LBP-15-19

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 June 10, 2015

MEMORANDUM AND ORDER
(Denying the City of Miami's Petition to Intervene, But Granting Its Request to Participate as an Interested Local Governmental Body)

The City of Miami, Florida, petitions to intervene in this proceeding involving the combined license (COL) application of Florida Power & Light Company (FPL) for Turkey Point Units 6 and 7.[1] Miami's petition proffers three contentions challenging the adequacy of the NRC Staff's Draft Environmental Impact Statement (DEIS) for Turkey Point Units 6 and 7. Should its petition be denied, Miami seeks in the alternative to participate in this proceeding as an interested local governmental body. For the reasons discussed below, we conclude that, although Miami has established standing, it fails to proffer an admissible contention. We therefore deny Miami's petition to intervene. We grant, however, its request to participate as an interested local governmental body.

[1] Petition by the City of Miami, Florida, for Leave to Intervene in a Hearing on [FPL's] Combined Construction and Operating License Application for Turkey Point Units 6 & 7, or in the Alternative, Participate as a Non-Party Local Government (Apr. 13, 2015) [hereinafter Petition].

I. Background

On June 18, 2010, after receiving FPL's COL application for Turkey Point Units 6 and 7, the NRC Staff published a notice of hearing and opportunity to petition to intervene.[2] The notice of hearing prompted the submittal of three intervention petitions – one from Southern Alliance for Clean Energy, the National Parks Conservation Association, Mark Oncavage, and Dan Kipnis (collectively, Joint Intervenors); another from Citizens Allied for Safe Energy, Inc. (CASE); and the third from the Village of Pinecrest, Florida.[3] On February 28, 2011, this Board granted two of the petitions, admitting Joint Intervenors' Contention 2.1 and CASE's Contentions 6 and 7.[4] The Board later resolved both of CASE's contentions in favor of FPL.[5] Joint Intervenors' Contention 2.1, as amended and reformulated, is now the sole contention pending before the Board.[6]

In February 2015, the NRC published the DEIS for Turkey Point Units 6 and 7.[7] On April 13, 2015, Miami filed its petition to intervene, seeking to admit three contentions challenging the

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[2] 75 Fed. Reg. 34,777 (June 18, 2010).

[3] See LBP-11-06, 73 NRC 149, 164-65 (2011).

[4] LBP-11-06, 73 NRC at 251-52. Although the Board denied the Village of Pinecrest's petition to intervene, we granted its request to participate as an interested local governmental body. See id.

[5] See Licensing Board Memorandum and Order (Granting FPL's Motions to Dismiss Joint Intervenors' Contention 2.1 and CASE's Contention 6 as Moot) at 6 (Jan. 26, 2012) (unpublished); Licensing Board Memorandum and Order (Granting FPL Motion for Summary Disposition of CASE Contention 7) at 13 (Feb. 28, 2012) (unpublished).

[6] In May 2012, we admitted an amended version of Joint Intervenors' Contention 2.1, see LBP-12-09, 75 NRC 615, 629 (2012), and in August 2012, we reformulated the contention to eliminate an issue rendered moot by FPL's curative action. See Licensing Board Memorandum and Order (Granting in Part and Denying in Part Motion for Summary Disposition of Amended Contention 2.1) at 10 (Aug. 30, 2012) (unpublished) [hereinafter August 2012 Order]. The current version of Contention 2.1 is located infra text accompanying note 33.

[7] Division of New Reactor Licensing, Office of New Reactors, Environmental Impact Statement for Combined Licenses (COLs) for Turkey Point Nuclear Plant Units 6 and 7 Draft Report for Comment, NUREG-2176 (Feb. 2015) (ADAMS Accession No. ML15055A103) [hereinafter DEIS].

adequacy of the NRC Staff's environmental review in the DEIS.[8] In the alternative, Miami requests to participate in the proceeding as an interested local governmental body pursuant to 10 C.F.R. § 2.315(c).[9]

On May 8, 2015, FPL[10] and the NRC Staff[11] each filed answers opposing Miami's petition. Neither FPL nor the NRC Staff contests Miami's standing to intervene; however, both argue that Miami's petition should be denied because the three proposed contentions fail to satisfy either the timeliness standards of 10 C.F.R. § 2.309(c)(1) or the admissibility standards of 10 C.F.R. § 2.309(f)(1).[12] Neither FPL nor the NRC Staff opposes Miami's alternative request to participate in this proceeding as an interested local governmental body.[13] Miami did not file a reply to the FPL and NRC Staff answers.

II. Standing

To participate in an NRC licensing proceeding, a petitioner must establish standing to intervene.[14] To that end, the regulations require a petitioner to state (1) the nature of the petitioner's right under either the Atomic Energy Act or the National Environmental Policy Act (NEPA) to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any decision

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[8] See Petition at 1. The Board established April 13, 2015 as the deadline for the filing of new contentions based upon the DEIS. See Licensing Board Order (Granting Motion for Additional Time) at 3 (Mar. 25, 2015) (unpublished).

[9] See Petition at 12-13. The litigation opportunities available to an entity participating as a local governmental body pursuant to 10 C.F.R. § 2.315(c) are discussed infra Part V.

[10] See [FPL's] Answer Opposing City of Miami's Petition to Intervene in a Hearing on [FPL's] Combined Construction and Operating License Application for Turkey Point Units 6 & 7 (May 8, 2015) [hereinafter FPL Answer].

[11] See NRC Staff Answer to [Petition] (May 8, 2015) [hereinafter NRC Staff Answer].

[12] See FPL Answer at 1-2; NRC Staff Answer at 1-2.

[13] See FPL Answer at 2; NRC Staff Answer at 2.

[14] See 10 C.F.R. § 2.309(a).

or order that may be issued in the proceeding on the petitioner's interest.[15] In determining whether a petitioner has demonstrated standing, the Commission traditionally has applied contemporaneous judicial concepts of standing.[16] However, when a governmental body within close proximity of a proposed nuclear reactor unit seeks to intervene in a COL proceeding, the Commission grants standing under the "proximity presumption," effectively dispensing with the need to make an affirmative showing of injury, causation, and redressability.[17]

Miami is a "Florida municipal corporation . . . located 25 miles from Turkey Point" and "FPL's proposed transmission corridor . . . is located directly within [Miami's] limits."[18] As the NRC Staff acknowledges,[19] this alone is sufficient for Miami to establish standing under the proximity presumption.

III. Legal Standards for Contention Admissibility

Initially, contentions arising under NEPA must be filed based on an applicant's environmental report (ER).[20] When a petitioner seeks leave to intervene after the initial deadline for the filing of contentions, it must demonstrate good cause for its belated filing by showing that:

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[15] 10 C.F.R. § 2.309(d)(1).

[16] See Cleveland Elec. Illuminating Co. (Perry Nuclear Power Plant, Unit 1), CLI-93-21, 38 NRC 87, 92 (1993) (citing Lujan v. Defenders of Wildlife, 504 U.S. 555, 561 (1992)); see, e.g., Yankee Atomic Elec. Co. (Yankee Nuclear Power Station), CLI-98-21, 48 NRC 185, 195 (1998); Ga. Inst. of Tech. (Ga. Tech Research Reactor, Atlanta, Ga.), CLI-95-12, 42 NRC 111, 115 (1995).

[17] "Where . . . a municipality seeks to participate in a reactor licensing proceeding that does not involve a facility within the municipality's boundaries, it can, for purposes of establishing standing, rely on the 50-mile 'proximity' presumption to the same extent as an individual or an organization." LBP-11-06, 73 NRC at 169-70 (omitting footnotes) (citing Power Auth. of the State of N.Y. (James A. Fitzpatrick Nuclear Power Plant; Indian Point, Unit 3), CLI-00-22, 52 NRC 266, 295 (2000); Private Fuel Storage, LLC (Indep. Spent Fuel Storage Installation), CLI-98-13, 48 NRC 26, 33-34 (1998)).

[18] Petition at 3.

[19] See NRC Staff Answer at 8-9.

[20] See 10 C.F.R. § 2.309(f)(2).

> (i) The information upon which the filing is based was not previously available;
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> (ii) The information upon which the filing is based is materially different from information previously available; and
>
> (iii) The filing has been submitted in a timely fashion based on the availability of the subsequent information.[21]

In addition to being timely, the proposed new contention must satisfy the six-factor contention admissibility standard in 10 C.F.R. § 2.309(f)(1), which states, in relevant part, that a petitioner must:

> (i) Provide a specific statement of the issue of law or fact to be raised or controverted . . . ;
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> (ii) Provide a brief explanation of the basis for the contention;
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> (iii) Demonstrate that the issue raised in the contention is within the scope of the proceeding;
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> (iv) Demonstrate that the issue raised in the contention is material to the findings the NRC must make to support the action that is involved in the proceeding;
>
> (v) Provide a concise statement of the alleged facts or expert opinions which support the requestor's/petitioner's position on the issue and on which the petitioner intends to rely at hearing, together with references to the specific sources and documents on which the requestor/petitioner intends to rely to support its position on the issue; [and]
>
> (vi) . . . [P]rovide sufficient information to show that a genuine dispute exists with the applicant/licensee on a material issue of law or fact. This information must include references to specific portions of the application (including the applicant's environmental report and safety report) that the petitioner disputes and the supporting reasons for each dispute, or, if the petitioner believes that the application fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the petitioner's belief.[22]

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[21] 10 C.F.R. § 2.309(c)(1).

[22] 10 C.F.R. § 2.309(f)(1). To satisfy section 2.309(f)(1)(vi), a petitioner must show that a genuine dispute exists on a material issue of law or fact relating to the application. In this case, Miami challenges the NRC's DEIS, which is the applicable environmental document at this stage of the proceeding.

The Commission has emphasized that the contention admissibility standards are "strict by design."[23] Failure to comply with any of the section 2.309(f)(1) requirements renders a contention inadmissible.[24]

IV. Contention Admissibility Analysis

Miami's petition proffers three contentions, all of which allege that the DEIS for Turkey Point Units 6 and 7 is deficient in certain respects. FPL and the NRC Staff oppose admission of the contentions. As explained below, we conclude that the contentions are not admissible and, accordingly, we deny Miami's petition to intervene.

A. Contention 1

> The draft EIS is deficient in concluding that the environmental impacts from FPL's proposed deep injection wells will be "small" because the draft EIS fails to identify the source data of the chemical concentrations in draft EIS Table 3-5 for ethylbenzene, heptachlor, tetrachloroethylene, and toluene. Such information is necessary to ensure the accuracy and reliability of those concentrations, so it might reasonably be concluded that those chemicals will not adversely impact the groundwater by migrating from the Boulder Zone to the Upper Floridan Aquifer.[25]

1. Miami's Position on Contention 1

In Contention 1, Miami alleges that the DEIS contains inadequacies in its (1) "assessment of the chemical and radiological constituents of the plant liquid waste streams;" and (2) evaluation of "the potential for upward migration of injectate and infiltration of contaminants [from the Boulder Zone] into the Lower Floridan Aquifer."[26] In support of its first claim, Miami faults the DEIS for failing to identify the total amount of various chemicals in the plant's waste streams and for including only a password protected table of effluent constituents

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[23] Dominion Nuclear Conn., Inc. (Millstone Nuclear Power Station, Units 2 & 3), CLI-01-24, 54 NRC 349, 358 (2001); accord USEC, Inc. (American Centrifuge Plant), CLI-06-09, 63 NRC 433, 437 (2006).

[24] See Private Fuel Storage, LLC (Indep. Spent Fuel Storage Installation), CLI-99-10, 49 NRC 318, 325 (1999).

[25] Petition at 6.

[26] Petition at 6-7.

and concentrations.[27] Miami also faults the DEIS for failing to identify safe release levels for each chemical.[28] Regarding the second claim, Miami alleges that the DEIS assumed geological isolation, resulting in a failure to analyze the potential for and environmental consequences of chemical migration into drinking water and the Biscayne Bay.[29]

2. Board Ruling on Contention 1

Miami's Contention 1 is virtually identical to the version of Joint Intervenors' Contention 2.1 admitted by this Board on May 2, 2012. The only difference between the two is that Joint Intervenors' contention alleges a deficiency in FPL's ER Table 3.6-2, while Miami's contention alleges a deficiency in the NRC Staff's DEIS corresponding Table 3-5.[30] Both contentions allege, inter alia, that the environmental review documents fail to identify "the source data of the chemical concentrations . . . for ethylbenzene, heptachlor, tetrachloroethylene, and toluene."[31] Shortly after our May 2012 decision, however, FPL provided the missing "source data," and we therefore granted summary disposition to FPL on that aspect of Contention 2.1 in our August 30, 2012 order.[32] In the same order, we reformulated Contention 2.1, narrowing it as follows to reflect FPL's curative action:

> The ER is deficient in concluding that the environmental impacts from FPL's proposed deep injection well will be "small" because the chemical concentrations in ER Rev. 3 Table 3.6-2 for ethylbenzene, heptachlor, tetrachloroethylene, and toluene may be inaccurate and unreliable. Accurate and reliable calculations of the concentrations of those chemicals in the wastewater are necessary so it might reasonably be concluded that those chemicals will not adversely impact the groundwater should they migrate from the Boulder Zone to the Upper Floridan Aquifer.[33]

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[27] See Petition at 7.

[28] See Petition at 7.

[29] See Petition at 7, 8.

[30] Compare Petition at 6 (Miami's Contention 1) with LBP-12-09, 75 NRC at 629 (Joint Intervenors' Contention 2.1).

[31] Petition at 6.

[32] See August 2012 Order at 7-10.

[33] August 2012 Order at 10.

As is evident from comparing Miami's Contention 1 with the May 2012 and August 2012 versions of Joint Intervenors' Contention 2.1, the contention Miami seeks to admit has been a part of this proceeding for more than three years. Miami does not endeavor to support its contention with any new information that is materially different from what has long been previously available. Indeed, Miami acknowledges that the DEIS makes the same assumptions related to geological isolation that FPL made in its ER.[34] We therefore deny admission of Contention 1 as untimely under all three elements of 10 C.F.R. § 2.309(c)(1).[35]

B. Contention 2

> The draft EIS is deficient because its evaluation of the operation of the radial collector wells does not preclude the possibility that the radial collector wells will change the plume dynamics of the Industrial Wastewater Facility/Cooling Canal contaminant plume.[36]

1. Miami's Position on Contention 2

Contention 2 alleges that the DEIS fails adequately to analyze the impact that operation of the Turkey Point radial collector wells will have on the contaminant plume that extends outwards from the industrial wastewater facility that serves Turkey Point Units 3 and 4.[37] To support Contention 2, Miami cites to (1) "data submitted by FPL as part of the application to the State of Florida for the Units 6 and 7 project," including aquifer performance testing conducted in April and May 2009 that reveals (a) "unusually high sulfate levels" indicating that the

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[34] Petition at 7.

[35] As discussed infra Part V, Miami will be permitted to participate in this proceeding as an interested local governmental body, and it will thus have the opportunity to support Joint Intervenors' already-admitted Contention 2.1 consistent with the provisions of 10 C.F.R. § 2.315(c).

[36] Petition at 8.

[37] Petition at 8. According to the DEIS, the radial collector wells pull water from the Biscayne aquifer to serve as an alternative water source for system cooling. DEIS at 2-26. The primary water source for cooling purposes would be reclaimed water from the Miami-Dade Water and Sewer Department. Id.

contaminant plume had directly entered the surface water;[38] and (b) "extraordinarily low groundwater levels" resulting from water uptake from surrounding aquifers into Turkey Point's industrial wastewater facility;[39] (2) "tracer data from the Uprate Monitoring;"[40] and (3) FPL's "proposed diver[sion] to the [industrial wastewater facility] [of] additional supplies of water from the Floridan Aquifer and the L-31 [canal]."[41] According to Miami, more of the plume will be recaptured by the wastewater facility, which will further increase the salinity of the Biscayne aquifer.[42] Ultimately, Miami contends, these concerns, along with the cumulative impact of operations at Turkey Point Units 6 and 7 and the uprated Turkey Point Units 3 and 4, are not adequately discussed in the DEIS discussion of radial collector wells.[43]

2. Board Ruling on Contention 2

We deny admission of Contention 2 as untimely under 10 C.F.R. § 2.309(c)(1) because Miami does not show that the contention is based upon new information that is materially different from that which was previously available. The aquifer testing data is clearly not new information, and FPL indicates that it has been available on ADAMS since at least 2011.[44] Likewise, the power uprate of Turkey Point Units 3 and 4 took place in 2012, and FPL indicates that the monitoring data referred to by Miami was collected between June 2010 and May

[38] Petition at 8.

[39] Petition at 8-9.

[40] Petition at 9. Although Miami's reference is not clear, the Board assumes that Miami is referring to the 2012 power uprate of Turkey Point Units 3 and 4.

[41] Petition at 10 n.3.

[42] Petition at 9.

[43] Petition at 9.

[44] See FPL Answer at 17. ADAMS is the acronym for "Agencywide Documents Access and Management System," which is the official recordkeeping system through which the NRC provides public access to documents related to the agency's regulatory activities.

2011.[45] Further, FPL's requested diversion of water from the L-31 canal, while more recent, still occurred on February 18, 2015, nearly two months prior to submittal of CASE's petition.[46]

More fundamentally, Contention 2 challenges the adequacy of the DEIS analysis of the radial collector wells without explaining how the information presented in the DEIS differs from what was previously available in FPL's ER. Miami provides nothing to suggest that Contention 2 could not have been filed in response to the NRC's original notice of opportunity to request a hearing in June 2010. Contention 2 is therefore inexcusably late under all three elements of section 2.309(c)(1).

Even if Miami had shown good cause for its belated filing of Contention 2, the Board deems the contention inadmissible because Miami does not (1) raise an issue material to the findings the NRC Staff must make, as required by 10 C.F.R. § 2.309(f)(1)(iv); (2) provide adequate support for the contention, as required by 10 C.F.R. § 2.309(f)(1)(v); or (3) demonstrate a genuine dispute with the DEIS, as required by 10 C.F.R. § 2.309(f)(1)(vi).

First, Contention 2 claims that the DEIS is deficient because it "does not preclude the possibility that the radial collector wells will change the [contaminant] plume dynamics."[47] Yet, Miami does not -- and cannot -- explain why, pursuant to NEPA standards, the DEIS must "preclude" the possibility of such a change in plume dynamics. It is well established that "NEPA itself does not mandate particular results, but simply prescribes the necessary process" that agencies must follow in evaluating environmental impacts.[48] So long as the DEIS takes a "hard look" at the environmental impacts arising from the licensing of Turkey Point Units 6 and 7,

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[45] See FPL Answer at 17 n.8.

[46] See Jenny Staletovich, [FPL] Spars with National Park Over Water Needs for Nuclear Plant, Miami Herald (Feb. 18, 2015) http://www.miamiherald.com/news/local/environment/article10655732.html. Regardless, Miami's reference to FPL's proposed water diversion is so cursory that it could hardly support admission of a contention pursuant to section 2.309(f)(1)(v)-(vi). See Petition at 10 n.3.

[47] Petition at 8.

[48] Robertson v. Methow Valley Citizens Council, 490 U.S. 332, 350 (1989).

nothing in NEPA requires the NRC Staff's analysis to "preclude" any particular environmental impact. Contention 2 thus fails to raise a material issue pursuant to 10 C.F.R. § 2.309(f)(1)(iv).

Second, Miami provides little by way of alleged facts or expert opinions to support its assertions in Contention 2. While Miami claims that the radial collector wells will impact bay salinity in various ways, it does not support these assertions with any documentary or expert opinion support. Rather, as the NRC Staff points out,[49] Miami merely avers that each assertion "is believed." This is not sufficient to satisfy the 10 C.F.R. § 2.309(f)(1)(v) requirement for specific references in support of a petitioner's contention.

Finally, assuming that Contention 2 intends to challenge the adequacy of the DEIS impacts analysis related to radial collector wells, rather than impose the substantive result described above, Miami fails to identify any specific inadequacies in the DEIS. Instead, Miami simply states that the impacts "should be evaluated more thoroughly"[50] and that the evaluation "is not adequate to address any of [Miami's] concerns."[51] This statement ignores the multiple places where the DEIS analyzes the impact that the radial collector wells may have on the contaminant plume.[52] Admittedly, Miami does specifically allege that the DEIS requires a "multi density hydrologic model with coupled surface and groundwater since, according to Appendix G of the [DEIS], the current groundwater model is inadequate."[53] This assertion, however, fails to acknowledge that because the NRC Staff found FPL's groundwater model to be inadequate, "[t]he NRC commissioned the U.S. Geological Survey (USGS), to conduct additional modeling to help identify the potential effects of [radial collector well] pumping."[54] Having failed to

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[49] NRC Staff Answer at 16.

[50] Petition at 8.

[51] Petition at 9.

[52] NRC Staff Answer at 14-15.

[53] Petition at 10.

[54] DEIS at G-26.

recognize the existence of this additional analysis in the DEIS, and in the absence of any more specific identification by Miami of allegedly deficient portions of the DEIS, we conclude that Contention 2 fails to demonstrate a genuine dispute with the DEIS, as required by 10 C.F.R. § 2.309(f)(1)(vi).

C. Contention 3

> Concerning the radial collector wells, Appendix G, page G-28, of the draft EIS states that "[t]he base case model predicted that 1.9 percent of the water extracted by the [radial collector wells] would come from the industrial wastewater facility. A 'worst' case of 3.3 percent of the extracted water coming from the industrial wastewater facility was predicted by cutting the vertical conductivity of all layers in half." This portion of the draft EIS is deficient because it does not address what percentage of water would come from under the [industrial wastewater facility]. Due to differences in vertical and horizontal transmissivity, it can be assumed that a greater quantity of water would come from deeper ground waters under the [industrial wastewater facility], including the hypersaline plume, than from the surface waters in the [industrial wastewater facility].[55]

1. Miami's Position on Contention 3

Contention 3 alleges that the DEIS is deficient because it fails to identify "the percentage of [radial collector well] water that could conceivably come from underneath the [industrial wastewater facility]."[56] In support of Contention 3, Miami claims that (1) FPL's groundwater model shows that intermittent operation of the radial collector wells could increase migration of hypersaline water into Biscayne Bay;[57] (2) the radial collector wells would draw more water from the contaminant plume underneath the industrial wastewater facility than from its surface water due to limitations on vertical transmissivity in the upper Biscayne Aquifer;[58] and (3) the density of the hypersaline water underneath the wastewater facility would in turn lead to greater demand on the freshwater aquifer.[59]

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[55] Petition at 10.

[56] Petition at 11.

[57] Petition at 10-11.

[58] Petition at 11.

[59] Petition at 11.

2. Board Ruling on Contention 3

We deny admission of Contention 3 as untimely under 10 C.F.R. § 2.309(c)(1)(i)-(iii) because Miami fails to show that the contention is based on materially different information from that which was previously available. Rather, the contention focuses solely on FPL's base case groundwater model, which has been available for years as a part of FPL's initial application. Had Contention 3 focused on some alleged deficiency in the NRC's commissioned USGS modeling, Miami might have been able to show the requisite good cause for filing a late contention. As it is, Contention 3 is grounded on information that long has been available and, therefore, it must be rejected as inexcusably late.

Even if Contention 3 were timely, the Board would deny its admission because Miami does not (1) raise an issue material to the findings the NRC Staff must make, as required by 10 C.F.R. § 2.309(f)(1)(iv); (2) provide adequate support for the contention, as required by 10 C.F.R. § 2.309(f)(1)(v); or (3) demonstrate a genuine dispute with the DEIS, as required by 10 C.F.R. § 2.309(f)(1)(vi).

First, Contention 3 fails to raise an issue material to the findings the NRC must make. Miami never explains why the DEIS must identify the percentage of radial collector well water drawn from underneath the industrial wastewater facility. Miami's failure to explain why this information is relevant, much less necessary, to the NRC's NEPA analysis renders the contention inadmissible pursuant to section 2.309(f)(1)(iv).

Second, Miami fails to provide alleged facts or expert opinion to support admission of Contention 3. Miami makes a number of assertions about how water of varying salinity and depth will react to the radial collector wells, but it does not provide any documentary or expert opinion to support its claims. Although the Commission has said that a licensing board may "appropriately view [p]etitioners' support for its contention in a light that is favorable to the [p]etitioner, it cannot do so by ignoring [the regulatory requirement] that all petitioners provide

. . . a statement of fact or expert opinion upon which they intend to rely."[60] Miami's failure to provide such supporting information mandates rejection of Contention 3 pursuant to section 2.309(f)(1)(v).

Third, Contention 3 fails to present a genuine dispute with the DEIS. Miami alleges that the DEIS discussion of radial collector wells is deficient, but it cites only to the portion of the discussion related to FPL's groundwater model. As stated earlier (supra text accompanying note 54), the NRC found FPL's model to be inadequate and commissioned additional modeling by the USGS. The DEIS contains extensive discussion of the USGS model,[61] none of which is addressed by Miami. Miami's failure to do so renders Contention 3 inadmissible pursuant to section 2.309(f)(1)(vi).

V. Participation as an Interested Local Governmental Body

Miami also requests that, should the Board deny admission of the proposed contentions, it be permitted to participate in this proceeding as an interested local governmental body pursuant to 10 C.F.R. § 2.315(c).[62] Neither FPL nor the NRC Staff opposes this request.

Section 2.315(c) instructs licensing boards to "afford an interested State, local governmental body (county, municipality or other subdivision), and Federally-recognized Indian Tribe that has not been admitted as a party under § 2.309, a reasonable opportunity to participate in a hearing." Due to Miami's close proximity to the proposed Turkey Point Units 6 and 7, and its clear interest in preserving the health and safety of its residents, we grant Miami's unopposed request to participate in this proceeding pursuant to 10 C.F.R. § 2.315(c).[63]

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[60] Arizona Public Service Co. (Palo Verde Nuclear Generating Station, Units 1, 2, and 3), CLI-91-12, 34 NRC 149, 155 (1991).

[61] See DEIS at G-30 to G-45.

[62] Petition at 12.

[63] As provided by section 2.315(c), at any hearing, the designated representative of an interested local governmental body will have the opportunity to "introduce evidence, interrogate witnesses where cross examination by the parties is permitted, advise the Commission without requiring the representative to take a position with respect to the issue, file proposed findings in

VI. Conclusion

For the foregoing reasons, the Board denies Miami's petition to intervene. The Board grants Miami's alternative request to participate in this proceeding as a local governmental body pursuant to 10 C.F.R. § 2.315(c).

Miami may file an appeal from this Memorandum and Order within twenty-five (25) days of service of this decision by filing a notice of appeal and an accompanying supporting brief pursuant to 10 C.F.R. § 2.311(b). Any party opposing an appeal may file a brief in opposition to the appeal. All briefs must conform to the requirements of 10 C.F.R. § 2.341(c)(3).

It is so ORDERED.

THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

_____
E. Roy Hawkens, Chairman
ADMINISTRATIVE JUDGE

/RA/

_____
Dr. Michael F. Kennedy
ADMINISTRATIVE JUDGE

/RA/

_____
Dr. William C. Burnett
ADMINISTRATIVE JUDGE

Rockville, Maryland
June 10, 2015

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those proceedings where findings are permitted, and petition for review by the Commission." 10 C.F.R. § 2.315(c).

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 **MEMORANDUM AND ORDER (Denying the City of Miami's Petition to Intervene, but Granting its Request to Participate as an Interested Local Government Body) (LBP-15-19)** have been served upon the following persons by Electronic Information Exchange, and by electronic mail as indicated by an asterisk.

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[Original signed by Clara Sola]
Office of the Secretary of the Commission

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