

December 22, 2015

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
)
FLORIDA POWER & LIGHT COMPANY) Docket Nos. 52-040 & 52-041
)
(Turkey Point Units 6 and 7))

NRC STAFF RESPONSE TO "JOINT INTERVENORS' MOTION FOR EXTENSION OF TIME
TO ANSWER FLORIDA POWER & LIGHT COMPANY'S MOTION FOR SUMMARY
DISPOSITION OF JOINT INTERVENORS' AMENDED CONTENTION 2.1"

Pursuant to 10 C.F.R. § 2.323 and the Atomic Safety and Licensing Board (Board) Orders dated March 30, 2011,¹ and December 18, 2015,² the staff of the U.S. Nuclear Regulatory Commission (Staff) hereby responds to the Southern Alliance for Clean Energy, National Parks Conservation Association, Dan Kipnis, and Mark Oncavage (collectively, Joint Intervenors) motion for an extension of time (Motion), dated December 18, 2015. The Joint Intervenors request a thirty (30) day extension of time to file an answer to the Florida Power & Light Company (FPL) December 15, 2015, Motion for Summary Disposition of Joint Intervenors' Amended Contention 2.1 (FPL Motion). For the reasons set forth below, the Staff opposes a thirty-day extension to the due date for answers to the FPL Motion, but does not oppose a twenty-one (21) day extension of that due date, to January 25, 2016, provided the Staff is authorized to file its answer on the same schedule.

¹ *Florida Power and Light Co.* (Turkey Point Units 6 and 7), Initial Scheduling Order and Administrative Directives (Mar. 30, 2011) (unpublished) (ML110890768).

² *Florida Power and Light Co.* (Turkey Point Units 6 and 7), Order (Establishing Deadline for FPL and the NRC Staff to Respond to Joint Intervenors' Motion for Extension of Time) (Dec. 18, 2015) (unpublished) (ML15352A210).

In regard to extensions of time, Commission regulations provide as follows:

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.

10 C.F.R. § 2.307(a). The Joint Intervenors assert two bases for good cause for an extension of the due date for their answer to the FPL Motion, namely, (1) the unavailability of their expert and (2) the volume of the exhibits. Motion at 1, 2. As discussed below, the Staff accepts the first basis as good cause for an extension, but not the second basis.

In regard to the first basis for good cause identified above, the Joint Intervenors indicate that their expert will not be available to assist them in preparing their answer to the FPL Motion until January 4, 2016. Motion at 2. Because 10 C.F.R. § 2.1205(b) affords a party twenty (20) days to file an answer to a motion for summary disposition, the Staff does not oppose a twenty-day extension, given the Joint Intervenors' need to consult with their expert on the technical issues discussed in the FPL Motion. Since a twenty-day extension would fall out on Sunday, January 24, 2016, the Staff does not oppose a twenty-one (21) day extension until January 25, 2016, provided the Board grants the same extension to the Staff.³

In regard to the Joint Intervenors' second asserted basis for good cause described above, namely, the length of the exhibits attached to the FPL Motion (Motion at 1), however, the Joint Intervenors have had ample time to review those exhibits, as explained below. Most importantly, FPL previously identified the documents included with the FPL Motion as Exhibits 1-6 in its September 11, 2015, supplemental disclosure letter in this proceeding.

³ The Staff itself considered requesting a seven (7) day extension to file its answer to the FPL Motion, given the upcoming Federal holidays and some staff members' planned time away from the office associated with these holidays. The Staff consulted with the parties, and neither FPL nor the Joint Intervenors objected to the proposed seven-day extension. The Staff, however, saw no need to file its own motion for an extension given FPL's willingness to agree to a reasonable extension in response to the Joint Intervenors' Motion.

Further, the Staff disclosed FPL Exhibit 8 (ADAMS Accession No. ML14336A337) in Staff Hearing File Update 45, dated January 8, 2015 (Index Item No. 45-4). In view of these disclosures, the Joint Intervenors have had over three months to consider Exhibits 1-6 to the FPL Motion, and over eleven months to consider Exhibit 8. Accordingly, the length of the exhibits do not warrant a thirty-day extension to the time for filing the Joint Intervenors' answer to the FPL Motion.

Finally, the Joint Intervenors assert that a thirty-day extension for filing their answer to the FPL Motion will not adversely affect FPL, the NRC Staff, or the Board. Motion at 3. The lack of prejudice to another party, however, does not establish the good cause required by § 2.307(a). Accordingly, Joint Intervenors do not establish good cause for a thirty-day extension through this argument.

In conclusion, the Staff does not object to a twenty-one day extension, until January 25, 2016, for the Joint Intervenors and the Staff to file their answers to the FPL Motion.

Respectfully submitted,

/Signed (electronically) by/
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Dated at Rockville, Maryland
this 22nd day of December, 2015

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CERTIFICATE OF SERVICE

I hereby certify that the "NRC STAFF RESPONSE TO 'JOINT INTERVENORS' MOTION FOR EXTENSION OF TIME TO ANSWER FLORIDA POWER & LIGHT COMPANY'S MOTION FOR SUMMARY DISPOSITION OF JOINT INTERVENORS' AMENDED CONTENTION 2.1" has been filed through the E-Filing system this 22nd day of December, 2015.

/Signed (electronically) by/

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Dated at Rockville, Maryland
this 22nd day of December, 2015