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PETITION RULE PRM 50-70
(65 FR 30550)

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Florida
Power
CORPORATION

R. ALEXANDER GLENN
DIRECTOR, REGULATORY COUNSEL GROUP

August 30, 2000

Annette L. Vietti-Cook
Secretary of the Commission
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Re: Response to Motions re Petition For Rulemaking by Eric Joseph Epstein (65 FR 30550)

Dear Madame Secretary:

On behalf of Florida Power Corporation ("FPC"), this letter responds to Petitioner, Eric Joseph Epstein's "Motion to Separate *Pro Se* Representation of . . . Employees From Their Affiliated Organizations" ("Motion to Separate") and "Motion to Dismiss Delinquent Filings" ("Motion to Dismiss"), both dated August 15, 2000. Both motions lack merit and run contrary to NRC's longstanding policy in which "NRC strongly encourages public participation and input throughout the NRC's rule making process." *Non-Destructive Testing Management Association*, DPRM-79-4, 10 NRC 253, 255 (Aug. 2, 1979). FPC respectfully asks that the motions be denied.

In his Motion to Separate, Mr. Epstein erroneously suggests that an individual, who is a non-lawyer, should not be permitted to submit comments, invited by the NRC, on behalf of his or her corporation. Apparently, Mr. Epstein is guided by his experience with respect to rulemaking petitions in certain administrative proceedings in the Commonwealth of Pennsylvania and the rules governing the practice of law before certain administrative agencies in Pennsylvania. There is, of course, no basis for suggesting that practice before the NRC is any way governed by Mr. Epstein's experience with respect to proceedings in Pennsylvania. In fact, it is a longstanding practice before the NRC for authorized members of organizations, including corporations, associations, public interest groups, and the like, to file comments on behalf of their respective organizations.

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In many cases, the comments provided to NRC regarding rulemaking issues are technical in nature, rather than "legal," and therefore, do not require any input from an attorney. Imposing a requirement that lawyers be involved would be ill-advised, because it could lead to unnecessary expense and burden on companies that submit comments. In any event, the various comments submitted by company representatives, such as FPC's Director of Nuclear Regulatory Affairs, S.L. Bernhoft, enhance the rulemaking process by providing the NRC with insights, view points and other useful information that can assist the NRC in conducting a rulemaking. Moreover, individuals such as Ms. Bernhoft routinely communicate with the NRC regarding issues affecting FPC and/or the industry as a whole. There is no legitimate basis for stifling this communication flow by interposing an artificial role for lawyers, and in fact, to do so would likely be counter-productive.

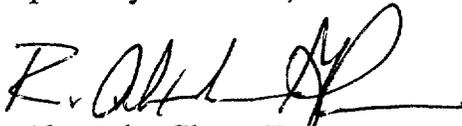
As discussed in greater detail in the response to Mr. Epstein's motions submitted on behalf of PPL Susquehanna, LLC, dated August 25, 2000, NRC's broad interest in soliciting comments from any person or organization with useful information to contribute is reflected in both its rules governing rulemakings and its *Federal Register* notices for such rulemakings. Moreover, the NRC has a longstanding practice of permitting individuals to act on behalf of an organization, so long as they are duly authorized to do so. For example, an individual non-lawyer may represent an organization in *formal* adjudicatory proceedings before the NRC. 10 CFR 2.713(a).

There is simply no merit to Mr. Epstein's contention that allowing comments "to be verified by non-attorneys also raises other substantial questions of law, such as whether the signatory is authorized to bind the submitting corporation." (Paragraph 7 of Motion to Separate.) NRC can have little doubt that FPC's Director of Regulatory Affairs is authorized by FPC to file comments on behalf of the company and, if necessary, "bind" the company to such comments. Even so, it is unclear why there is any need for a company to be "bound" by comments, where the purpose of such comments is to provide positions on policy issues that are to be considered on their own merits.

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For the foregoing reasons, FPC requests that the motions of Eric Joseph Epstein be denied.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "R. Alexander Glenn". The signature is stylized and includes a long horizontal flourish at the end.

R. Alexander Glenn, Esq.
Director, Regulatory Counsel Group

cc: Service List (attached).

Before the

NUCLEAR REGULATORY COMMISSION

Petition for Rulemaking filed by)
Eric Joseph Epstein) 10 CFR Part 50
65 Federal Register 30550) Docket No: PRM-50-70

CERTIFICATE OF SERVICE

I hereby certify that on August 30, 2000 copies of a letter responding to Eric Joseph Epstein's "Motion to Separate *Pro Se* Representation of . . . Employees From Their Affiliated Organizations," and "Motion to Dismiss Delinquent Filing," and this Certificate were served by U.S. Mail, postage pre-paid, on the following:

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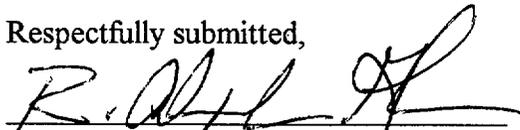
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Date: August 30, 2000