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Amendment Filed 3-20-45

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Certificate of
Amendment of
Certificate of
Re. Incorporation
of
Florida Power
Corporation

Filed 3-20-45
1:30 P.M.

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**CERTIFICATE OF AMENDMENT OF THE AMENDED
CERTIFICATE OF REINCORPORATION OF
FLORIDA POWER CORPORATION**



TO THE SECRETARY OF STATE OF THE STATE OF FLORIDA:

In compliance with the authority and requirements of Chapter 612 Florida Statutes 1941, FLORIDA POWER CORPORATION does hereby certify by H. R. CLOUD, one of its Vice Presidents, and J. A. FLOOD, one of its Assistant Secretaries, and under its corporate seal, that, at a duly called special meeting of the directors of Florida Power Corporation held at the New York office of the corporation, room 2601, 61 Broadway, New York, N. Y. on March 20, 1945, at 12:30 o'clock E.W.T. in the afternoon, the directors of Florida Power Corporation declared it advisable and for the general welfare and advantage of said corporation and its respective stockholders and adopted resolutions providing that the action hereinafter set forth should be taken, that said directors at said meeting directed the President to call a special meeting of the stockholders of record of said corporation entitled to vote thereat, to be held at the New York office of the corporation, room 2601, 61 Broadway, New York, N. Y. on March 20, 1945, at 1 o'clock E.W.T. in the afternoon for the purpose of taking such action under consideration. The specific proposals, the advisability of which the directors declared by resolutions at said special meeting of directors and directed the call of the special meeting of the stockholders to consider are the amendments to the amended Certificate of Reincorporation, hereinafter set forth.

FLORIDA POWER CORPORATION does hereby further certify, that the holding of the aforesaid special meeting of stockholders of Florida Power Corporation was duly consented to and the notice thereof was duly waived by stockholders holding one hundred per cent. (100%) of

the capital stock of said Corporation entitled to vote at said meeting in the manner provided in Section 612.25 Florida Statutes 1941, and that, the aforesaid special meeting was held at the aforementioned place on March 20, 1945, at 1 o'clock P.M. in the afternoon and that, at such meeting, the stockholders of Florida Power Corporation entitled to vote thereat, in person or by proxy, voted for and against the following proposed amendments to the amended Certificate of Reincorporation of the Corporation:

(1) to amend the first paragraph of paragraph Fifth of the amended Certificate of Reincorporation of the Corporation which now states the authorized capital stock of the Corporation to be as follows:

"The amount of authorized capital stock of said corporation shall be (a) 6,000 shares of 7% cumulative preferred stock, of the par value of \$50 each, (b) 50,000 shares of Series A, 7% cumulative preferred stock, of the par value of \$100 each, and (c) 3,000,000 shares of common stock, without nominal or par value, but with a stated value of \$2.25 per share."

so that said first paragraph of paragraph Fifth of the amended Certificate of Reincorporation of the Corporation after said amendment shall state the authorized capital stock of the Corporation to be as follows:

"The amount of authorized capital stock of said Corporation shall be (a) 6,000 shares of 7% cumulative preferred stock, of the par value of \$50 each, of which 5,940 shares are presently outstanding in the hands of the public and 60 shares in the Treasury of the Corporation, (b) 50,000 shares of Series A, 7% cumulative preferred stock, of the par value of \$100 each, of which 28,782 shares are presently outstanding in the hands of the public and 148 shares in the Treasury of the Corporation, (c) 60,000 shares of Cumulative Preferred Stock, of the par value of \$100 each, and (d) 3,000,000 shares of Common Stock, without nominal or par value, but with a stated value of \$2.25 per share";

(2) to further amend paragraph Fifth of the amended Certificate of Reincorporation of the Corporation by striking therefrom the following:

"The designations, preferences and voting powers, or restrictions or qualifications thereof, of the preferred stock, both of the 7% cumulative preferred stock and of the Series A, 7% cumulative preferred stock, and of the common stock, shall be as follows:

1. The holders of the preferred stock, irrespective of the class or kind thereof, shall be entitled to receive, when and as declared by the Board of Directors, from the surplus or net profits of the company, dividends at the rate of 7% per annum, payable quarterly on the first days of March, June, September and December of each year, but no other or further dividend. Dividends on the preferred stock shall be cumulative from the quarterly dividend payment date next preceding the date of the original issue of each share of preferred stock, unless such stock shall be issued on a quarterly dividend payment date, and in such case, from such date, and shall be payable before any dividends on the common stock shall be paid or set apart, and if in any year dividends amounting to 7% on the preferred stock shall not be paid or set apart, the deficiency shall be payable before any dividends shall be paid or set apart for the common stock in any subsequent year.

2. Whenever all cumulative dividends on the preferred stock for all previous years shall have been declared and shall have become payable, and the accrued dividends for the current year shall have been declared, and the corporation shall have paid such cumulative dividends, for previous years, and such accrued current dividends, or shall have set aside from its surplus or net profits a sum sufficient for the payment thereof, the balance of the net profits of the corporation, declarable as dividends, may be distributed among the holders of the common stock.

3. The holders of the 7% cumulative preferred stock shall have no voting power, unless and until any dividend due on the 7% cumulative preferred stock shall not be paid when payable hereunder and shall remain so unpaid for four months, when the holders of the 7% cumulative preferred stock shall become and thereafter be entitled to full voting power in like manner as possessed by the holders of the common stock. The holders of the Series A, 7% cumulative preferred stock shall have no voting power.

4. In the event of any liquidation, dissolution or winding up, whether voluntary or involuntary, of the corporation, the holders of the preferred stock shall share pro rata according to the par value of their shares, and be entitled to be paid in full both the par amount of their shares and the unpaid dividends accrued thereon before any amount shall be paid to the holders of the common stock, and after the payment in full of all unpaid dividends accrued and the par value of the preferred stock, the remaining assets and funds shall be divided and paid to the holders of the common stock, equally and pro rata according to their respective shares.

5. The corporation may at any time on or after the 1st day of January, 1919, at its option, call in, pay and redeem, all the outstanding 7% cumulative preferred stock by the payment therefor of 105% of the par value thereof, and all or any part of the outstanding Series A, 7% cumulative preferred stock by the payment therefor of 110% of the par value thereof, together with all accumulated and unpaid dividends thereon to the date fixed for such redemption, thirty (30) days' notice of the call thereof having first been given by mail, to each registered holder of the stock to be redeemed and paid, at his address as the same appears on the stock ledger of the corporation, provided, however, that none of the Series A, 7% cumulative preferred stock shall be paid and redeemed so long as any of the 7% cumulative preferred stock shall remain outstanding.

6. No preferred stock in addition to the original issue of \$100,000 par value of 7% cumulative preferred stock shall be issued except when the net earnings of the corporation applicable to dividends on the preferred stock for the twelve months next preceding the date of issue shall be at least one and one-half times the dividend requirements on all of the preferred stock outstanding and that to be issued, or upon consent of the holders of two-thirds of the preferred stock given at a meeting of stockholders duly and legally called and held.

7. Except as otherwise required by the laws applicable to this corporation, and subject to the right of the 7% cumulative preferred stock to vote in certain events as set forth in subparagraph (3) of this paragraph Fifth, and subject to the right of the preferred stock not to have certain corporate action taken without the consent of the holders of two-thirds thereof as set forth in subparagraph (6) of this paragraph Fifth, the common stock shall have the exclusive voting rights for the election of directors and for all other purposes. Subject to the provisions of subparagraph (8) of this paragraph Fifth, each holder of common stock shall be entitled to one vote for each share thereof held of record by him. Except as otherwise required by the laws applicable to this corporation, and except as in this Certificate of Reincorporation, as amended, otherwise expressly provided, any corporate action whatsoever may be taken or authorized by the affirmative vote of a majority in number of the votes to which the holders of all shares of the common stock shall be entitled, without any vote or consent by the holders of any class of preferred stock or of any other class of stock at the time outstanding, provided, however, that this provision shall not be construed to require the authorization by such affirmative vote of the common stock in any case where, under the laws applicable to this corporation, the action in question may be taken without such consent.

8. At all elections of directors of the corporation, each holder of record of stock possessing voting power shall be

entitled to as many votes as shall equal the number of shares of stock held by him multiplied by the number of directors to be elected, and he may cast all of such votes for a single director or may distribute them among the number to be voted for or any two or more of them, as he may see fit.

9. No fractional shares of common stock of the corporation shall be issued. In case any holder or any person entitled to become a holder of any stock certificates representing shares of common stock of this corporation shall for any reason desire certificates representing less than a full share of common stock, the corporation shall, upon demand and after reasonable notice and, in the case of a holder, upon the surrender of certificates representing shares of common stock properly endorsed in blank for transfer or accompanied by proper instruments of assignment and transfer in blank (if required by the corporation) and bearing all necessary transfer stamps thereto affixed and cancelled, issue to such holders, and, in the case of any person entitled to become a holder, issue to such person, scrip certificates representing in the aggregate the same number of shares of common stock as the certificates so surrendered for cancellation represent or the number of shares to which such person shall then be entitled, as the case may be. Such scrip certificates may, at the election of the corporation, be in bearer form, represent not less than a one-twentieth fractional interest of one share of common stock and may by their terms become void at some reasonable time, not less than three (3) years, after the original issuance thereof. Such scrip certificates shall entitle the holders to combine and exchange the same for stock certificates representing full shares of common stock but, until so combined and exchanged, shall not entitle the holders thereof to vote, receive dividends or exercise other rights of stockholders in respect of such fractional interests. The holders of full share certificates which have been issued in exchange for scrip certificates prior to the date for the determination of common stockholders entitled to receive dividends shall be entitled to

receive the first common stock dividend paid after such exchange and all subsequent ones so long as they continue to hold such full share certificates."

and by inserting in lieu thereof the following:

"SUBDIVISION A

The designations, preferences and voting powers, or restrictions or qualifications thereof, of the preferred stock, both of the 7% cumulative preferred stock and of the Series A, 7% cumulative preferred stock, shall be as follows:

1. The holders of the preferred stock, irrespective of the class or kind thereof, shall be entitled to receive, when and as declared by the Board of Directors, from the surplus or net profits of the company, dividends at the rate of 7% per annum, payable quarterly on the first days of March, June, September and December of each year, but no other or further dividend. Dividends on the preferred stock shall be cumulative from the quarterly dividend payment date next preceding the date of the original issue of each share of preferred stock, unless such stock shall be issued on a quarterly dividend payment date, and in such case, from such date, and shall be payable before any dividends on the common stock shall be paid or set apart, and in any year dividends amounting to 7% on the preferred stock shall not be paid or set apart, the deficiency shall be payable before any dividends shall be paid or set apart for the common stock in any subsequent year.

2. Whenever all cumulative dividends on the preferred stock for all previous years shall have been declared and shall have become payable, and the accrued dividends for the current year shall have been declared, and the corporation shall have paid such cumulative dividends, for previous years, and such accrued current dividends, or shall have set aside from its surplus or net profits a sum sufficient for the payment thereof, the balance of the net profits of the corporation, declarable as dividends, may be distributed among the holders of the common stock.

3. The holders of the 7% cumulative preferred stock shall have no voting power, unless and until any dividend due on the 7% cumulative preferred stock shall not be paid when payable hereunder and shall remain so unpaid for four months, when the holders of the 7% cumulative preferred stock shall become and thereafter be entitled to full voting power in like manner as possessed by the holders of the common stock. The holders of the Series A, 7% cumulative preferred stock shall have no voting power.

4. In the event of any liquidation, dissolution or winding up, whether voluntary or involuntary, of the corporation, the holders of the preferred stock shall share pro rata according to the par value of their shares, and be entitled to be paid in full both the par amount of their shares and the unpaid dividends accrued thereon before any amount shall be paid to the holders of the common stock, and after the payment in full of all unpaid dividends accrued and the par value of the preferred stock, the remaining assets and funds shall be divided and paid to the holders of the common stock, equally and pro rata according to their respective shares.

5. The corporation may at any time on or after the 1st day of January, 1919, at its option, call in, pay and redeem, all the outstanding 7% cumulative preferred stock by the payment therefor of 105% of the par value thereof, and all or any part of the outstanding Series A, 7% cumulative preferred stock by the payment therefor of 110% of the par value thereof, together with all accumulated and unpaid dividends thereon to the date fixed for such redemption, thirty (30) days' notice of the call thereof having first been given by mail, to each registered holder of the stock to be redeemed and paid, at his address as the same appears on the stock ledger of the corporation, provided, however, that none of the Series A, 7% cumulative preferred stock shall be paid and redeemed so long as any of the 7% cumulative preferred stock shall remain outstanding.

6. No preferred stock in addition to the original issue of \$100,000 par value of 7% cumulative preferred stock shall be issued except when the net earnings of the corporation applicable to dividends on the preferred stock for the twelve months next preceding the date of issue shall be at least one and one-half times the dividend requirements on all of the preferred stock outstanding and that to be issued, or upon consent of the holders of two-thirds of the preferred stock given at a meeting of stockholders duly and legally called and held.

7. Except as otherwise required by the laws applicable to this corporation, and subject to the right of the 7% cumulative preferred stock to vote in certain events as set forth in sub-paragraph (3) of this paragraph Fifth, and subject to the right of the preferred stock not to have certain corporate action taken without the consent of the holders of two-thirds thereof as set forth in sub-paragraph (6) of this paragraph Fifth, the common stock shall have the exclusive voting rights for the election of directors and for all other purposes. Subject to the provisions of sub-paragraph (11) Subdivision B. of this paragraph Fifth, each holder of common stock shall be entitled to one vote for each share thereof held of record by him. Except as otherwise required by the laws applicable to this corporation, and except as in this Certificate of Reincorporation, as amended, otherwise expressly provided, any corporate action whatsoever may be taken or authorized by the affirmative vote of a majority in number of the votes to which the holders of all shares of the common stock shall be entitled, without any vote or consent by the holders of any class of preferred stock or of any other class of stock at the time outstanding, provided, however, that this provision shall not be construed to require the authorization by such affirmative vote of the common stock in any case where, under the laws applicable to this corporation, the action in question may be taken without such consent.

Prior to the issuance of any shares of Cumulative Preferred Stock of the Corporation, the said 60 shares of 7% cumulative preferred

stock, of the par value of \$50 each, held in the Treasury of the Corporation and the 142 shares of Series A, 7% cumulative preferred stock, of the par value of \$100 each, held in the Treasury of the Corporation, shall be cancelled.

Upon the redemption of the said 5,940 shares of 7% cumulative preferred stock of the par value of \$50 each, presently outstanding in the hands of the public, and of the said 38,762 shares of Series A, 7% cumulative preferred stock, of the par value of \$100 each presently outstanding in the hands of the public, the said shares of cumulative preferred stock shall be cancelled. Florida Power Corporation shall have no right to issue or re-issue the whole or any of the shares of 7% cumulative preferred stock, of the par value of \$50 each or Series A, 7% cumulative preferred stock, of the par value of \$100 each, and the capital of Florida Power Corporation shall be reduced by an amount equal to the aggregate of the par value of said 5,940 shares of 7% cumulative preferred stock, of the par value of \$50 each, and 38,762 shares of Series A, 7% cumulative preferred stock, of the par value of \$100 each, and the provisions authorizing the said 6,000 shares of 7% cumulative preferred stock, of the par value of \$50 each, and the said 50,000 shares of Series A, 7% cumulative preferred stock, of the par value of \$100 each, shall be eliminated as authorized capital stock of Florida Power Corporation and the Certificate of Reincorporation, as amended, shall be further amended accordingly.

The foregoing designations, preferences and voting powers, or restrictions or qualifications thereof, of the preferred stock, both of the 7% cumulative preferred stock and of the Series A, 7% cumulative preferred stock shall not be affected in anywise by the provisions set forth in Subdivision B, hereof, relating to the Cumulative Preferred Stock of the Corporation, any additional series of preferred stock, which may be authorized hereafter and to common stock.

SUBDIVISION B

The 60,000 shares of Cumulative Preferred Stock of the Corporation, of the par value of \$100 each, authorized hereby are subject and subordinate in all respects to the preferences, voting powers, restric-

tions, limitations and qualifications of the 6,000 shares of 7% cumulative preferred stock, of the par value of \$50 each, of which 5,940 shares are presently outstanding, and 30,000 shares of Series A, 7% cumulative preferred stock, of the par value of \$100 each, of which 28,762 shares are presently outstanding, excluding in each case the shares held in the Treasury.

All or any part of the provisions of the amended Certificate of Reincorporation creating and appertaining to the 7% cumulative preferred stock, \$50 par value, and the Series A, 7% cumulative preferred stock, \$100 par value, and subordinating to such stock the Cumulative Preferred Stock may be eliminated by an amendment of the amended Certificate of Reincorporation adopted by a vote of a majority of the common stockholders.

The designations, terms, relative rights, privileges, limitations, preferences and voting powers, and the prohibitions, restrictions and qualifications of the voting and other rights and powers of said 60,000 shares of Cumulative Preferred Stock and of any additional series of preferred stock which may be hereafter authorized and of the Common Stock, shall be as follows or as determined in accordance with the following provisions:

1. The shares of the Preferred Stock may be divided into and issued in series, from time to time, as herein provided, each of such series to be distinctively designated, the initial series to consist of 40,000 shares designated as Cumulative Preferred Stock, 4% Series, and the designations of the additional 20,000 authorized shares to be set forth in an amendment or amendments to the amended Certificate of Reincorporation. All shares of the Preferred Stock of all series shall be of equal rank and all shares of any particular series of the Preferred Stock shall be identical except as to the date or dates from which dividends thereon shall be cumulative as provided in paragraph 2 hereof. The shares of the Preferred Stock of different series, subject to any applicable provision of law, may vary as to the following terms, which shall be fixed in the case of each such series, at any

time prior to the issuance of the shares thereof, in the manner provided in paragraph 7 hereof:

(a) The annual dividend rate (within such limits as shall be permitted by law) for the particular series and the date from which dividends shall be cumulative on all shares of such series issued on or prior to the record date for the first dividend for such series;

(b) The redemption price or prices, if any, for the particular series;

(c) The amount or amounts per share for the particular series payable to the holders thereof upon any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, which may be different for voluntary and involuntary liquidation, dissolution or winding up and which shall include an amount equal to accrued and unpaid dividends on such shares of Preferred Stock to the date fixed for payment of said amount;

(d) The terms and amount of the sinking fund, if any, provided for the purchase or redemption of shares of the particular series; and

(e) The conversion, or other special rights, and the qualifications, limitations or restrictions thereof, if any, of the particular series.

2. The holders of each series of the Preferred Stock at the time outstanding shall be entitled to receive, but only when and as declared by the board of directors, out of funds legally available for the payment of dividends, cumulative preferential dividends, at the annual dividend rate for the particular series fixed therefor as herein provided, payable quarter-yearly on the fifteenth days of February, May, August and November in each year, to stockholders of record on the respective dates, not exceeding forty (40) days preceding such dividend payment dates, fixed for the purpose by the board of directors. No dividends shall be declared on any series of the Preferred Stock

in respect of any quarter-yearly dividend period unless there shall likewise be declared on all shares of all series of the Preferred Stock at the time outstanding, like proportionate dividends, ratably, in proportion to the respective annual dividend rates fixed therefor, in respect of the same quarter-yearly dividend period, to the extent that such shares are entitled to receive dividends for such quarter-yearly dividend period. In case the dividends for such period are not paid in full all shares of the Preferred Stock of all series shall participate ratably in the payment of dividends in proportion to the full amounts of dividends for such period to which they are respectively entitled as herein provided. The term "quarter-yearly dividend period" shall mean the quarter-yearly period immediately preceding the fifteenth days of February, May, August and November, respectively, in each year. The dividends on shares of all series of the Preferred Stock shall be cumulative. In the case of all shares of each particular series, the dividends on shares of such series shall be cumulative:

(a) if issued on or prior to the record date for the first dividend on the shares of such series, then from the date for the particular series fixed therefor as herein provided;

(b) if issued during the period commencing immediately after a record date for a dividend and terminating at the close of the payment date for such dividend then from such dividend payment date; and

(c) otherwise from the quarter-yearly dividend payment date next preceding the date of issue of such shares;

so that unless dividends on all outstanding shares of each series of the Preferred Stock, at the annual dividend rate and from the date for accumulation thereof fixed as herein provided, shall have been paid or declared and set aside for payment for all past quarter-yearly dividend periods and for the current quarter-yearly dividend period, no dividends shall be paid or declared (other than dividends payable in Common Stock or any other

stock of the Corporation subordinate to the Preferred Stock) and no other distribution shall be made on the Common Stock or on any other stock of the Corporation subordinate to the Preferred Stock, and no Common Stock or any other stock of the Corporation subordinate to the Preferred Stock shall be purchased or otherwise acquired for value by the Corporation. The holders of the Preferred Stock of any series shall not be entitled to receive any dividends thereon other than the dividends referred to in this paragraph 2. Accumulation of dividends on the Preferred Stock shall not bear interest.

3. The Corporation, by action of its board of directors, may redeem the whole or any part of any series of the Preferred Stock, at any time or from time to time, at the redemption price of the shares of the particular series fixed therefor as herein provided. Notice of every such redemption shall be given by publication at least once in a daily newspaper printed in the English language and of general circulation in the City of St. Petersburg, Florida, and at least once in a daily newspaper printed in the English language and of general circulation in the Borough of Manhattan, the City of New York, the first publication in such newspapers to be at least thirty (30) days and not more than ninety (90) days prior to the date fixed for such redemption. At least thirty (30) days and not more than ninety (90) days previous notice of every such redemption shall also be mailed to the holders of record of the shares of the Preferred Stock so to be redeemed, at their respective addresses as the same shall appear on the books of the Corporation; but no failure to mail such notice or any defect therein or in the mailing thereof shall affect the validity of the proceedings for the redemption of any shares of the Preferred Stock so to be redeemed. In case of the redemption of a part only of any series of the Preferred Stock at the time outstanding, the shares of Preferred Stock to be redeemed shall be selected by lot, in such manner as the board of directors shall determine, by a bank or trust company selected for that purpose by the board of directors. The board of directors shall have full power

and authority, subject to the limitations and provisions herein contained, to prescribe the manner in which and the terms and conditions upon which the shares of the Preferred Stock shall be redeemed from time to time. If such notice of redemption shall have been duly given by publication, and if on or before the redemption date specified in such notice all funds necessary for such redemption shall have been set aside by the Corporation, separate and apart from its other funds, in trust for the account of the holders of the shares to be redeemed, so as to be and continue to be available therefor, then, notwithstanding that any certificate for such shares so called for redemption shall not have been surrendered for cancellation, from and after the date fixed for redemption, the shares represented thereby shall no longer be deemed to be outstanding, the right to receive dividends thereon shall cease to accrue and all rights with respect to such shares so called for redemption shall cease and terminate, except only the right of the holders thereof to receive, out of the funds so set aside in trust, the amount payable upon redemption thereof, without interest; provided, however, that the Corporation may, after giving notice by publication of any such redemption as hereinbefore provided or after giving to the bank or trust company hereinafter referred to irrevocable authorization to give such notice by publication, and, at any time prior to the redemption date specified in such notice, deposit in trust, for the account of the holders of the shares to be redeemed, funds necessary for such redemption with a bank or trust company in good standing, organized under the laws of the United States of America or of the State of New York, doing business in the Borough of Manhattan, the City of New York or organized under the laws of the State of Florida, having capital, surplus and undivided profits aggregating at least \$5,000,000 and designated in such notice of redemption and, upon such deposit in trust, all shares with respect to which such deposit shall have been made shall no longer be deemed to be outstanding and all rights with respect to such shares so called for redemption shall forthwith cease and terminate,

except only the right of the holders thereof to receive, out of the funds so deposited in trust, from and after the date of such deposit, the amount payable upon the redemption thereof, without interest, and notice of such right shall be included in the notice of redemption hereinabove provided for. In case the holder of shares of the Preferred Stock which shall have been redeemed shall not within six years of the date of redemption thereof or the date of such deposit with a bank or trust company, whichever is earlier, claim the amount so set aside or deposited in trust, as the case may be, for the redemption of such shares, such bank or trust company shall upon demand, pay over to the Corporation any such unclaimed amount so deposited with it and shall thereupon be relieved of all responsibility in respect thereof and the Corporation shall not be required to hold the amount so paid over to it, or any amount so set aside by it for the redemption of such shares, separate and apart from its other funds, and thereafter the holders of such shares of Preferred Stock shall look only to the Corporation for payment of the redemption price thereof, without interest. All or any shares of the Preferred Stock at any time redeemed, purchased or acquired by the Corporation may thereafter, in the discretion of the board of directors, be reissued or otherwise disposed of at any time or from time to time to the extent and in the manner now or hereafter permitted by law, subject, however, to the limitations herein imposed upon the issue of Preferred Stock.

4. Before any amount shall be paid to, or any assets distributed among, the holders of the Common Stock or of any other stock of the Corporation subordinate to the Preferred Stock upon any liquidation, dissolution or winding up of the Corporation, and after paying or providing for the payment of all creditors of the Corporation, the holders of all shares of each series of the Preferred Stock at the time outstanding shall be entitled to be paid in cash the amount for the shares of the particular series fixed therefor as herein provided; but no

payments on account of such distributive amounts shall be made to the holders of shares of any series of the Preferred Stock unless there shall likewise be paid at the same time to the holders of shares of each other series of the Preferred Stock at the time outstanding like proportionate distributive amounts ratably, in proportion to the full distributive amounts to which they are respectively entitled as herein provided. In case the amounts payable to the holders of shares of the Preferred Stock upon liquidation, dissolution or winding up of the Corporation are not paid in full, all shares of all Preferred Stock of all series shall participate ratably in any such distribution in proportion to the full distributive amount to which they are respectively entitled as herein provided. The holders of the Preferred Stock of any series shall not be entitled to receive any amounts with respect thereto upon any liquidation, dissolution or winding up of the Corporation other than the amounts referred to in this paragraph. Neither the consolidation or merger of the Corporation with or into any other corporation or corporations, nor the sale or transfer by the Corporation of all or any part of its assets, shall be deemed to be a liquidation, dissolution or winding up of the Corporation for the purposes of this paragraph.

5. Whenever full dividends on the shares of all series of the Preferred Stock at the time outstanding for all past quarter-yearly dividend periods and for the current quarter-yearly dividend period shall have been paid or declared and set apart for payment, then such dividends as may be determined by the board of directors may be declared and paid on the Common Stock, but only out of funds legally available for the payment of dividends; provided, however, that so long as any shares of the Preferred Stock of any series are outstanding, the Corporation shall not pay any dividends (other than dividends payable in Common Stock or in any other stock of the Corporation subordinate to the Preferred Stock) or make any distribution on, or purchase or otherwise acquire for value, any of its Common Stock or other stock subordinate to the Preferred Stock, if after giving effect

to any such payment, distribution, purchase or acquisition, the aggregate amount of such dividends, distributions, purchases, and acquisitions, paid or made since April 30, 1944, including the amount then proposed to be expended for any such purpose, together with all other charges to earned surplus since April 30, 1944, exceeds the sum of (a) all credits to earned surplus since April 30, 1944, and (b) all amounts credited to capital surplus after April 30, 1944 arising from the donation to the Corporation of cash or securities (other than securities of the Corporation junior to the Preferred Stock as to assets and dividends) or transfers of amounts from earned surplus to capital surplus. In computing the amount available for any dividend, distribution, purchase or acquisition, charges and credits to earned surplus shall be made in accordance with good accounting practice.

6. In the event of any liquidation, dissolution or winding up of the Corporation, all assets and funds of the Corporation remaining after paying or providing for the payment of all creditors of the Corporation and after paying or providing for the payment to the holders of shares of all series of the Preferred Stock of the full distributive amounts to which they are respectively entitled, as herein provided, shall be divided among and paid to the holders of the Common Stock according to their respective shares.

7. The Corporation may, subject to the provisions of paragraph 8 (B) (a) hereof, at any time or from time to time, create one or more additional series of Preferred Stock, fix the authorized amount of any such series, and fix the designations and terms of any such series of Preferred Stock in the respects in which the shares of any series may vary from the shares of other series of Preferred Stock as provided in paragraph 1 hereof, and as shall be set forth in an amendment or amendments to the amended Certificate of Incorporation adopted by the vote of the holders of a majority of the total number of shares of Common Stock of the Corporation then

outstanding given at a meeting called and held for that purpose in accordance with the provisions of the Florida statutes providing the method of adopting amendments to certificates of incorporation.

8. (A). So long as any shares of the Preferred Stock of any series are outstanding, the Corporation shall not without the consent (given by vote at a meeting called for that purpose in accordance with the provisions of paragraph 12 hereof) of the holders of at least two-thirds of the total number of shares of Preferred Stock of all series then outstanding:

(a) create or authorize any kind of stock ranking prior to or on a parity with the Preferred Stock as to assets or dividends, or create or authorize any security convertible into shares of stock of any such kind; or

(b) amend, alter, change or repeal any of the express terms of the Preferred Stock or of any series of Preferred Stock then outstanding in a manner prejudicial to the holders thereof; provided, however, that if any such amendment, alteration, change or repeal would be prejudicial to the holders of shares of one or more, but not all, of the series of Preferred Stock at the time outstanding, such consent shall be required only from the holders of two-thirds of the total number of outstanding shares of all series so affected.

(B). So long as any shares of the Preferred Stock of any series are outstanding, the Corporation shall not, without the consent (given by vote at a meeting called for that purpose in accordance with the provisions of paragraph 12 hereof) of the holders of a majority of the total number of shares of the Preferred Stock of all series then outstanding:

(a) increase the total authorized amount of the Preferred Stock above 60,000 shares; or

(b) issue any shares of the Preferred Stock, in addition to the initial series of 40,000 shares thereof, unless for any

twelve (12) consecutive calendar months within the fifteen (15) calendar months immediately preceding the calendar month within which such additional shares of Preferred Stock shall be issued, (i) the net earnings of the Corporation applicable to the payment of dividends on shares of the Preferred Stock, determined after provision for depreciation and all taxes and in accordance with sound accounting practice, shall have been at least two (2) times the dividend requirements for a twelve (12) months' period upon all the shares of the Preferred Stock to be outstanding immediately after the proposed issue of such additional shares of Preferred Stock, and (ii) the net earnings of the Corporation available for the payment of interest charges on the Corporation's indebtedness, determined after provision for depreciation and all taxes and in accordance with sound accounting practice, shall have been at least one and one-half (1½) times the aggregate for a twelve (12) months' period of the interest charges on indebtedness of the Corporation and the dividend requirements on all shares of the Preferred Stock to be outstanding immediately after the proposed issue of such additional shares of Preferred Stock. There shall be excluded from the foregoing computation interest charges on all indebtedness and dividends on all stock which are to be retired in connection with the issue of such additional shares of Preferred Stock. Where such additional shares of Preferred Stock are to be issued in connection with the acquisition of new property the net earnings of the property to be so acquired may be included on a pro forma basis in the foregoing computation, computed on the same basis as the net earnings of the Corporation; or

(c) issue any shares of the Preferred Stock, in addition to the initial series of 40,000 shares thereof, unless the aggregate of the capital of the Corporation applicable to the Common Stock and the surplus of the Corporation shall be not less than the amount payable upon involuntary dissolution to the holders of the Preferred Stock to be outstanding

immediately after the proposed issue of such additional Preferred Stock, excluding from the foregoing computation all indebtedness and stock which are to be retired in connection with the issue of such additional shares of Preferred Stock, provided, that no portion of the surplus of the Corporation which shall be used to meet the requirements of this paragraph (c) shall, after the issue of such additional shares of Preferred Stock and until such additional shares or a like number of other shares of Preferred Stock shall have been retired, be available for dividends or other distribution upon the Common Stock; or

(d) issue any unsecured notes, debentures or other securities representing unsecured indebtedness, or assume any such unsecured securities, for purposes other than the refunding of outstanding unsecured securities theretofore issued or assumed by the Corporation or the redemption or other retirement of outstanding shares of one or more series of the Preferred Stock, if, immediately after such issue or assumption, the total principal amount of all unsecured notes, debentures or other securities representing unsecured indebtedness issued or assumed by the Corporation and then outstanding (including unsecured securities then to be issued or assumed) would exceed ten per cent. (10%) of the aggregate of (i) the total principal amount of all bonds or other securities representing secured indebtedness issued or assumed by the Corporation and then to be outstanding, and (ii) the capital and surplus of the Corporation as then to be stated on the books of account of the Corporation, except, that there shall be excluded from the foregoing provision, until such time as the principal amount of 3¼% Serial Debentures and the notes payable to Rural Electrification Administration outstanding on April 30th, 1944 and maturing serially, is reduced to 10% of the aggregate of (i) and (ii) above, an amount not to exceed \$500,000, provided, however, that when the principal amount of unsecured indebtedness represented by such debentures and notes has been reduced to 10% of the aggregate

of (i) and (ii) above, then and thereafter this \$500,000 exception is to be reduced by an amount equal to the further reduction of the principal amount of the unsecured indebtedness represented by such debentures and notes. At the time the principal amount of unsecured indebtedness represented by such debentures and notes is reduced to \$500,000 less than 10% of the aggregate of (i) and (ii) above, then and thereafter this exception shall no longer continue; or

(e) merge or consolidate with or into any other corporation or corporations, unless such merger or consolidation, or the issuance and assumption of all securities to be issued or assumed in connection with any such merger or consolidation, shall have been ordered, approved or permitted by the Securities and Exchange Commission under the provisions of the Public Utility Holding Company Act of 1935 or by any successor commission or regulatory authority of the United States of America having jurisdiction in the premises; provided that the provisions of this clause (e) shall not apply to a purchase or other acquisition by the Corporation of the franchise (including franchises and rights granted by corporate charter) or assets of another corporation or otherwise apply in any manner which does not involve a merger or consolidation.

(O). From time to time, and without limitation of other rights and powers of the Corporation as provided by law, the Corporation may reclassify its capital stock and may create or authorize one or more classes or kinds of stock ranking prior to or on a parity with or subordinate to the Preferred Stock or may increase the authorized amount of the Preferred Stock or of the Common Stock or of any other class of stock of the Corporation or may amend, alter, change or repeal any of the rights, privileges, terms and conditions of the shares of the Preferred Stock or of any series thereof then outstanding, or of the Common Stock, or of any other class of stock of the Corporation, upon the vote, given at a meeting called for that

purpose in accordance with the provisions of paragraph 12 hereof, of the holders of a majority of the shares of stock then entitled to vote thereon or upon such other vote of the holders of the shares of stock then entitled to vote thereon as may then be provided by law; provided that the consent of the holders of the shares of the Preferred Stock (or of any series thereof) required by the provisions of subparagraphs (A) and (B) of paragraph 8 hereof, if any such consent be so required, shall have been obtained; and provided further that the rights, privileges, terms and conditions of the shares of the Common Stock shall not be subject to amendment, alteration, change or repeal without the consent (given in writing or by vote at a meeting called for that purpose in accordance with the provisions of paragraph 12 hereof) of the holders of a majority of the total number of shares of the Common Stock then outstanding.

9. No holder of shares of any series of the Preferred Stock shall be entitled as such as a matter of right to subscribe for or purchase any part of any new or additional issue of any stock of any class, series, or kind whatsoever, or securities convertible into stock of any class, series or kind whatsoever, whether now or hereafter authorized, and whether issued for cash, property, services, by way of dividends, or otherwise.

10. (A). At all meetings of the stockholders of the Corporation the holders of shares of the Common Stock shall be entitled to one vote for each share of Common Stock held by them respectively except as herein otherwise expressly provided. The holders of shares of the Preferred Stock shall have no right to vote and shall not be entitled to notice of any meeting of the stockholders of the Corporation nor to participate in any such meeting except as herein otherwise expressly provided and except for those purposes, if any, for which said rights cannot be denied or waived under some mandatory provision of law which shall be controlling.

(B). If and when dividends payable on any shares of the Preferred Stock shall be in default in an amount equivalent to

or exceeding four (4) full quarter-yearly dividends, and until all dividends on the shares of the Preferred Stock in default shall have been paid, the holders of the shares of the Preferred Stock, voting separately as a class, shall be entitled to elect the smallest number of directors necessary to constitute a majority of the full board of directors, and the holders of the shares of the Common Stock, voting separately as a class, shall be entitled to elect the remaining directors of the Corporation, anything herein or in the By-Laws to the contrary notwithstanding. The terms of office of all persons who may be directors of the Corporation at the time shall terminate upon the election of a majority of the board of directors by the holders of the shares of the Preferred Stock, whether or not the holders of the shares of the Common Stock shall then have elected the remaining directors of the Corporation.

(C). If and when all dividends then in default on the shares of the Preferred Stock then outstanding shall be paid (and such dividends shall be declared and paid out of any funds legally available therefor as soon as reasonably practicable), the holders of the shares of the Preferred Stock shall be divested of any special right with respect to the election of directors provided in subparagraph (B) hereof and the voting power of the holders of the shares of the Preferred Stock and the holders of the shares of the Common Stock shall revert to the status existing before the first dividend payment date on which dividends on the shares of the Preferred Stock were not paid in full; but always subject to the same provisions for vesting such special rights in the holders of the shares of the Preferred Stock in case of further like default or defaults on dividends thereon as provided in subparagraph (B) hereof. Upon the termination of any such special right upon payment of all accumulated and defaulted dividends on the shares of the Preferred Stock, the terms of office of all persons who may have been elected directors of the Corporation by vote of the holders of the shares of the Preferred Stock, as a class, pursuant to such special right shall

forthwith terminate, and the resulting vacancies shall be filled by the vote of a majority of the remaining directors.

(D). In case of any vacancy in the office of a director occurring among the directors elected by the holders of the shares of the Preferred Stock, as a class, pursuant to the foregoing provisions of subparagraph (B) hereof, the remaining directors elected by the holders of the shares of the Preferred Stock, by affirmative vote of a majority thereof, or the remaining director so elected if there be but one, may elect a successor or successors to hold office for the unexpired terms of the director or directors whose place or places shall be vacant. Likewise in case of any vacancy in the office of a director occurring among the directors elected by the holders of the shares of the Common Stock pursuant to the foregoing provisions of subparagraph (B) hereof, the remaining directors elected by the holders of the Common Stock, by affirmative vote of a majority thereof, or the remaining director so elected if there be but one, may elect a successor or successors to hold office for the unexpired term of the director or directors whose place or places shall be vacant.

(E). Whenever under the provisions of subparagraph (B) hereof, the right shall have accrued to the holders of the shares of the Preferred Stock to elect directors, the board of directors, shall within ten (10) days after delivery to the Corporation at its principal office of a request to such effect signed by any holder of shares of the Preferred Stock entitled to vote, call a special meeting of the stockholders to be held within forty (40) days from the delivery of such request for the purpose of electing directors. At all meetings of stockholders held for the purpose of electing directors during such time as the holders of the shares of the Preferred Stock shall have the special right, voting separately and as a class, to elect directors pursuant to subparagraph (B) hereof, the presence in person or by proxy of the holders of a majority of the outstanding shares of the Common Stock shall be required to constitute a quorum of such class for the election of directors, and the presence in

person or by proxy of the holders of a majority of the outstanding shares of the Preferred Stock shall be required to constitute a quorum of such class for the election of directors; provided, however, that the absence of a quorum of the holders of stock of either such class shall not prevent the election at any such meeting or adjournment thereof of directors by the other such class if the necessary quorum of the holders of stock of such class is present in person or by proxy at such meeting; and provided further that in the event such a quorum of the holders of the shares of the Common Stock is present but such a quorum of the holders of the shares of the Preferred Stock is not present then the election of the directors elected by the holders of the shares of the Common Stock shall not become effective and the directors so elected by the holders of the shares of the Common Stock shall not assume their offices and duties until the holders of the shares of the Preferred Stock, with such a quorum present, shall have elected the directors they shall be entitled to elect; and provided further, however, that in the absence of a quorum of the holders of stock of either such class, a majority of those holders of the stock of such class who are present in person or by proxy shall have power to adjourn the election of the directors to be elected by such class from time to time without notice other than announcement at the meeting until the requisite amount of holders of such class shall be present in person or by proxy, but such adjournment shall not be made to a date beyond the date for the mailing of notice of the next annual meeting of the Corporation or special meeting in lieu thereof.

(F). Except when some mandatory provision of law shall be controlling and except as otherwise provided in clause (b) of paragraph 8(A) hereof and, with respect to the special rights of any series of the Preferred Stock, as otherwise provided in the certificate of amendment of the Certificate of Incorporation creating such series, whenever shares of two or more series of the Preferred Stock are outstanding, no particular series of

the Preferred Stock shall be entitled to vote as a separate series on any matter and all shares of the Preferred Stock of all series shall be deemed to constitute but one class for any purpose for which a vote of the stockholders of the Corporation by classes may now or hereafter be required.

(G) Except as otherwise required by the laws applicable to this Corporation and subject to the right of the Preferred Stock to vote in certain events as hereinbefore set forth in this paragraph 10, and subject to the right of the Preferred Stock not to have certain corporate action taken without the consent of the holders thereof, as required by the provisions of paragraph 8 hereof, the Common Stock shall have the exclusive voting rights for the election of directors and for all other purposes.

11. At all elections of directors of the Corporation, each holder of record of stock possessing voting power shall be entitled to as many votes as shall equal the number of shares of stock held by him multiplied by the number of directors to be elected, and he may cast all of such votes for a single director or may distribute them among the number to be voted for or any two or more of them, as he may see fit.

12. Notice of any meeting of stockholders of the Corporation, or of the holders of any class or series of stock, required or authorized hereunder or by law, setting forth the purpose or purposes of such meeting, shall be mailed by the Corporation, not less than ten (10) days or more than forty (40) days prior to such meeting, to all stockholders (at their respective addresses appearing on the books of the Corporation) entitled to vote thereat of record as of a date fixed by the board of directors of the Corporation, not exceeding forty (40) days in advance of such meeting, for the purpose of determining the stockholders entitled to notice of and to vote at such meeting, unless and except to the extent that such notice shall have been waived, either before or after the holding of such meeting, by stockholders entitled to notice thereof and to vote thereat. Any action authorized to be taken at a meeting called for that pur-

pose in accordance with the provisions of this paragraph 12 may be taken at a special meeting, or may be taken at any regular or annual meeting provided that notice of such proposed action is included in the notice of such regular or annual meeting. Except where some mandatory provision of law shall be controlling, no other, longer or additional notice need be given of any such meeting and all holders of shares of stock of the Corporation, by becoming such, hereby consent to the holding of any such meeting upon notice given as hereinbefore provided and thereby waive, to the full extent permitted by law, any right to require the giving of or to receive any such other, longer or additional notice.

13. No certificates for fractional shares of the Common Stock will be issued. In lieu thereof scrip certificates will be issued by the Corporation representing rights to such fractional shares and exchangeable, when accompanied by other certificates in such amount as to represent in the aggregate one or more full shares of stock, for certificates for such full shares. Such scrip certificates may, at the election of the Corporation, be in bearer form and represent not less than one-twentieth of one full share of Common Stock. The holders of scrip certificates will not be entitled to any rights as shareholders of the Corporation until the scrip certificates are so exchanged. At the end of two years following the issuance of such scrip certificates the Corporation will sell the unissued shares representing scrip certificates still outstanding and will pay the proceeds proportionately to the holders of the scrip certificates then outstanding, together with their proportionate share of any dividends which may have been declared and remain unpaid on the Common Stock up to that time.

14. The 40,000 shares of Cumulative Preferred Stock, 4% Series, of the Corporation of the par value of One Hundred Dollars (\$100) each, shall have in addition to the designations, terms, relative rights, privileges, limitations, preferences and voting powers, and the prohibitions, restrictions and qualifica-

tions of the voting and other rights and powers hereinbefore fixed for the Preferred Stock of the Corporation the following:

(a) The rate of dividend for the shares of such Cumulative Preferred Stock, $\frac{1}{2}\%$ Series, shall be *four* per cent. per annum of the par value thereof and dividends on all shares of such series issued on or prior to the record date for the first dividend for such series shall be cumulative from February 15, 1945;

(b) Redemption prices of the shares of such Cumulative Preferred Stock, $\frac{1}{2}\%$ Series, shall be (i) as to any share redeemed on or prior to February 15, 1950, the sum of *One Hundred Sixty and $\frac{25}{100}$* Dollars (\$106.25) plus the sum computed at the annual dividend rate for the shares of Cumulative Preferred Stock, $\frac{1}{2}\%$ Series, from the date from which dividends on such share shall be cumulative to the date fixed for such redemption, less the aggregate of the dividends theretofore or on such redemption date paid thereon or declared and set aside for payment thereon, and (ii) as to any share redeemed subsequent to February 15, 1950, the sum of *One Hundred Twenty and $\frac{25}{100}$* Dollars (\$104.25) plus the sum computed at the annual dividend rate for the shares of Cumulative Preferred Stock, $\frac{1}{2}\%$ Series, from the date from which dividends on such share shall be cumulative to the date fixed for such redemption, less the aggregate of the dividends theretofore or on such redemption date paid thereon or declared and set aside for payment thereon; and

(c) The amounts payable on the shares of Cumulative Preferred Stock, $\frac{1}{2}\%$ Series, in the event of any liquidation, dissolution or winding up of the Corporation shall be as to any shares (i) in the event of voluntary liquidation, dissolution or winding up, the amount at which such share could be redeemed at the time of such voluntary liquidation, dissolution or winding up, and (ii) in the event of involuntary liquidation, dissolution or winding up the sum of One Hundred Dollars (\$100) plus a sum computed at the annual dividend rate for the shares of such Cumulative Preferred Stock,

4 1/2 Series, from the date from which dividends on such share shall be cumulative to the date of such involuntary liquidation, dissolution or winding up, less the aggregate of the dividends theretofore paid thereon or declared and set aside for payment thereon."

that it appeared upon the canvassing of the votes that the stockholders of record entitled to vote thereat, holding stock in the corporation entitling them to exercise at least a majority of the voting power, voted in favor of the proposed amendments to the amended Certificate of Reincorporation of the corporation.

IN WITNESS WHEREOF, Florida Power Corporation, this 20th day of March 1945, has caused this certificate to be signed by one of its Vice Presidents and one of its Assistant Secretaries under its corporate seal and to be acknowledged by one of its Vice Presidents before an officer authorized by the Laws of the State of Florida to take acknowledgments of deeds to be the act and deed of said corporation, all as required by Section 612.06 Florida Statutes, 1941, and pursuant to the authority conferred by the respective resolutions of its stockholders.

FLORIDA POWER CORPORATION

By..... *W. R. ...*
Vice President

Attest:

..... *[Signature]*
Assistant Secretary

(CORPORATE SEAL)

STATE OF FLORIDA }
COUNTY OF LEON } ss.:

On this 20th day of March, A. D., 1945, before me the undersigned authority authorized by the Laws of the State of Florida to take acknowledgments of deeds personally appeared H. R. Clous, a Vice President of Florida Power Corporation, a corporation organized and existing under the laws of the State of Florida, said corporation being the person which is described in and which executed the foregoing certificate, and the said H. R. Clous being known to me to be the same individual described in and who as such Vice President executed the foregoing certificate on behalf of said corporation, acknowledged that he, as such Vice President, signed said corporation's name to said certificate, that he caused the seal of said corporation to be affixed to said certificate by authority and on behalf of said corporation, and he, the said H. R. Clous as such Vice President, delivered the said certificate by authority and on behalf of said corporation, and that all such acts were done freely and voluntarily and for the purpose set forth in said certificate and that such certificate is the free and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal, the day and year hereunto written.

[Handwritten Signature]
.....
Notary Public, State of Florida
at Large

My commission expires *Oct. 4, 1948*

STATE OF FLORIDA
OFFICE OF SECRETARY OF STATE

I, R. A. Gray, Secretary of State of the State of Florida, do hereby certify that the above and foregoing is a true and correct copy of the Amendment to the Amended Certificate of Reincorporation of Florida Power Corporation, a corporation organized and existing under the laws of the State of Florida, as filed in this office on March 27, 1945, at 10:00 o'clock .. M. E.W.T.

Given under my hand and the Great Seal of the State of Florida at Tallahassee, the Capital, this the 29 day of March, 1945.


Secretary of State

Great Seal of the
State of Florida