

DOCKET NUMBER
~~PERMISSION~~ RULE PRM 50-70
(65 FR 30550)

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Florida
Power
CORPORATION

R. ALEXANDER GLENN
DIRECTOR, REGULATORY COUNSEL GROUP

September 18, 2000

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

Re: Request that NRC Strike Unauthorized Reply of Eric Joseph Epstein (65 FR 30550)

Dear Madame Secretary:

Florida Power Corporation ("FPC"), respectfully requests that the Commission strike the unauthorized Reply of Eric Joseph Epstein dated September 7, 2000. The NRC's rules do not authorize any Reply by a moving party to any Answer or Response to the party's Motion.

On August 15, 2000, Mr. Epstein filed a "Motion to Separate *Pro Se* Representation of . . . Employees From Their Affiliated Organizations" ("Motion to Separate") and a "Motion to Dismiss Delinquent Filings" ("Motion to Dismiss"). On August 30, 2000, FPC submitted a timely Response or "Answer" to this motion. This is the appropriate record contemplated under the NRC's rules for consideration of a motion, and no further pleading is authorized. For example, NRC's Subpart G rules provide in 10 CFR 2.730(c) that "[t]he moving party shall have no right to reply, except as permitted by the presiding officer or the Secretary or the Assistant Secretary." Nevertheless, on September 7, 2000, Mr. Epstein submitted a reply entitled "Response to Florida Power Corporation's Request to Deny Petitioner's Motions to dismiss Delinquent Filings (1) and Separate *Pro Se* Representations (2)" ("Reply").

Although Mr. Epstein himself emphasizes his desire "that the NRC recognize and enforce its own rules and regulations," Reply at 6, he has disregarded the fact that NRC's rules do not permit the filing of a Reply. Notably, Mr. Epstein has also failed to seek leave to file his unauthorized pleading, and therefore, he provides no basis for granting such leave.

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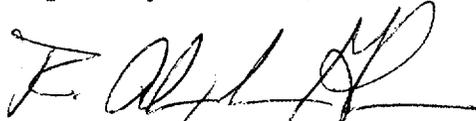
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In addition to being unauthorized, Mr. Epstein mischaracterizes FPC's position on the issues, and improperly suggests that its position reflects "a cavalier approach to time management." Without foundation, Mr. Epstein suggests that FPC and the industry somehow may promote "the finessing of deadlines." In fact, in the context of soliciting comments on a rulemaking, the NRC has itself indicated that it would consider late-filed comments to the extent "it is practical to do so." 65 FR 30550, 30550. To point this out does not indicate a desire for the "finessing of deadlines," but rather reflects a sensible observation that parties may be expected to submit comments within the rulemaking parameters set forth by the NRC. Mr. Epstein's unfounded accusations and speculation are inconsistent with NRC requirements regarding the orderly conduct of a rulemaking proceeding. See 10 CFR 2.713(a). For this additional reason, the September 7 pleading should be stricken.

For the foregoing reasons, FPC respectfully requests that the unauthorized Reply of Eric Joseph Epstein be stricken.

Respectfully Submitted,



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 September 18, 2000 copies of a letter responding to Eric Joseph Epstein's unauthorized Reply dated September 7, 2000 and this Certificate were served by U.S. Mail, postage pre-paid, on the following:

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Dated: September 18, 2000