

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD PANEL

Before the Licensing Board:

E. Roy Hawkens, Chair
Dr. Michael F. Kennedy
Dr. William C. Burnett

In the Matter of)	
)	
Florida Power & Light Company)	Docket Nos. 52-040 and 52-041
)	
Turkey Point,)	ASLBP No. 10-903-02-COL-BD01
Units 6 and 7)	
_____)	

**MOTION FOR LEAVE TO SUPPLEMENT BASIS OF CONTENTION
REGARDING NEPA REQUIREMENT TO ADDRESS SAFETY
AND ENVIRONMENTAL IMPLICATIONS OF
THE FUKUSHIMA TASK FORCE REPORT**

Pursuant to 10 C.F.R. § 2.323, Southern Alliance for Clean Energy, National Parks Conservation Association, Dan Kipnis, and Mark Oncavage (collectively “Intervenors”) hereby move for leave to supplement the basis for their contention seeking consideration of the environmental implications of the Fukushima Task Force Report in the licensing decision for Turkey Point. Intervenors request the Atomic Safety and Licensing Board (“ASLB”) to consider the recent issuance of a directive by the Commissioners of the U.S. Nuclear Regulatory Commission (“NRC”) to the NRC Staff, which requires the Staff to “strive to complete and implement the lessons learned from the Fukushima accident within five years – by 2016.” SRM/SECY-11-0124, Memorandum from R.W. Borchardt, Executive Director for Operations to Annette L. Vietti-Cook, Secretary, re: Recommended Actions to be Taken Without Delay from the

Near-Term Task Force Report (Oct. 18, 2011) (available at <http://www.nrc.gov/reading-rm/doc-collections/commission/srm/2011/2011-0124srm.pdf>). SRM/SECY-11-0124 provides further support, in addition to the language of the Task Force Report itself and the Declaration of Dr. Arjun Makhijani, for Intervenors' contention that the information set forth in the Task Force Report must be considered before a Combined License is issued for Turkey Point Units 6 and 7. By ordering the Staff to adopt and implement numerous Task Force recommendations, including redefining what level of protection of public health and safety should be regarded as adequate, the Commission makes clear that it believes the lessons learned from the Fukushima accident have safety and environmental significance. *See* SRM/SECY-11-0124 at 2.

Intervenors note that the issuance of SRM/SECY-11-0124 also undermines the basis for a recent licensing board decision finding that contentions similar to Intervenors' contention were premature because the Commission itself had not yet accepted or implemented the Task Force Report's conclusions and recommendations. *PPL Bell Bend, L.L.C.* (Bell Bend Nuclear Power Plant); *Luminant Generation Co., L.L.C.* (Comanche Peak Nuclear Power Plant, Units 3 and 4); *Energy Northwest* (Columbia Generating Station); *Southern Nuclear Operating Co.* (Vogtle Electric Generating Plants, Units 3 and 4); *Duke Energy Carolinas, L.L.C.* (William States Lee Nuclear Station, Units 1 and 2), LBP-11-27, __ NRC __, slip op. at 16 (Oct. 18, 2011) (citing *Union Electric Co. d/b/a Ameren Missouri* (Callaway Plant, Unit 2), et al., CLI-11-05, __ NRC __ (Sept. 9, 2011)).¹

¹ Intervenors have been informed that the Petitioners in those cases plan to request reinstatement of their contentions and a ruling that the contentions are admissible in light of SRM/SECY-11-0124.

CONSULTATION CERTIFICATE PURSUANT TO 10 C.F.R. § 2.323(b)

Intervenors certify that on October 27, 2011, we contacted counsel for the applicant and the NRC Staff in an attempt to obtain their consent to this Motion. Counsel for the applicant opposed the Motion. While the NRC Staff did not object to the filing of the Motion on procedural grounds, it reserved judgment on the Motion and will respond in due course.

Respectfully submitted this 28th day of October 2011.

/signed (electronically) by/

Mindy Goldstein
Turner Environmental Law Clinic
Emory University School of Law
1301 Clifton Road
Atlanta, GA 30322
Phone: (404) 727-3432
Fax: (404) 727-7851
Email: magolds@emory.edu

/signed (electronically) by/

Jason Totoiu
Everglades Law Center, Inc.
PO Box 2693
Winter Haven, FL 33883
Phone: (561) 568-6740
Email: Jason@evergladeslaw.org

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

FLORIDA POWER & LIGHT COMPANY

(Turkey Point Units 6 and 7)

Docket Nos. 52-040-COL and 52-041-COL

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **MOTION FOR LEAVE TO SUPPLEMENT BASIS OF CONTENTION REGARDING NEPA REQUIREMENT TO ADDRESS SAFETY AND ENVIRONMENTAL IMPLICATIONS OF THE FUKUSHIMA TASK FORCE REPORT** were served upon the following persons by Electronic Information Exchange and/or electronic mail.

U.S. Nuclear Regulatory Commission
Atomic Safety and Licensing Board Panel
Mail Stop: T-3 F23
Washington, DC 20555-0001
Joshua Kirstein, Law Clerk, ALSB
Email: josh.kirstein@nrc.gov

E. Roy Hawkens
Administrative Judge, Chair
Email: roy.hawkens@nrc.gov

Dr. Michael F. Kennedy
Administrative Judge
Email: michael.kennedy@nrc.gov

Dr. William C. Burnett
Administrative Judge
Email: william.burnett2@nrc.gov

OGC Mail Center: Members of this office have received a copy of this filing by EIE service.

U.S. Nuclear Regulatory Commission
Office of the General Counsel
Mail Stop: 0-15 D21
Washington, DC 20555-0001
Marian Zabler, Esq.; Sara Kirkwood, Esq.
Patrick Moulding, Esq.; Sara Price, Esq.
Joseph Gilman, Paralegal; Karin Francis, Paralegal
Email: marian.zabler@nrc.gov;
sara.kirkwood@nrc.gov;
patrick.moulding@nrc.gov;
sara.price@nrc.gov;
joseph.gilman@nrc.gov;
karin.francis@nrc.gov

Florida Power & Light Company
700 Universe Blvd.
Juno Beach, Florida 33408
Mitchell S. Ross
Vice President & General Counsel – Nuclear
Email: mitch.ross@fpl.com

Florida Power & Light Company
801 Pennsylvania Ave. NW Suite 220
Washington, DC 20004
Steven C. Hamrick, Esq.
Mitchell S. Ross
Email: steven.hamrick@fpl.com;
mitchell.ross@fpl.com

Counsel for the Applicant
Pillsbury, Winthrop, Shaw, Pittman, LLP
2300 N Street, N.W.
Washington, DC 20037-1122
Alison M. Crane, Esq.
Stefanie Nelson George, Esq.
John H. O'Neill, Esq.
Matias F. Travieso-Diaz, Esq.
Maria Webb, Paralegal
Email: alison.crane@pillsburylaw.com;
stephanie.george@pillsburylaw.com;
john.oneill@pillsburylaw.com;
matias.travieso-diaz@pillsburylaw.com;
maria.webb@pillsburylaw.com

Counsel for Mark Oncavage, Dan Kipnis,
Southern Alliance for Clean Energy and
National Parks Conservation Association
Turner Environmental Law Clinic
Emory University School of Law
1301 Clifton Rd. SE
Atlanta, GA 30322
Lawrence D. Sanders, Esq.
Mindy Goldstein, Esq.
Email: lsande3@emory.edu;
magolds@emory.edu

Counsel for Mark Oncavage, Dan Kipnis,
Southern Alliance for Clean Energy and
National Parks Conservation Association
Everglades Law Center, Inc.
3305 College Avenue
Ft. Lauderdale, Florida 33314
Richard Grosso, Esq.
Email: richard@evergladeslaw.org

Counsel for the Village of Pinecrest
Nabors, Giblin & Nickerson, P.A.
1500 Mahan Drive, Suite 200
Tallahassee, FL 32308
William C. Garner, Esq.
Gregory T. Stewart, Esq.
Email: bgarner@ngnlaw.com;
gstewart@ngnlaw.com

Citizens Allied for Safe Energy, Inc.
10001 SW 129 Terrace
Miami, FL 33176
Barry J. White
Email: bwtamia@bellsouth.net

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

U.S. Nuclear Regulatory Commission
Office of Commission Appellate
Adjudication
Mail Stop: 0-7H4M
Washington, DC 20555-0001
Email: ocaamail@nrc.gov

Dated: October 28, 2011

 /signed (electronically) by/
Mindy Goldstein, Esq.
Turner Environmental Law Clinic
Emory University School of Law
1301 Clifton Road
Atlanta, GA 30322
Email: magolds@emory.edu