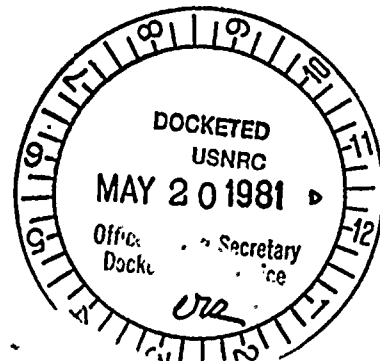


UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD
Before Administrative Judges:

Ivan W. Smith, Chairman
Michael A. Duggan
Robert M. Lazo



SERVED MAY 20 1981

In the Matter of
FLORIDA POWER & LIGHT COMPANY
(St. Lucie Plant, Unit No. 2)

Docket No. 50-389A

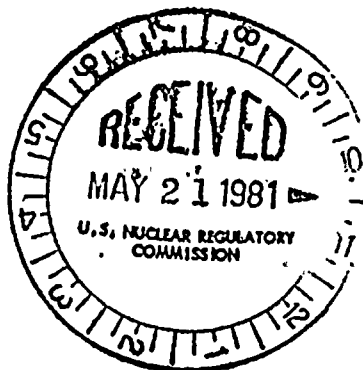
May 19, 1981

MEMORANDUM AND ORDER

Parsons and Whittemore Petition to Intervene

The Board has received the petition for leave to intervene in this proceeding, dated April 24, 1981, by Parsons & Whittemore, Inc. and Resources Recovery (Dade County), Inc. (hereinafter jointly "RRD"). Before we consider any answers to RRD's petition, we shall first consider Applicant's May 8 application for issuance of subpoenas. Therefore, we grant Applicant's May 8 motion for an extension of time to answer RRD's petition, the Staff's May 14 request for an extension of time to respond to the petition, and RRD's May 13 request for an extension of time to respond to Applicant's application for issuance of subpoenas.

RRD shall serve its response to Applicant's application for subpoenas by June 1, 1981. If the Board grants the application, we may extend further



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the date for a substantive answer by Applicant and Staff (or other party) to the intervention petition. The NRC Staff may respond to Applicant's subpoena application within ten days of the service of RRD's response, but the Staff should inform the Board earlier if it does not intend to respond to the subpoena application. If we deny the subpoena application, we shall set a date in the denial order for answers to the intervention petition. Counsel for Applicant, Staff and RRD have been notified of their respective extensions of time by telephone.

We note that neither Florida Cities nor the Department of Justice has filed answers to the RRD intervention petition. Due to the confusion attending the recent intervention filings in this and in the operating license proceeding, it may not be apparent to the Cities and the Department that they may do so. Therefore the Board notifies these parties that each has the opportunity to answer the petition in this proceeding pursuant to 10 CFR 2.714(c).

Florida Cities Motion to Lodge

On April 22, 1981, Florida Cities filed a "Motion to Lodge" to which was attached a letter from Victor Stello, Jr., Director of the NRC Office of Inspection and Enforcement proposing the imposition of civil penalties on Florida Power and Light.^{1/} Florida Power and Light and the Staff each oppose the motion. The motion to lodge is denied because it is moot, the letter's relevance to liability standards is neither obvious nor explained by the motion, and it is yet another in a series of improper

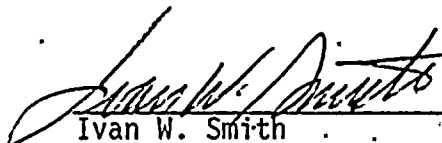
^{1/} Counsel for Applicant reports that it did not receive a service copy of the motion. Neither did at least two members of the Board. We learned of the motion through the answers to it and obtained a copy from other sources.

attempts in this proceeding to make premature evidentiary showings. Moreover, we cannot identify any authority within the NRC rules of practice or elsewhere for such motions.

Identification of Pleadings

Every motion or pleading filed in this case must state on the first page the name of the filing party and the date of the document. In addition, it would also be helpful if this information in shortened form would also appear in an upper right corner of the first page, e.g., "FPL 6/1/81", or as it appears on this order.

FOR THE ATOMIC SAFETY AND
LICENSING BOARD

 , Chairman
Ivan W. Smith
ADMINISTRATIVE JUDGE

Bethesda, Maryland

May 19, 1981