10,000	-	0.0%	366	10,000	-
GVL	SH_P	$ 47	-	0.0%	-	0.0%	362	10,000	-	0.0%	362	10,000	-
GVL	SH_OP	$ 42	-	0.0%	-	0.0%	362	10,000	-	0.0%	362	10,000	-

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
HST	S_SP1	$ 72	-	0.0%	-	0.0%	46	10,000	-	0.0%	46	10,000	-
HST	S_SP2	$ 64	-	0.0%	-	0.0%	46	10,000	-	0.0%	46	10,000	-
HST	S_P	$ 55	-	0.0%	-	0.0%	35	10,000	-	0.0%	35	10,000	-
HST	S_OP	$ 45	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
HST	W_SP	$ 55	-	0.0%	-	0.0%	35	10,000	-	0.0%	35	10,000	-
HST	W_P	$ 40	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
HST	W_OP	$ 38	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
HST	SH_SP	$ 59	-	0.0%	-	0.0%	46	10,000	-	0.0%	46	10,000	-
HST	SH_P	$ 47	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-
HST	SH_OP	$ 42	-	0.0%	-	0.0%	-	-	-	0.0%	-	-	-

Delivered Price Test Results - Economic Capacity

Scenario: Base Case Prices, 102 MW Retired Immediately

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
NSB	S_SP1	$ 72	-	0.0%	-	0.0%	46	10,000	-	0.0%	46	10,000	-
NSB	S_SP2	$ 64	-	0.0%	-	0.0%	46	10,000	-	0.0%	46	10,000	-
NSB	S_P	$ 55	-	0.0%	-	0.0%	46	10,000	-	0.0%	46	10,000	-
NSB	S_OP	$ 45	-	0.0%	-	0.0%	46	10,000	-	0.0%	46	10,000	-
NSB	W_SP	$ 55	-	0.0%	-	0.0%	45	10,000	-	0.0%	45	10,000	-
NSB	W_P	$ 40	-	0.0%	-	0.0%	45	10,000	-	0.0%	45	10,000	-
NSB	W_OP	$ 38	-	0.0%	-	0.0%	15	10,000	-	0.0%	15	10,000	-
NSB	SH_SP	$ 59	-	0.0%	-	0.0%	45	10,000	-	0.0%	45	10,000	-
NSB	SH_P	$ 47	-	0.0%	-	0.0%	45	10,000	-	0.0%	45	10,000	-
NSB	SH_OP	$ 42	-	0.0%	-	0.0%	45	10,000	-	0.0%	45	10,000	-

			Pre-Transaction						Post-Transaction				
			FPL		Vero Beach				FPL				
Market	Period	Price	MW	Mkt Share	MW	Mkt Share	Market Size	HHI	MW	Mkt Share	Market Size	HHI	HHI Chg
SOCO	S_SP1	$ 72	834	1.4%	2	0.0%	59,110	4,359	835	1.4%	59,110	4,359	(0)
SOCO	S_SP2	$ 64	839	1.4%	2	0.0%	59,072	4,356	840	1.4%	59,072	4,356	(0)
SOCO	S_P	$ 55	879	1.5%	2	0.0%	57,310	4,281	880	1.5%	57,310	4,281	(0)
SOCO	S_OP	$ 45	870	1.7%	1	0.0%	50,533	4,687	871	1.7%	50,533	4,687	(0)
SOCO	W_SP	$ 55	1,376	2.4%	3	0.0%	57,116	3,742	1,377	2.4%	57,116	3,742	(0)
SOCO	W_P	$ 40	1,374	2.8%	2	0.0%	49,476	4,154	1,374	2.8%	49,476	4,154	0
SOCO	W_OP	$ 38	1,248	2.6%	2	0.0%	48,252	4,214	1,248	2.6%	48,252	4,214	0
SOCO	SH_SP	$ 59	1,392	2.5%	3	0.0%	56,598	3,817	1,394	2.5%	56,598	3,817	(0)
SOCO	SH_P	$ 47	1,427	2.8%	4	0.0%	50,569	3,844	1,429	2.8%	50,569	3,844	0
SOCO	SH_OP	$ 42	1,539	3.2%	3	0.0%	47,418	4,149	1,540	3.2%	47,418	4,149	0

Exhibit No. J-14

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Florida Power & Light Company	**)**	**Docket No. EC13-___-000**

APPLICATION
UNDER SECTION 203 OF THE FEDERAL POWER ACT

PREPARED DIRECT TESTIMONY OF
SAM A. FORREST

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Sam A. Forrest. My business address is Florida Power & Light Company, 700 Universe Boulevard, Juno Beach, Florida 33408.

Q. BY WHOM ARE YOU EMPLOYED AND WHAT IS YOUR POSITION?

A. I am employed by Florida Power & Light Company ("FPL" or the "Company") as Vice President of the Energy Marketing and Trading ("EMT") Business Unit.

Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND PROFESSIONAL EXPERIENCE.

A. I hold a Bachelor of Science in Electrical Engineering from Texas A&M University and a Masters of Business Administration from the University of Houston. Prior to being named Vice President of EMT for FPL in 2007, I was employed by Constellation Energy Commodities Group as Vice President, Origination. In this capacity, I was responsible for managing a team of power originators marketing structured electric power products in Texas, the Western United States, and Canada. Prior to my responsibilities in the West, I was responsible for Constellation's business development activities in the Southeast U.S.

Before joining Constellation, from 2001 to 2004 I held a variety of energy marketing and trading management positions at Duke Energy North America ("DENA"). Prior to DENA, I was employed by Entergy Power Marketing Corp. ("EPMC") in several positions of increasing responsibility, including Vice President – Power Marketing following EMPC's entry into a joint venture with Koch Energy Trading.

From 1996 to 1998, I was employed at a successful start-up organization in the automotive industry. From 1987 to 1996, I worked for AlliedSignal Aerospace at the Johnson Space Center in Houston, Texas in increasing roles of responsibility.

Q. PLEASE DESCRIBE YOUR DUTIES AND RESPONSIBILITIES IN YOUR CURRENT POSITION.

A. I am responsible for the overall direction and management of the EMT Business Unit, which handles FPL's short-term and long-term fuel management and operations. These fuels include natural gas, residual and distillate fuel oils, and coal. In addition, EMT is

1 responsible for FPL's fuel hedging program, long term fuel transportation and storage
2 contracts, power origination activities and short-term power trading and operations.
3 EMT is an active participant in the short-term and long-term natural gas markets
4 throughout the southeastern United States.

5 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**
6 A. To address the planned use of the Vero Beach generating units if the transaction is
7 consummated.

8 **Q. PLEASE SUMMARIZE YOUR OPERATIONS PLAN FOR THE GENERATING**
9 **UNITS TO BE ACQUIRED AS PART OF THE TRANSACTION.**
10 A. As part of the transaction, FPL will acquire the five Vero Beach Municipal Power Plant
11 generating units described in Exhibit J-4. Three of these units (units 1, 3, and 4) are old
12 conventional steam units with a total summer capacity of 102 MWs and heat rates as high
13 15,500 Btu/kWh. These high heat rate conventional units will be retired immediately
14 upon closing of the transaction.

15 The remaining two units (units 2 and 5) together are operated as a combined cycle
16 generating unit with a total summer capacity of 48 MWs and a heat rate of 9,400
17 Btu/kWh. These combined cycle units will be kept operational for a period projected to
18 be not longer than three years, but in any event not longer than four years, for the specific
19 purpose of satisfying reliability dispatch orders to resolve local transmission constraints
20 in the Vero Beach area. FPL does not expect to dispatch the combined cycle generating
21 units to meet FPL system demand since the heat rate of 9,400 Btu/kWh is relatively
22 inefficient in comparison to FPL's system average heat rate of approximately 8,100
23 Btu/kWh. Based on a dispatch simulation with the Vero Beach combined cycle units
24 included in FPL's generation stack, the projected capacity factor of the units is less than
25 5% for the 4-year period beginning January 1, 2014, even assuming no forced or planned
26 outages and that natural gas supply is generally available. These are aggressive

assumptions given the units will experience outages and that FPL will not own any firm gas transport capacity to the Vero Beach power plant.[1]

Q. WHY DOES THE AGREEMENT REQUIRE DECOMMISSIONING OF THE PURCHASED VERO BEACH GENERATING UNITS WITHIN 4 YEARS?

A. The Vero Beach generating units are located on valuable water-front property. Regaining use of that property for public use was important to the City. From the earliest discussions, the City identified dismantlement of the power plant and the return of the water-front property as a pre-condition of any sale. The original Letter of Intent executed by and with City officials on May 6, 2011 required that the "[City of Vero Beach] shall retain ownership of the Power Plant Real Property," that "FPL shall be responsible for dismantling the power plant," and that "upon completion of such dismantling… the use of such real property shall revert to [the City of Vero Beach]." FPL was informed at the outset that there would be no transaction without an agreement to decommission the Vero Beach generating units. FPL is contractually bound to dismantle the plant per section 6.23(a) of the executed Purchase and Sale Agreement with the City of Vero Beach: "As a requirement to entering into the Transaction, Seller has required that Buyer agree to dismantle, and Buyer hereby agrees to dismantle, after Closing during the term of the Vero Beach Power Plant Site Lease Agreement, all of the Vero Beach Power Plant."

Q. WHY IS FPL PLANNING TO RETIRE UNITS 1, 3, AND 4 IMMEDIATELY UPON CLOSING OF THE TRANSACTION?

A. It would not be economic to run these units as part of the FPL system. Units 1, 3, and 4 are old conventional steam units with lengthy start-up times, high start-up costs, and high heat rates (up to 15,500 Btu/kWh). These units are inefficient compared to FPL's system average heat rate of approximately 8,100 Btu/kWh. As a result, dispatch simulations estimate that the average capacity factor for these units in the FPL generation stack would be approximately 2% for the 4-year period beginning January 1, 2014. With such low capacity factors, the estimated fuel savings contribution from operating these units,

[1] The City of Vero Beach's firm natural gas transport capacity has been assigned to OUC. FPL will retain only a call option for reliability dispatch to resolve local transmission constraints.

compared to FPL's other peaking alternatives would be only $600,000 per year, on average, far less than the annual non-fuel cost of operating and maintaining the units. Historical operations and maintenance (O&M) and capital replacement expenses for the Vero Beach units are approximately $12,500 and $15,500 per kW per year, respectively, resulting in a total cash outlay of approximately $2.9 million per year for those units.[2] Thus, the fuel savings clearly do not come close to justifying the cost to maintain the units in an operational condition. In order to minimize cost and environmental liabilities associated with the units, it is in the best interests of FPL's customers that they be removed from service immediately upon closing.

FPL's existing and planned resources are projected to be adequate to provide reliable service and meet FPL's reliability criteria through 2018 without the need for Vero Beach's generating capacity.

Q. PLEASE EXPLAIN THE TRANSMISSION CONSTRAINTS THAT REQUIRE THE RETIREMENT AND DECOMMISSIONING OF UNITS 2 AND 5 TO BE DELAYED FOR A PERIOD OF UP TO 4 YEARS?

A. The transmission import capability to the City of Vero Beach is limited by insufficient dynamic reactive power resources in the region. Units 2 and 5 may be needed to address this existing local transmission constraint by providing approximately 48 MWs of local generating capacity for voltage support during peak loads. Part of FPL's commitment in the transaction with Vero Beach is to upgrade the local transmission system such that this local constraint is relieved. Once that work is completed, units 2 and 5 can and will be dismantled. After the transaction closes, FPL will commence an estimated $7.8 million in transmission upgrades, consisting of the addition of capacitor banks and an auto-transformer. It is FPL's intent to complete these upgrades within the first two years after closing, and to completely dismantle the power plant (including all five generating units) within 3 years after closing. The Purchase and Sale Agreement and Power Plant Site Lease Agreement with the City of Vero Beach provide an optional one-year extension of

[2] O&M cost estimates are based on 2-year average historical unit and equipment maintenance expenses. Capital costs estimate is based on the 5-year average of the City of Vero Beach's 2012-2017 capital improvement plan.

the site lease term to allow for additional time to dismantle the plant, if needed. The optional one-year extension was requested in case there are unforeseen delays in upgrading the transmission system, or dismantling the power plant.

Q. ARE UNITS 1, 3 AND 4 ALSO NEEDED TO ADDRESS THE LOCAL TRANSMISSION CONSTRAINT?

A. No. Units 2 and 5 provide sufficient generating capacity to address the local transmission constraint. Because units 1, 3 and 4 are considerably less efficient than units 2 and 5, it makes economic sense to retain units 2 and 5 to meet the constraint and retire units 1, 3 and 4 immediately.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Florida Power & Light Company	)	**Docket No. EC13-___-000**

AFFIDAVIT OF SAM A. FORREST

State of Florida	)
	)
County of Palm Beach	)

SAM A. FORREST, being duly sworn, deposes, and states that he prepared the Direct Testimony of Sam A. Forrest and that the statements contained therein are true and correct to the best of his knowledge and belief.

By: _____
Sam A. Forrest

SUBSCRIBED AND SWORN TO BE BEFORE ME, this 8 day of April, 2013.

MARITZA MIRANDA-WISE
MY COMMISSION # DD 870958
EXPIRES: May 30, 2013
Bonded Thru Notary Public Underwriters

_____
Notary Public

Print Name: Maritza Miranda-Wise

Exhibit K: Maps

Maps of the properties owned by FPL and Vero Beach are provided in this Exhibit K.

EXHIBIT K-1

FPL SERVICE TERRITORY AND POWER FACILITIES, SHOWING THE LOCATION OF VERO BEACH

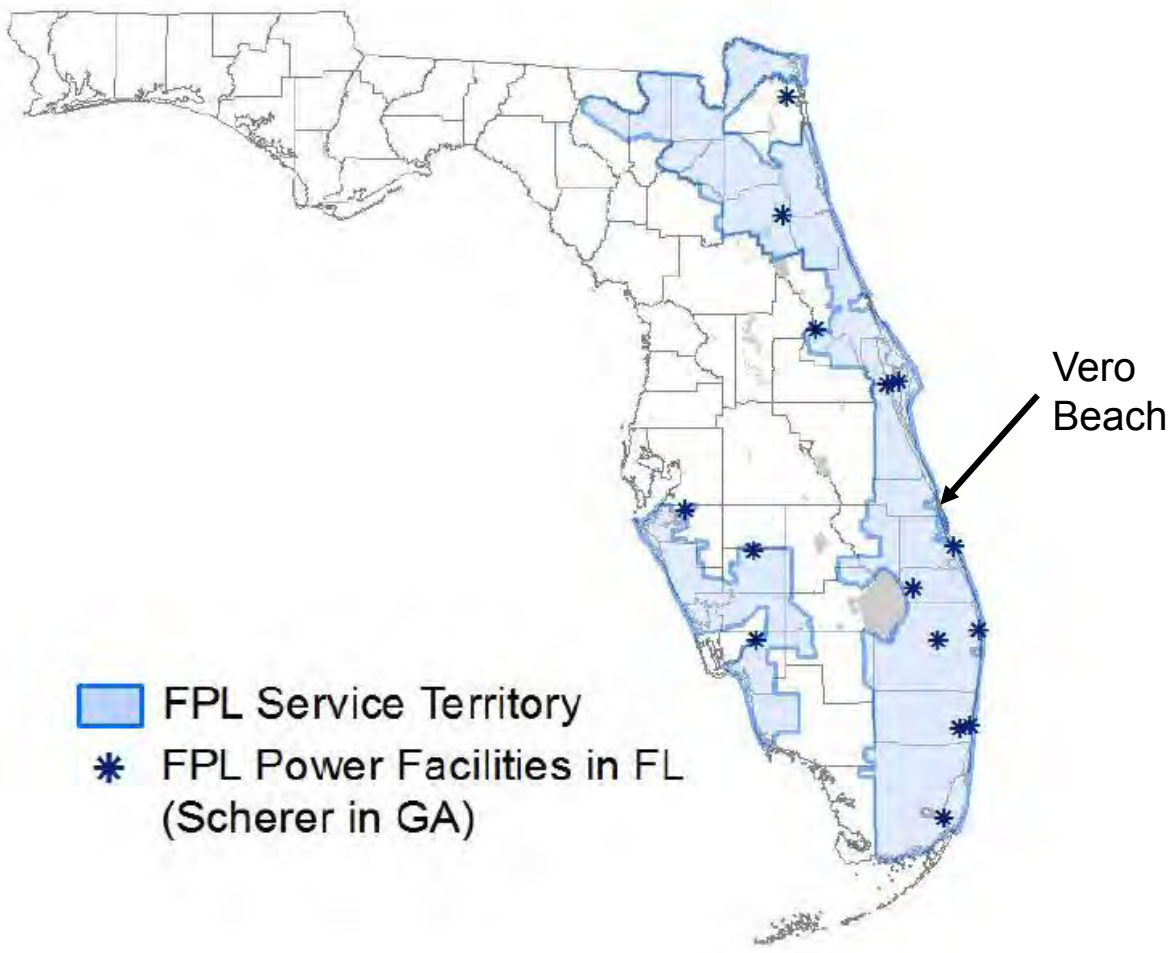


EXHIBIT K-2
VERO BEACH SERVICE TERRITORY

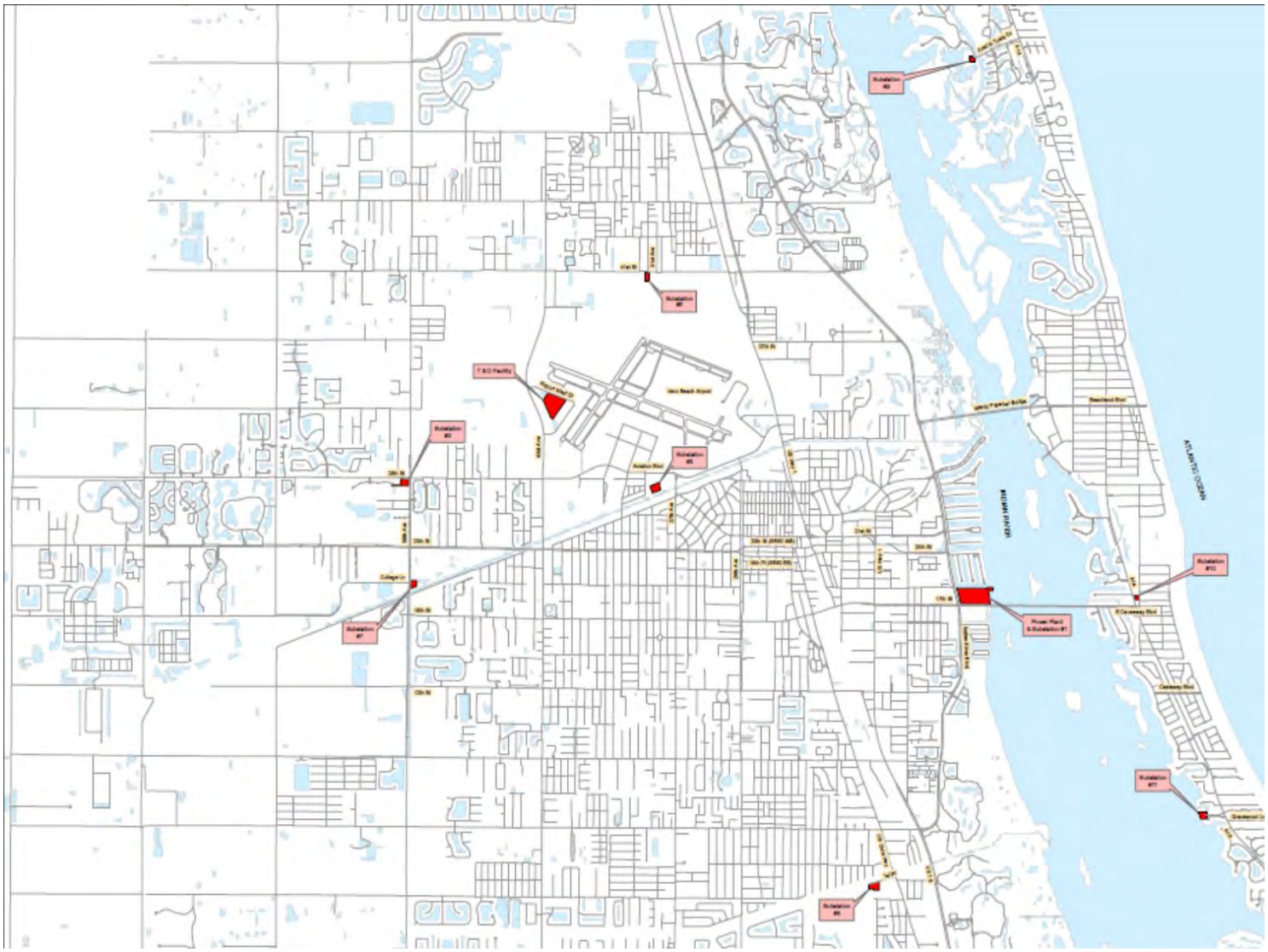


Exhibit L: Status of Regulatory Actions and Orders

The approval of the Florida Public Service Commission is required for the Transaction, but has not yet been obtained.

Exhibit M: Cross-Subsidization

The Commission's Merger Regulations require that Federal Power Act ("FPA") Section 203 applicants explain that their proposed transaction will not, at the time of the transaction or in the future, result in (1) any transfer of facilities between a traditional public utility associate company that has captive customers or that owns or provides transmission service over jurisdictional transmission facilities, and an associate company; (2) any new issuance of securities by a traditional public utility associate company that has captive customers or that owns or provides transmission service over jurisdictional transmission facilities, for the benefit of an associate company; (3) any new pledge or encumbrance of assets of a traditional public utility associate company that has captive customers or that owns or provides transmission service over jurisdictional transmission facilities, for the benefit of an associate company; or (4) any new affiliate contract between a non-utility associate company and a traditional public utility associate company that has captive customers or that owns or provides transmission service over jurisdictional transmission facilities, other than non-power goods and services agreements subject to review under sections 205 and 206 of the FPA. 18 C.F.R. § 33.2(j)(1)(ii).

As explained in this Exhibit M, FPL provides assurance and verifies, based on facts and circumstances known to FPL or that are reasonably foreseeable, that the proposed Transaction will not result in, at the time of the Transaction or in the future, cross-subsidization of a non-utility associate company or pledge or encumbrance of utility assets for the benefit of an associate company.

Overall Discussion of Cross-Subsidization Implications Resulting From the Transaction

On its face, no cross-subsidization concerns are raised by the Transaction. The assets being acquired by FPL will be owned by FPL, and under the Transaction there are no transfers of any assets to an affiliate, or contracts with an affiliate, or encumbrances any of FPL's assets in favor of an affiliate. Cross-subsidization simply is not an issue.

Moreover, the Transaction does not present any longer-term concerns about improper cross-subsidization. The Commission has, and will continue to have, the ability to provide ongoing protection against cross-subsidization through its authority over the rates, terms, and conditions of service associated with any and all jurisdictional transmission facilities owned by FPL. Similarly, because the Transaction does not affect the FPSC's jurisdiction over FPL, the FPSC's ability to address cross-subsidizations issues will be unaffected by the Transaction.

Discussion of the Four Factors Identified by the Commission in its Merger Regulations

A. Transfers of Facilities

The Transaction involves FPL's acquisition of the utility assets and associated liabilities of Vero Beach. It does not involve any transfer of FPL's or Vero Beach's facilities to any affiliate of FPL, either at the time of the Transaction or in the future. FPL will continue to operate as a regulated utility under its existing Commission-approved tariffs. After the Transaction, FPL will own and operate the generation facilities that FPL and Vero Beach owned and operated prior to the Transaction.

B. New Issuance of Securities

The Transaction does not provide for the new issuances of securities by FPL for the benefit of an associate company, either at the time of the Transaction or in the future.

C. New Pledge or Encumbrance

The Transaction does not provide for any new pledges or encumbrances of assets of FPL for the benefit of an associate company, either at the time of the Transaction or in the future.

D. New Affiliate Contracts

No new contracts between FPL and any unregulated affiliate are contemplated to implement the Transaction, other than non-power goods and services agreements subject to review under sections 205 and 206 of the FPA, either at the time of the Transaction or in the future.

In sum, FPL is providing assurance, based on facts and circumstances known to it or that are reasonably foreseeable, that the Transaction will not result in, at the time of the Transaction or in the future, cross-subsidization of a non-utility associate company or pledge or encumbrance of utility assets for the benefit of an associate company, including:

(A) Any transfer of facilities between a traditional public utility associate company that has captive customers or that owns or provides transmission service over jurisdictional transmission facilities, and an associate company;

(B) Any new issuance of securities by a traditional public utility associate company that has captive customers or that owns or provides transmission service over jurisdictional transmission facilities, for the benefit of an associate company;

(C) Any new pledge or encumbrance of assets of a traditional public utility associate company that has captive customers or that owns or provides transmission service over jurisdictional transmission facilities, for the benefit of an associate company; or

(D) Any new affiliate contract between a non-utility associate company and a traditional public utility associate company that has captive customers or that owns or provides transmission service over jurisdictional transmission facilities, other than non-power goods and services agreements subject to review under sections 205 and 206 of the FPA.

****

As explained above, the Transaction in no way involves any affiliates of FPL. Therefore, FPL requests a waiver of section 33.2(j)(1)(i) of the Commission's Regulations that FPL disclose its existing pledges and encumbrances of its utility assets.

Form of Notice

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Florida Power & Light Co. **)** **Docket No. EC13-___-000**

Notice Of Application

( )

Take notice that on April 12, 2013, Florida Power & Light Company ("FPL") filed an application pursuant to section 203(a)(1) of the Federal Power Act ("FPA") and Part 33 of the Commission's Regulations, requesting that the Commission approve a transaction pursuant to which FPL will acquire certain electric utility assets and related liabilities of the City of Vero Beach, Florida, described in more detail in the application.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date.

Kimberly D. Bose
Secretary

Comment Date: 5:00 pm Eastern Time on (insert date).