

**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION**

Before the Atomic Safety and Licensing Board

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

**JOINT MOTION TO MODIFY INITIAL SCHEDULING ORDER**

Pursuant to the Atomic Safety and Licensing Board’s (“Board”) August 22, 2012 “Notice (Notifying Parties of Amendments to 10 C.F.R. Part 2)” (“Notice”), Applicant Florida Power & Light Company (“FPL”), on behalf of itself, intervenors Mark Oncavage, Dan Kipnis, Southern Alliance for Clean Energy, and National Parks Conservation Association, and the Nuclear Regulatory Commission Staff (collectively, “the Parties”), respectfully move the Board to amend certain provisions dealing with the Parties’ mandatory disclosure obligations set forth in the Board’s Initial Scheduling Order and Administrative Directives (Prehearing Conference Call Summary, Grant of Joint Motion Regarding Mandatory Disclosures, Initial Scheduling Order, and Administrative Directives) dated March 30, 2011 (“Initial Scheduling Order”).

As the Notice indicates, on August 3, 2012, the Nuclear Regulatory Commission amended its regulations related to adjudicatory proceedings under 10 C.F.R. Part 2. *Amendments to Adjudicatory Process Rules and Related Requirements*, 77 Fed. Reg. 46,561 (Aug. 3, 2012). The amendments to the regulations went into effect on September 4, 2012, and are applicable only to “obligations and disputes that arise after” that date. 77 Fed. Reg. at 46,562.

One of the regulations that were amended was 10 C.F.R. § 2.236(d), which now reads:

(d) The duty of disclosure under this section is continuing. Parties must update their disclosures every month after initial disclosures on a due date selected by the presiding officer in the order admitting contentions, unless the parties agree upon a different due date or frequency. The disclosure update shall be limited to documents subject to disclosure under this section and does not need to include documents that are developed, obtained, or discovered during the two weeks before the due date. Disclosure updates shall include any documents subject to disclosure that were not included in any previous disclosure update. The duty to update disclosures relevant to an admitted contention ends when the presiding officer issues a decision resolving the contention, or at such other time as may be specified by the presiding officer or the Commission.

77 Fed. Reg. at 46593-94.

As amended, this regulation requires that disclosures be made monthly until the contention to which they apply is resolved, or as otherwise specified by the Board or the Commission. The cutoff date for identifying documents subject to each monthly disclosure is two weeks before the disclosure date. On the other hand, paragraph II.I of the Initial Scheduling Order stipulates that after the publication of the FSER or FEIS (as applicable) the disclosure update schedule reverts back from a monthly to a biweekly period, and paragraph II.J establishes the cutoff day for new document identification as the last day of the preceding month, regardless of when the disclosures are due. *See* Initial Scheduling Order at 4-5.

The Parties respectfully request that paragraphs II.I and II.J of the Initial Scheduling Order be revised to make them consistent with amended 10 C.F.R. § 2.336 (d). Paragraph II.I should be modified to remove the references to the FSER or FEIS and delete the reversion to biweekly disclosures. Paragraph II.J should be modified to change the cutoff date for identifying documents subject to each monthly disclosure from the last day of the preceding month to two weeks before the disclosure date. As modified, those paragraphs would read:

I. 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 (30) days.

J. The Parties other than the Staff will provide initial disclosures, and the Staff will produce its initial Hearing File and mandatory disclosures, on or before April

8, 2011. 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 two weeks prior to the disclosure.

Such changes are warranted because making them would increase the efficiency of the mandatory disclosure process and reduce the burden on the Parties on the frequency of disclosures and the document identification deadlines.

Counsel for FPL certifies that all Parties have given their consent for FPL to file this joint motion on their behalf.

Respectfully submitted,

/Signed electronically by Matias F. Travieso-Diaz/

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September 7, 2012

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing “Joint Motion to Modify Initial Scheduling Order” were provided to the Electronic Information Exchange for service to those individuals listed below and others on the service list in this proceeding, this 7<sup>th</sup> day of September, 2012.

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*/Signed electronically by Matias F. Travieso-Diaz/*

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Matias F. Travieso-Diaz