

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

Before Administrative Judges:

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

In the Matter of

FLORIDA POWER & LIGHT COMPANY

(Turkey Point Units 6 and 7)

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

ASLBP No. 10-903-02-COL-BD01

August 9, 2012

ORDER

(Suspending Deadlines for Submission of Reply Briefs
Related to Proposed Waste Confidence Contention)

Before this Board are motions to admit substantially the same new contention filed by Joint Intervenors and Citizens Allied for Safe Energy, Inc. (CASE)¹ on July 9, 2012, and July 10, 2012 respectively.² The contention is largely based on the June 8, 2012 decision of the United States Court of Appeals for the District of Columbia Circuit in State of New York v. NRC, 681 F.3d 471 (D.C. Cir. 2012). Florida Power & Light Company (FPL) and the NRC Staff filed Answers to the motions on August 2, 2012 and August 3, 2012 respectively.³ Joint Intervenors'

¹ CASE has been dismissed from and is no longer a party to this proceeding. See LBP-12-07, 75 NRC __, __ (slip op. at 22).

² See Intervenors' Motion for Leave to File a New Contention Concerning Temporary Storage and Ultimate Disposal of Nuclear Waste at Turkey Point Nuclear Power Plant (July 9, 2012); Citizens Allied for Safe Energy, Inc. Motion for Leave to File a New Contention Concerning Temporary Storage and Ultimate Disposal of Nuclear Waste at Turkey Point Nuclear Power Plant (July 10, 2012).

³ See [FPL's] Answer Opposing Joint Intervenors' Motion for Leave to File a New Contention (Aug. 2, 2012); [FPL's] Answer Opposing CASE's Motion for Leave to File a New Contention (Aug. 2, 2012); NRC Staff Answer to Joint Intervenors' Motion for Leave to File a New Contention (Aug. 3, 2012); NRC Staff Answer to CASE Motion for Leave to File a New Contention (Aug. 3, 2012).

and CASE's replies to FPL's answers and the NRC Staff's answers are currently due on August 9, 2012 and August 10, 2012 respectively.

On August 7, 2012, however, the Commission issued CLI-12-16, which addressed the D.C. Circuit's June 8 decision and the issues raised by the newly proffered contentions filed by Joint Intervenors and CASE.⁴ The Commission, citing the instant proceeding⁵ and numerous other proceedings where similar contentions were filed, exercised its inherent supervisory authority over adjudications and "direct[ed] that these contentions -- and any related contentions that may be filed in the near term -- be held in abeyance pending our further order."⁶

Consistent with the Commission's direction in CLI-12-16, the contentions proffered by Joint Intervenors and CASE will be held in abeyance, and the August 9, 2012 and August 10, 2012 deadlines for replies are suspended pending further order from the Board.

It is so ORDERED.

FOR THE ATOMIC SAFETY AND
LICENSING BOARD

/RA/

E. Roy Hawkens, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
August 9, 2012

NRC Staff's Response to Intervenors' Motion for Leave to File a New Contention Concerning Temporary Storage and Ultimate Disposal of Nuclear Waste at Levy Nuclear Power Plant (Aug. 2, 2012); Progress Energy Florida's Answer Opposing Motion to Admit Waste Confidence Contention (Aug. 3, 2012).

⁴ See Calvert Cliffs Nuclear Project, LLC (Calvert Cliffs Nuclear Power Plant, Unit 3), CLI-12-16, 76 NRC __ (slip op.) (Aug. 7, 2012).

⁵ See id. at 5 n.10.

⁶ Id. at 6.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
Florida Power & Light Company) Docket Nos. 52-040 and 52-041-COL
(Juno Beach, Florida))
)
(Turkey Point, Units 6 & 7))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **ORDER (Suspending Deadlines for Submission of Reply Briefs Related to Proposed Waste Confidence Contention)** have been served upon the following persons by Electronic Information Exchange and by electronic mail as indicated by an asterisk*.

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

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

Dr. Michael F. Kennedy
Administrative Judge
E-mail: michael.kennedy@nrc.gov

Dr. William C. Burnett
Administrative Judge
E-mail: william.burnett2@nrc.gov

Matthew Flyntz, Law Clerk, ASLBP
E-mail: matthew.flyntz@nrc.gov

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

U.S. Nuclear Regulatory Commission
Office of the General Counsel
Mail Stop - O-15 D21
Washington, DC 20555-0001
Sara Kirkwood, Esq.
Sara Price, Esq.
Jeremy Wachutka, Esq.
Robert Weisman, Esq.
Michael Spencer, Esq.
Jessica Bielecki, Esq.
Emily Monteith, Esq.
Patrick Moulding, Esq.
Karin Francis, Paralegal
E-mail:
sara.kirkwood@nrc.gov;
sara.price@nrc.gov ;
robert.weisman@nrc.gov
jeremy.wachutka@nrc.gov
michael.spencer@nrc.gov
jab2@nrc.gov
emily.monteith@nrc.gov
patrick.moulding@nrc.gov
karin.francis@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 Secretary of the Commission
Mail Stop: O-16C1
Washington, DC 20555-0001
E-mail: hearingdocket@nrc.gov

DOCKET NOS. 52-040 and 52-041-COL

ORDER (Suspending Deadlines for Submission of Reply Briefs Related to Proposed Waste Confidence Contention)

Counsel for the Applicant
Pillsbury, Winthrop, Shaw, Pittman, LLP
2300 N Street, N.W.
Washington, DC 20037-1122
Alison M. Crane, Esq.
John H. O'Neill, Esq.
Matias F. Travieso-Diaz, Esq.
Kimberly Harshaw, Esq.
Maria Webb, Paralegal
E-mail: alison.crane@pillsburylaw.com
John.ONeill@pillsburylaw.com
matias.travieso-diaz@pillsburylaw.com
maria.webb@pillsburylaw.com
kimberly.harshaw@pillsbury.com

Counsel for Mark Oncavage, Dan Kipnis,
Southern Alliance for Clean Energy (SACE),
and National Parks Conservation Association
Turner Environmental Law Clinic
Emory University School of Law
1301 Clifton Rd. SE
Atlanta, GA 30322
Mindy Goldstein, Esq.
E-mail: magolds@emory.edu

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

Erich Pica, President*
Friends of the Earth
1100 15th Street, NW
11th Floor
Washington, D.C. 20555
E-mail: mkeever@foe.org

Florida Power & Light Company
700 Universe Blvd.
Juno Beach, Florida 33408
Mitchell S. Ross
Vice President & General Counsel – Nuclear
E-mail: mitch.ross@fpl.com
James Petro, Esq.
Senior Attorney
E-mail: james.petro@fpl.com
William Blair
Nextera Energy Resources
E-mail: william.blair@fpl.com

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

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.
E-mail: bgarner@ngnlaw.com
E-mail: gstewart@ngnlaw.com

(CASE) Citizens Allied for Safe Energy, Inc.
10001 SW 129 Terrace
Miami, FL 33176
Barry J. White
E-mail: bwtamia@bellsouth.net

[Original signed by Christine M. Pierpoint]
Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 9^h day of August 2011