

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
Before the 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)	Docket Nos. 52-040-COL
)	52-041-COL
(Turkey Point Units 6 and 7))	
)	ASLBP No. 10-903-02-COL
(Combined License))	

March 20, 2015

Citizens Allied For Safe Energy reply to Florida Power & Light Company's Answer to CASE's Request for Extension of Time

Pursuant to 10 C.F.R. § 2.323(c), Citizens Allied For Safe Energy hereby replies to Florida Power & Light Company's ("FPL") answer to the revised "Citizens Allied for Safe Energy ('CASE') Motion Requesting Additional Time to File a Petition to Intervene and Request for a Hearing Regarding the Draft Environmental Impact Statement in the Subject COLs," filed via email on March 19, 2015. CASE asked for "at least one additional week" beyond April 4, 2015 in which to file a petition. FPL stated that the request be should be denied. CASE disagrees and will respond to FPL's reasons for its position.

As provided by ASLB ORDER, CASE is filing by email with all parties copied per the COS attached to the email filing.

TIMELINESS

The FPL Answer states:

CASE's motion also reflects a misunderstanding regarding the deadline for new timely contentions. CASE has calculated that the deadline would be thirty days from March 5, the date that the draft EIS was published for public comment in the Federal Register. This led CASE to conclude that the current deadline is Saturday, April 4 (Monday, April 6).

This position by FPL is at variance with information provided to CASE on March 4, 2015 in an email entitled Your questions regarding the Turkey Point DEIS from Mr. Robert Weisman (copy attached to email filing) on which Mr. Steven Hamrick of FPL was copied:

As I indicated in my e-mail to you of 3 March 2015 (yesterday), the time for submitting new contentions on the DEIS begins to run from the publication of the FRN announcing availability of the DEIS, which, as stated above, is scheduled for tomorrow.

This would indicate that Saturday, April 4, 2015 (Monday, April 6, 2015) would be the last day for filing a new petition.

GOOD CAUSE FOR TIME EXTENSION

10 C.F.R. § 2.307(states

(a) Except as otherwise provided by law, the time fixed or the period of time prescribed for an act that is required or allowed to be done at or within a specified time, may be extended or shortened either by the Commission or the presiding officer **for good cause**, or by stipulation approved by the Commission or the presiding officer. (emphasis added).

FPL, states in tis answer:

In applying that regulation, the Commission has held that "good cause" requires a showing of "unavoidable and extreme circumstances."⁴

FPL cited a ruling which it believes supports that position. However, on

Saturday, November 13 ,1999 (B01) the Washington Post states:

A federal appeals court ruled yesterday that the Nuclear Regulatory Commission unfairly ignored opponents of the Calvert Cliffs nuclear plant as it rushed to renew the license for the facility, which generates enough power to supply 450,000 homes.

The 2 to 1 ruling by a panel of the U.S. Court of Appeals for D.C. Circuit represents a rare reversal for the NRC

Should the NRC determine that it improperly denied the group a time extension--as the judges in the majority strongly implied it did--"the Commission must allow it an opportunity to meaningfully participate in the remainder of the proceeding," the court said in an opinion written by Judge Patricia M. Wald, who was joined by Chief Judge Harry T. Edwards.

So, it would seem, that FPL's attempt to define "good cause" for this proceeding is not cut and dry. CASE holds that, in the interest of considered and informed filings and in consideration of those preparing petitions, and, as supported by NRC staff, for CASE and others circumstances, as defined by CASE in its motion, do warrant a time extension. While orderly administration of government business is necessary, we are all, ultimately, working toward improving the quality of life for all of our citizens. Does that goal include the diminishing of that objective in the process?

CASE REQUESTS THAT A TIME EXTENSION BE GRANTED

As CASE has shown, it based its understanding of the final date on which to file a petition in this matter on information provided by NRC staff. Further, the definition of good cause is the province of the judiciary in this particular matter.

In view of these circumstances, and to allow sufficient time for a fully considered and cogent petition, CASE, on its own behalf and on behalf of others who might be considering filing a petition, respectfully requests that at least one additional week be allowed in which to file a petition in this matter.

Respectfully submitted,

/s/ Barry J. White

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