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March 31, 2009

VIA HAND DELIVERY

Ms. Ann Cole
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard, Room 110
Tallahassee, Fl 32399-0850

RE: Docket No. 080677-EI

Dear Ms. Cole:

Enclosed for filing on behalf of Florida Power & Light Company are the original and five (5) copies of its responses to Staff's Data Request No. 2 dated March 4, 2010.

Please contact me if you or your Staff has any questions regarding this filing.

Sincerely,

John T. Butler

cc: Counsel for Parties of Record

COM ___
APA 1
ECR 2
GCL 1
RAD 1
SSC 1
ADM ___
OPC ___
CLK ___

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished electronically or by United States Mail this 31st day of March, 2010, to the following:

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By: _____
John T. Butler
Florida Bar No. 283479

Florida Power & Light Company
Response to Staff 3/4/10 Data Request No. 2

Re: Docket No. 080677-EI – Petition for increase in rates by Florida Power & Light Company.

1. **For the years 2007, 2008, and 2009, provide a detailed description of FPL's accounting treatment for the excess tax benefits received by FPL Group. By excess tax benefits staff means the dollar difference between actual tax payments made on behalf of FPL by FPL Group and the tax amounts for which the ratepayers would have been charged under the "stand-alone" method.**

   Response: There are no 'excess tax benefits' under the definition provided in this request. FPL Group makes a consolidated tax filing, in which it pays a single, consolidated tax liability. FPL Group does not make separate tax payments "on behalf of" FPL or any other subsidiary. The tax liability recorded by FPL is calculated on a stand-alone or "separate return" method. Under that method, the tax liability that FPL records, and charges to customers, is the same regardless of whether or not FPL is filing as part of a consolidated tax return. In other words, if FPL were not one of the consolidated FPL Group businesses, its tax liabilities would be exactly the same as they are recorded now.

   As FPL's Vice President of Accounting and Chief Accounting Officer pointed out in his January 5, 2010 letter to the Commissioners on this topic, Florida utilities and the overwhelming majority of electric utilities around the country use the stand-alone basis to calculate income taxes for ratemaking purposes. This approach ensures that the income taxes for which an electric utility's customers are responsible through electric rates are determined *only* on the basis of electric utility operations, not on the basis of other, unrelated business activities in which unregulated affiliates may be engaged. To do otherwise would expose customers to constant shifts in the utility's tax obligations for reasons that would have nothing to do with providing electric service. This would be unfair, confusing and counterproductive to the Commission's goal of avoiding subsidies between utility and affiliate operations.

2. **For the years 2007, 2008, and 2009, provide a detailed description of the accounting treatment for the excess tax benefits that were derived from filing a consolidated tax return by FPL Group versus each subsidiary filing a separate tax return.**

   Response: As explained above, there are no "excess tax benefits" as Staff has defined that term. The tax liability for each subsidiary, including FPL, is calculated based on the separate return method. Tax benefits, if any, that could not be used by a subsidiary on a separate return basis, but are used on the consolidated tax return, are recorded by the subsidiary that generated the tax benefits.

3. **For the years 2007, 2008, 2009, and 2010, provide a copy of FPL Group's tax-sharing agreement with its subsidiaries.**

   Response: Please see Attachment 1.

4. **For the years 2007, 2008, and 2009, would FPL Group have been able to take full advantage (each year without regard to tax carryforward or carryback) of the wind related production tax credits without the benefit of FPL regulated utility taxable income?**

   Response: FPL Group has not been able to take full advantage of the wind related production tax credits with, or without, the inclusion of the FPL regulated utility taxable income in the FPL Group consolidated tax return for the years 2007, 2008 or 2009.

AMENDED AND RESTATED

INCOME TAX ALLOCATION AGREEMENT

This AMENDED AND RESTATED INCOME TAX ALLOCATION AGREEMENT ("**Agreement**"), is effective as of January 1, 2003, by and among FPL Group, Inc. ("**FPL Group**" or "**Parent**"), a Florida corporation, and each Affiliate (as defined herein).

It is the intent of this Agreement to provide the principles for allocating the consolidated federal income tax liability and Combined State Tax liability (defined below) in a fair, consistent and equitable manner. Generally, no Affiliate should be required to incur an income tax liability greater than it would have had it filed a separate income tax return for each year. If a Tax Asset (defined below) is utilized, Affiliate will be paid the Tax Benefit (defined below) associated with the use of such Tax Asset.

WHEREAS, FPL Group is the common parent corporation of an affiliated group of entities (the "**Parent Group**");

WHEREAS, each Affiliate is a corporation or other entity directly or indirectly controlled by FPL Group within the meaning of Section 1504(a) of the Internal Revenue Code of 1986, as amended (the "**Code**");

WHEREAS, Parent and certain Affiliates had entered into an INCOME TAX ALLOCATION AGREEMENT effective January 1, 1986 and subsequently an INCOME TAX ALLOCATION AGREEMENT effective January 1, 2003 (the "**Prior Income Tax Allocation Agreements**");

WHEREAS, the Parent Group has filed and intends to file consolidated federal income tax returns as permitted by Section 1501 of the Code ("**Consolidated Federal Tax Return**"), and certain consolidated, combined, or unitary state and local income tax returns under similar laws of other jurisdictions ("**Combined State Tax Returns**"); and

WHEREAS, Parent and Affiliates desire to establish their respective rights and responsibilities concerning certain income tax matters and to agree upon a method for determining the economic consequences to each party resulting from the filing of a consolidated, combined, or unitary income tax return,

NOW, THEREFORE, in consideration of the mutual promises herein contained, the parties hereby agree as follows:

1. *Definitions*. For purposes of this Agreement, the terms set forth below shall have the following meanings.

"**Affiliate**" shall mean each directly or indirectly controlled subsidiary of the Parent, except for the period of time during which any subsidiary is (1) treated as a partnership for federal income tax purposes, (2) precluded by any financing or similar agreement from being party to a tax sharing agreement or has made a representation in any financing or similar agreement that such entity is not party to any tax sharing agreement, or (3) not in the same

"affiliated group" (as defined in Section 1504(a) of the Code) as the Parent. All Affiliates regulated by the Florida Public Service Commission shall be treated as a single Affiliate for the purposes of this Agreement.

"**Affiliate Federal Tax Liability**" shall mean, with respect to any taxable year, the sum of the Affiliate's Federal Tax liability and any interest, penalties and other additions to such taxes for such taxable year, computed as if each directly or indirectly controlled subsidiary of the Parent, regardless of whether such entity is an Affiliate (each a "Subsidiary"), was not and never was part of the Parent Group, but rather was a separate corporation filing a United States federal income tax return. Such computation shall be made (A) without regard to the income, deductions (including net operating loss and capital loss deductions) and credits of any other Affiliate of the Parent Group, (B) by taking account of any Tax Asset of the Affiliate, including any Tax Asset of any non-Affiliate Subsidiary, solely for such period of time, that such non-Affiliate Subsidiary is excluded from the definition of "Affiliate" pursuant to paragraphs (1) or (2) of such definition, in accordance with section 2.2.3.1.2. hereof, (C) as though the highest rate of tax specified in subsection (b) of Section 11 of the Code were the only rate set forth in that subsection if Affiliate is not regulated by the Florida Public Service Commission and using the tax rates specified in subsection (b) of Section 11 of the Code if Affiliate is regulated by the Florida Public Service Commission, and (D) reflecting the positions, elections and accounting methods used by Parent in preparing the consolidated federal income tax return for the Parent Group.

"**Affiliate Group**" shall mean an Affiliate and any direct or indirect corporate subsidiaries of Affiliate or other entities that would be eligible, from time to time, to join with Affiliate, with respect to Federal Taxes, in the filing of a consolidated U.S. federal income tax return computed as if such Affiliates were not and never were part of the Parent Group, and, with respect to Combined State Taxes, in the filing of a consolidated, combined, or unitary income tax return computed as if such Affiliates were not and never were part of the Combined State Tax Group.

"**Affiliate's State Apportionment Factor**" shall mean the Separate Entity apportionment factor of the Affiliate as calculated on the State Tax Allocation Schedule (as defined in section 2.2.1., below).

"**Affiliate State Tax Liability**" shall mean, with respect to any taxable year, an amount of State Taxes determined in accordance with the principles set forth in the definition of Affiliate Federal Tax Liability and comparable provisions under applicable law, using applicable state statutes and taking into account the Affiliate's State Apportionment Factor.

"**AMT**" shall mean the Alternative Minimum Tax scheme under Section 55, et seq. of the Code.

"**AMT Benefit**" shall have a meaning consistent with that of Tax Benefit but calculated in accordance with the Alternative Minimum Tax scheme under Section 55, et seq. of the Code.

"**AMT Liability**" shall have a meaning consistent with Affiliate's Federal Tax Liability but calculated in accordance with the Alternative Minimum Tax scheme under Section 55, et seq. of the Code.

"**Combined State Tax**" means, with respect to each state or local taxing jurisdiction, any tax based on income payable to such state or local taxing jurisdiction ("**State Tax**") in which an Affiliate files tax returns with the Parent Group or a member of the Parent Group (hereinafter, a "**Combined State Tax Group**") on a consolidated, combined, or unitary basis for purposes of such tax and including tax returns filed with Affiliates otherwise disregarded for federal income tax purposes.

"**Combined State Tax Parent**" means, with respect to a Combined State Tax, the Affiliate responsible for filing the applicable State Tax Return or Parent.

"**Combined State Tax Return**" means any consolidated, combined, unitary or other multi-entity filing made in connection with a State Tax.

"**Combined State Tax Group**" means, with respect to a State Tax, the group in which an Affiliate files tax returns with the Parent Group or a member of the Parent Group.

"**Deconsolidated Affiliate**" shall have the mean set forth in Section 2.7.2. herein.

"**Deconsolidation**" means any event pursuant to which an Affiliate ceases to be a controlled corporation includible in a consolidated tax return of the Parent Group for Federal Tax purposes, or in a consolidated, combined, or unitary return with a member of the Parent Group for State Tax purposes.

"**Federal Tax**" means any Federal income tax imposed upon Parent Group under Subtitle A of the Code.

"**Final Determination**" shall mean (i) with respect to Federal Taxes, a "determination" as defined in Section 1313(a) of the Code or execution of an Internal Revenue Service Form 870 (or similar form) and, with respect to State Tax, any final determination of liability that, under applicable law, is not subject to further appeal, review, or modification through proceedings or otherwise (including the expiration of a statute of limitations or a period for the filing of claims for refunds, amended returns or appeals from adverse determinations) or (ii) the payment of tax by an Affiliate with respect to any item disallowed or adjusted by a Taxing Authority (as hereinafter defined), provided that Parent, or Combined State Tax Parent with respect to a State Tax, determines that no action should be taken to recoup such payment.

"**Parent Entity**" shall mean, with respect to an Affected Affiliate, the Affiliate that is the closest parent corporation in the chain of ownership within the meaning of Section 1563(a)(1) of the Code.

"**Pay**" or "**Payment**" means the physical transfer of cash, cash equivalents, or an equivalent intercompany book entry.

"Post-Deconsolidation Tax Period" means any tax period ending after the close of business on the date of Deconsolidation.

"Post-Withdrawal Tax Period" means any tax period ending after the close of business on the date of Withdrawal.

"Pre-Deconsolidation Tax Period" means any tax period ending on or before the close of business on the date of Deconsolidation.

"Pre-Withdrawal Tax Period" means any tax period ending on or before the close of business on the date of Withdrawal.

"Separate Entity" means the treatment of an Affiliate as a separate corporation on a stand-alone basis.

"State Tax" means any tax based on income payable to a state or local taxing jurisdiction within the United States.

"Tax Asset" means any operating loss, net operating loss carryforward or carryback, net capital loss carryforward or carryback, tax credit, charitable deduction, or any other deduction, credit, or tax attribute which could reduce a Federal Tax or Combined State Tax (including, without limitation, deductions and credits related to alternative minimum taxes).

"Taxing Authority" means any governmental authority responsible for the imposition of a Federal Tax or State Tax.

"Tax Benefit" of an Affiliate shall mean (i) with respect to Federal Taxes, the highest rate of tax specified in subsection (b) of Section 11 of the Code multiplied by the total amount of loss (operating, capital, or other) utilized by the Parent Group, plus the total amount of tax credits utilized by the Parent Group; (ii) with respect to any State Tax, the highest rate of tax applicable to such state or local taxing jurisdiction, multiplied by the total amount of loss (operating, capital, or other), and multiplied by the Affiliate's State Apportionment Factor plus the total amount of tax credits utilized by the Combined State Tax Group.

"Withdrawal" shall have the mean set forth in Section 2.8.1. herein.

"Withdrawn Affiliate" shall have the mean set forth in Section 2.8.1. herein.

2. *Tax Sharing.* For each taxable year of the Parent Group during which income, loss, credit against tax, or any other Tax Asset of an Affiliate is includible in the Consolidated Federal Tax Return of the Parent Group, the Affiliate shall Pay to Parent an amount equal to the Affiliate Federal Tax Liability for such taxable year, if any, as shown on the Federal Tax Allocation Schedule (as defined in section 2.2.1., below). For each taxable year of the Combined State Tax Group during which income, loss, credit against tax, or any other Tax Asset of an Affiliate is includible in the Combined State Tax Return of the Combined State Tax Group, the Affiliate shall Pay to Combined State Tax Parent an amount equal to the

Affiliate Combined State Tax Liability for such taxable year, if any, as shown on the State Tax Allocation Schedule (as defined in section 2.2.1., below).

2.1. *Estimated and Extension Payments.* Parent shall determine the estimated or extension payment amount of the related installment of the Affiliate Federal Tax Liability, as determined under the principles of section 2.2., et seq. of this Agreement, and notify Affiliate of same; however, simplifying assumptions may be used, for example, if information is not available to determine such estimated or extension payments for each Affiliate within an Affiliate Group, such calculation may be determined for the entire Affiliate Group. Affiliate shall then Pay to Parent, or Parent shall pay to Affiliate, as appropriate, within a reasonable time the amount thus determined. Parent shall determine the estimated or extension payment amount of the related installment of the Affiliate Combined State Tax Liability, as determined under the principles of section 2.2., et seq. of this Agreement, and notify Affiliate of same; however, simplifying assumptions may be used, for example, if information is not available to determine such estimated or extension payments for each Affiliate within an Affiliate Group, such calculation may be determined for the entire Affiliate Group. Affiliate shall then Pay to Combined State Tax Parent, or Combined State Tax Parent shall pay to Affiliate, as appropriate, within a reasonable time the amount thus determined.

2.2. *Tax Returns.*

2.2.1. For each Consolidated Federal Tax Return filed, Parent shall make available to Affiliate a pro forma Federal Tax return and a schedule reflecting the Affiliate Federal Tax Liability ("Federal Tax Allocation Schedule"). For each Combined State Tax Return filed, Combined State Tax Parent shall make available to Affiliate the pro forma State Tax return and a schedule reflecting the Affiliate State Tax Liability ("State Tax Allocation Schedule").

2.2.2. Within a reasonable time of receiving its Federal Tax Allocation Schedule, Affiliate shall Pay to Parent, or Parent shall Pay to Affiliate, as appropriate, an amount equal to the difference, if any, between the Affiliate Federal Tax Liability reflected on the Federal Tax Allocation Schedule for such year and the sum of the prior payments/refunds with respect to the Affiliate Federal Tax Liability for such year made pursuant to section 2.1. Within a reasonable time of receiving its State Tax Allocation Schedule, Affiliate shall Pay to Combined State Tax Parent, or Combined State Tax Parent shall Pay to Affiliate, as appropriate, an amount equal to the difference, if any, between the Affiliate State Tax Liability reflected on the relevant State Tax Allocation Schedule and the sum of the prior payments/refunds with respect to such Affiliate State Tax Liability pursuant to section 2.1.

2.2.3. For purposes of the preceding paragraph, Parent shall Pay Affiliate the Tax Benefits associated with utilizing Affiliate's Tax Assets that reduce the Federal Tax liability on the Consolidated Federal Tax Return of the Parent Group as determined pursuant to section 2.2.3.1., below. Combined State Tax Parent shall Pay Affiliate the Tax Benefits associated with utilizing Affiliate's Tax Assets that

reduce the Combined State Tax liability on the Combined State Tax Return of the Combined State Tax Group as determined pursuant to section 2.2.3.2., below. Parent shall have the sole right to decide the order of priority of use of a Tax Asset of the Parent Group and of any carry back of a Tax Asset, including retroactive changes and substitutions. Combined State Tax Parent shall have the same rights with respect to the Combined State Tax Group.

2.2.3.1. *Operating Losses, Capital Losses and Credits with respect to Federal Taxes.*

2.2.3.1.1. In the event the Consolidated Federal Tax Return of the Parent Group reflects net taxable income and no consolidated net capital loss, Parent shall Pay to Affiliate an amount equal to Affiliate's Tax Benefit.

2.2.3.1.2. In the event the Consolidated Federal Tax Return of the Parent Group reflects a net operating loss, credit limitation or a limitation in the amount of capital losses utilized, Parent shall Pay to Affiliate Tax Benefits based on Affiliate's pro rata share of net operating losses, credits, or net capital losses utilized, and the remainder of Affiliate's net operating losses, credits, or net capital losses shall be reflected as a carryforward or carryback. However, in the event any Affiliate would otherwise have the ability to carry back its remaining net operating losses, credits, or net capital losses to a prior year (computed as if the Affiliate were a Separate Entity) and receive a refund of Federal Tax, Parent shall Pay such Affiliate an amount equal to the Tax Benefit that would have been realized had Parent Group utilized Affiliate's net operating losses, credits, or net capital losses in such carry back year (**"Priority Allocation"**). Correspondingly, the Affiliate whose net operating loss, credit, or net capital loss is displaced due to the Priority Allocation shall Pay to Parent the Affiliate Federal Tax Liability associated with a reduction in the utilization of its prior year's net operating loss, credit, or net capital loss, or Parent shall Pay to that Affiliate the Tax Benefit attributable to the utilization of Affiliate's net operating loss, credit, or net capital loss carried back to a prior year of Parent Group (subject to an Affiliate's Priority Allocation). Affiliate's applicable Federal Tax Allocation Schedules shall be adjusted to reflect such use or reduction in such use.

2.2.3.2. *Operating Losses, Capital Losses, and Credits with respect to State Taxes.*

2.2.3.2.1. In the event the Combined State Tax Return of a Combined State Tax Group reflects net income and no consolidated net capital loss (if applicable), Combined State Tax Parent shall Pay to Affiliate an amount equal to Affiliate's Tax Benefits.

2.2.3.2.2. In the event the Combined State Tax Return of a Combined State Tax Group reflects a net operating loss, credit limitation, or a limitation in the amount of net capital losses utilized, Combined State Tax Parent shall Pay to Affiliate Tax Benefits based on Affiliate's pro rata share of net operating losses, credits, or net capital losses utilized, and the remainder of Affiliate's net operating losses, credits, or net capital losses shall be reflected as a carryforward or carryback as permitted under applicable state law. However, in the event any Affiliate would otherwise have the ability to carry back its net operating losses, credits, or net capital losses to a prior year (computed as if the Affiliate were a Separate Entity) and receive a refund of State Tax, Combined State Tax Parent shall Pay such Affiliate an amount equal to the Tax Benefit that would have been realized had Combined State Tax Group utilized Affiliate's net operating loss, credit, or net capital loss in such carry back year ("**State Priority Allocation**"). Correspondingly, the Affiliate whose net operating loss, credit, or net capital loss is displaced due to the State Priority Allocation shall Pay to Combined State Tax Parent the Affiliate State Tax Liability associated with a reduction in the utilization of its prior year's operating losses, credits, or net capital loss, or Combined State Tax Parent shall Pay to that Affiliate the Tax Benefit attributable to the utilization of Affiliate's net operating losses, credits, or net capital losses carried back to a prior year of the Combined State Tax Group (subject to an Affiliate's Priority Allocation). Affiliate's applicable State Tax Allocation Schedules shall be adjusted to reflect such use or a reduction in such use.

2.3. *Alternative Minimum Tax.* In the event the Consolidated Federal Tax Return of the Parent Group reflects AMT, each Affiliate shall be allocated an amount equal to Affiliate's Separate Entity AMT Benefit or Separate Entity AMT Liability. However, in no event shall such tax allocation be less than Affiliate's Federal Tax Liability. Parent shall Pay Affiliate for any future AMT credit utilized on a pro rata basis. AMT credit shall be subject to a priority allocation ("**AMT Priority Allocation**") similar to the Priority Allocation and State Priority Allocation discussed in sections 2.2.3.1.2. and 2.2.3.2.2., above. Such AMT allocations shall be reflected on Affiliate's applicable Federal Tax Allocation Schedules.

2.4. *Other Tax Assets.* An Affiliate's Federal Tax Liability or Tax Benefit resulting from the utilization or decrease in utilization of any other Tax Assets not discussed above shall be determined in a similar manner taking into account a Priority Allocation similar to the Priority Allocation, State Priority Allocation, and AMT Priority Allocation discussed above.

2.5. *Treatment of Adjustments.* If any adjustment is made in a Consolidated Federal Tax Return of the Parent Group or Combined State Tax Return of a Combined State Tax Group, after the filing thereof, in which income or loss of an Affiliate is included, then within a reasonable time of a Final Determination of the adjustment, Affiliate shall pay to Parent or Combined State Tax Parent, or Parent or Combined State Tax Parent shall pay to Affiliate, as the case may be, the difference between all payments actually made under Sections 2.1., 2.2., 2.3. and 2.4. with respect to the taxable year covered by such tax return and all payments that would have been made under these sections taking such adjustment into account, together with any penalties actually paid and interest for each day until the date of Final Determination calculated, with respect to a Consolidated Federal Tax Return, at the rate determined, in the case of a payment by Affiliate, under Section 6621(a)(2) of the Code and, in the case of a payment by Parent, under Section 6621(a)(1) of the Code, or with respect to a Combined State Tax Return, analogous state law provisions.

2.6. *Preparation of Returns.* So long as the Parent Group elects to file Consolidated Federal Tax Returns or any Combined State Tax Return, Parent shall prepare and file such returns and any other returns, documents or statements required to be filed with the respective Taxing Authority. Parent shall direct the preparation and filing of a Combined State Tax Return by a Combined State Tax Parent with the appropriate Taxing Authority with respect to the determination of the Combined State Tax liability of the Combined State Tax Group. Parent shall have the right to determine with respect to any Consolidated Federal Tax Returns or Combined State Tax Returns that it has filed, will file or cause to be filed (a) the manner in which such returns, documents, or statements shall be prepared and filed, including, without limitation, the manner in which any item of income, gain, loss, deduction, or credit shall be reported, (b) whether any extensions should be requested, (c) the elections that will be made by any member of the Parent Group or Combined State Tax Group, and (d) which Affiliates shall be members of the Parent Group or Combined State Tax Group. In addition, Parent shall have the right to (i) contest, compromise, or settle any adjustment or deficiency proposed, asserted, or assessed as a result of any audit of any Consolidated Federal Tax Return or Combined State Tax Return filed by the Parent Group or Combined State Tax Group, (ii) file, prosecute, compromise, or settle any claim for refund, and (iii) determine whether any refunds to which the Parent Group may be entitled shall be received by way of refund or credited against the tax liability of the Parent Group or Combined State Tax Group. Each Affiliate hereby irrevocably appoints Parent as its agent and attorney-in-fact to take any action (including the execution of documents) as Parent may deem necessary or appropriate to effect this Section However, Section 2.5 in no way is intended to limit the agency powers otherwise available to Parent under Treasury Regulation § 1.1502-77.

2.7. *Additional Rights and Liabilities Post-Deconsolidation.*

2.7.1. The rights and obligations of the parties to this Agreement following a Deconsolidation shall be governed by a separate agreement to be entered into in the event of a planned Deconsolidation.

2.7.2. Each Affiliate covenants that on or after a Deconsolidation with respect to that Affiliate (thereafter, a "**Deconsolidated Affiliate**"), it will not, nor will it cause or permit any member of its Affiliate Group to make or change any tax election, change any accounting method, amend any tax return or take any tax position on any tax return, take any action, omit to take any action or enter into any transaction that results in any increased tax liability or reduction of any Tax Asset of the Parent Group or Combined State Tax Group in respect of any Pre-Deconsolidation Tax Period. Affiliate agrees that Parent is to have no liability for any tax resulting from any action referred to in the preceding sentence and agrees to indemnify and hold harmless the Parent Group and Combined State Tax Group against any such tax. Such indemnity payment shall include a gross up for income taxes.

2.7.3. Notwithstanding any of the rights or obligations contained in this Agreement, Parent shall have the sole right to determine the use or substitution of a Tax Asset in any Pre-Deconsolidation Tax Period or any Post-Deconsolidation Tax Period.

2.7.4. In the event Parent or Combined State Tax Parent effects a Priority Allocation, State Tax Priority Allocation or AMT Priority Allocation and the Tax Asset of a Deconsolidated Affiliate is displaced, Deconsolidated Affiliate shall repay to Parent within 30 days of receiving notice from the Parent Group of such substitution the amounts indicated on the Federal Tax Allocation Schedules and State Tax Allocation Schedules delivered with said notice.

2.8. *Withdrawal and Automatic Reentry.*

2.8.1. A "**Withdrawal**" shall be deemed to occur and an Affiliate shall be deemed to have withdrawn from this Agreement if at any time such Affiliate (a "**Withdrawn Affiliate**") is (1) treated as a partnership for federal income tax purposes or makes an Internal Revenue Service Form 8832 election to be treated as a partnership for tax purposes, (2) enters into any financing or similar agreement which precludes the Affiliate from being party to a tax sharing agreement or requires the Affiliate to make a representation to that the Affiliate is not party to any tax sharing agreement, or (3) ceases to be in the same "affiliated group" (as defined in Section 1504(a) of the Code) as the Parent.

2.8.2. At any time following a Withdrawal, a Withdrawn Affiliate as well as any other non-Affiliate Subsidiary shall immediately and automatically be made party to this Agreement and deemed to be an Affiliate, if such entity satisfies the definition of "Affiliate."

3. *Term.* Subject to Sections 2.7 and 2.8., this Agreement shall expire upon the date of Deconsolidation or Withdrawal with respect to any Deconsolidated or Withdrawn Affiliate; *provided, however*, that all rights and obligations arising hereunder with respect to a Pre-Deconsolidation or Pre-Withdrawal Tax Period shall survive until they are fully effectuated or performed and, *provided, further*, that notwithstanding anything in this Agreement to the contrary, all rights and obligations arising hereunder with respect to a Post-Deconsolidation or Post-Withdrawal Tax Period shall remain in effect and its provisions shall survive for the full period of all applicable statutes of limitation (giving effect to any extension, waiver or mitigation thereof).

4. *Effective Date.* This Agreement shall be effective as of January 1, 2003, and shall supersede the Prior Income Tax Allocation Agreements and all prior agreements as to the allocation of Federal Tax liability and Combined State Tax liability.

5. *Examples of Calculations.* Attached hereto and made part hereof, as "Appendix A" to this Agreement, are illustrated examples of some of the matters contained herein. Additional examples may be incorporated as necessary.

6. *Cooperation.* Each member of Parent Group shall cooperate fully in the implementation of this Agreement, including but not limited to, providing promptly to the requesting party such assistance and documentation as may be reasonably requested by such party in connection with any of the activities described in Section 2 of this Agreement. In addition, Parent and each Affiliate shall retain all relevant tax records for relevant open periods.

7. *Successors.* This agreement shall be binding on and inure to the benefit of any successor, by merger, acquisition of assets or otherwise, to any of the parties hereto (including but not limited to any successor of Parent and Affiliate succeeding to the tax attributes of such party under Section 381 of the Code), to the same extent as if such successor had been an original party hereto.

8. *Notice.* Any notice required under this Agreement shall be given to the Treasurer or a designee of Affiliate.

9. *Authorization, etc.* Each of the parties hereto hereby represents and warrants that it has the power and authority to execute, deliver and perform this Agreement, that this Agreement has been duly authorized by all necessary corporate action on the part of such party that this Agreement constitutes a legal, valid and binding obligation of each such party and that the execution, delivery and performance of this Agreement by such party does not contravene or conflict with any provision of law or of its charter or bylaws or any agreement, instrument or order binding on such party.

10. *Section Captions.* Section captions used in this Agreement are for convenience and reference only and shall not affect the construction of this Agreement.

11. *Governing Law*. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF FLORIDA WITHOUT GIVING EFFECT TO LAWS AND PRINCIPLES RELATING TO CONFLICTS OF LAW.

12. *Dispute Resolution*. The parties hereto agree that any dispute arising out of or in connection with this Agreement shall be submitted to arbitration. The parties shall negotiate in good faith and use all reasonable efforts to agree upon a resolution of any dispute after receipt of written notice of such dispute from a party. If the parties cannot agree on an amicable settlement within 30 days from the written submission of the matter by one or more parties to the other party or parties, the matter shall be submitted to arbitration. The party or parties invoking arbitration shall select one arbitrator, the other party or parties shall appoint one arbitrator, and the two arbitrators shall select a third arbitrator. In the event such arbitrators cannot agree upon a third arbitrator, a third arbitrator shall be selected in accordance with the rules as then in effect of the American Arbitration Association. If any party fails to select an arbitrator within 30 days after the matter is submitted to arbitration, the other party may cause the American Arbitration Association to select an arbitrator for the defaulting party. The decision of two of the three arbitrators so appointed as to the validity of any claim shall be conclusive and binding upon the parties to this Agreement. Any such arbitration shall be held in Juno Beach, Florida under the rules to be mutually agreed upon by the arbitrators selected by the parties or, if no such agreement can be reached, under the rules as then in effect of the American Arbitration Association. The party that does not prevail in arbitration shall pay its own expenses and the expenses of the prevailing party. In the event neither party prevails and a split decision is rendered, each party shall pay pro rata that portion of its own expenses and a portion of the other party's expenses based upon the ratio set forth in the split decision rendered by the arbitrators.

13. *Counterparts*. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.

14. *Waivers and Amendments*. This Agreement shall not be waived, amended or otherwise modified except in writing, duly executed by an authorized officer of each party.

15. *Attorneys' Fees*. If any party hereto commences an action against another party to enforce any of the terms, covenants, conditions or provisions of this Agreement, or because of a default by a party under this Agreement, the prevailing party in any such action shall be entitled to recover its costs, expenses and losses, including attorneys' fees, incurred in connection with the prosecution or defense of such action from the losing party.

16. *Jurisdiction and Venue*. Each of the parties hereto agrees to submit to the jurisdiction of the state and federal courts located in Florida and agree that venue in those courts is proper.

17. *Severability*. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted.

18. *Further Documents.* The parties agree to execute any and all documents, and to perform any and all other acts, reasonably necessary to accomplish the purposes of this Agreement.

19. *Entire Agreement.* THIS AGREEMENT SETS FORTH ALL OF THE PROMISES, AGREEMENTS, CONDITIONS, UNDERSTANDINGS, WARRANTIES AND REPRESENTATIONS AMONG THE PARTIES WITH RESPECT TO THE TRANSACTIONS CONTEMPLATED HEREBY, AND SUPERSEDES ALL PRIOR AGREEMENTS, ARRANGEMENTS AND UNDERSTANDINGS BETWEEN THE PARTIES HERETO, WHETHER WRITTEN, ORAL OR OTHERWISE. THERE ARE NO PROMISES, AGREEMENTS, CONDITIONS, UNDERSTANDINGS, WARRANTIES OR REPRESENTATIONS, ORAL OR WRITTEN, EXPRESS OR IMPLIED, AMONG THE PARTIES EXCEPT AS SET FORTH HEREIN.

[Signatures on Following Page]

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed by a duly authorized officer:

PARENT:

FPL GROUP, INC.

By: James Higgins

Name: James P. Higgins

Title: Vice President, Tax

AFFILIATES:

FLORIDA POWER & LIGHT COMPANY,
on behalf of itself and each of its direct and indirect subsidiaries that is an Affiliate

By: James Higgins

Name: James P. Higgins

Title: Vice President, Tax

FPL GROUP CAPITAL INC,
on behalf of itself and each of its direct and indirect subsidiaries that is an Affiliate

By: James Higgins

Name: James P. Higgins

Title: Vice President

APPENDIX A
TO
AMENDED AND RESTATED
INCOME TAX ALLOCATION AGREEMENT
BY AND BETWEEN
FPL GROUP, INC. AND ITS AFFILIATES

EXAMPLE 1: ***Net Operating Losses (NOLs) and Priority Allocation.*** The consolidated group of entities includes Entity A, Entity B and Entity C. Year 1 reflects consolidated Federal taxable income and years 2-4 reflect consolidated losses. In Year 1, the Federal tax allocation provides each Affiliate with a tax liability or benefit equal to 35% of its respective taxable income with no carryover items. Year 2 demonstrates the pro rata allocation of tax benefits to Entities B and C. Year 3 demonstrates a Priority Allocation to Entity A coupled with pro rata carryback of Tax Benefits for Entities B and C. Year 4 demonstrates the Priority Allocation for Entity A and repayment of Tax Benefits by Entities B and C due to the decrease in utilization of Entity B and Entity C losses.

	Entity A	Entity B	Entity C	Consolidated
Year 1				
Taxable Income	400,000	(75,000)	(10,000)	315,000
Tax Rate	35%	35%	35%	35%
Tax	140,000	(26,250)	(3,500)	110,250
Affiliate's Federal Tax Liability (Benefit)	140,000	(26,250)	(3,500)	110,250
Year 2				
Taxable Income	25,000	(75,000)	(10,000)	(60,000)
Tax Rate	35%	35%	35%	35%
Tax	8,750	(26,250)	(3,500)	(21,000)
Affiliate's Federal Tax Liability (Benefit)	8,750	(7,721)	(1,029)	0
Net Operating Loss Carryback to Year 1		(52,941)	(7,059)	(60,000)
Affiliate's Federal Tax Liability (Benefit) after Carryback of NOLs to Year 1		(18,529)	(2,471)	(21,000)
NOL Generated	0	(75,000)	(10,000)	(85,000)
NOL Utilized Current Year	0	22,059	2,941	25,000
NOL Utilized Carryback Year	0	52,941	7,059	60,000
NOL Remaining	0	0	0	0

Taxable Income	(200,000)	(75,000)	(10,000)	(285,000)
Tax Rate	35%	35%	35%	35%
Tax	(70,000)	(26,250)	(3,500)	(99,750)
Affiliate's Federal Tax Liability (Benefit)	0	0	0	0
Net Operating Loss Carryback/over	(200,000)	(75,000)	(10,000)	(285,000)
NOL Carryback to Year 1	(200,000)	(48,529)	(6,471)	(255,000)
Affiliate's Federal Tax Liability (Benefit) after Carryback of NOLs to Year 1	(70,000)	(16,985)	(2,265)	(89,250)
NOL Generated	(200,000)	(75,000)	(10,000)	(285,000)
NOL Utilized Current Year	0	0	0	0
NOL Utilized Carryback Year	200,000	48,529	6,471	255,000
NOL Remaining	0	(26,471)	(3,529)	(30,000)

Taxable Income	(225,000)	(75,000)	(10,000)	(310,000)
Tax Rate	35%	35%	35%	35%
Tax	(78,750)	(26,250)	(3,500)	(108,500)
Affiliate's Federal Tax Liability (Benefit)	0	0	0	0
Net Operating Loss Carryback/over	(225,000)	(75,000)	(10,000)	(310,000)
NOL Carryback to Years 1&2	(225,000)	198,529	26,471	0
Affiliate's Federal Tax Liability (Benefit) after Carryback of NOLs to Years 1&2	(78,750)	69,485	9,265	0
NOL Generated	(225,000)	(75,000)	(10,000)	(310,000)
NOL Carryover from prior year	0	(26,471)	(3,529)	(30,000)
NOL Utilized Current Year	0	0	0	0
NOL Utilized Carryback Year	225,000	(198,529)	(26,471)	0
NOL Remaining	0	(300,000)	(40,000)	(340,000)

EXAMPLE 2: ***Capital Losses.*** The consolidated group of entities includes Entity A and Entity B. In Year 1 Entity A's capital loss of $3,000 is fully utilized against Entity B's capital gain of $12,000. Entity A is allocated a Tax Benefit reflecting the utilization of this loss and Entity B's tax liability reflects payment of tax on its capital gain. In Year 2 Entity B generates a capital loss of $15,000. There are no capital gains generated in Year 2 so the capital loss is carried back to Year 1. Entity B offsets its Year 1 capital gain completely and has a remaining capital loss carryforward of $3,000. Since Entity B capital gains are reduced to zero due to the utilization of the capital loss carryback, Entity A must pay Parent the tax liability associated with the reduction in utilization of its Year 1 capital loss.

	Entity A	Entity B	Consolidating Adjustment	Consolidated
Year 1				
Taxable Income before Capital Gains & Losses	403,000	(87,000)		316,000
Net Capital Gain (Loss)	(3,000)	12,000		9,000
Taxable Income	400,000	(75,000)	0	325,000
Tax Rate	35%	35%	35%	35%
Tax	140,000	(26,250)	0	113,750
Affiliate's Federal Tax Liability (Benefit)	140,000	(26,250)	0	113,750
Year 2				
Taxable Income before Capital Gains & Losses	300,000	(68,000)		232,000
Net Capital Gain (Loss)	0	(15,000)	15,000	0
Consolidation Adjustment	0	15,000	(15,000)	0
Taxable Income	300,000	(68,000)	0	232,000
Tax Rate	35%	35%	35%	35%
Tax	105,000	(23,800)	0	81,200
Affiliate's Federal Tax Liability (Benefit)	105,000	(23,800)	0	81,200
Capital Loss Carryover Generated	0	(15,000)	0	(15,000)
Capital Loss Utilized Current Year	0	0		0
Capital Loss Utilized/(unutilized) Carryback Year	(3,000)	12,000		9,000
Capital Loss Carryover Remaining	(3,000)	(3,000)	0	(6,000)
Capital Loss Carryback to Year 1				
Taxable Income before Capital Gains & Losses	403,000	(87,000)		316,000
Net Capital Gain (Loss)	(3,000)	12,000		9,000
Net Capital Gain (Loss) Carryback		(12,000)		(12,000)
Consolidation Adjustment-unutilized capital loss	3,000			3,000
Taxable Income	403,000	(87,000)	0	316,000
Tax Rate	35%	35%	35%	35%
Tax	141,050	(30,450)	0	110,600
Original Affiliate's Federal Tax Liability (Benefit)	140,000	(26,250)	0	113,750
Affiliate's Federal Tax Liability (Benefit)				

due to carryback of Entity B capital loss	1,050	(4,200)	0		(3,150)

EXAMPLE 3: ***AMT.*** The consolidated group of entities includes Entity A, Entity B and Entity C. The example reflects a consolidated AMT liability in Year 1 with AMT credit carryover of $750. Year 1 tax liability (benefit) allocation demonstrates Entity A as paying the higher regular tax liability, Entity C paying the higher AMT tax liability and Entity B receiving tax benefits based upon the utilization of its AMT loss against consolidated AMTI (alternative minimum taxable income). Entity B's AMT Credit is calculated as the difference between its tax allocation and the regular tax benefit it would have received if the consolidated group had not been in AMT. In Year 2, when the consolidated AMT credit ($750) is fully utilized, Entity B and C receive the full benefit of their respective AMT Credit from Year 1.

	Entity A	Entity B	Entity C	Parent Consolidated Adjustment	Consolidated
YEAR 1					
Regular Taxable Income	100,000	(75,000)	30,000		55,000
Regular Tax Rate	35%	35%	35%		35%
Regular Tax	35,000	(26,250)	10,500		19,250
Regular Taxable Income	100,000	(75,000)	30,000		55,000
AMT Adjustments	20,000		25,000		45,000
AMTI	120,000	(75,000)	55,000		100,000
AMT Rate	20%	20%	20%		20%
Tentative Minimum Tax ("TMT")	24,000	(15,000)	11,000		20,000
Greater of Regular or TMT	35,000	(15,000)	11,000	(11,000)	20,000
Aff.'s Federal Tax Liability (Benefit)	35,000	(15,000)	11,000	(11,000)	20,000
AMT Credit Generated	0	11,250	500	(11,000)	750
YEAR 2					
Regular Taxable Income	500,000	(75,000)	30,000		455,000
Regular Tax Rate	35%	35%	35%		35%
Regular Tax	175,000	(26,250)	10,500		159,250
Regular Taxable Income	500,000	(75,000)	30,000		455,000
AMT Adjustments	20,000		25,000		45,000
AMTI	520,000	(75,000)	55,000		500,000
AMT Rate	20%	20%	20%		20%
Tentative Minimum Tax	104,000	(15,000)	11,000		100,000
Aff.'s Fed. Tax Liability (Benefit) **	175,000	(26,250)	10,500		159,250
AMT Credit Utilized	0	(11,250)	(500)	11,000	(750)
Net Tax after AMT Credit	175,000	(37,500)	10,000	11,000	158,500
YEAR 1 + YEAR 2	200,000	(62,500)	21,000	0	158,500

** Since the consolidated group is not in AMT, allocations are based upon regular tax with the exception of the utilization of AMT credits generated in prior years.

EXAMPLE 4: ***Combined State Tax Allocation.*** The consolidated group includes Entity A and Entity B and files consolidated state income tax returns in State X and State Y. Entity A is predominantly located in State X, whereas Entity B is predominantly located in State Y. Both entities are allocated state tax liability for State X and State Y based upon their respective separate entity calculations utilizing their individual State Apportionment Factor. The Parent company reflects a consolidation adjustment for the difference between the state taxes allocated to each entity and the consolidated liability based upon the consolidated apportionment factor.

	Entity A	Entity B	Parent Consol. Adj.	Consolidated
State				
State Taxable Income	100,000	(75,000)		25,000
Apportionment %	82%	24%		75%
Apportioned Income/(Loss)	82,000	(18,000)		18,750
State Tax Rate	7.0%	7.0%		7.0%
Affiliate's State Tax Liability	5,740	(1,260)	(3,168)	1,313
State				
State Taxable Income	100,000	(75,000)		25,000
Apportionment %	18%	76%		25%
Apportioned Income/(Loss)	18,000	(57,000)		6,250
State Tax Rate	9.0%	9.0%		9.0%
Affiliate's State Tax Liability	1,620	(5,130)	4,073	563
State X	5,740	(1,260)	(3,168)	1,313
State Y	1,620	(5,130)	4,073	563
Total State Taxes	7,360	(6,390)	905	1,875