

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

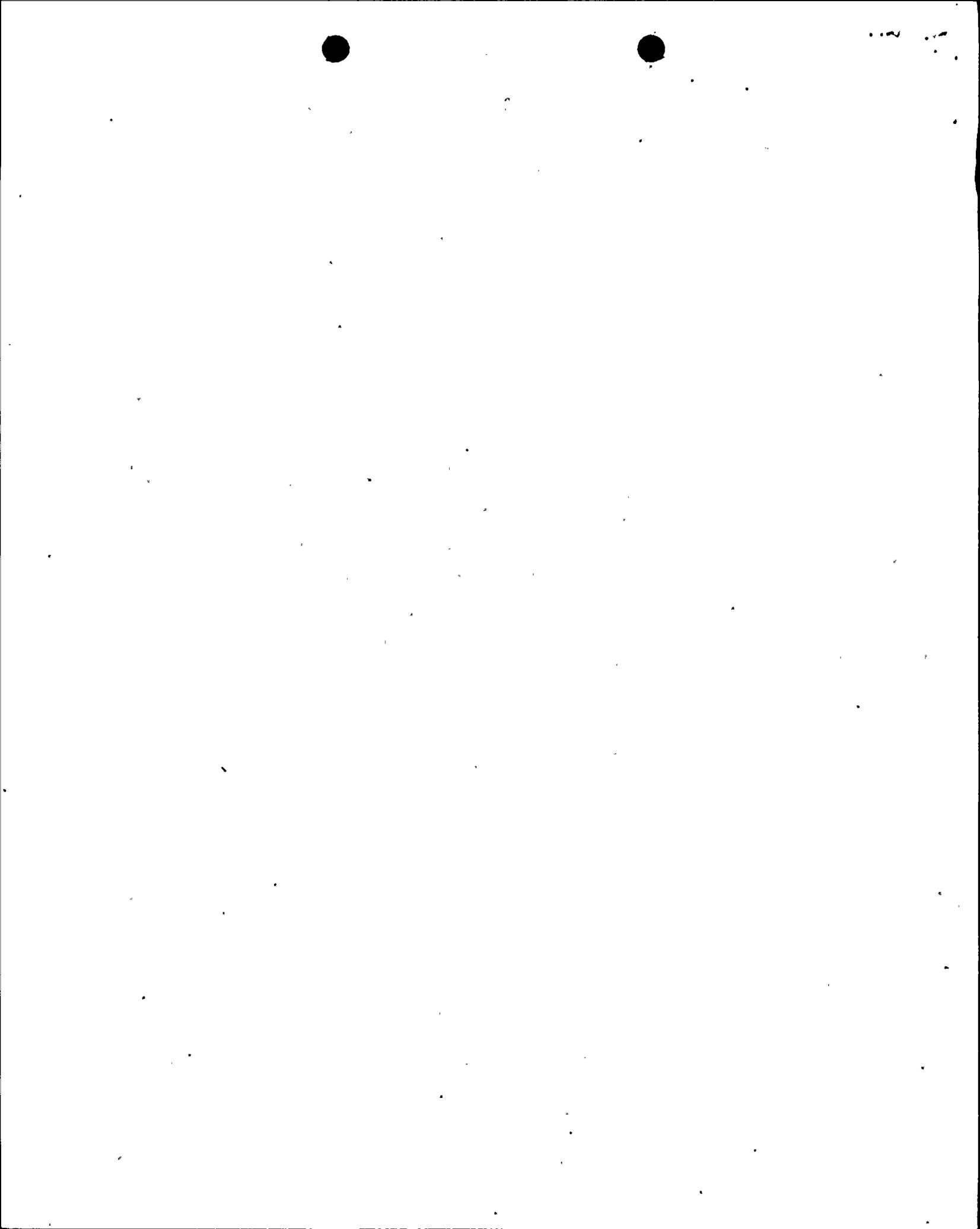
June 11, 1981

MEMORANDUM OF CONFERENCE CALL

A conference call was held on Monday, June 11 at the request of Florida Power & Light Company (FPL). Chairman Smith, Judge Lazo, Mr. Roth (counsel for the intervening cities), Ms. Urban (counsel for the Department of Justice), Mr. Vogler and Ms. Hodgdon (counsel for the NRC Staff) and Messrs. Bouknight and Dym (counsel for FPL) participated. Judge Bloch joined the call in progress. Chairman Smith began by informing the parties that he had requested Judge Bloch to join in the call because there was a possibility that Judge Bloch would be appointed to replace Chairman Smith as a member of the Board due to Chairman Smith's other responsibilities. Chairman Smith noted the absence of counsel for Parsons & Whittemore and stated that, although Parsons & Whittemore has not been admitted as a party to the proceeding, the Board is not inclined to make any ruling which might affect Parsons & Whittemore in the event it is admitted as a party to the proceeding without first hearing from Parsons & Whittemore.

Counsel for FPL stated that FPL is concerned with the timing of the proceeding, because FPL's present plans call for loading of fuel at St. Lucie Unit No. 2 in October 1982. FPL believes that the Cities, because of representations which they made at the time that they sought late intervention in

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in the proceeding in 1976 and 1977, are precluded from objecting to issuance of an operating license at the time when the license is otherwise ripe for issuance notwithstanding the pendency of antitrust proceedings with respect to St. Lucie Unit No. 2. Counsel for FPL described communications between FPL and the Cities which have occurred subsequent to May 27, 1981, the date on which Cities' Motion to Establish Procedures, etc. was filed.

Counsel for Cities has taken the position in discussions with FPL that the Cities are not now precluded by any representations or stipulations from opposing issuance of the operating license until antitrust proceedings have been completed. As a result of these discussions, FPL requested that the Cities now enter into a stipulation that issuance of the operating license will not be delayed due to the pendency of antitrust proceedings. Counsel for FPL stated that the Cities' response had been read to him by Mr. Roth over the telephone a few minutes before the call began. The discussion during the conference call indicated that the Cities are not now prepared to enter into the stipulation requested by FPL unless FPL either (1) stipulates to procedures which will assure that an initial decision can be issued before the operating license is issued and waives any right to seek a stay of any relief imposed by an initial decision pending appeal of that decision, or (2) stipulated that an operating license issued before antitrust proceedings are completed shall contain "interim"

license conditions acceptable to the Cities. Mr. Roth indicated, however, that Cities have not yet determined whether they would agree to unconditional stipulation if the conditions which they propose are unacceptable to FPL.

Counsel for FPL stated that FPL will file a motion requesting that the Cities be precluded from objecting to issuance of an operating license notwithstanding the pendency of antitrust proceedings. Mr. Roth indicated that the Cities might, in their response, address procedures which could be adopted to increase the likelihood that this proceeding will be completed before an operating license is otherwise ripe for issuance. Chairman Smith directed that the Cities also anticipate the possibility that this proceeding will not be completed at such time and state unambiguously their position as to whether the operating license could then issue notwithstanding the pendency of antitrust proceedings. He emphasized the importance of the parties being prepared to assume responsibility for the consequences of the positions which they take on this question.

Chairman Smith requested that the parties in their pleadings concerning the possibility of issuing an operating license notwithstanding the pendency of antitrust proceedings address the question of the Board's jurisdiction to accomplish this result.

Counsel for FPL indicated that, in light of the absence of any agreement on a stipulation, FPL would promptly file a motion requesting that discovery resume and that answers to outstanding interrogatories be required within the near future.

Chairman Smith stated that the Board found the prior pleadings submitted by the Cities concerning the settlement proposed by FPL, the Department of Justice and the NRC Staff to be vague and lacking in specificity as to the relief which the Cities sought. The Chairman stated that the Board expects the Cities forthcoming pleading to contain an unambiguous statement of the additional relief which the Cities seek,^{*/} and he stated that any further pleading which is as vague as the prior pleadings may not be given much weight.

Chairman Smith asked counsel for the Cities if the May 27 pleading was intended to be a motion for summary disposition under the NRC's rules. Mr. Roth replied in the affirmative.

^{*/} This is the understanding of counsel for FPL. Counsel for the Cities' understood the Board to be directing the Cities to be unambiguous in forthcoming pleadings about what the Cities seek in those pleadings, and does not understand the Cities nor to be obligated to specify the ultimate relief which they seek such as the exact megawattage they want.

Counsel for FPL said that a response to a motion for summary disposition, which appears to be addressed to all issues in the case other than relief, should not be required until further discovery has been completed, and that FPL intends to file a motion requesting that it not be required at this time to respond to the May 27 pleading as a motion for summary disposition.

In closing, Chairman Smith again stated the decision of the Board to receive from the Cities an unambiguous statement of their position and specification of the further relief sought by the Cities.*/

In accordance with the Chairman's directions, this memorandum was prepared by counsel for FPL and circulated to all participants in the conference call for approval before filing with the Board.

J.A. Bouknight, Jr.

*/ See footnote on previous page.

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 letter to the Atomic Safety and Licensing Board members, transmitting Memorandum of Conference Call, from J.A. Bouknight, Jr. was served by hand delivery* or by deposit in the U.S. Mail, first class, postage prepaid this 15th day of June, 1981.

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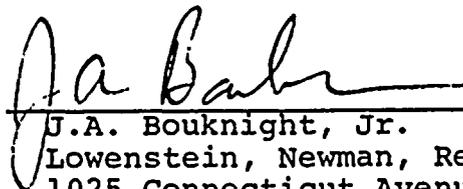
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