5/15/81

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 Unit No. 2)	)	

RESPONSE OF FLORIDA POWER & LIGHT COMPANY TO MOTION OF PARSONS & WHITTEMORE, INC. AND RESOURCES RECOVERY (DADE COUNTY), INC. FOR EXTENSION OF TIME TO RESPOND TO FLORIDA POWER & LIGHT COMPANY'S APPLICATION FOR ISSUANCE OF SUBPOENA

Florida Power & Light Company (FPL) responds, pursuant to 10 CFR §2.730(c), to the "Motion of Parsons & Whittemore, Inc, and Resources Recovery (Dade County), Inc. for Extension of Time to Respond to Florida Power & Light Company's Application for Issuance of Subpoenas", files on May 13, 1981. FPL opposes the Motion.

The reasons for FPL's opposition to the Motion are set forth in the letter of May 13, 1981, to Chairman Smith from Douglas G. Green, counsel for FPL. In summary, it is FPL's position that the subpoenas should issue forthwith and any objection that Movants wish to raise can be put forward in the form of a motion for protective order filed pursuant to 10 CFR §2.740(c). If any such motion for protective order is requested, FPL intends to request that the dispute be resolved on an expedited basis.

The Motion states no substantive ground for delay of

action on FPL's application for issue of subpoenas. Movants' petition for intervention purports to allege both an interest in the subject matter in this proceeding and a situation inconsistent with the antitrust laws which affects that interest. Both assertions are grounded on the claim that Movants are lawfully in control of a qualifying small power production facility. Information that this claim lacks basis in fact is hardly extraneous or irrelevant to the issue before the Board. Moreover, the asserted need for time "to formulate a coordinated response" to FPL's position on the merits of the "contractual dispute" (Motion, p.2) is not a valid ground for delaying issuance of the subpoenas. Petitioners assert that they need time to do the "factual and legal research necessary to meet these new issues". All that FPL has requested is the opportunity for equal access to the underlying facts. FPL urges that it be granted access to the facts surrounding this matter without delay.

WHEREAS, FPL respectfully requests that the Motion be denied and the subpoenas requested by FPL issue.

Respectfully submitted,

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DATED: May 15, 1981

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NUCLEAR REGULATORY COMMISSION

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CERTIFICATE OF SERVICE

I hereby certify that copies of "Response Of Florida Power & Light Company To Cities' Motion To Lodge" and "Response Of Florida Power & Light Company To Motion Of Parsons & Whittemore, Inc. And Resources Recovery (Dade County), Inc. For Extension Of Time To Respond To Florida Power & Light Company's Application For Issuance Of Subpoena" have been served by hand delivery * or by deposit in the U.S. Mail, first class postage prepaid this 15th day of May, 1981.

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DATED: May 15, 1981