

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Florida Power & Light Company)
(St. Lucie Unit No. 1))

Docket No. 50-389A

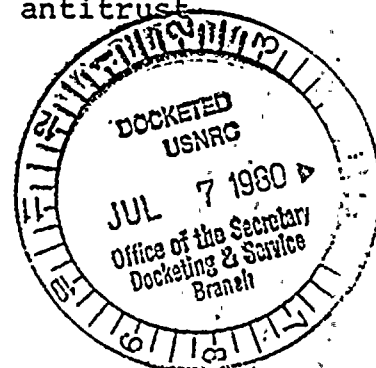
COMMENTS OF FLORIDA CITIES
CONCERNING NOTICE OF WITHDRAWAL OF INTERVENTION
BY ORLANDO UTILITIES

Orlando has filed a "Notice of Withdrawal of Intervention" in this docket.

Florida Cities believe that as a procedural matter, a motion would be necessary for Orlando to withdraw. In that manner, the Board can assure that settlements are in fact in the "public interest" (see Regulations, Section 2.759) and can deal with ancillary matters relating to approval of the settlement. However, settlements are encouraged and Florida Cities have no objection to approval of the Orlando-FP&L settlement. Both parties have reached agreement and no public interest would be served by refusing to implement it.

So that their position is clear, Florida Cities would add, however, that to the extent Orlando receives rights, the public interest would require that other intervening cities be given similar opportunities and, further, that they have an opportunity to obtain better terms than granted by the Orlando settlement, as may be necessary in the "public interest". Section 105(c)(6) of the Atomic Energy Act, 42 U.S.C. §2135(c)(6) provides that where a "situation inconsistent" is found, license conditions may attach in the "public interest". Further, both the antitrust

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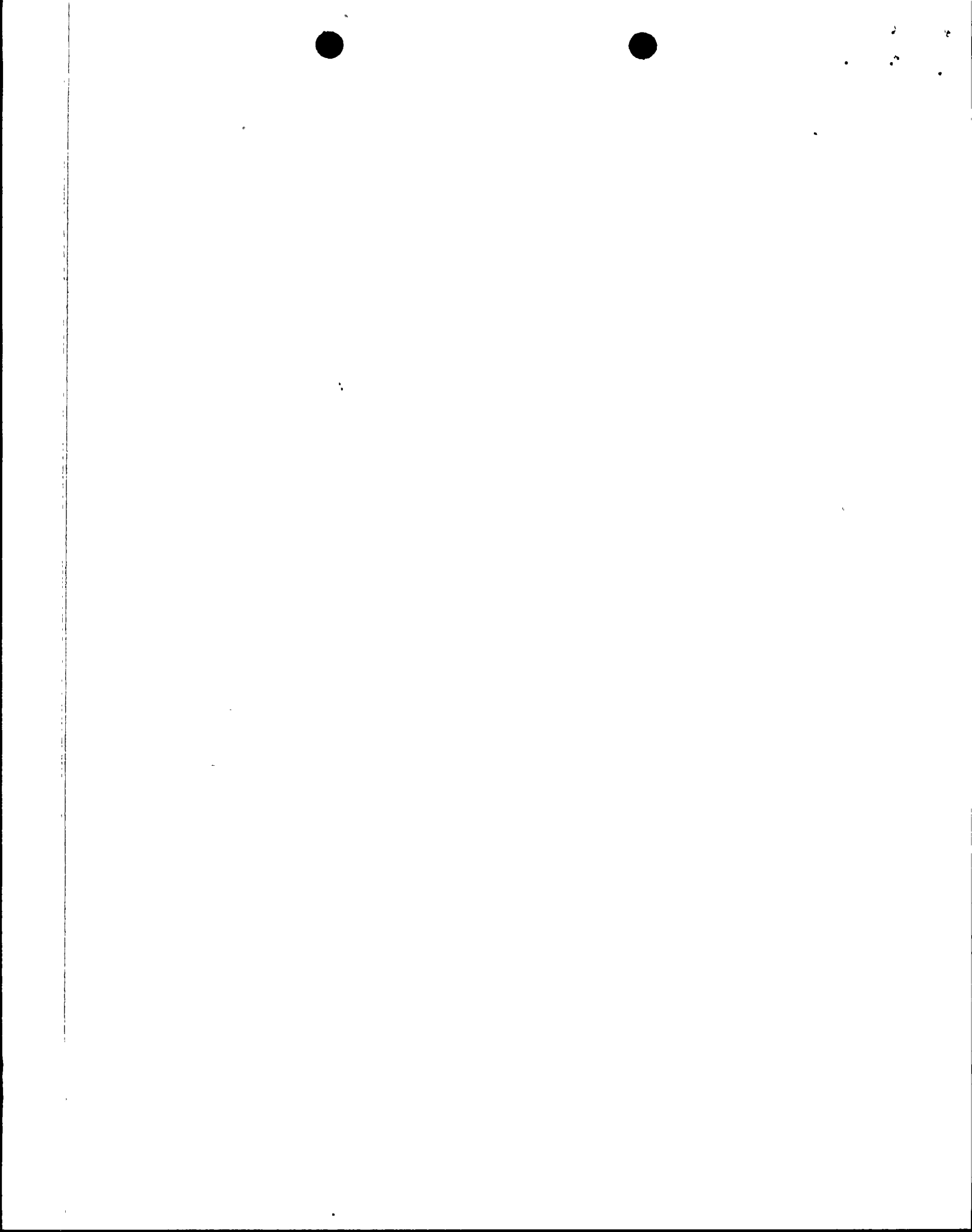




laws and utility regulation prohibit undue discrimination on the part of a utility possessing control of essential facilities, such as Florida Power & Light. See Associated Press v. United States, 326 U.S. 1 (1945); Otter Tail Power Co. v. United States, 410 U.S. 366 (1973); Federal Power Act, Sections 205, 206, 16 U.S.C. §824(d), (e). Absent justification, the Board cannot appropriately permit some utilities to obtain nuclear access and ancillary rights without similar opportunities being made available to all. In so stating, Florida Cities do not mean that the Orlando settlement should be rejected, since it was entered into voluntarily between the parties, but rather that the settlement (which is a contract) may create at least equivalent rights for other intervenors.

At this point, neither Orlando nor FPL has requested that the Board formally approve their settlement. Further, it is Florida Cities' understanding that Florida Power & Light, the Department of Justice and the NRC staff have been negotiating a proposed settlement, which may provide for additional relief. 1/

1/ Based upon the information concerning this settlement that has been available to them, Florida Cities do not believe that they will be able to accept or endorse this settlement.



Before any final action is taken that would foreclose them from arguing to the Board that they are entitled to rights similar to those contained in the Orlando settlement, and other relief as may be appropriate, Florida Cities request the establishment of procedures so that they may be heard as to these issues.

Respectfully submitted

Robert A. Jablon
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July 7, 1980

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NUCLEAR REGULATORY COMMISSION

Florida Power & Light Company)
(St. Lucie Unit No. 1))

Docket No. 50-389A

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing were served on the following by deposit in the United States mail, first class, postage prepaid, this 7th day of July, 1980:

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Florida Power & Light Company)
(St. Lucie Unit No. 2))

Docket No. 50-339A

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing were served on the following by deposit in the United States mail, first class, postage prepaid, this 10th day of September, 1980:

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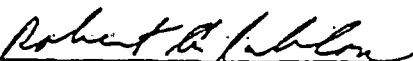
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