

AFFIDAVIT OF JAMES G. SPENCER, JR.

James G. Spencer, Jr., being duly sworn, deposes and says:

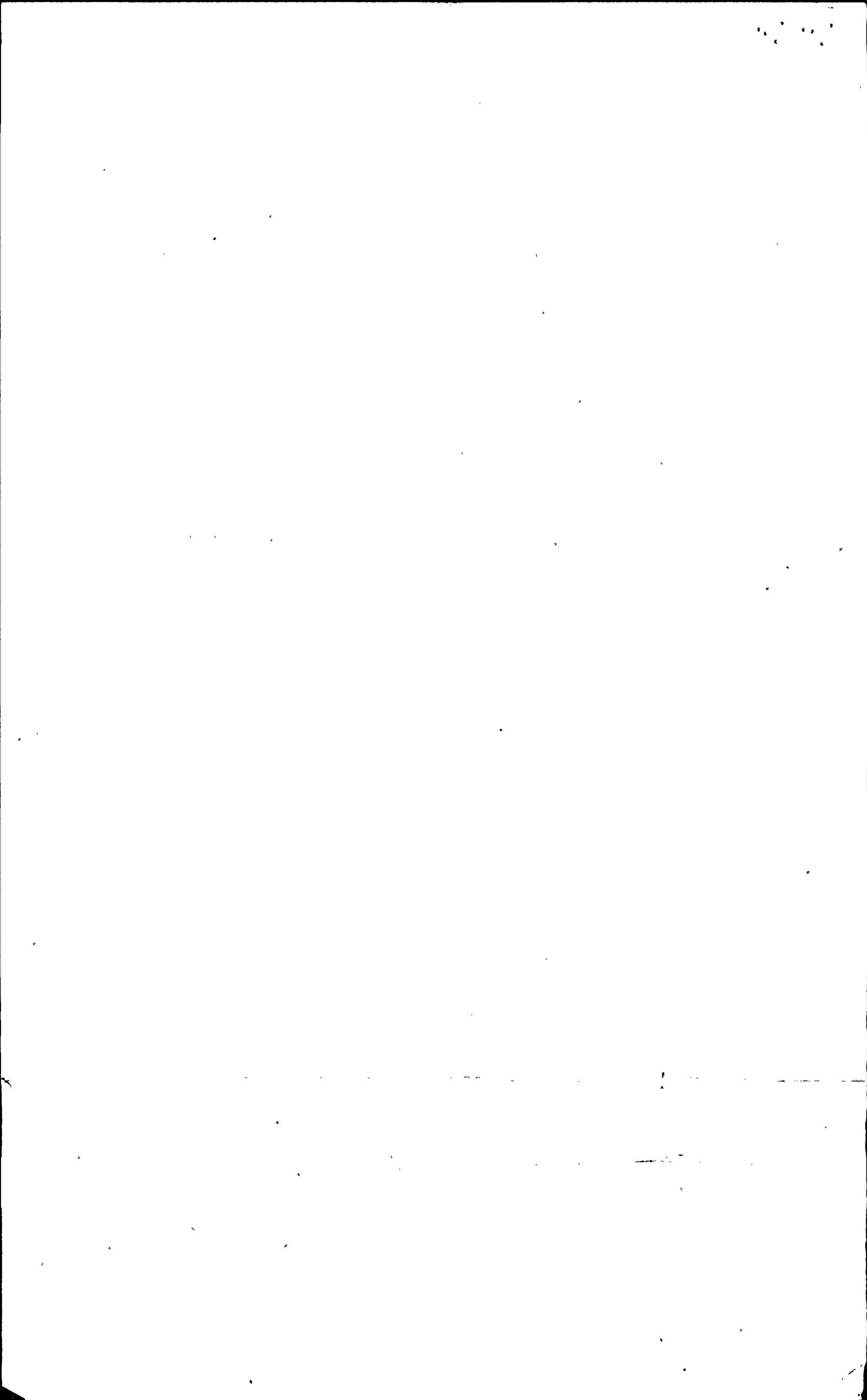
1. My name is James G. Spencer, Jr. I reside at 12245 S.W. 69th Place, Miami, Florida. In October of 1980 I retired from the Florida Power & Light Company ("FPL") with the title of Senior Vice President. I began employment with FPL in 1938, and I was elected an officer of the Company on May 13, 1963. I held the position of Vice President for FPL from May 13, 1963 through May 11, 1973. On May 12, 1973 I was named Senior Vice President and held that title until my retirement.

2. During March 1965 through June 1967, and January 1969 through May 1973, all FPL Division Managers (with the exception of the Miami Area, which was later renamed the Miami Division, and to which Homestead is adjacent) reported directly to me on all commercial matters. Commercial matters included relationships with utilities having service areas adjacent to FPL's service area. If any such utility had requested FPL to provide full or partial requirements of bulk power, that request would have been made to or brought to the attention of the Division Manager and the Division Manager would have been expected to have relayed it to me. Of course, personnel in the field and the Division Managers would be expected to use their judgment in distinguishing serious requests that were received from persons with the authority to speak for other utilities from casual conversations or informal inquiries from some person associated with a utility but not authorized to speak for it. In addition, I would have been directly involved if FPL had made a formal proposal to purchase or acquire any adjacent electric system.

3. I am aware that on May 14, 1973 there was submitted to the Atomic Energy Commission a document entitled "Application for Licenses, Antitrust Review Supplement, April 19, 1973." The submittal was made following the announcement, in October of 1972, that the Hutchinson Island Unit No. 2 application for a construction permit was being refiled under the name St. Lucie Unit No. 2.

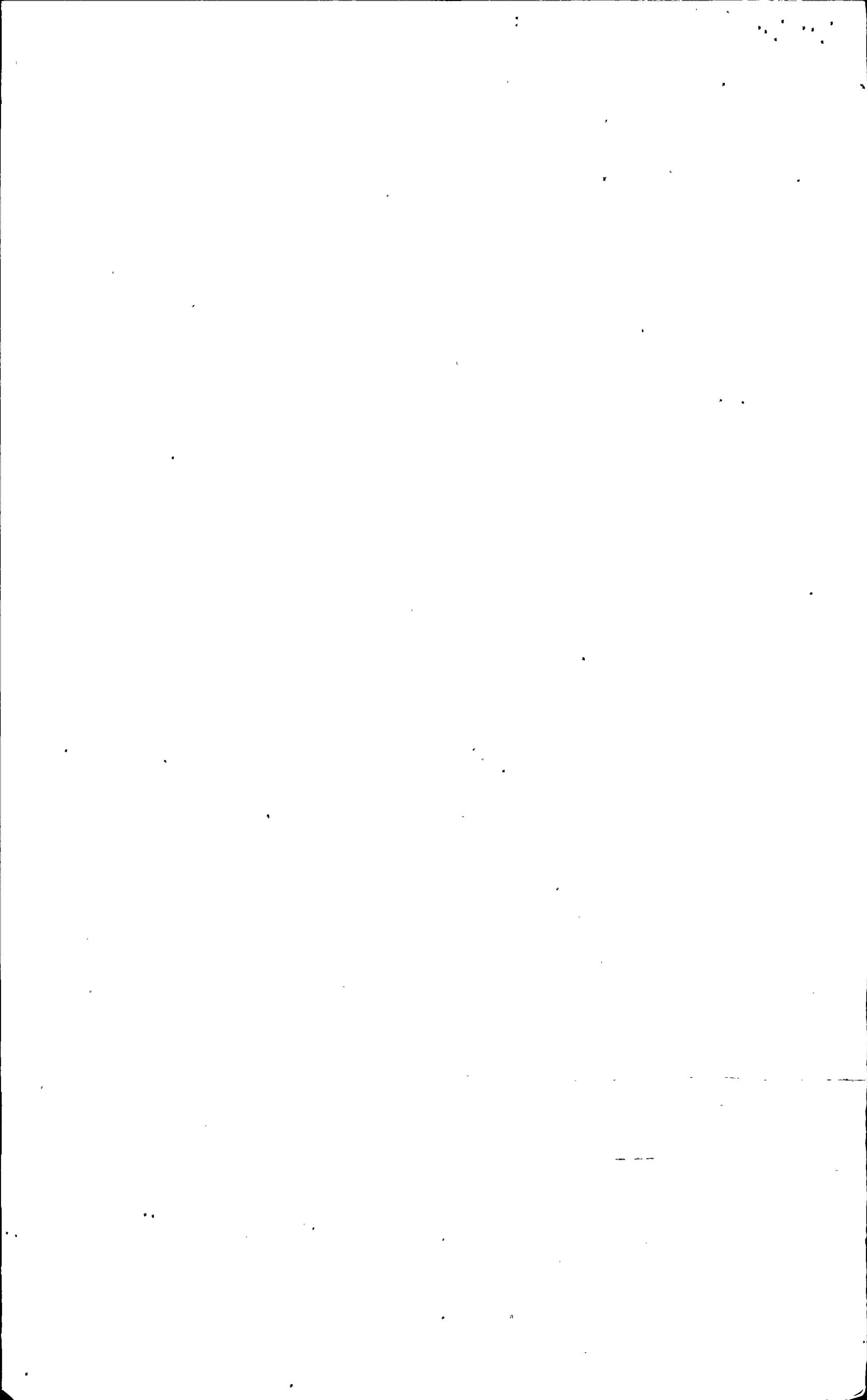
4. I am informed that pleadings have been submitted to the Nuclear Regulatory Commission suggesting that the response to Question 13 contained in the 1973 filing is incomplete and was known by FPL to be incomplete at the time that it was submitted, in that certain requests for or indications of interest in purchasing full or partial requirements of bulk power are not referenced in part C of FPL's response to Question 13. I was one of those responsible for review and approval of that part of

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FPL's response. Because of the position that I held in the Company, I would have been aware of any serious indication of interest by a neighboring utility in purchasing full or partial requirements of bulk power for resale during the time period March 1965 through March 1973. I was not then aware, and am not now aware, of any such indications of interest other than those requests which resulted in the supply of the service described in part C of the response to Question 13. I believe that those who reported to me understood that they were expected to bring to my attention any request for or indication of interest in such purchases which was serious enough to call for some response from the corporation, and I believe that these people did so.

5. I also am informed that it has been suggested, in the same pleadings, that the response to Question 18 contained in the 1973 filing is incomplete and was known by FPL to be incomplete at the time that it was submitted. I have reviewed the documents submitted with the pleading, which, it is claimed, support those allegations. I was one of those responsible for review and approval of the response to Question 18. Because of the position that I held in the Company, I would have been aware of any formal offers or proposals made by FPL to purchase, merge or consolidate with electric utilities during the time period March 1965 through March 1973. I understand the words "offers or proposals" in Question 18 to mean actual offers or proposals made by the corporation, not preliminary discussions of the possibility of making an offer or proposal. None of the instances discussed in those documents reflect anything other than that some preliminary inquiries were made or preliminary discussions had been held. FPL's understanding of the question is specified in the response, which states that no "formal" offers or proposals had been made by FPL during the applicable time period. I believed then and believe now that the response is true and accurate. The City of Edgewater facilities acquired by FPL on May 1, 1966 were operated prior to that acquisition as part of the utility system of the City of New Smyrna Beach. The City of Edgewater acquired title to these electrical distribution facilities and terminated the rendition of electric service by the City of New Smyrna Beach on April 30, 1966. These facilities were never operated by the City of Edgewater but were transferred almost simultaneously to FPL's ownership. I did not then and do not now consider the acquisition of some of the distribution facilities of a municipal utility which continues in existence after the transaction to constitute the purchase of or merger or consolidation with an electric utility.



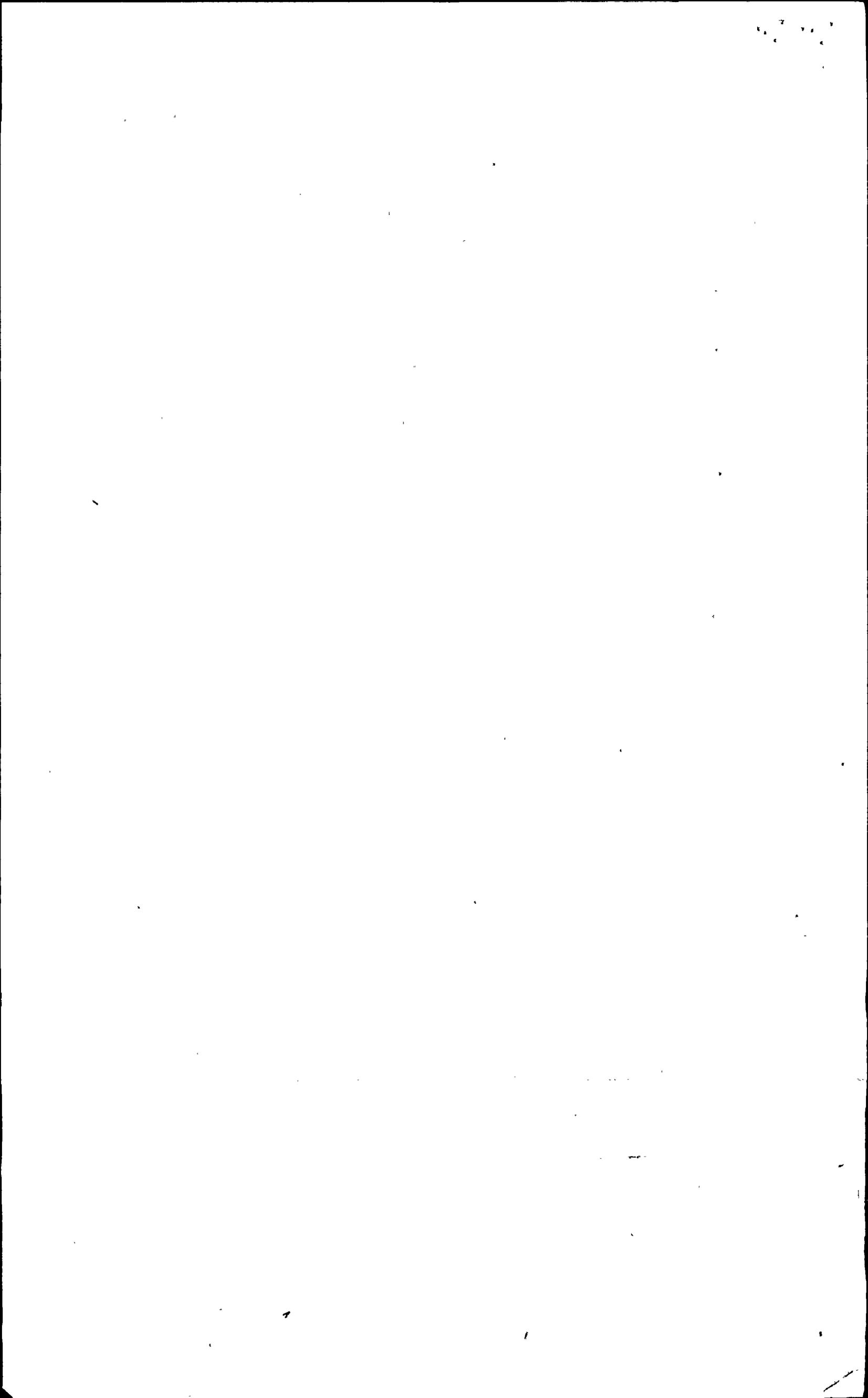
6. I did not in 1973 conduct an organized search of FPL's files. However, my duties at FPL were such that I was responsible for the commercial matters in the Divisions covered in those responses, and my own knowledge and experience with FPL qualified me to review and approve the responses to Question 18 and the portions of Question 13 which are described above. No one associated with FPL ever suggested that I withhold or misrepresent any information.

James G. Spencer, Jr.
James G. Spencer, Jr.

Subscribed and sworn to before me this 19th day of May, 1981.

Eric C. Allen
Notary Public

NOTARY PUBLIC STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES APR. 2 1982
BONDED THRU GENERAL INS. UNDERWRITERS



Corrected copy

IN THE MATTER OF:

FLORIDA POWER & LIGHT COMPANY

DOCKET NO. E-9574

DEPOSITION OF EUGENE LYON

PLACE: Washington, D. C.

DATE: Monday, June 20, 1977

PAGES: 1 to ¹⁸⁸~~187~~

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Dr. Lyon had made that allegation. That is all I am trying to do.

MR. SPIEGEL: And I put before him the document, and I ask you where are you referring to in the document?

MR. CHILDS: Have you found it, Dr. Lyon?

THE WITNESS: I think so.

MR. SPIEGEL: Just a moment. I want to find it now.

You are referring to the bottom of page 1 of the petition. What is your question?

MR. CHILDS: The question is: Did he make that allegation?

MR. SPIEGEL: I will object to the form of that question. The petition speaks for itself, and the form of the petition is a petition signed by his attorneys, and I would object to that question.

MR. CHILDS: I want an answer.

MR. SPIEGEL: And I direct him not to respond.

MR. CHILDS: Please certify that question. The original question was: How have you been deprived of the full benefits of the city's municipal electric systems as a result of any action by Florida Power & Light?

MR. SPIEGEL: Could he not answer that in two

parts, how he considers himself deprived, and to his knowledge has Florida Power & Light may be responsible?

MR. CHILDS: I think that is implicit in the question, the question was how was he deprived --

MR. SPIEGEL: I will instruct the witness to answer it in the light of the explanation given here.

THE WITNESS: Would you mind restating that question.

(Question read)

THE WITNESS: I have no direct ^{PERSONAL} ~~permanent~~ knowledge of such deprivation. EL

BY MR. CHILDS:

Q Dr. Lyon, I believe in response to earlier questions, you indicated that you are not a resident of the City of Vero Beach, and do not pay taxes to the City of Vero Beach. For purposes of clarification, is my recollection correct?

A That is correct.

Q Would you explain to us to the extent of your knowledge as to whether the rates paid by the residents of Indian River County to the Vero Beach electric system are, in fact, from an amount of that paid by residents of the city itself?

BY MR. CHILDS:

Q Did the Citizens Committee at that time made any recommendation with respect to the future consideration and the purchase of wholesale power from Florida Power & Light Company as an alternative?

A Not to my recollection. They evidently explored it, and evidently from their statement, they were rebuked.

Q Well, how do you conclude they had "evidently explored?"

A I just assumed from the statement on page 14 which so advises.

Q Did you discuss that statement with anyone who was connected with this study or on the City's committee?

A I am sorry, I just can't recall back to 1958.

Q Well, have you since 1958 discussed that statement with anyone?

A Who was on this committee?

Q Yes, sir, or with Mr. Woodson?

A I think not, unless it was in 1959 before the Woodson Report was submitted. Certainly not after then.

Q Could you describe in detail for us the allegation that there was an unreasonable refusal by Florida Power & Light Company to allow Vero Beach an opportunity to share in

the development of low-cost generation?

A I have no direct personal knowledge of that.

Q Have you made any inquiry with respect to that allegation?

THE WITNESS: Could you read back the question?

(Question read)

THE WITNESS No, I have not.

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questions of Hector, Steel and Davis, or are you asking those questions as attorney ^{MATT} ~~Mat~~ Davis.

Now, there is a problem there, and I think if you will adjust your form of the questions to the realities of the document, well no difficulty.

MR. CHILDS: Would you read back the question that is presently pending and I will amend it to the extent that I already thought implicit, Dr. Lyon, on that the response sought is only to the extent of your knowledge.

MR. SPIEGEL: Why don't you just ask the question clean.

MR. CHILDS: I think it is clean.

MR. SPIEGEL: I don't, and I object to the form of the ground of the form. I want you to clean it up and we will get moving faster here.

BY MR. CHILDS:

Q Dr. Lyon, do you have any knowledge as to how Vero Beach could have feasibly shared in the development of low-cost generation?

MR. SPIEGEL: During what period of time?

MR. CHILDS: To the extent of his knowledge, any time.

THE WITNESS: With Florida Power & Light you mean?

BY MR. CHILDS:

Q Yes.

A No, I have no direct personal knowledge of that.

Q Will you explain for us how FPL may have failed to deal reasonably with Vero Beach in terms of access to cheaper sources of bulk power?

MR. SPIEGEL: Are you referring to the petition, can you give us the page, please?

MR. CHILDS: Page 2, about six lines down.

(Question read)

THE WITNESS: I believe I have answered that, or I intended to address myself to that in the discussions we have had in the past previous questions about wholesale power purchase. Apart from that, I have no other knowledge.

BY MR. CHILDS:

Q I believe your prior answer is related to the furnishing of bulk power generated by Florida Power & Light Company. Is that right?

A Yes.

Q Did you make any individual inquiry of any kind as to these other areas of access to bulk power?

A By other than Florida Power & Light you mean?

Q Other than through power generated directly by

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He recommended approval of the purchase, to my recollection.

Q . Do you believe that the timing of the announcement--this announcement by Florida Power & Light Company caused more people to vote in favor of the sale of the electric system?

A I really do not know how I could make such a conclusion in any way on the basis of what I saw and ^h heard at that time. (u)

Q You do not have an opinion one way or the other?

A No, sir, I donot have any opinion. (u)

Q What direct knowledge do you have as to the negotiations between Florida Power and Light Company and the City of Vero Beach as to the sale of the electric system?

A I have no direct personal knowledge of the negotiations. I was not a party to them. I really entered the matter with ^{ANY} ~~no~~ interest at all after the offer to purchase had been submitted by the company to the City? (u)

My knowledge of it came essentially from the media.

Q Have you ever discussed the circumstances in connection with the Florida Power & Light Company proposal to purchase either with City Officials or with representatives of Florida Power & Light Company?

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MR. SPIEGEL: As well as he understands it, because he said he was not a tax expert.

MR. CHILDS: Absolutely. That is all I am asking.

THE WITNESS: I am relying, as I have relied, on Mr. Dawson's expertise. (2)

BY MR. CHILDS:

Q All right.

A You have his testimony, and I do not disagree with it, I have agreed with it.

Q Pardon me?

A I said I do agree with it, with his statements in this regard.

Q You have made no independent inquiry on your own?

A No, sir, I have not..

Q Will you explain to us the basis for the allegation that the Florida Power & Light Company proposal may violate security laws.

MR. SPIEGEL: Could you just point out the page?

MR. CHILDS: Page two, footnote at the bottom of the page.

THE WITNESS: I would have to give the same answer, Mr. Childs, that I am not competent to judge that.

BY MR. CHILDS:

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Q You do not know whether it is true or not.

A I made no personal inquiry with regard to it.

Q Are you aware of a request from the Florida Municipal Utilities Association to the Department of Justice that it initiate an investigation of the Florida Power & Light Company with respect to alleged antitrust activities?

A Yes.

Q You are aware of that?

A Yes.

Q When did you become aware of it?

A I read a copy of the letter with regard to this only this year that I was made aware by media stories that this is the way in which the Department of Justice investigation of the sale had been initiated. I had no other knowledge of it.

Q You understood that the investigation by the Justice Department was with respect to this sale?

A That is what the media advised. This occurred when the advice letter came to the City, we obtained a copy from the City Clerk's office. And then the media stories began. That would have been--well, whatever the date of that advice letter was.

Q Now, sir, have you read the letter that was written to the Department of Justice, or did you read the

involved using coal for generating in Florida, etc."

Now, I understand that your answer is -- well, maybe you can tell me, again, your answer?

THE WITNESS: I just know generally there are substantial transportation difficulties involved in using coal, because of this cost of bringing it from a point where it is mined to Florida.

BY MR. CHILDS:

Q Are you aware of any utilities in Florida that use coal for generation?

A I believe that Tampa Electric Company does.

Q Do you know whether they use substantial quantities of coal or not?

A I do not.

Q What is the basis for the allegation to the effect that FP&L is unwilling to allow smaller municipal systems access to nuclear generation?

A I have no direct personal knowledge of that.

Q Have you made any inquiry?

A No, I have not.

Q Do you believe FP&L has the ability to share its generating capabilities with smaller utilities?

Do you know the capacity ability to furnish power, or the willingness or capability of providing it, transmitting

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Q Read it again.

A "To support this, I mention his estimate of property taxes to be paid the city after FP&L has dismantled the plant and returned the land to city control."

MR. SPIEGEL: I am not sure the spelling of ^{dismantled} Dismanteld is correct. 20

BY MR. CHILDS:

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Q Dr. Lyon, in response to a number of the questions posed by Florida Power & Light Company in this April 8, 1977 data request, and particularly questions 16, 18, 19, 21, 22, 23, 24, 30 and 31, which relate to allegations made in the petition to intervene, the response which you have submitted indicates that you either have no direct personal knowledge or lack sufficient personal knowledge to answer the question posed.

My question to you now is whether the allegations in the petition, as to which you have so responded, are, in fact, your allegations?

MR. SPIEGEL: Co you re-read that question?

(Question read)

MR. SPIEGEL: I object. You are getting into the attorney-client area, and not nothing your objective and for the reasons I have previously stated, I object to it.

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against the electric sale, after your earlier response, am I correct in assuming you had nothing to do with this advertisement or the contents thereof?

A No, as I stated in my data response, I furnished the committee with one release, which is small, which related to the failure of the city properly to appraise the property before the sale. This was published -- I would just be guessing -- a week or so before this, and I did not prepare this or any part of it as far as I know.

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Q Do you have an understanding with either Mr. Gossett or Mr. Dawson as to the payment of legal fees, costs and expenses in this Federal Power Commission proceeding?

MR. SPIEGEL: Objection, for reasons previously stated.

MR. CHILDS: I would like an answer.

MR. SPIEGEL: I direct him not to answer.

MR. CHILDS: Please certify that question.

BY MR. CHILDS:

Q The follow-up questions would be: When was that agreement reached, or strike that.

MR. SPIEGEL: May I ask if Florida Power & Light has specifically authorized you to ask that question?

MR. CHILDS: You can ask, but don't anticipate a

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response.

MR. SPIEGEL: The reason no response is forthcoming is that it is a privileged area, or somehow you are above establishing authority here.

MR. CHILDS: Off the record.

(Discussion off the record)

MR. CHILDS: Back on the record.

BY MR. CHILDS:

Q Dr. Lyon, as to those allegations over which you lack direct personal knowledge, or substantial knowledge as as to be able to respond to questions relating to the basis of the allegations, did you ask that these allegations be made on your behalf?

MR. SPIEGEL: I object. Attorney-client privilege.

MR. CHILDS: I would like an answer.

MR. SPIEGEL: I instruct him not to answer.

MR. CHILDS: Let me ask this question. I am not sure whether it has been asked and objected to, because we broke a number of times.

BY MR. CHILDS:

Q Dr. Lyon, do you have any understanding or are you aware of any understanding or agreement with respect to the payment of fees, expenses and costs in this

h8 — proceeding, other than with Mr. Gossett and Mr. Dawson?

A I object. I wonder if you would state the relevance and purpose of that statement.

MR. CHILDS: No, not at this time.

MR. SPIEGEL: When did you think you might be able to do so?

MR. CHILDS: Probably we will have to state that when the question is presented to the Judge on ruling.

MR. SPIEGEL: When you do that, would you bring in your specific authority from Florida Power & Light and establish that you are authorized by some specific individual in Florida Power & Light?

MR. CHILDS: Do you instruct the witness not to answer?

MR. SPIEGEL: Yes, if you insist.

MR. CHILDS: Please certify the question.

BY MR. CHILDS:

Q Dr. Lyon, are you aware of the furnishing of a list of proposed witnesses to be used by citizen intervenors in this proceeding?

A Yes.

Q Have you reviewed that list?

MR. SPIEGEL: I will object to this question.

UNITED STATES OF AMERICA
~~FEDERAL POWER COMMISSION~~

IN THE MATTER OF:

FLORIDA POWER & LIGHT COMPANY

DOCKET NO. E-9574

DEPOSITION OF JOHN B. DAWSON

PLACE: Washington, D. C.

DATE: Thursday, June 16, 1977

PAGES: 1 - 160

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MP. DAVIS: That is all I am asking for.

MR. SPIEGEL: If he feels he has expertise to answer that, fine, but if not, he will answer it on the basis of what he knows and understands personally.

THE WITNESS: I feel that we have been deprived of the opportunity to share in the low-cost generating that was available, or should have been available in the area, because the Florida Power and Light was unwilling, according to newspaper accounts and statements by the city's administration, to negotiate anything except the sale of the property.

These are statements by Mr. Little and Mr. Gross, who approached the company along those lines, that it would not be fruitful, and with my experience; my former experience, in connection with cooperation between adjoining systems, it seemed to me that this was a deprivation of rights which the users of the city's system should be entitled to.

BY MR. DAVIS:

Q Was the sole source of your information in this regard newspaper articles?

A No.

Well, they were reported in the newspaper as being made by Mr. Little, Mr. Gross, et cetera.

Q Did you have any other source than the reports in

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the newspaper?

A No.

MR. SPIEGEL: Can I put in a comment here?

Of course this document was prepared by counsel, and there are matters referred to which are in effect in here on advise of counsel, as I understand it.

I have said enough. In other words, he is telling you what he knows of his own knowledge; the rest was put in --

MR. DAVIS: Are you saying there are factual assertions in here based on advise of counse?

MR. SPIEGEL: Oh, yes. We said that in bases to his answer --

MR. DAVIS: As distinct from his own knowledge?

MR. SPIEGEL: Yes.

We don't regard him as an expert in this area, although the man has obvious experience.

MR. DAVIS: Your response was the bases you had for the inclusion of this statement of petition. I am just trhing to distinguish those things derived from Mr. Dawson's knowledge as opposed by those that came from counse.

MR. SPIEGEL: That is appropriate.

I will tell you what he knows and things, he will answer your question. If you ask for opinions, he will ask opinions. Your are the questioner, and the question was broad,

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Vero Beach in regard to bulk power, or in the relationship that existed in regard to this particular acquisition?

A This particular acquisition.

Q Do you have any knowledge of a failure by Florida Power and Light to deal reasonably with Vero Beach in terms of access to cheaper sources of bulk power, other than the statement made by the city manager?

A No.

MR. SPIEGEL: Could I have that question read back.

(Question read)

MR. SPIEGEL: Could you rephrase that, other than what you discussed in answer to previous questions?

In other words, he is --

Off the record:

(Discussion off the record)

MR. SPIEGEL: Back on the record.

THE WITNESS: May I say this on the record now; that I take, in your use of the word "access," you meant wheeling or the use of transmission services?

MR. DAVIS: Yes, sir; as well as the sale of bulk power.

THE WITNESS: Well, then, I misunderstood the import of your question, because I thought you meant the acquisition

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of bulk power from sources other than FP&L, and with FP&L providing the wheeling service.

BY MR. DAVIS:

Q And if that were the question, what would your answer be?

A No.

Q Do you have any knowledge of failure or refusal on the part of Florida Power and Light to furnish bulk power itself as opposed to wheeling and transmission services to Vero Beach?

A No question in my mind.

Q Are you aware of any attempts by Florida Power and Light at any time prior to the time of this particular proceeding to acquire the Vero Beach municipal system?

A I am told there was a prior attempt, and there appears to have been a prior attempt on the records in City Hall, et cetera, but I have no personal knowledge, and was not a resident of Vero Beach at the time.

Q Who told you of that prior attempt?

MR. BEAR: Objection.

MR. SPIEGEL: Strike that; there is only one attorney sitting here.

Just hold your answer for a moment, John.

Q What is the so and so forth you referenced -- you said newspaper articles. What other sources --

A Statements by Little and Gregg.

Q Anyone else?

A The history of the previous attempt to purchase the system in which -- if the record is worrect they did refuse to consider selling power to the city.

Q And what record is that to which you are referring now?

A Not any record that I have looked at.

Q When did Florida Power and Light refuse to sell power to the City of Vero Beach?

A According to my information, it was in 1969 or '70 I think, sometime around there, or maybe before that, too.

Q Does your information indicate that a request was made by the City of Vero Beach to purchase power from the Florida Power and Light and Florida Power and Light refused?

MR. SPIEGEL: Can I hear that question again?

(Question read)

THE WITNESS: That is what my information indicates.

BY MR. DAVIS:

Q And what is the source of that information?

A Newspaper stories.

Q There were newspaper stories that indicated in 1969 or about that time Florida Power and Light refused a request by the City of Vero Beach to sell it power?

A Refused to sell power, I don't know whether the city requested it or not.

Q Sir, your testimony was that Florida Power had refused a request to sell.

A I will have to modify that by saying I never heard of a request, but there was a definite -- definite information came to me that they had refused to sell power to the city at that time.

Q And that definite information was what?

A That they had refused to sell.

Q Sir, what was the source of that information that they had refused to sell?

A My discussions with Dr. Lyon, with Mr. Gosset, both of whom stated to me that it was on the record as to that refusal.

Q On what record?

A The city record

Q And did you find that in your review of the city records?

A No, I never looked at it. I didn't find it.

IN THE MATTER OF:

FLORIDA POWER & LIGHT COMPANY

DOCKET NO. E-9574

PLACE: Washington, D. C.

DATE: Friday, June 17, 1977

PAGES: 161 - 326

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BY MR. CHILDS:

Q Mr. Dawson, I believe you said, but refresh my memory, that you had reviewed the April 8, 1977 data request from Florida Power & Light Company?

A Yes.

Q Mr. Dawson, if the same questions that were posed to you in the April 8 data request of FPL were posed to you now, would your answer as contained in Dawson Exhibit No. 5 be the same?

A You mean do I still stand by my answer, is that what you mean?

Q Mr. Dawson, the answers to the FP&L data requests were not signed and were not under oath, and I am simply trying, for the record, to establish that these are, in fact, your answers, and that, if the questions were asked of you orally at this time, that your answer would be the same?

A The same.

Q Do you have any corrections or additions you would wish to make to it?

A No.

Q Mr. Dawson, a number of those questions are the responses which you have made on this document, Dawson

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Exhibit No. 5, states in a number of places that you have no personal knowledge with respect to the question that is posed.

A Yes, sir.

Q Mr. Dawson, a number of the questions to you in FP&L's April 8, 1977 data request related to the allegations which are contained in the citizens' petition to intervene. Some of your responses indicate that you lack direct personal knowledge or lack sufficient personal knowledge as to questions which have been posed as to those allegations.

My question to you is: Are the allegations to which you have responded in that fashion, in fact, your allegations?

MR. SPIEGEL: Let me have that question re-read, please.

(Question read)

MR. SPIEGEL: I guess I don't understand the question. The petition to intervene contains allegations that were prepared and signed by his attorneys. I think that is the situation here, and to the extent that he is involved in it as intervenor, acting on the advice of Counsel, and the petition was prepared on that basis.

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BY MR. CHILDS:

Q Mr. Dawson, I will try the question another way.

Question No. 16, 18, 19, 20, 21, 22 thru 25, 26, 30 are or were posed to you with respect to allegations made in your petition to intervene.

My question is whether these allegations to which these questions correspond are, in fact, your personal allegations which are revealed as a result of information which you furnished your attorneys?

MR. SPIEGEL: I am having trouble with the form of the question. I think he made it clear in his testimony that he furnished information to his attorneys, that the attorneys prepared the petition to intervene, as well as his authorization, and that is how the allegations result in the petition, so it seems to me that the question assumes an unreal situation, and I object on that basis.

MR. CHILDS: Let me reserve that question and ask if you would agree to let the witness answer a question to identify the information which was furnished to his attorneys in connection with the preparation of the petition to intervene.

MR. SPIEGEL: I think I would object to that, too.

MR. CHILDS: Then I will not pose that question.

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I will reimpose the prior question and ask for an answer.

MR. SPIEGEL: Well now, I would like to see if you can state that in a form that would not be objectionable. Let's see what that question was.

(Question read)

MR. SPIEGEL: I think I will object on the grounds of privilege, that you are getting into an area of privilege of attorney-client, in view of the fact that the document on its face was prepared by the attorneys.

MR. CHILDS: Would you certify that question?

MR. SPIEGEL: Can you state how that is relevant?

MR. CHILDS: I can, but I wish not to do it at this time.

BY MR. CHILDS:

Q Mr. Dawson, would it be correct then that the allegations in the petition as to which you have responded in the answer which I previously identified are, in fact, not based upon your personal knowledge?

MR. SPIEGEL: I am going to object to that on the same basis. It seems to me, again, we are opening up this area of privilege. I am not an expert in the area and I do want to be helpful here. He has testified at

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great length, in particular detail as to particular -- in connection or response to many questions asked on particular details in the petition to intervene. I think that those provide the answer for this general overall question, and it does seem to me that it could be a misleading question and open up the area of privilege between attorney-client.

I might say that I do want to cooperate with you in obtaining rulings from the Judge as early as possible. I had suggested the possibility of arranging a conference this afternoon with the Judge. Of course, it did not seem feasible to you to do it.

But I am not trying to create a procedural burden, and would hope that we could arrange before the completion of the depositions to get the rulings in this area. To me, it is an important public interest area.

I don't see how that provides information which is relevant to the matter set for hearing, which is whether the acquisition of the system of Vero Beach is in the public interest.

MR. CHILDS: Are you instructing him not to answer?

MR. SPIEGEL: If you are insisting on an answer.

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MR. CHILDS: Please certify that question.

BY MR. CHILDS:

Q Mr. Dawson, as to those allegations in the petition to intervene as to which you indicate you lack direct personal knowledge, would you tell us whether you feel or whether you felt there was any obligation to verify the accuracy of the allegations?

MR. SPIEGEL: I will object to that on the same grounds.

MR. CHILDS: Are you instructing him not to answer?

MR. SPIEGEL: Yes, if you insist on an answer.

MR. CHILDS: Then please certify the question. Follow-up question would be: If you did not feel such an obligation, why not?

BY MR. CHILDS:

Q Mr. Dawson, did your intention that the assertions or allegations in the petition to intervene be accepted by the Federal Power Commission as true?

MR. SPIEGEL: I would object on the same grounds. The allegations have been presented in the petition to intervene.

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MR. CHILDS: Are you instructing him not to answer?

MR. SPIEGEL: Yes, I am.

MR. CHILDS: Would you certify that question, Mr. Reporter.

MR. SPIEGEL: Let's go through all these questions now. I just don't want to open up the whole area of attorney-client privilege, and it does seem to me that is what we are getting into, whether we can work something out, yet I am not sure.

BY MR. CHILDS:

Q Mr. Dawson, with respect to the allegations in your petition as to which you have now indicated that you lack direct personal knowledge, did you indicate to the Federal Power Commission, in any way, that you did not personally know whether the allegations were true or not?

MR. SPIEGEL: I have no objections to his stating what he has alleged to the Federal Power Commission, if he has alleged anything other than what is contained in the petition to intervene.

MR. CHILDS: Well, the question was as to those allegations, as to which he lacked direct personal knowledge, as he has now testified, has he or did he in any way

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BY MR. CHILDS:

Q Mr. Dawson, do you have an agreement with anyone other than your attorneys as to the payment of any legal fees incurred in connection with this proceeding?

MR. SPIEGEL: I will instruct him not to answer. The answer is no problem, but I don't want to open up this area. It is a privileged area in relationship with his attorneys and what arrangements should be made for payments of fees.

MR. CHILDS: I can't hear you.

MR. SPIEGEL: We are in a privileged area, or approaching it, and I am not opening this door here, because of the client, the attorney-client relationship, and my failure to know or be given notice as to what Florida Power & Light's objective is in these questions, and failure of Florida Power & Light to provide a statement as to why this is relevant, to the question set down by the Commission for hearing.

MR. CHILDS: Would you please re-read the question.

(Question read)

MR. SPIEGEL: I made my objection.

MR. CHILDS: I want to return to that question,

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but I understand that the Judge is on the telephone, so we will adjourn to talk with him now.

(Recess taken for a telephone conversation with Judge McGowan)

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MR. CHILDS: Back on the record.

Mr. Spiegel, do you wish to ask that be stricken as to the letter?

MR. SPIEGEL: Let's go off the record.

(Discussion off the record)

MR. CHILDS: Back on the record.

I believe when we left we had a pending question to which an objection had been posed by Mr. Spiegel. I am not sure what stage that question was left.

MR. CHILDS: Will you read the question.

(Question read)

MR. SPIEGEL: I object.

MR. CHILDS: Do you instruct him not to answer?

MR. SPIEGEL: I am stating the objection on the basis I referred to before, approaching the area of legal privilege, that the company seems to be pursuing an area far outside the ambit of the proceeding, it is not relevant, and I don't know what the company's objective is, I don't know how the company considers it relevant, and on all these grounds I am objecting.

MR. CHILDS: I want an answer.

MR. SPIEGEL: Then I would instruct him not to answer.

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MR. CHILDS: Would you certify that question?

MR. SPIEGEL: You understand that some of these questions are approaching an area of attorney-client privilege, they are approaching an area of public interest, and I want to have it resolved and have it resolved properly, so perhaps I am being overcautious, but I want to make sure there is no misunderstanding.

BY MR. CHILDS:

Q Mr. Dawson, do you have agreement with either Dr. Lyon or Mr. Gossett as to payment of legal fees or expenses in connection with this proceeding?

MR. SPIEGEL: I make the same objection I just made.

MR. CHILDS: Do you instruct the witness not to answer?

MR. SPIEGEL: Are you insisting he answer?

MR. CHILDS: Yes.

MR. SPIEGEL: I instruct him not to answer.

MR. CHILDS: Please certify that question.

BY MR. CHILDS:

Q Mr. Dawson, to your knowledge, has any agreement been reached with respect to the payment of legal fees or costs in connection with your intervention in this

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proceeding?

MR. SPIEGEL: Same objection.

MR. CHILDS: Do you instruct the witness not to answer?

MR. SPIEGEL: You have not insisted.

MR. CHILDS: I do.

MR. SPIEGEL: I would like to take a little break here, but certify the question here.

(Short recess taken)

MR. CHILDS: Back on the record.

BY MR. CHILDS:

Q Mr. Dawson, when did you review the petition to intervene in this proceeding formally entitled as Dawson, et al., protest, petition to intervene, and motion to reject application, dated January 10, 1977, or filed -- pardon me, on January 10, 1977?

MR. SPIEGEL: Again, I will object to that on the ground previously stated, particularly it approaches the attorney-client relationship, and when I see the full scope of what it is that is involved here, I might take a different position, but at this point I am objecting.

MR. CHILDS: Are you instructing the witness not to answer?

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MR. SPIEGEL: The Mr. Kelly referred to there was the manager of the New Smyrna Beach:

BY MR. CHILDS:

Q Mr. Dawson, did you then receive any subsequent letter from Alex Radin -- or let me rephrase that, Mr. Dawson, other than the letter dated March 29, 1976, addressed to Mr. John B. Dawson from Alex Radin, have you received any further communications from him?

A No.

Q You did not?

A No.

MR. SPIEGEL: If you didn't, you didn't, whatever you recall:

THE WITNESS: What was the first part of your question?

(Question read back)

THE WITNESS: Not that I remember.

Now, I will limit that to this particular proceeding.

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BY MR. CHILDS:

Q Mr. Dawson, we have received a number of documents which purport to be responsive to the request by FPL for the production of documents.

To your knowledge, were the documents furnished in response to the request by Florida Power and Light Company retrieved out of your own files?

A Not all of them.

Q Were all the documents that you had relating to the purchase and sale of the Verro Beach electric system furnished by you to your attorneys?

A Not all of them.

Q What documents were not furnished relating to the sale?

A I don't know offhand, I would have to look through my files. But I sent them everything I thought was pertinent.

Q Mr. Dawson, my question relates in part to what appears to be a document furnished to Florida Power and Light Company, it is a letter on your stationery, dated March 10, 1976, addressed to "Dear Don," signed by what appears to be the signature of John B. Dawson and at the top is a stampmark "Received, March 12, 1976, Florida Municipalities Association," and I show you a copy of that document.

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