

March 7, 2011

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

Before the Atomic Safety and Licensing Board

In the Matter of)	
)	
Florida Power & Light Company)	Docket Nos. 52-040-COL
)	52-041-COL
(Turkey Point Units 6 and 7))	
)	ASLBP No. 10-903-02-COL
(Combined License))	

Joint Motion Regarding Mandatory Disclosures

Applicant Florida Power & Light Company (“FPL”), intervenors Mark Oncavage, Dan Kipnis, Southern Alliance for Clean Energy, and National Parks Conservation Association (hereinafter referred to collectively as “Joint Intervenors”) and Citizens Allied for Safe Energy, Inc. (“CASE”), and the Nuclear Regulatory Commission Staff (“NRC Staff”) (collectively, “the Parties”) hereby submit for the Atomic Safety and Licensing Board (“Board”)’s approval a unanimously agreed joint motion by the Parties regarding mandatory disclosures in the instant proceeding.¹

The Parties have agreed to several additions and modifications to the discovery provisions in 10 C.F.R. § 2.336, as set forth below. These additions and modifications are largely based, with some modifications, on those approved by the Licensing Board in the Vogtle COL proceeding. *See Southern Nuclear Operating Co. (Vogtle Electric Generating Plant, Units 3 and 4, Docket Nos. 52-025-COL and 52-026-COL), Memorandum and*

¹ On February 28, 2011, the Board issued its Memorandum and Order (Ruling on Petitions to Intervene) LBP-11-06, in which it accepted for adjudication contentions submitted by the Joint Intervenors and CASE and admitted both entities as intervenors herein.

Order (Ruling Regarding Joint Motion on Mandatory Disclosures and Request for Additional Scheduling Information) (Aug. 17, 2009) (unpublished), slip op. at 2-4. The proposed additions and modifications to the discovery requirements are as follows:

1. The Parties need not identify draft versions of any document, data compilation, correspondence, or other tangible thing that must be disclosed.

2. If the same relevant e-mail exists in multiple locations, each party may produce only one copy of that e-mail. If the e-mail exists in both sender and recipient e-mail folders, the party will produce the sender's copy of the e-mail.

3. The Parties need not identify or produce any document that has been served on the Parties to this proceeding.

4. The Parties need not identify or produce press clippings.

5. In connection with the Staff's submittal of the hearing file, the Staff will identify all relevant documents available via the NRC's website or ADAMS, as required by 10 C.F.R. §§ 2.336(b), 2.1203. The Parties shall not otherwise be required to identify or produce docketed correspondence or other documents available via the NRC's website or ADAMS.

6. The Parties need not produce documents that are publicly available, but the Parties shall produce a log of such documents and where they can be obtained.

7. The Parties agree to waive the obligation to provide a privilege log required by 10 C.F.R. § 2.336(a)(3), (b)(5). For example, the Parties agree not to produce a log

identifying attorney-client privileged material, attorney work product, or information subject to the deliberative process privilege. However, the Parties shall produce a log of the documents withheld as containing proprietary information. The Parties agree to preserve and maintain all discoverable privileged documents during the pendency of this proceeding.

8. The Parties shall have fourteen (14) days from the date that the first proprietary document is requested to negotiate a protective order and nondisclosure agreement and submit those documents to the Board for approval. Any deadlines for filing motions to compel disclosure of proprietary information set forth in such a protective order or in 10 C.F.R. Part 2 shall be tolled until the earlier of (a) a approval by the Board of a protective order and nondisclosure agreement, or (b) expiration of the fourteen day period set forth in this paragraph 8.

9. Until the Staff issues the final safety evaluation report (“SER”) or final environmental impact statement (“EIS”), as applicable to the admitted contentions, the continuing obligation of the Parties under 10 C.F.R. § 2.336(d) to update their respective disclosures is modified so that information or documents subsequently developed or obtained must be disclosed within thirty days. Following issuance of the final SER or final EIS, as applicable, the continuing obligation of the Parties to disclose information or documents will revert to the fourteen-day update period required by 10 C.F.R. § 2.336(d).

10. The parties other than the Staff will provide initial disclosures, and the Staff will produce its initial hearing file and mandatory disclosures, no later than thirty days after the Board’s approval of these mandatory discovery provisions or on such other date

as the Board directs. The Parties shall update their disclosures and the hearing file on the second Friday of every month beginning with the month following that in which the initial disclosures are made. Each subsequent disclosure update will cover all documents in the possession, custody, or control of each party as of the last day of the month preceding the disclosure.

11. Each of the Parties subject to the provisions of 10 C.F.R. § 2.336(a)(1) shall identify any person on which it may rely upon as a witness as soon as the identity of that person becomes known. Depending on the testimony eventually filed by the Parties, the Parties reserve the right to present rebuttal witnesses not previously identified in these mandatory disclosures.

12. A party requesting documents from another party will pay the related expenses. To the extent reasonably practicable, each party will provide electronic copies of the requested documents.

13. If a party seeks to obtain full disclosure of another party's disclosures, in the absence of an agreement establishing another mutually acceptable request submission date approved by the Board, a party must submit the request to the party from whom full disclosure is sought within ten days of the initial or subsequent disclosure. Thereafter, in the absence of the party's agreement to make the disclosure, the party seeking full disclosure must file a motion to compel disclosure with the Board in accordance with 10 C.F.R. § 2.323. The provisions in this paragraph apply only to proprietary documents. There will be no time deadline for requesting to see non-proprietary documents. Nothing

in this paragraph, however, shall affect the timeliness requirements for the submittal of new contentions set forth in 10 C.F.R. § 2.309.

14. All the Parties may, at their option, and pursuant to paragraph 12, update their disclosures under 10 C.F.R. § 2.336(d) through the use of e-mail alone. The Staff, however, will make the hearing file available via the Electronic Hearing Docket.

The undersigned, on behalf of the Parties, respectfully request that the Board approve the above listed provisions governing mandatory disclosures in this proceeding.

Respectfully submitted,

/Signed electronically by Matias F. Travieso-Diaz/

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing “Joint Motion Regarding Mandatory Disclosures,” were provided to the Electronic Information Exchange for service to those individuals listed below and others on the service list in this proceeding, this 7th day of March, 2011.

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/Signed electronically by Matias F. Travieso-Diaz/

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