

NRC CENTRAL



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

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December 11, 1978

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Re: Florida Power & Light Company,
St. Lucie Plant, Unit No. 2, NRC
Docket No. 50-389A

Gentlemen:

I have been authorized by the parties to furnish you copies of agreements that Florida Power & Light Company, Florida Cities, the Department of Justice, and the Staff of the Nuclear Regulatory Commission have reached regarding discovery in this proceeding. These agreements represent a good faith effort on the part of the parties to resolve disputes regarding discovery. In those instances where the parties have failed to come to an understanding, objections to discovery requests will be filed with the Licensing Board on the designated date of December 11, 1978.

The opportunity granted by the Licensing Board to the parties to reach these agreements is most appreciated.

Yours truly,

Lee Scott Dewey
Lee Scott Dewey
Counsel for NRC Staff

cc: Service List

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M

MEMORANDUM OF UNDERSTANDING

Florida Power & Light Company, Florida Cities, the Regulatory Staff of the Nuclear Regulatory Commission and the Department of Justice have met a number of times to attempt to facilitate discovery in Florida Power & Light Co. (St. Lucie Plant, Unit No. 2), NRC Docket No. 50-389A. All parties have cooperated to clarify discovery requests, reduce burden and provide workable procedures for compliance therewith.

This memorandum is intended to set forth overall understandings achieved during those meetings. The parties agree that insofar as matters are covered herein this memorandum of understanding shall supersede conflicting provisions of any document request or set of interrogatories submitted by any party to this proceeding on or before October 31, 1978. In addition, notes of some of the item by item understandings are attached, also for reference purposes. The parties do not intend this memorandum (and its attachment) to be a formal agreement or stipulation, but rather intend it as a reference available for use by all parties. Should difficulties arise in the course of discovery proceedings, the parties intend to consult informally and attempt to resolve such difficulties without recourse to formal action. In the event that it is necessary to have some disagreement resolved by the Board, the parties intend that this memorandum be construed broadly and practically and not in a literal fashion.

The parties have agreed that meetings and discussions concerning these matters are to be privileged. They have agreed further that reference will not be made to original interrogatories and document requests or earlier drafts for interpretation. The purpose of this restriction is

to allow requests to be modified without prejudicing parties' positions.

The parties appreciate the time the Board has allowed them to discuss the discovery requests informally to attempt to resolve or compromise differences. They have made a good faith effort to do so. Nevertheless, in some instances agreement could not be reached and the parties must seek Board rulings.

The parties will file objections to interrogatories and requests for production by December 11, 1978, and will respond to objections no later than December 22, 1978. Subject to the approval of the Board, they agree that objections to discovery based upon relevancy, materiality, scope, etc., shall be made now. However, the parties recognize that many requests may call for documents (or groups of documents) that may be privileged or otherwise nondiscoverable under the Federal Rules of Civil Procedure. While the parties have attempted to alert each other informally to areas of possible concern, such objections may be deferred until time of production, so that they may be addressed in the context of specific documents rather than in the abstract. Parties claiming privilege as to particular documents shall list such documents and provide partial lists as promptly as possible and from time to time during the document production period. The parties shall confer prior to the date set for completion of document production about procedures for resolving disputes over claims of privilege, including the possibility of establishing procedures for review by a special master.

In the event of disagreement, it is the parties' intention that, unless raised now, general relevancy may not be raised as grounds for withholding documents or responses, but that the Board may take into account all factors that would otherwise be permissible under the Federal Rules of Civil Procedure and relevant law in determining a party's right to withhold. That is, to the extent the law of privilege (or other grounds for withholding) may provide for a balancing test weighing the need of the proponent of discovery for the document against the defender's interest in withholding which would also take into account the relevancy or importance of the document sought, parties are not precluded from making such assertion to allow application of an appropriate "balancing" test.

It is the parties' general understanding that rights and procedures established by the Federal Rules of Civil Procedure, Nuclear Regulatory Commission rules and generally applicable law should govern compliance with discovery requests. Except as stated above, it is the intent and understanding that compliance should be in accordance with these rules and no party by not specifically objecting to discovery requests now waives rights under them, including the right to seek a protective order or limitations on expert testimony. Nor do parties waive rights to seek general Board rulings narrowing the scope of the proceeding or determining substantive matters. Such rulings may, of course, eliminate the need for specific discovery requests not now objected to.

The parties have agreed generally that the party from whom discovery is requested shall provide copies to the other parties free of charge. However, in the event there is substantial disparity in the amount of copying, this agreement may be reviewed and revised. In particular, where it develops that a response involves supplying large volumes of largely technical material, it may be appropriate to require the discovering party(ies) to make a preliminary inspection of the document before copying, and, where after such inspection extensive production is still requested, special cost arrangements may be required. Subject to modification, parties will be provided copies as follows: Florida Power & Light Company - 4; Florida Cities - 3; NRC Staff - 1; Department of Justice - 1.

Except where otherwise provided, in order to allow for the current conduct of business, the parties agree that documentary production should not include documents created on or after November 1, 1978. However, parties are subject to obligations only under the standards of Section 2.740(e) of the NRC Rules of Procedure and the Federal Rules of Civil Procedure regarding supplementation of responses. The parties contest the date from which documents must be produced and this date must be set by the Board.

To the extent it is reasonable to do so, in supplying documents, the parties will identify documents to interrogatory requests, groups of requests, or subject matters, and will direct file searchers to particular types of documents.

The parties agree generally that the standards of the Federal Rules of Civil Procedure govern the form of their responses to requests. Where it will mitigate burden, Florida Cities intend to ask the requesting party to review files or groups of files for the specific documents sought, as Florida Cities believe is provided for in the Federal Rules of Civil Procedure. Florida Power & Light intends to comply with any such request if and to the extent it is obligated to do so under the Federal Rules of Civil Procedure.

The parties have not reached full agreement concerning their specific obligations with regard to methods of compliance. However, the parties agree to continue to negotiate as more practical experience is acquired.

No responding party is expected to prepare a list or index of documents produced.

Parties will cooperate in supplying each other with the names and locations of persons knowledgeable in appropriate subject matters or responsible for the development of facts or other relevant functions for the purposes of requesting depositions.

The parties recognize that some requested information, especially technical information, may not be available to or maintained by a party in the exact form specified in a request. In such circumstances, a party should respond to the request by providing information in the closest available form to that requested. The parties intend to cooperate in supplying reasonably available information supporting evidentiary studies, such as work papers and other backup documents, upon specific request.

It is understood that FP&L has already availed itself of access to files of certain Cities under the Florida Sunshine Law. In such cases, it is understood that FP&L and the Cities will cooperate in order to avoid redundant searches or production.

Where interrogatories call for expert opinions, or for responses from expert witnesses, no party is obligated to answer otherwise than as required by Rule 26 of the Federal Rules of Civil Procedure.

Parties need not refer to conversations with attorneys which are legally privileged. The parties have not yet reached agreement on the need or desirability to conduct a search of the files of outside attorneys (which term does not include city attorneys or in-house counsel). The parties will continue to discuss this matter. Where documents directly involve outside counsel, the withheld document may merely be listed with a reference to the attorney's name, without further identification. All other documents withheld must be listed in conformity with the instructions (although where there are a large number of similar documents, category descriptions may be used).

The requirements under Applicant's Interrogatories to Intervenor Florida Cities and Requests for Production of Documents numbers 23-27 shall be substituted for the provisions of the First Joint Request (Part B) and Florida Cities' Requests, Part II. Parties should supply documents concerning policies with regard to documents retention and full information where documents have been destroyed or otherwise altered, purposely or inadvertently, in connection with this litigation or in connection with

utility or antitrust matters that might be relevant to this or other actual or possible proceedings. However, these interrogatories or requests are not to be read literally to cover routine markings, use of documents in the course of business or destruction of scratch notes, drafts or the like that occurred as a matter of routine practice. They are meant to cover documents filed for further reference in the normal course of business and then destroyed or materially altered in part or in whole.

Unless otherwise agreed, where interrogatories call for reports on file with public agencies (e.g., the Federal Energy Regulatory Commission and the Florida Public Service Commission), parties will supply such reports from 1972 to the present. Where reports are difficult or impossible to locate, upon request parties will supply them for earlier time periods. Parties will attempt to facilitate location by other parties of public reports.

The parties need not produce any documents (including pleadings, and depositions and testimony and exhibits thereto) duly filed in the proceedings listed below. The parties will cooperate to make the filed documents available at a convenient location in Washington, D.C., for inspection and copying.

Gainesville Utility Dept. v. Florida Power and Light,
Civ. No. 76-1542

Florida Power & Light Co., FERC Docket Nos.
ER78-19 and ER78-81, et al.

Florida Power & Light Co., FERC Docket No. E-9574

Florida Power & Light Co., FERC Docket No. E-8008

Florida Power & Light Co., FERC Docket No. ER-76-211

Florida Power & Light Co., FERC Docket No. ER-77-549

Florida Power & Light Co., FERC Docket No. ER-77-550

Florida Power & Light Co., FERC Docket No. ER-77-516

Florida Power & Light Co., FERC Docket No. ER-77-175

The parties need not search any collections of newspaper or periodical clippings they may maintain but shall inform parties of their existence and make any such collections available on request. It is understood that parties will review any newspaper or periodical clippings contained in files that would otherwise be searched.

The overall intent of the parties is that in complying with interrogatories and document requests, they will act reasonably and in good faith.

All parties to the St. Lucie 2 proceeding hereby agree that answers or objections to the following interrogatories will be deferred and, following submission of responses to other interrogatories propounded on October 31, 1978, the parties will confer on mutually acceptable stages of discovery: (1) First Joint Request 87; (2) FP&L's First Request to Florida Cities # 142(b), 242, 294.

FIRST JOINT REQUEST OF THE NRC REGULATORY STAFF AND
INTERVENORS FOR INTERROGATORIES AND FOR PRODUCTION
OF DOCUMENTS BY APPLICANT

The parties have agreed among themselves that specific interrogatory items shall be modified as follows. Interrogatories not listed below remain outstanding as submitted to the parties on 31 October 1976.

10. Furnish copies of all reports, studies or investigations conducted by the Company or available to the Company since 1960 relating to the basis for constructing, operating, participating in, abandoning, or not constructing, not operating, or not participating in any nuclear unit, including all considered alternatives.

Reports and studies are understood to include any studies underlying final reports, including those rejected or abandoned at some stage prior to final publication, or any last or final consultant's or internal report regardless how labeled. Underlying data, working drafts and any other documents relating to the preparation of the described portions of such reports may be requested subsequently and Company shall not object to the production of such documents and/or data on the grounds that the request is made out of time if made within a reasonable time prior to trial, although Company preserves other objections. Any information requested in other interrogatories, which may also be backup to the reports shall be supplied in response to any other interrogatory which requires it.

11. Make available in Company's offices all reports and studies made, or in the process of being made, by or for Company as part of its environmental report to be submitted to the NRC for the St. Lucie 2 or

South Dade Units which pertain to: (1) economic and social effects of plant construction and operation and, in particular, all internal project costs, to include capital investment costs, allowances for funds to be used during construction, operating costs, decommissioning costs and total costs of generated power and (2) evaluation of alternative energy sources including fuel availability and sites. If the environmental reports and studies have not been finalized, they should be supplied in whatever form they may be at the time.

Reports and studies are understood to include any studies underlying final reports, including those rejected or abandoned at some stage prior to final publication, or any last or final consultant's or internal report regardless how labeled. Underlying data, working drafts and any other documents relating to the preparation of the described portions of such reports may be requested subsequently and Company shall not object to the production of such documents and/or data on the grounds that the request is made out of time if made within a reasonable time prior to trial, although Company preserves other objections. Any information requested in other interrogatories, which may also be backup to the reports shall be supplied in response to any other interrogatory which requires it.

57. Furnish copies of all documents which discuss or describe Company's considerations of its commercial and industrial rates or of the effect on wholesale or retail competition between FP&L and other electric utilities when setting rates for wholesale for resale customers.

Does the Company use different methods in setting rates for wholesale customers? If so, explain these differences and the reasons therefor.. Identify all individuals with knowledge of the development of the Company's position on this matter.

58. Furnish copies of all documents since January 1, 1965 relating to Company's consideration of and activities with respect to the following proposed state or federal legislation (including local ordinances and constitutional amendments) whether or not enacted:

- (1) Documents relating to legislation which could hinder or prevent utilities from building their own electric utilities, from obtaining financing, or from doing business with and coordinating activities (such as entering into joint ventures) with other electric utilities.
- (2) Documents pertaining to possible legislation designed to alter the tax status or regulatory status of municipally-owned or cooperatively-owned utilities in the state of Florida.
- (3) Documents related to legislation effecting the price, supply, or availability of natural gas.
- (4) Documents related to legislation pertaining to the conversion of utility plants to alternative fuels (e.g., coal).
- (5) Documents related to Company's legislative activities with respect to the Department of Energy Organization Act.
- (6) Documents related to Company's legislative activities with respect to Powerplant and Industrial Fuel Use Act of 1978,

the Energy Tax Act of 1978, the Public Utility Regulatory Policies Act of 1978, the National Energy Conservation Policy Act, and the Energy Tax Act of 1978.

- (7) Documents related to the Florida "Grid" legislation.
- (8) Documents related to Company's legislative activities relating to nuclear power plant licensing.
- (9) Documents related to Company's legislative efforts to define or alter federal, state or local jurisdiction over electric utilities.

64. Addendum to number 64: Company has not committed itself to furnishing the other parties copies of its federal, state and local tax returns. It is agreed that the discovering parties will first utilize published reports to obtain the desired information and that, where information cannot be obtained from the reports, FPL will respond to reasonable and specific requests for particular data. In the event that this procedure proves unsatisfactory to the discovering parties, it is understood that they may renew their requests for tax returns and that FPL will not object to such request on grounds of untimeliness, but may resist the request on any other ground including relevance.

67. State all reasons for the cancellation of the South Dade Nuclear Units. Supply all documents relating to (1) the decision to construct the South Dade Units, (2) the decision to abandon the project, and (3) any alternatives considered by the Company to cancellation, including possible joint participation by others in the South Dade Units.



68. Does Company contend that nuclear generation is not an essential resource in the State of Florida? If so, what is the basis and reasons for such a contention?

71. Addendum to number 71: It is understood that FP&L may state reports are accurate to the best of its knowledge during the time period under consideration, subject to known errors or corrections, but Company is not required to update such reports to conform to present knowledge.

72. Same understanding as to Interrogatory No. 71 addendum, above.

79. a) Excluding invoices and billing data, furnish all documents relating to the Company's purchase of natural gas including but not limited to contracts with Florida Gas Transmission and its gas suppliers, all correspondence relating to gas supply and availability, warranty contracts, price by years since service began delivery under the T-2 and T-3 contracts, and monthly invoices for gas supply in each of the months beginning in October, 1973.

88. Supply all documents relating to the formation, organization, and bulk power supply activities of the Florida Municipal Utilities Association or the Florida Municipal Power Agency.

NOTE: As to the above modified paragraphs, Florida Power and Light reserves all objections.

APPLICANT'S INTERROGATORIES TO INTERVENOR FLG..IDA
CITIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

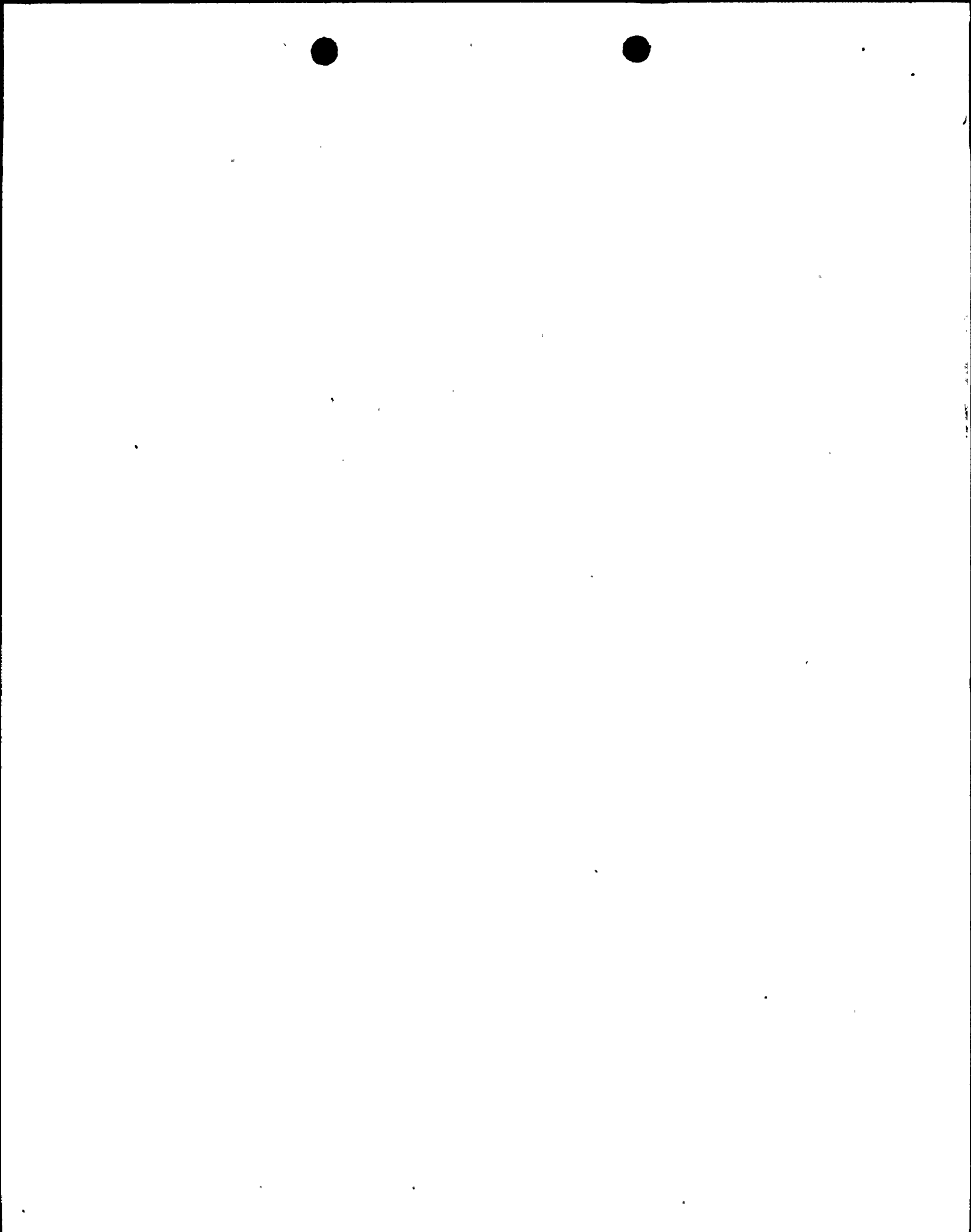
Applicant and Florida Cities have agreed that specific interrogatory items shall be modified as follows. Interrogatories not listed below remain outstanding as submitted to the parties on October 31, 1978.

Int. #1-#8. These interrogatories are intended in part to identify potential deponents and may be interpreted accordingly. For example, strictly interpreted some one of these interrogatories might require identification of all of a City's line foremen in response, although the interrogatory was not intended to be so broad in scope. Such interrogatories may be answered with areas of responsibility, and should be answered for the current period only.

Int. #12(a). Insert "by designation of the City" after "any official."

Int. #28. This interrogatory is deleted from Company's request.

Int. #29. Documents responsive to this request shall be supplied for the period 1 January 1970 to the present. Financial reports for periods prior to 1970 shall be supplied if Company is unable to obtain them from the Federal Power Commission or other commission, despite reasonable efforts to do so.



Int. #31. It is understood that data responsive to this interrogatory will be provided to the extent it is available.

Int. #32. Limited to the period 1970 to date.

Int. #33. Limited to the period 1970 to date, furnish copies of all public reports, published writings or published notices of any type containing operating, load or capacity statistics for the system.

It is not intended that Interrogatories 32 and 33 require a general file search in response.

Int. #34(h) (5) all documents relating to the agreements and arrangements fixing terms and conditions under which power is, was, or will be at any time during the designated period supplied to the system by each such source. It is understood that data responsive to this interrogatory will be provided to the extent it is available.

Int. #35(b). It is understood that critiques of studies and other significant documents are herein requested, not filing cabinets of routine papers.

Int. #37. Furnish maps or sketches of present system facilities and of system facilities at year-end, 1970 (or the nearest date thereto for which they are available), and at the end of the first year of the designated period (should the designated period commence earlier than 1970), which show the geographic location of the City's power plants, principal substations, power lines, all connections and transfer points with other systems, and the boundary line of the service area together with the communities therein supplied with electric energy.

Int. #40(a) and (b) Documents responsive to this interrogatory shall be supplied dating from 1 January 1970. It is understood that files searched in response to this interrogatory will be limited to files which relate to the City's utility system.

Int. #42-#46. Company is alerted that some individual documents otherwise responsive to these interrogatories may be subject to claims of privilege. To the extent data responsive to Interrogatories No. 45 and No. 46 is not already compiled, estimates or approximations may be provided where practicable or where such

is not practicable, Company may be directed to raw data from which it would be able to derive the required information.

In responding to these questions, the system may select ten representative large customers without making an exact determination as to which are the ten largest such customers.

Int. #44. It is not intended that this request include every financial report that may mention municipal ownership, but seeks production of documents specifically directed to the subject matter of the interrogatory.

Int. #47. Documents responsive to this interrogatory shall be supplied for the period 1 January 1970 to the present. It is understood that agreements, contracts and other documents responsive to this request prior to 1970 shall, if not publicly available, be supplied to Company upon specific request.

Int. #48(a). This interrogatory is understood to be limited to any special power supply arrangements that may exist between the system and any of its customers.

Int. #49(b) and (c). It is understood that to the extent data responsive to this interrogatory is reasonably available it will be provided. Company is aware that such availability is likely to vary from system to system.

Int. #54(b). State or provide copies of documents indicating the effect on revenues in dollar and/or percentage terms of all rate changes identified in your answer to

subsection (a) of this interrogatory.

Int. #55(a). State whether, as a result of competitive considerations, during the period 1970 to date the system has proposed, or discussed the possibility of proposing to any single actual or potential customer, or special group of such customers, any electric rate schedule, tariff, rate contract or agreement, conditions and terms of service or any other statement of rates other than those furnished in response to Interrogatories 48 and 49.

(b) Describe or provide copies of any documents relating to such proposals

Int. #58. Company has been alerted that availability of data responsive to this interrogatory may vary from system to system.

Int. #59. Provide actual bills rendered to five representative large industrial and five representative large commercial customers (as determined now) for each month during the period 1970 to date.

Int. #66. Provide copies of all transcriptions, meeting notes, memoranda, or other documents relating to all meetings during the designated period of any city council, commission or authority at which power supply, relations with other utilities, or electric competition was discussed. It is understood that this request is intended specifically to



cover backup memoranda and notes associated with preparation for and reporting of such meetings (as well as minutes of such meetings), and that such documents are likely, as a matter of course, to be located primarily in the offices of the electric utilities and their governing authorities (including city commissions as well as utility boards). It is agreed that files and/or offices where such documents would not reasonably be expected to be located (e.g., fire department files) will not be searched. In addition, this interrogatory requires documents related only to the subject matter described above and not to extraneous matters discussed at the same meetings.

Int. #70. 1/ The phrase "Do you contend" as used herein is understood to mean "Is it your position that." Such "positions" are not necessarily limited to positions set forth in Florida Cities' joint petition to intervene.

Int. #79. Company is alerted to the possibility that various of the Cities may claim as confidential information and documents relating to current negotiations, which documents might otherwise be responsive to this interrogatory. It is understood that routine communications regarding power exchanges pursuant to outstanding arrangements need not be identified.

Int. #84. It is understood that communications relating to reserve sharing and transmission line use (other than joint ownership) are not contemplated by this question.

1/ The understanding with respect to "contend" as used herein applies to other similarly phrased interrogatories included in this request.

Int. #97(a). Limited to period 1970 to date.

Int. #102(e) whether such study, investigation or evaluation produced or resulted in any written documents (including, but not limited to, final reports and including interim or preliminary reports and partial reports where there are no final reports).

Ints. #108(b), 168, 188. Cities and FP&L will seek to resolve these items through further discussion, and shall resolve them or present any outstanding dispute to the Board within 45 days.

Int. #136. Company is alerted that because of current litigation with Florida Gas Transmission Company, an effort may be made to withhold information and documents otherwise responsive to this interrogatory.

Int. #142(c). Company is alerted that because of current litigation with Florida Gas Transmission Company an effort may be made to withhold information and documents otherwise responsive to this interrogatory as confidential.

Ints. #142B, 242, 294. Cities may defer answering these requests.

Int. #162.(a). Describe specifically the nature and extent of all competition for retail sales and/or customers that is now taking place, or has in the past taken place, or both, between the City and any other party.

(b) Identify the specific sales and/or customers (or groups) involved in each such instance, including in such identification the type of customer and/or sale involved (i.e., residential,

industrial user, etc.) and the rate schedule applied (or proposed to be applied) by the City to such sale and/or customer. It is understood that data responsive to this interrogatory may be limited to groups of customers or areas and to situations in which a "reasonable possibility" of competition exists. Information shall be supplied for the period 1960 to the present.

Int. #172. Company is alerted that an effort may be made by various of the Cities to withhold documents requested herein as privileged.

Int. #181(a). Regulation as used herein means the City's power or jurisdiction over the operations of any other electric utility.

Int. #185. It is understood that the "consideration" for which information is sought (a) is by "policy" officials (b) represents something more than the uncommunicated thoughts of an individual official. Cities reserve the right to object to 185.

Int. #242. Explain the basis for your contention that each type of alleged "tying arrangement" is inconsistent with some provision(s) of the antitrust laws.

Int. #246. Define "statewide market for wholesale bulk power supply services" as used on page 54 of the Joint Petition. Include a specific description of all types of transactions which are included within this market.

Int. #299-300. FP&L has agreed to delete these requests.

FLORIDA CITIES' INITIAL INTERROGATORIES
AND REQUEST FOR PRODUCTION OF DOCUMENTS BY APPLICANT

Applicant and Florida Cities have agreed that specific interrogatory items shall be modified as follows. Interrogatories not listed below remain outstanding as submitted on 31 October 1978.

13. It is understood that the documents requested shall be those relating to estimating factors utilized by Company for present (i.e., since 1 January 1978) generation, transmission, and ancillary substation facilities.

15. Cities propose to delete 15 and join in joint request 88, as revised.

20. Cities propose that:

(a) the request be reworded as restated in the October 6, 1978 memorandum of understanding

(b) Items "a" and "f" are withdrawn as per the Board's prior ruling.

(c) Item "g" be renumbered as "20A" and stated as follows:

delete the language beginning "with respect to matters affecting a wholesale customer . . ." and insert "which were intended to, or would tend towards, (a) inducing customers to purchase electricity from FP&L rather than from some other electric utility, (b) informing or advising customers and/or citizens of the desirability and merit of creating or continuing with an electric system owned and/or operated by FP&L as opposed to allowing or permitting another electric utility to provide electric service within the municipal corporate limits and (c) inducing electric customers to increase, reduce or modify in any other way the pattern of their electric consumption."

FP&L reserves the right to object to the above.

21. Furnish copies of all documents since 1955, including minutes of meetings of the Board of Directors and the executive committee of Company, documents prepared in advance of meetings (e.g., agenda, memoranda in summary of critique of plans, costs, proposals or status of negotiations), and letters and memoranda to or from Company officers relating to:

(a) interconnection plans, proposals or agreements with other electric utilities;

- (b) recommendations, formulation of policy, development of alternative plans, seeking of opinions, and decisions concerning beginning, continuing, delaying, or abandoning expansions of or additions to generation capacity or transmission system, whether capacity or energy is owned, used, or shared on any basis by Company;
- (c) competition at wholesale and retail;
- (d) acquisitions by Company of electric utility properties and proposals for such acquisition or invitations to purchase electric utility properties;
- (e) legislation and constitutional revision directly related to the ability of electric utilities to own, finance, or construct facilities and to sell electricity;
- (g) elections in any municipality operating an electric distribution system or proposing to do so;
- (h) consideration of the request of Florida Cities to participate, through ownership of an entitlement share or otherwise, in the present or planned units.

Applicant reserves the right to object to the above.

- 30. Furnish copies of all correspondence, memoranda and other documents relating to the development of any agreements or arrangements for permanent interconnections now existing between Company and other electric utilities. It is understood that all documents, including, but not limited to, back-up, engineering and other technical data, relating to the interconnection between Company and New Smyrna Beach shall be supplied. It is further understood that should Florida Cities subsequently (but within 90 days after the date on which production is completed) request such back-up documentation relating to permanent interconnections between Company and other specified electric utilities, Company will not object to production of such documentation on grounds that the request is out of time, although Company may object on any other grounds.
- 33. It is agreed that supply by Company of a statement setting forth Company's best approximation of capitalization ratios and total capital in dollars for the years 1976 through 1985 will satisfy this request. Company agrees that any other party may use the estimates provided by Company in the preparation of studies and that Company will not question the accuracy of such estimates.
- 34. Cities propose to amend this interrogatory as follows:

"State whether Company has attempted to obtain for itself (a) subsidies, (b) exemptions, (c) waivers, (d) loans or construction funds, (e) or other favorable action by any agency, political subdivision or instrumentality of federal, state or local governments, benefiting Company, including but not limited to actions relating to (1) generating projects and (2) transmission line construction or relocation. Answer for each item; briefly describe Company's attempts relating to each item, including whether Company has been successful.

"State whether Company has attempted to obtain for itself exemptions, waivers or other favorable action by any agency, political subdivision or instrumentality of federal, state or local governments, benefiting Company, relating to:

- (3) air or water pollution control;
- (4) tax rulings;
- (5) tax legislation or regulations thereunder;
- (6) federal or state regulatory legislation pertaining to electric utilities, including but not limited to amendments to the Federal Power Act, the Atomic Energy Act and Florida statutes, including but not limited to:
 - (i) bills affecting the jurisdiction or organization of any governmental agency charged with licensing, supervising, or regulating Company's facilities, rates, or services,
 - (ii) bills affecting the ability of municipal or cooperative systems to acquire or own facilities, rates or services."

"Briefly describe Company's attempts relating to each item and state whether Company has been successful."

"Furnish copies of documents relating to Item (6) above."

"Furnish copies of tax requests and rulings (state or federal) and official statements concerning air and water pollution control." Applicant does not agree that this is an appropriate interrogatory even as restated.

35. It is understood that this interrogatory will be substantially complied with by Applicant's providing to Florida Cities, to the extent it is reasonably available, specific data they need to develop specific costing, operating studies and the like, for which such data is required.

39. At the end of the first sentence add "for the sale or exchange of electric power"

41a. at the second line change "did officials" to "did any official(s)"

48. Restate as:

Do any of the Company's retail customers possess any cogeneration facilities or other facilities (other than emergency or backup) which would permit them to supplement purchases from FP&L with self-generated power? If so, please identify the customers and the capability.

52. Furnish copies of documents developed by or for the Company describing the prospect for attracting commercial and industrial customers to Company's service area or the service area of any other utility.

65. Cities propose restating as:

With regard to the letter attached hereto as Appendix D, please (a) provide all documents relating to the Company's consideration of the letter (b) provide all documents, from the date of FP&L's receipt of the letter to the present, relating to the matters contained in the letter.

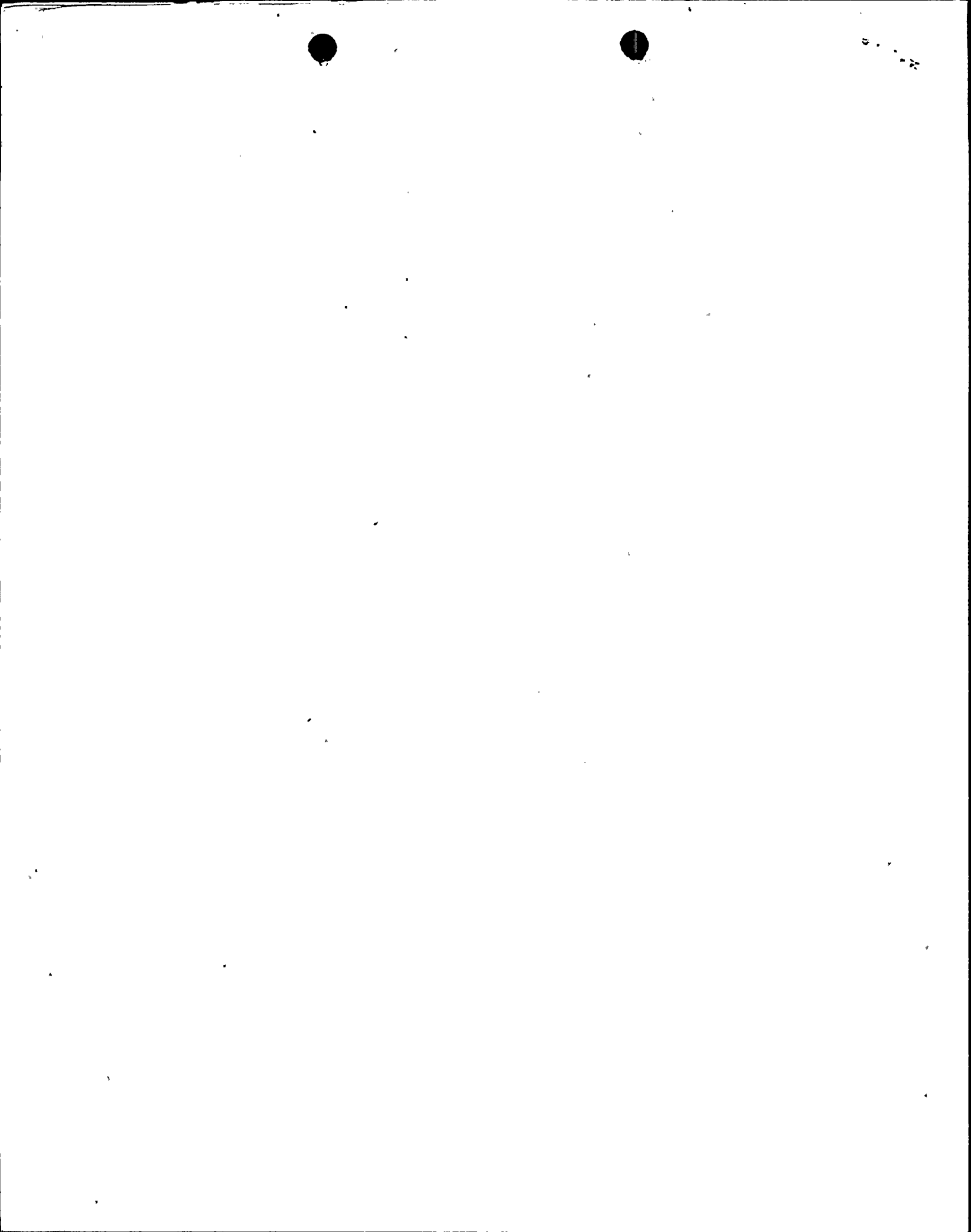
Applicant does not agree to the above as stated.

66. Restate as in "65" above but with reference to Appendix E.

Applicant does not agree to the above as stated.

67. at the second line insert "by the government" after "antitrust review"

74. change "productions pipeline" to "products pipeline"



UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

12/12/78

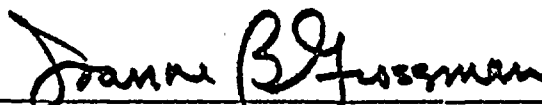
FLORIDA POWER & LIGHT COMPANY)
(St. Lucie Plant, Unit No. 2)) Docket No. 50-389A

NOTICE OF APPEARANCE

Notice is hereby given that the undersigned attorney herewith enters an appearance in the captioned matter. In accordance with § 2.713 of the Commission's Rules of Practice, the following information is provided:

Name: Joanne B. Grossman
Address: Covington & Burling
888 Sixteenth Street, N.W.
Washington, D.C. 20006
Telephone Number: (202) 452-6414
Admission: District of Columbia Court of Appeals
Supreme Court of California
Name of Party: Florida Power & Light Company
P.O. Box 529100
Miami, Florida 33152

Respectfully submitted,



Joanne B. Grossman
Counsel for
Florida Power & Light Company

December 8, 1978

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of:)
) Docket No. 50-389A
Florida Power & Light Company)
(St. Lucie Plant, Unit No. 2)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the following:

NOTICE OF APPEARANCE

have been served on the persons shown on the attached list by deposit in the United States Mail, properly stamped and addressed on December 8, 1978.

Joanne B. Grossman
Covington & Burling
888 Sixteenth Street, N.W. ..
Washington, D.C. 20006

Counsel for Florida Power &
Light Company

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
) Docket No. 50-389A
FLORIDA POWER & LIGHT COMPANY)
(St. Lucie Plant, Unit No. 2))

SERVICE LIST

Ivan W. Smith, Esq. Chairman, Atomic Safety and Licensing Board U.S. Nuclear Regulatory Commission Washington, D.C. 20555	Melvin G. Berger, Esq. Mildred Calhoun, Esq. Antitrust Division Department of Justice 1101 Pennsylvania Avenue, N.W. Washington, D.C. 20530
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Robert M. Lazo, Esq. Atomic Safety and Licensing Board U.S. Nuclear Regulatory Commission Washington, D.C. 20555	Jerome Saltzman Chief, Antitrust & Indemnity Group U.S. Nuclear Regulatory Commission Washington, D.C. 20555
Docketing and Service Section Office of the Secretary U.S. Nuclear Regulatory Commission Washington, D.C. 20555	Mr. Robert E. Bathen R.W. Beck & Associates Post Office Box 6817 Orlando, Florida 32803
Joseph Rutberg, Esq. Lee Scott Dewey, Esq. Frederick D. Chanania, Esq. David J. Evans, Esq. Office of Executive Legal Director U.S. Nuclear Regulatory Commission Washington, D.C. 20555	Dr. John W. Wilson Wilson & Associates 2600 Virginia Avenue, N.W. Washington, D.C. 20037

LAW OFFICES

LOWENSTEIN, NEWMAN, REIS, AXELRAD & TOLL

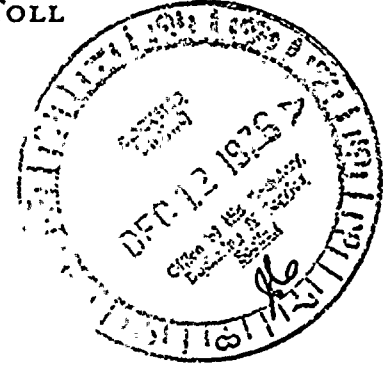
1025 CONNECTICUT AVENUE, N.W.

WASHINGTON, D. C. 20036

202 862-8400

12/8/78

December 8, 1978



ROBERT LOWENSTEIN
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JOEL S. WIGHT (ADM. CALIF)

Ivan W. Smith, Esquire
Chairman, Atomic Safety and
Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Re: Florida Power & Light Company,
St. Lucie Plant, Unit No. 2
Docket No. 50-389A

Dear Chairman Smith:

This is to confirm the telephone call which I made to you yesterday with the knowledge and consent of all counsel in this proceeding. The parties have agreed to serve objections to discovery requests by hand on December 11, 1978 instead of serving such objections by mail on December 8, 1978. The December 22, 1978 date for responses to objections will not be affected by this agreement. I informed you of this agreement by telephone yesterday, and, on behalf of all parties, requested your approval. Upon receiving such approval, I informed all other counsel by telephone of your action.

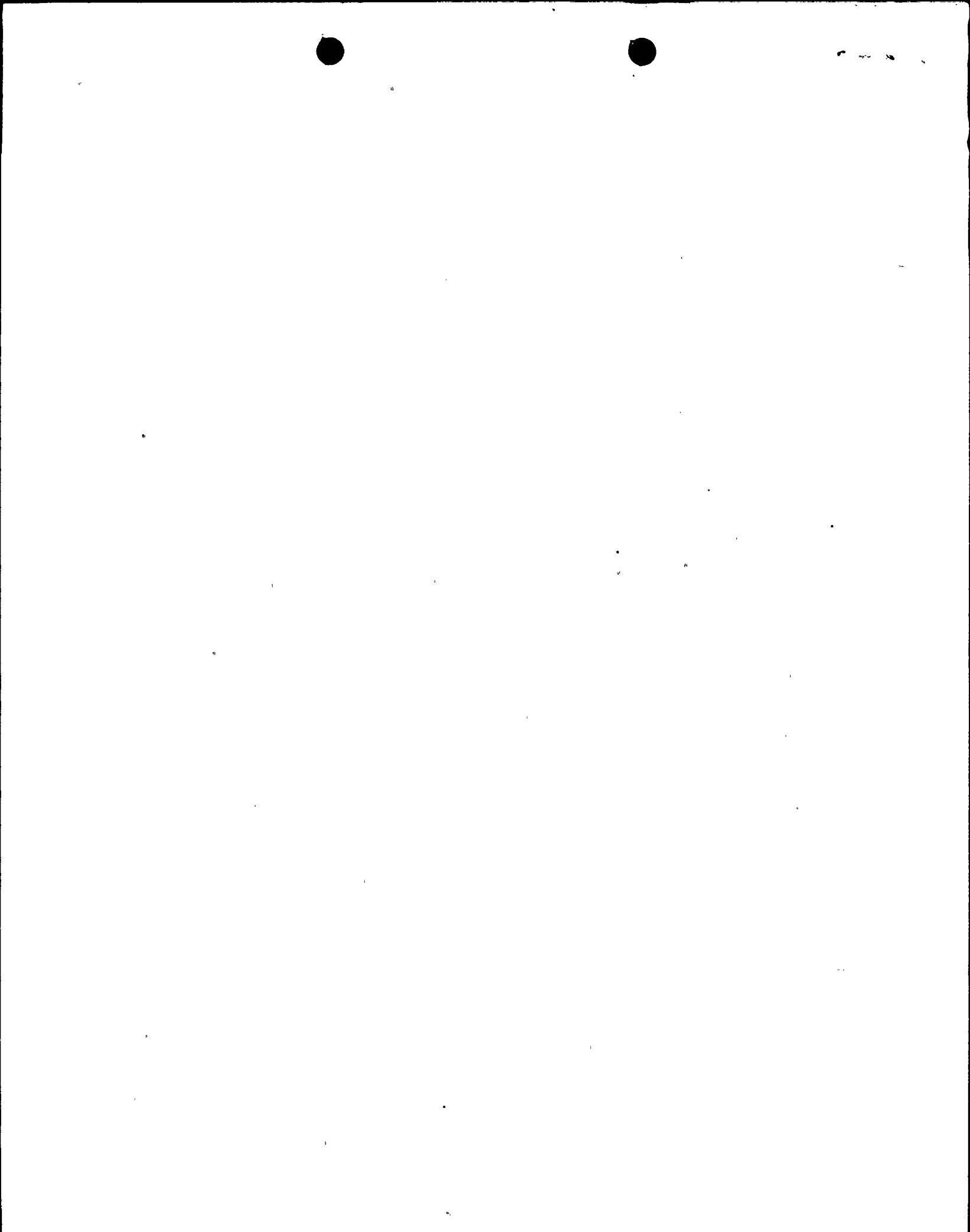
Respectfully submitted,

J.A. Bouknight, Jr.
J.A. Bouknight, Jr.

Attorney for Florida Power & Light
Company

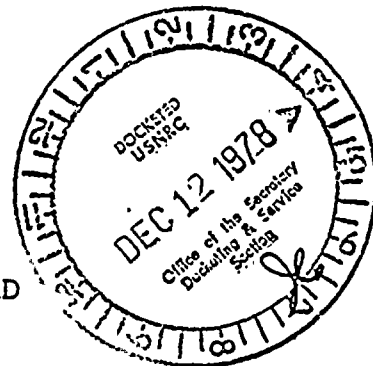
JAB/ar

cc: Attached Service List



UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD



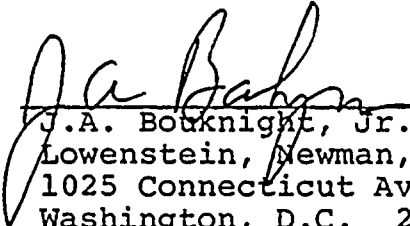
In the Matter of)
)
Florida Power & Light Company) Docket No. 50-389A
(St. Lucie Plant, Unit No. 2))

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the following:

Letter to Chairman Smith from J.A. Bouknight, Jr.
dated December 8, 1978

has been served on the persons shown on the attached list, by
hand delivery * or deposit in the United States mail, properly
stamped and addressed on December 8, 1978.



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