

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

William J. Froehlich, Chairman
Thomas S. Moore
Michael F. Kennedy

In the Matter of

Florida Power and Light Co.
Turkey Point Nuclear Plant, Units 3 and 4

(License Amendment Request)

Docket Nos. 50-250 and 50-251

ASLBP No. 08-869-03-OLA-BD01

October 14, 2008

MEMORANDUM AND ORDER
(Denying Request for Hearing)

Before the Licensing Board is a request for hearing filed by Saporito Energy Consultants by and through its President, Thomas Saporito (Petitioner or SEC)¹ concerning a license amendment request (LAR) that would remove certain technical specification notes associated with License Amendment Numbers 221 and 230 at the Turkey Point Nuclear Plant in Miami-Dade County, Florida. For the reasons set forth below, we find that the Petitioner has failed to demonstrate standing and has not proffered an admissible contention. Accordingly, we deny the request for hearing.

I. Background

On September 5, 2007, Florida Power and Light Company (FPL or Applicant) submitted a request to amend operating licenses DPR-31 and DPR-41 for the Turkey Point Nuclear Plant Units 3 and 4, respectively.² The proposed license amendment would remove technical

¹ Request for Hearing and Leave to Intervene (Aug. 18, 2008) [hereinafter SEC Request].

² See Letter from William Jefferson, Jr., Vice President, Turkey Point Nuclear Plant, to the Nuclear Regulatory Commission (Sept. 5, 2007) (ADAMS Accession No. ML072600150).

specification notes that were inserted in two prior license amendments.³ Those notes instituted alternate methods for determining the position of control rod M-6 in Unit 3 and F-8 in Unit 4 while the rod position indication systems for those two control rods were being repaired.⁴ The Applicant stated that, because it had repaired the control rod position indication systems during a prior outage, the alternate methods, and therefore the notes, were no longer required.⁵ On July 29, 2008, the NRC Staff (Staff) published the Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing in the Federal Register.⁶ In response to this notice, SEC, through Mr. Saporito, timely filed a request for hearing.⁷

In its petition, SEC states that: (1) Thomas Saporito is a U.S. citizen and therefore has an “inherent right under the Act to be made a party to the proceeding,” and SEC has a right to be made a party because Mr. Saporito is its President;⁸ and (2) it has

real property and personal property and financial interests of which can be adversely affected should operations at the Florida Power & Light Company (“FPL”) or licensee’s, Turkey Point nuclear plants cause a release of radioactive particles into the environment. Moreover, such and [sic] event could render the requestor’s/petitioner’s home and property unavailable for human contact or use for many years or forever. Additionally, such and [sic] event could forever compromise the environment where the petitioners reside, live, and do business.⁹

SEC’s first contention asserts that “the proposed amendments involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed amendments, although administrative in nature, could directly or indirectly result in substantive

³ The prior amendments are No. 221 (Unit 4) and No. 230 (Unit 3), issued on August 20, 2004, and October 5, 2006, respectively. Id. at 1.

⁴ Id.

⁵ Id.

⁶ 73 Fed. Reg. 43,953 (July 29, 2008).

⁷ See SEC Request.

⁸ Id. at 1.

⁹ Id. at 2.

changes to the Technical Specifications that preserve safety analysis assumption[s].”¹⁰ SEC’s second contention claims that the proposed amendments “create the probability of a new or different accident from any accident previously evaluated since the proposed amendments may change the physical plant or the modes of plant operation defined in the facility operating licenses.”¹¹ SEC’s third contention states that “the proposed amendments involve a significant reduction in a margin of safety since the removal of the technical notes may reduce margins of safety.”¹²

FPL and the Staff both oppose the grant of SEC’s petition. In its Answer, FPL asserts that SEC has not demonstrated standing or identified any admissible contentions.¹³ With regard to standing, FPL argues that SEC “fails to demonstrate that the proposed action in any way will affect its interests. Aside from the bald assertions that it can be adversely affected by a radioactive release, SEC offers not a scintilla of evidence linking it to the area around Turkey Point.”¹⁴ Moreover, FPL argues that although SEC complains that an accident at Turkey Point could “forever compromise the environment” where it does business, it

fails to provide any rational link between some alleged accident and the proposed administrative changes to the facility’s technical specifications. Notably, SEC offers no insights as to the kind of accident that would impact it (more than 100 miles from Turkey Point) as a result of making minor administrative changes to two notes in technical specifications.¹⁵

FPL also asserts that SEC’s contentions are inadmissible because they “merely reframe the 10 CFR § 50.91(a) standards” for proposed significant hazards consideration determinations and therefore lack the basis, specificity, and support necessary to be admissible. Further FPL argues

¹⁰ Id.

¹¹ Id.

¹² Id.

¹³ FPL’s Answer to Request for Hearing and Petition for Leave to Intervene of Saporito Energy Consultants (Sept. 11, 2008) at 1.

¹⁴ Id. at 5.

¹⁵ Id.

that SEC's contentions constitute impermissible challenges to the Staff's significant hazards consideration determination.¹⁶

The Staff asserts that SEC lacks standing and has no "inherent right' under the [Atomic Energy Act (AEA)], based on U.S. citizenship or otherwise, to participate as a party in a proceeding."¹⁷ It argues that the Petitioner's "vague assertions of possible harm do not amount to a showing of 'concrete and particularized' injury to Mr. Saporito's . . . or SEC's interests that is 'actual or imminent, not conjectural or hypothetical.'"¹⁸ Moreover, the Staff argues, the Petitioner "vaguely assert[s] only that harm could result from 'operations at . . . Turkey Point' . . . and fail[s] to demonstrate that such injury would result from the challenged license amendment."¹⁹ Additionally, the Staff argues that the Petitioner has made "no showing of an 'obvious potential for offsite consequences' from the requested action that would justify recognizing any proximity presumption, much less one extending over 100 miles from the plant site."²⁰ Nor, according to the Staff, has the Petitioner shown "a plausible chain of events that would result in offsite radiological consequences posing a distinct new harm or threat' from this purely administrative license amendment."²¹

Finally, the Staff asserts that all three of SEC's proffered contentions are inadmissible challenges to the Staff's proposed significant hazards consideration determination under 10 C.F.R.

¹⁶ Id. at 7-8.

¹⁷ NRC Staff Answer to Saporito Energy Consultants' Petition to Intervene and Request for Hearing (Sept. 11, 2008) at 7-8 (quoting BPI v. Atomic Energy Comm'n, 502 F.2d 424, 428 (D.C. Cir. 1974)).

¹⁸ Id. at 8 (quoting Sequoyah Fuels Corp. & General Atomics (Gore, Oklahoma Site), CLI-94-12, 40 NRC 64, 72 (1994)).

¹⁹ Id. (quoting PPL Susquehanna LLC (Susquehanna Steam Electric Station, Units 1 and 2), LBP-07-10, 66 NRC 1, 15 (2007)).

²⁰ Id. at 9 (quoting Florida Power & Light Co. (St. Lucie, Units 1 and 2), CLI-89-21, 30 NRC 325, 329-30 (1989)).

²¹ Id. (quoting Commonwealth Edison Co. (Zion Nuclear Power Station, Units 1 and 2), CLI-99-04, 49 NRC 185, 192 (1999)).

§ 50.58(b)(6) and that they fail to satisfy or to address the requirements of 10 C.F.R.

§ 2.309(f)(1).²²

On September 16, 2008, SEC filed a Reply to the Answers filed by FPL and the Staff.²³ In the Reply, the Petitioner reiterates its standing assertions and claims that it “operates its business across the continental United States of America,” including the area within 50 miles of the Turkey Point facility, and “requires physical access” to potential customers and business partners in the area.²⁴ The Petitioner also greatly expands its contentions in an attempt to comply with the requirements of 10 C.F.R. § 2.309(f)(1). On September 26, 2008, FPL filed a Motion to strike the Petitioner’s Reply and for sanctions.²⁵ The following day, the Petitioner filed an Answer opposing FPL’s Motion.²⁶ On October 6, 2008, the Staff filed a Response in support of FPL’s Motion.²⁷

II. Standards Governing Standing and Contention Admissibility

A. A petitioner’s right to participate in a licensing proceeding stems from Section 189a of the AEA. That Section provides a hearing “upon the request of any person whose interest may be affected by the proceeding.”²⁸ The Commission’s regulations have implemented that section of the AEA.²⁹ A determination on a request for hearing is made by considering (1) the nature of the

²² Id. at 9-10.

²³ Petitioner’s Response to Answers by the Nuclear Regulatory Commission Staff and by the Florida Power and Light Company (Sept. 16, 2008) [hereinafter SEC Reply].

²⁴ Id. at 3-4.

²⁵ FPL’s Motion to Strike Saporito’s Reply and For Sanctions (Sept. 26, 2008) [hereinafter Motion].

²⁶ Petitioner’s Opposition to FPL’s Motion to Strike Saporito’s Reply and for Sanctions (Sept. 27, 2008). On October 1, 2008, FPL filed an Answer to the Petitioner’s September 27, 2008 alleged “Motion to Strike.” FPL’s Answer in Opposition to Saporito Energy Consultant’s Motion to Strike (Oct. 1, 2008). The Petitioner’s Answer opposing FPL’s Motion was not, in fact, a Motion, and therefore, FPL had no authority to file its own Answer on October 1, 2008. See 10 C.F.R. § 2.323(c).

²⁷ NRC Staff’s Response in Support of FPL’s Motion to Strike SEC’s Reply and for Sanctions (Oct. 6, 2008).

²⁸ 42 U.S.C. § 2239(a)(1)(A).

²⁹ See 10 C.F.R. § 2.309(d).

petitioner's right under the AEA to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any decision or order that may be issued in the proceeding on the petitioner's interest.³⁰

When assessing whether a petitioner has set forth a sufficient interest to intervene under 10 C.F.R. § 2.309, licensing boards apply judicial concepts of standing.³¹ Judicial concepts of standing require a petitioner to show that (1) it has personally suffered or will personally suffer in the future a distinct and palpable harm that constitutes injury-in-fact; (2) the injury fairly can be traced to the challenged action; and (3) the injury is likely to be redressed by a favorable decision.³² To satisfy the first requirement, the petitioner "must allege that he has been or will in fact be perceptibly harmed by the challenged agency action, not that he can imagine circumstances in which he could be affected by the agency's action."³³ A petitioner also "must himself fulfill the requirement for standing"³⁴ and cannot base standing on the rights of third parties without the third parties' express authorization to represent them.³⁵

When the proceeding is for a construction or operating license or the renewal of an operating license, a petitioner does not need "specifically to plead injury, causation, and redressability if the petitioner lives within, or otherwise has frequent contacts with, the zone of possible harm from the nuclear reactor or other source of radioactivity."³⁶ This proximity

³⁰ Id. § 2.309(d)(1).

³¹ See Entergy Nuclear Vermont Yankee, LLC (Vermont Yankee Nuclear Power Station), LBP-04-28, 60 NRC 548, 552 (2004).

³² See id. at 552-53.

³³ See Int'l Uranium (USA) Corp. (White Mesa Uranium Mill), LBP-01-15, 53 NRC 344, 349 (2001).

³⁴ St. Lucie, CLI-89-21, 30 NRC at 329. See also Nuclear Fuel Services, Inc. (Erwin, Tennessee), LBP-04-5, 59 NRC 186, 193 n.10, 194 (2004) (petitioner does not have standing to assert rights of employees or caretakers on her land where caretakers are not minors or otherwise legally incapable of representing their own interests), aff'd on other grounds, CLI-04-13, 59 NRC 244 (2004).

³⁵ Id.

³⁶ Florida Power & Light Co. (Turkey Point, Units 3 and 4), LBP-01-06, 53 NRC 138, 146, aff'd, CLI-01-17, 54 NRC 3 (2001).

presumption extends to petitioners living in or having frequent contacts with an area within a 50-mile radius of a nuclear reactor.³⁷ However, in license amendment cases such as that in this proceeding, “a petitioner cannot base his or her standing simply upon a residence or visits near the plant, unless the proposed action quite ‘obvious[ly]’ entails an increased potential for offsite consequences.”³⁸

B. Pursuant to 10 C.F.R. § 50.58(b)(6), a “petition or other request for review of or hearing on the staff’s significant hazards consideration determination” will not be entertained by the Commission.³⁹ For significant hazards consideration determinations, “the staff’s determination is final, subject only to the Commission’s discretion, on its own initiative, to review the determination.”⁴⁰

C. The Commission’s regulations, 10 C.F.R. § 2.309(f)(1), set out the requirements that must be met for a contention to be admitted in an NRC licensing or enforcement adjudication. An admissible contention must (1) provide a specific statement of the legal or factual issue sought to be raised; (2) “[p]rovide a brief explanation of the basis for the contention”; (3) “[d]emonstrate that the issue raised in the contention is within the scope of the proceeding”; (4) “[d]emonstrate that the issue raised . . . is material to the findings the NRC must make to support the action that is involved in the proceeding”; (5) provide a concise statement of the alleged facts or expert opinions, including references to specific sources and documents, that support the petitioner’s position and

³⁷ Gore, CLI-94-12, 40 NRC at 75 n.22; Susquehanna, LBP-07-10, 66 NRC at 14; Entergy Nuclear Generation Company & Entergy Nuclear Operations, Inc. (Pilgrim Nuclear Power Station), LBP-06-23, 64 NRC 257, 270 (2006); Duke Energy Corp. (Oconee Nuclear Station, Units 1, 2, and 3), LBP-98-33, 48 NRC 381, 385 n.1 (1998).

³⁸ Zion, CLI-99-04, 49 NRC at 191 (rejecting proximity argument in proceeding for amendment to reflect plant’s permanent shutdown status). See also St. Lucie, CLI-89-21, 30 NRC at 329-30 (unless proposed action involves “obvious potential for offsite consequences,” such as with construction or operation of reactor or certain major alterations to facility, “petitioner must allege some specific ‘injury in fact’ which will result from the action taken”).

³⁹ 10 C.F.R. § 50.58(b)(6).

⁴⁰ Id. See also Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1), LBP-91-7, 33 NRC 179, 183 (1991).

upon which the petitioner intends to rely at the hearing; and (6) provide sufficient information to show that a genuine dispute exists with regard to a material issue of law or fact, including references to specific portions of the application that the petitioner disputes, or if the application is alleged to be deficient, the identification of such deficiencies and supporting reasons for this belief.⁴¹ The purpose of the contention rule is to “focus litigation on concrete issues . . . result[ing] in a clearer and more focused record for decision.”⁴² The Commission has stated that it “should not have to expend resources to support the hearing process unless there is an issue that is appropriate for, and susceptible to, resolution in an NRC hearing.”⁴³ The Commission has emphasized that the rules on contention admissibility are “strict by design”,⁴⁴ failure to comply with any of these requirements is grounds for the dismissal of a contention.⁴⁵ Additionally, the initial contention must meet these requirements and may not be substantively supplemented in a reply.⁴⁶

III. Board Ruling on SEC Request

A. The Petitioner has failed to establish that it has standing to intervene in this proceeding pursuant to 10 C.F.R. § 2.309(d).⁴⁷ It has not shown that it will be harmed as a result of the approval of the Applicant’s LAR. Instead, the Petitioner states that its “real property and personal property and financial interests” may be affected adversely “should operations at the [Turkey Point Nuclear Plant] . . . cause a release of radioactive particles into the environment.”⁴⁸ Absent from the

⁴¹ 10 C.F.R. § 2.309(f)(1)(i)-(vi).

⁴² Changes to Adjudicatory Process, 69 Fed. Reg. 2182, 2202 (Jan. 14, 2004).

⁴³ Id.

⁴⁴ Dominion Nuclear Connecticut, Inc. (Millstone Nuclear Power Station, Units 2 and 3), CLI-01-24, 54 NRC 349, 358 (2001), pet. for reconsideration denied, CLI-02-1, 55 NRC 1 (2002).

⁴⁵ 69 Fed. Reg. at 2221; see also Private Fuel Storage, LLC (Independent Spent Fuel Storage Installation), CLI-99-10, 49 NRC 318, 325 (1999).

⁴⁶ Nuclear Management Company, LLC (Palisades Nuclear Plant), CLI-06-17, 63 NRC 727, 732 (2006).

⁴⁷ See 10 C.F.R. § 2.309(d).

⁴⁸ SEC Request at 2.

SEC's Request is an explanation of how the approval of the Applicant's LAR could cause a release of radioactive particles and, moreover, how this alleged release could specifically impact the Petitioner's interests. Similarly, the Petitioner fails to explain how the denial of the LAR would remedy or prevent the Petitioner's asserted injury.

Further, the proximity presumption for standing in license applications is inapplicable in this license amendment proceeding. In such a proceeding, a petitioner cannot base its standing upon its distance from the nuclear facility unless the proposed action "quite obvious[ly] entails an increased potential for offsite consequences."⁴⁹ As stated above, the Petitioner does not explain how any specific offsite harm would result from the proposed amendments. The Petitioner also fails to explain how any release of radioactive particles that could be linked to the proposed amendment would cause an increased potential for consequences to the environment or the Petitioner's residence, life, or business in particular.⁵⁰

B. In addition to failing to demonstrate its standing, the Petitioner fails to proffer an admissible contention because each of its contentions challenges the proposed license amendment as not meeting the various parts of the standard set out in 10 C.F.R. § 50.92(c) for significant hazards consideration determinations.⁵¹ Given that 10 C.F.R. § 50.58(b)(6) provides that "[n]o petition or other request for review of or hearing on the staff's significant hazards consideration determination will be entertained by the Commission,"⁵² the Petitioner's contentions are not appropriate for review by this Licensing Board.

⁴⁹ Zion, CLI-99-04, 49 NRC at 191.

⁵⁰ See SEC Request at 2.

⁵¹ Contention 1 asserts that the proposed amendment "increases the probability or consequences of an accident previously evaluated," Contention 2 asserts that the proposed amendment "creates the possibility of a new or different accident from any accident previously evaluated," and Contention 3 asserts that the amendment "involves a significant reduction in a margin of safety." SEC Request at 2. These contentions quote almost verbatim the language of 10 C.F.R. § 50.92(c)(1)-(3).

⁵² 10 C.F.R. § 50.58(b)(6).

C. Even if the Petitioner had standing and did not request an impermissible review of, or hearing on, the Staff's significant hazards consideration determination, its request for a hearing would nonetheless fail because it has not raised an admissible contention under 10 C.F.R. § 2.309(f)(1). In particular, the Petitioner fails to provide the necessary supporting facts or expert opinion,⁵³ or raise a genuine dispute of material fact or law with the Applicant.⁵⁴ A contention must be rejected if it fails to meet any one of these requirements.⁵⁵

The Petitioner's attempt to supplement its contentions in its Reply also must fail.⁵⁶ A reply cannot be used to substantively supplement or amend a contention.⁵⁷ Additionally, pursuant to 10 C.F.R. § 2.309(f)(2), a petitioner may amend contentions after the initial filing

only with leave of the presiding officer upon a showing that— (i) The information upon which the amended or new contention is based was not previously available; (ii) The information upon which the amended or new contention is based is materially different than information previously available; and (iii) the amended or new contention has been submitted in a timely fashion based on the availability of the subsequent information.⁵⁸

Here, however, the Petitioner failed to request leave of the presiding officer to file its amended contentions, and failed to meet the other three requirements for submitting amended contentions. Accordingly, the Petitioner's amended contentions are inadmissible.

IV. Board Ruling on FPL's Motion

As previously noted, FPL also moved to strike SEC's Reply and for sanctions.⁵⁹ In its Motion, FPL argues that SEC's Reply "impermissibly raises entirely new allegations," provides an affidavit with testimony not found in its initial August 18, 2008 petition, and fails to seek leave to

⁵³ 10 C.F.R. § 2.309(f)(1)(v).

⁵⁴ Id. § 2.309(f)(1)(vi).

⁵⁵ Arizona Pub. Serv. Co. (Palo Verde Nuclear Generating Station, Units 1, 2 & 3), CLI-91-12, 34 NRC 149, 155 (1991).

⁵⁶ SEC Reply at 6.

⁵⁷ Palisades, CLI-06-17, 63 NRC at 732.

⁵⁸ 10 C.F.R. § 2.309(f)(2).

⁵⁹ Motion at 1.

amend its initial contentions as required by 10 C.F.R. § 2.309(f)(2).⁶⁰ Given our ruling on the inadmissibility of Petitioner's contentions, this portion of FPL's Motion is moot.

FPL's Motion also alleges a long history of judicial and administrative litigation between FPL and Thomas Saporito.⁶¹ FPL concludes that SEC's hearing requests before the NRC are "vexatious and amount to harassment and an abuse of the administrative process."⁶² For this reason, FPL moves, pursuant to 10 C.F.R. §§ 2.319(l) and 2.323(f)(2), that we certify to the Commission the question of whether to impose sanctions against Mr. Saporito and SEC, including but not limited to, "barring him from filing further meritless hearing requests against FPL Group entities."⁶³

We decline to certify FPL's request for sanctions to the Commission. The NRC regulations permit "[a]ny person whose interest may be affected by a proceeding and who desires to participate as a party [to] . . . file a written request for hearing and a specification of the contentions which the person seeks to have litigated in the hearing."⁶⁴ The Commission and licensing boards have imposed sanctions against a party seeking to file a written request for hearing only when that party "has not followed established Commission procedures" despite prior agency warnings.⁶⁵ Here, although we find that SEC's hearing request must be denied, we are loath at this juncture to conclude that SEC has transgressed Commission procedures to the extent that sanctions are warranted. A meritless petition warrants denial, not sanctions. The Petitioner should be aware,

⁶⁰ Id.

⁶¹ Id. at 3-11. Indeed, this same Licensing Board ruled on a request for hearing from Mr. Saporito in August of this same year. Florida Power & Light Co. (St. Lucie Nuclear Plant, Units 1 and 2), LBP-08-14, 68 NRC ___ (slip op.) (Aug. 15, 2008).

⁶² Id. at 2.

⁶³ Id. (citing 10 C.F.R. § 2.314(c)). FPL states that the Staff supports the Motion to strike SEC's Reply and does not oppose the Motion for certification to the Commission.

⁶⁴ 10 C.F.R. § 2.309(a).

⁶⁵ Dominion Nuclear Connecticut, Inc. (Millstone Nuclear Power Station, Units 2 and 3), CLI-06-04, 63 NRC 32, 38 (2006). See also Entergy Nuclear Operations, Inc. (Indian Point Nuclear Generating Units 2 and 3), CLI-07-28, 66 NRC 275, 275 (2007).

however, that repeated filings of meritless petitions may result in summary denials of such petitions.

For the foregoing reasons, it is on this 14th day of October 2008, ORDERED that:

1. The hearing request of Saporito Energy Consultants by and through its President, Thomas Saporito regarding FPL's September 5, 2007 license amendment request is denied.
2. FPL's Motion to strike SEC's Reply and to certify its question to the Commission regarding the imposition of sanctions against Mr. Saporito is denied.
3. In accordance with the provisions of 10 C.F.R. § 2.311, any appeal to the Commission from this Memorandum and Order must be taken within ten (10) days after it is served.

THE ATOMIC SAFETY
AND LICENSING BOARD⁶⁶

/RA/

William J. Froehlich, Chairman
ADMINISTRATIVE JUDGE

/RA/

Thomas S. Moore
ADMINISTRATIVE JUDGE

/RA/

Michael F. Kennedy
ADMINISTRATIVE JUDGE

Rockville, Maryland
October 14, 2008

⁶⁶ A copy of this Memorandum and Order was sent this date by the Agency's E-Filing System to: (1) Counsel for the Staff; (2) Counsel for FPL; and (3) Thomas Saporito.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	
FLORIDA POWER & LIGHT CO.)	Docket Nos. 50-250-OLA
(Turkey Point Plant, Units 3 and 4))	50-251-OLA
)	
(License Amendment))	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMORANDUM AND ORDER (DENYING REQUEST FOR HEARING) (LBP-08-18), dated October 14, 2008, have been served upon the following persons by the Electronic Information Exchange.

U.S. Nuclear Regulatory Commission
Atomic Safety and Licensing Board Panel
Mail Stop: T-3F23
Washington, DC 20555-0001

U.S. Nuclear Regulatory Commission
Office of the General Counsel
Mail Stop: O-15D21
Washington, DC 20555-0001

William J. Froehlich, Chair
Administrative Judge
E-mail: wjf1@nrc.gov

Marcia Simon, Esq.
E-mail: mjs5@nrc.gov
Lloyd Subin, Esq.
E-mail: lbs3@nrc.gov
Brian Newell, Paralegal
E-Mail: bpn1@nrc.gov
OGC Mail Center
E-mail: OGCMailCenter@nrc.gov

Thomas S. Moore
Administrative Judge
E-mail: tsm2@nrc.gov

Michael F. Kennedy
Administrative Judge
E-mail: mfk2@nrc.gov

Lauren R. Bregman
Law Clerk
E-mail: lrb1@nrc.gov

U.S. Nuclear Regulatory Commission
Office of Commission Appellate Adjudication
Mail Stop: O-16C1
Washington, DC 20555-0001

U.S. Nuclear Regulatory Commission
Office of the Secretary of the Commission
Mail Stop: O-16C1
Washington, DC 20555-0001

OCAA Mail Center
E-mail: ocaamail@nrc.gov

Hearing Docket
E-mail: hearingdocket@nrc.gov

Docket Nos. 50-250-LA and 50-251-OLA
LB MEMORANDUM AND ORDER (DENYING REQUEST
FOR HEARING) (LBP-08-18)

Florida Power & Light Company
700 Universe Boulevard
P. O. Box 14000
Juno Beach, FL 33408-0420

Mitchell Ross, Esq.
E-mail: mitch.ross@fpl.com
Antonio Fernandez, Esq.
E-mail: antonio.fernandez@fpl.com

Florida Power & Light Company
801 Pennsylvania Avenue, N.W.
Suite 220
Washington, DC 20004

Steven C. Hamrick, Esq.
E-mail: steven.hamrick@fpl.com

Saporito Energy Consultants
Post Office Box 8413
Jupiter, FL 33468-8413

Thomas Saporito, President
E-mail: saporito3@gmail.com

[Original signed by Evangeline S. Ngbea]
Office of the Secretary of the Commission

Dated at Rockville, Maryland
This 14th day of October 2008