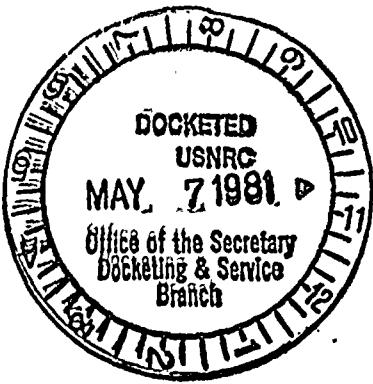


UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD



In the Matter of)
FLORIDA POWER & LIGHT COMPANY) Docket No. 50-389-OL
(St. Lucie Nuclear Power Plant,)
Unit No. 2)

RESPONSE OF FLORIDA POWER & LIGHT COMPANY IN
OPPOSITION TO "PETITION TO INTERVENE AND
REQUEST FOR HEARING" FILED BY PARSONS &
WHITTEMORE, INC. AND RESOURCES RECOVERY
(DADE COUNTY), INC.

Florida Power & Light Company (FPL), pursuant to 10 CFR § 2.714(c) and this Board's order of April 17, 1981, hereby files its response in opposition to the "Petition For Leave To Intervene And Request For Hearing" (Petition) filed by Parsons & Whittemore, Inc. and its subsidiary, Resources Recovery (Dade County), Inc. (Petitioner) in response to the Commission's March 9, 1981 Notice of Hearing in this docket.

As will be explained in detail below, FPL opposes the Petition on three grounds: First, the Petition must be rejected because it seeks to raise antitrust issues. These issues are beyond the scope of this proceeding, which is limited to health, safety and environmental matters by the Commission's March 9 Notice of Hearing. Second, contrary to the representations which Petitioner has made to this

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Commission, it does not lawfully control a qualifying facility within the meaning of Section 201 of the Public Utility Regulatory Policies Act of 1978 (PURPA), (16 U.S.C. §§ 796) and the implementing regulations. (18 C.F.R. Part 292 (1980)). Therefore, the Petition cannot be read as demonstrating a cognizable interest which would support intervention in this or any other NRC proceeding. Third, no antitrust review has been initiated in connection with the operating license application for St. Lucie Unit No. 2. No such review can be conducted until and unless the Commission, on its own motion, makes certain findings prescribed in Section 105c(2) of the Atomic Energy Act. (42 U.S.C. § 2135(c)(2)(1976)). Accordingly; no petition for an antitrust hearing in connection with the operating license application can properly be entertained. In any event, the allegations contained in the Petition fall short of demonstrating any basis for the Commission to make the findings required by Section 105c(2) for the initiation of an operating license antitrust review.

Finally, although the substance of the antitrust allegations in the Petition need not be reached by this Board in order for it to dispose of the Petition, those allegations are without basis in fact or law.

Introduction and Background

On March 9, 1981, the Commission published in the Federal

Register a notice entitled "Florida Power & Light Co.; Receipt of Application for Facility Operating License; Availability of Applicant's Environmental Report; and Consideration of Issuance of Facility Operating License Opportunity of Hearing." (Notice of Hearing) (46 Fed. Reg. 15831 (1980)). The Notice of Hearing offered an opportunity for any person "whose interest may be affected by this proceeding" to file by April 7 a petition to intervene and a request for hearing. (Id.)

On April 7, Petitioner made the instant filing, in which it requested leave to intervene and asked the Commission "to hold a limited anti-trust hearing" (Petition, p. 1). The filing consists of the Petition, a document entitled "Brief of Resources Recovery (Dade County), Inc. and Parsons & Whittemore, Inc. In Support Of Their Petition For Leave To Intervene And Request For An Antitrust Hearing" (Brief) and Appendices.^{1/}

Petitioner states that it has "recently completed" construction of a solid waste processing facility in Dade County, Florida, which will process solid waste, convert combustibles into fuel, and burn the fuel to create steam. In conjunction

^{1/} Subsequently, on April 24, 1981, Petitioner filed a second petition which appears to be addressed to the Atomic Safety and Licensing Board presiding over the antitrust proceeding being conducted in the context of the St. Lucie Unit No. 2 construction permit proceeding, Docket No. 50-389A. FPL intends to submit its response to the second petition to that Licensing Board, and will serve copies of that response upon the members of this Licensing Board.

with the solid waste processing facility, an electric generator will use the steam to generate electricity. Petitioner contends that it "owns and is test operating" the electric generator. (Brief, p.5). Petitioner asserts that the facility is a qualifying small power production facility within the meaning of Section 201 of PURPA, 16 U.S.C. § 796, and the implementing regulations (18 CFR Part 292) promulgated by the Federal Energy Regulatory Commission (FERC). Petitioner also contends that "[It] has complied with the requirements of PURPA and has taken the necessary steps to secure the benefits to which it is entitled," by notifying the FERC that it is a qualifying facility under PURPA, and notifying FPL that it "will begin sales of electric energy to Florida Power & Light Company" within a short time.. (Brief, p.6). Finally, Petitioner contends that it has also sought to explore competitive opportunities for sales to other electric utilities and to that end has asked FPL to confirm that it "will transmit electricity in behalf of [Petitioner] to potential customers other than FPL." (Petition, p.3).

Petitioner alleges that if FPL is permitted to operate St. Lucie Unit No. 2 under the terms of the license conditions which were attached to the construction permit for St. Lucie Unit No. 2 pursuant to an order by an Atomic Safety and

Licensing Board dated April 24, 1981^{2/}, a "'situation inconsistent with the antitrust laws' may be created or maintained." (Petition, pp.2-3). Petitioner's complaint concerns Section X of the license conditions, which, among other things, requires that FPL provide transmission services for electricity produced by qualifying small power production facilities in circumstances and under conditions which Petitioner contends are unduly limited. (Petition, p.4).

On this basis, Petitioner contends that implementation of the license conditions will "significantly change" FPL's activities and proposed activities within the meaning of Section 105c(2) and that, consequently, the Commission should hold an operating license antitrust review, including a "limited" hearing in which it should be permitted to participate as an intervenor. Petitioner's stated "limited purpose" in intervening is "to be heard" on the "potentially detrimental impact" of Section X of the license conditions on

2/ Florida Power & Light Company (St. Lucie Plant, Unit No. 2), Docket No. 50-389A, Memorandum and Order dated April 24, 1981. The order makes effective immediately certain license conditions proposed as part of a settlement among FPL, the United States Department of Justice and the NRC Staff, without prejudice to the authority of the Licensing Board to impose additional or different conditions after a hearing has been conducted. Approval of the settlement among FPL, the Department of Justice and the Staff does not conclude the construction permit antitrust proceeding, as certain intervenors which have requested a hearing are not parties to the settlement.

its PURPA rights and competitive interests. (Petition, p.9).

I. The Issues Which Petitioner Seeks To Raise Are Beyond The Scope Of This Proceeding

The Commission's March 9, 1981, Notice offered an opportunity for "any person whose interest may be affected by this proceeding" to intervene and request a hearing. 46 Fed. Reg. 15831. The issues to be considered in "this proceeding" are limited to health, safety, and environmental issues. Petitioner does not seek to raise any contentions relating to such issues. As Petitioner states, it has sought to intervene and "[requests] a hearing to determine if certain specified activities under the operating license sought by FP&L 'would create or maintain a situation inconsistent with the antitrust laws.'" (Brief, p.1).

Antitrust matters are beyond the scope of this proceeding and, should an antitrust review in connection with the operating license be conducted, the Commission will order a separate proceeding. It is standard, and long-standing, Commission policy to review antitrust matters raised in connection with the licensing of a facility "separately from the hearings held on matters of radiological health and safety" for the same facility. (10 CFR Part 2, Appendix A § X(e); See, e.g. Duke Power (Oconee Nuclear Station, Units 1, 2, and 3), 4 AEC 592 (1971); Boston Edison Co. (Pilgrim Nuclear Power

Station), 4 AEC 666 (1971)). In fact, the Commission's rules specifically provide that "unless the Commission determines otherwise" a hearing on the antitrust aspects of an application will be considered at a proceeding other than the one convened to hear environmental and safety matters. (10 CFR § 2.104(d)).

Clearly the Notice of Hearing published on March 9, 1981, does not encompass antitrust issues. In determining whether the Petition raises issues within the scope of the proceeding, the Board is bound by the Commission's Notice of Hearing. By means of that Notice, the Commission sets the scope of the proceeding, and establishes the authority of this Board. Pacific Gas and Electric Co. (Stanislaus Nuclear Project, Unit No. 1, ALAB-400, 5 NRC 1175 (1977)); Carolina Power & Light Co. (Shearon Harris Nuclear Power Plant, Units 1, 2, 3, and 4) ALAB-577, 11 NRC 18, 25 (1980)). Where a Board is convened to hear environmental, health, and safety issues, it lacks jurisdiction to grant a petition to intervene which seeks to raise only antitrust issues. Public Service Company of Indiana (Marble Hill Nuclear Generating Station, Units 1 and 2), ALAB-316, 3 NRC 167 (1976)). Moreover, it is well settled that an Atomic Safety and Licensing Board appointed to rule on intervention petitions submitted in a proceeding cannot initiate a new or different proceeding in response to a petition. Houston Lighting and Power Co. (South Texas Project, Unit Nos. 1 and 2), ALAB-381, 5 NRC 582

(1977); Carolina Power & Light Co. (Shearon Harris Nuclear Power Plant, Units 1, 2, 3, and 4), CLI-80-12, 11 NRC 514, 516 (1980)).

The Petition should be denied for the reason that it seeks to raise antitrust issues which are outside the scope of this proceeding.

II. Petitioner Lacks The Status On Which Its Claim Of Interest In Any NRC Proceeding Is Based

Even assuming that this was a proceeding in which Petitioner's claims were cognizable, Petitioner would have no standing to intervene, because Petitioner has no legally cognizable interest in the subject matter of this proceeding or any licensing proceeding for St. Lucie Unit No. 2.^{3/}

The Commission's rules require that, in order to be successful, the Petition must demonstrate (1) the nature of Petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of Petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered into the proceeding on Petitioner's interest." (10 CFR § 2.714(d)).

Petitioner's assertion of interest in any licensing proceeding concerning St. Lucie Unit No. 2 rests on its repre-

.3/ It should be noted at the outset that Petitioner has made no effort to show any interest in the determination of the health, safety and environmental issues with which this proceeding is concerned, much less that any such interest may be affected by this proceeding. The Petition concerns antitrust matters alone.

sentations to the effect that it lawfully owns and controls a solid waste processing facility in Dade County, Florida, as well as an electric generator which produces electricity from steam produced by the solid waste facility, (Brief, p.5) and that the facility is a "qualifying small power production facility" within the meaning of PURPA.^{4/} Petitioner states that it has "complied with the requirements of PURPA and has taken the necessary steps to secure the benefits to which it is entitled [under PURPA]."^{5/} (Petition, p.3). Such "necessary steps" include a notification to the FERC that it is a qualifying facility under the Act.^{5/}

What Petitioner has failed to disclose to the Commission is that contracts are in existence which defeat any legal right on Petitioner's part to title to the electric generator and to any right, title, or interest in the electric output from the facility.

FPL and Metropolitan Dade County (Dade County) are parties to a contract which provides that, upon completion

4/ Such a facility is entitled to certain benefits under PURPA and its implementing regulations. 16 U.S.C. § 824a-3 (Supp. III 1979); 18 CFR §§ 292.101-292.602.

5/ FPL intends to oppose Petitioners claim at the FERC and will file the appropriate pleadings with that agency in the near future.

of construction and after certain technical tests have been satisfactorily completed, but before any electric energy has been produced by the facility, Dade County will transfer to FPL the title to the electrical generator and those directly associated transmission lines required to connect the electrical generator to the FPL grid.^{6/} Thereafter, FPL will own and operate the electric generators and associated transmission facilities. The electric energy will go into FPL's system and be treated the same as all other energy which FPL generates to serve the needs of its customers. Dade County has also contracted to lease to FPL those portions of the site on which the electric generator is located, so that FPL may use and occupy the site to operate the electric generator and associated transmission lines to generate and transmit electric energy.

As is common in major commercial contracts of this nature, Dade County has warranted that it is legally authorized to perform its obligations under the contract and is legally obligated to comply with the terms and conditions set out

6/ A copy of the contract between FPL and Dade County is attached to the affidavit of J.T. Blount, FPL's Assistant Corporate Secretary, as Appendix A to this response.

therein.^{7/} FPL is informed that there also exists a contractual relationship between Petitioner and Dade County, and that Dade County claims that Petitioner is in breach of its obligations under that contract.^{8/} FPL is not directly involved in the dispute between Petitioner and Dade County. However, FPL is certainly entitled to rely on its contract with Dade County which is in full force and effect.

The burden is on the Petitioner to demonstrate the legitimacy of its claim of interest in any NRC proceeding in which it seeks to participate. In this case,

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- 7/ The contract between FPL and Dade County refers to Petitioner as Dade County's "contractor" for the construction of the facility. FPL has no direct knowledge of the arrangements made between Petitioner and Dade County for ownership of the facility during construction. However, the contract between FPL and Dade County reflects that Dade County contemplates holding sufficient title to the site, the electrical generator, and the transmission facilities to permit the County to perform unconditionally its obligations to transfer to FPL ownership of such facilities and a leasehold interest in the underlying real estate.
 - 8/ Attached as Appendix B is a letter from Petitioner to Dade County acknowledging the existence of such a contract and asserting Petitioner's alleged right to terminate that contract. Dade County filed suit against Petitioner in the U.S. District Court in Miami, but that suit was dismissed on the ground of want of diversity of citizenship between the parties. (Metropolitan Dade County v. Parsons & Whittemore, Inc., et al. No. 80-3333-Civ.-EDS (S.D. Fla.). FPL is informed that some of the issues in dispute between Dade County and Petitioner have been submitted to arbitration.

that burden would require Petitioner to establish the invalidity of solemn contractual commitments which demonstrate that FPL, not Petitioner, would be the owner of the electric generators when they are constructed. Even if an antitrust proceeding were pending in which the Petition could be considered, it is not the function of the NRC to resolve a commercial contractual dispute among private parties. In this instance, the Petitioner avoided dealing with these questions in its Petition by simply not apprising the Commission of the existence of contracts which place a serious cloud over the claims made in the Petition.

Petitioner's failure to substantiate the claims on which its assertion of interest is based is a second, independent reason for denial of the Petition.

III. No Antitrust Review Has Been Ordered In Connection With The St. Lucie Unit No. 2 Operating License Application And The Petition Provides No Basis For Initiation Of Any Such Review

Petitioner's stated concern is that one provision of the license conditions recently made effective may provide transmission service for power generated by small power production facilities that is not as extensive as Petitioner would prefer. (Petition, pp.4-8). Thus, contends Petitioner, the implementation of those license conditions raises antitrust questions which must be reviewed prior to issuance of the operating lic-

ense for St. Lucie Unit No. 2. However, there is at present no antitrust review pending in connection with the St. Lucie Unit No. 2 operating license review. Such a review cannot be triggered by the filing of a petition of this sort in any event. Moreover, the allegations contained in this Petition do not constitute a valid basis for the Commission, on its own motion, to initiate an antitrust review in connection with the operating license application.

A. No Antitrust Proceedings Are Pending In Connection With The Operating License Proceeding For St. Lucie Unit No. 2

The NRC does not, as a matter of course, conduct an antitrust review in connection with an application for an operating license. Such an application will not lead to an antitrust review unless the Commission first "determines such a review is advisable on the ground that significant changes in the licensee's activities or proposed activities have occurred subsequent to the . . . review . . . in connection with the construction permit for the facility."^{9/} (Atomic

^{9/} Petitioner contends, erroneously, that the "antitrust review of FPL's construction license was completed on November 14, 1973." Apparently Petitioner misunderstands the nature of the antitrust proceedings now pending in the construction permit proceeding regarding St. Lucie Unit No. 2.

Energy Act, Section 105c(2); See, South Carolina Electric and Gas Co., CLI-80-21, 11 NRC 817, 823 (1980)).

Petitioner, recognizing this, argues that the construction permit license conditions themselves, and FPL's intention to comply with those conditions, constitute the requisite "changed circumstances" for initiation of an operating license antitrust review. Petitioner overlooks the fact, however, that the license conditions of which it complains were attached in the context of an ongoing antitrust review in connection with the issuance of the construction permit for St. Lucie Unit No. 2. And in South Carolina, the Commission explained that in order for "significant changes" to occur as required by Section 105c(2), the changes must occur after the publication of the advice of the Attorney General and after any antitrust hearing conducted at the construction permit stage by the Commission or its delegates.^{10/} As this is the case, it is obviously impossible for the St. Lucie Unit No. 2 license conditions to represent "significant changes" in FPL's activities which have occurred subsequent to the previous review by the Attorney General and the Commission "in connection with

10/ South Carolina, 11 NRC at 825.

the construction permit for the facility." (Atomic Energy Act, Section 105c(2)). Thus, Petitioner has sought to intervene in a proceeding which does not exist, and in fact cannot exist until the construction permit antitrust review is terminated and a determination made that significant changes in the licensee's activities or proposed activities have occurred subsequent to termination of the construction permit antitrust review.

B. Antitrust Proceedings Cannot Be Initiated By Filing Of A Petition

Moreover, the Petition is not sufficient, in and of itself, to initiate an operating license antitrust review. Appendix X to Part 2 of the Commission Rules explains the procedure which the Commission follows in implementing Section 105c of the Act. Persons who wish to have their views on the antitrust aspects of an application for an operating license presented to the Attorney General for consideration may submit such views to the Commission within sixty days after publication in the Federal Register of the notice of receipt of antitrust information associated with the operating license review. The Commission, after consulting with the Attorney General, will determine, in accordance with the standard set forth in Section 105c(2) and in the sound exercise of its discretion, whether another anti-

trust review is advisable on the ground that significant changes have occurred subsequent to the construction permit antitrust review.

For the reasons noted in the foregoing section, the Commission has not yet begun the process of considering whether a second antitrust review should be conducted pursuant to Section 105c(2). The first, and mandatory, antitrust review, at the construction permit stage, has not been completed.

To the extent that the Petition may be treated as a request for the initiation of antitrust proceedings separate from the environmental, health and safety proceedings to which the March 9, 1981, Notice pertains, it should be denied as not in accordance with Section 105c of the Act or the Commission's regulations.

C. The Petition Does Not State A Valid Basis
For Further Antitrust Proceedings

Even if the fatal procedural defects of the Petition were to be ignored, the substance of the allegations contained within it could not validly serve as the basis for initiation of antitrust proceedings in connection with the operating license application for St. Lucie Unit No. 2. These allegations fall short in at least four respects, each of which standing alone would be decisive.

First, the Petition is grounded upon the proposition that if FPL is permitted to operate St. Lucie Unit No. 2 on the basis of the license conditions provided in the settlement among FPL, the Department of Justice and the NRC Staff, "the effectuation of an important aspect of federal energy policy as reflected in PURPA may be frustrated . . ." (Petition, pp.2-3). That is not so, and cannot be so as a matter of law.

Any conditions attached to FPL's license for St. Lucie Unit No. 2 will serve solely to enjoin FPL, and will not defeat the authority of another federal agency with competent jurisdiction to impose additional regulatory requirements upon FPL. The settlement license conditions expressly acknowledge this in Section XIII(c), which provides: "Nothing herein shall be construed to affect the jurisdiction of FERC or any other regulatory agency." PURPA contains a comprehensive regulatory scheme regarding the obligations of electric utilities to deal with small power producers, including the obligations to provide wheeling and backup services. That scheme is unaffected by any license conditions imposed by this Commission.

Petitioner's complaint is nothing more than that the settlement conditions do not provide it with significant

advantages in addition to those it receives under PURPA. The contention that an injunctive condition does not go as far as one would like is no basis for the allegation that activities under the license would create or maintain a situation inconsistent with the antitrust laws.

Second, and closely related to the first point, an injunctive license condition imposed as a result of an antitrust review at the construction permit stage cannot, logically or legally, provide a basis for finding under Section 105c(2) "that significant changes in the licensee's activities or proposed activities have occurred subsequent to the previous review. . . ." The mere fact that the licensee intends to comply with an injunctive condition imposed by this Commission cannot be the significant change in proposed activities which justifies a second antitrust review. If that were the case, any resolution of antitrust issues in a construction permit proceeding which does not completely satisfy the universe of potential intervenors would serve merely as the prelude for a second antitrust review. FPL came to the construction permit proceeding free of any injunction regarding its provision of transmission service. Surely, its acceptance of a comprehensive injunction which does not go quite so far as to satisfy this Petitioner cannot in itself be the basis for an operating license antitrust review.

Third, Petitioner makes no effort to allege any nexus between any situation inconsistent with the antitrust laws and activities under the operating license for St. Lucie Unit No. 2. This is not surprising in view of the absence of any factual basis for demonstrating such a nexus. The closest that it comes to acknowledging any such requirement is in paragraphs (18) and (19) of the Petition, where it states, in essence, that its interest will be affected by FPL's "intended implementation" of the settlement conditions. (Petition, p.9). As is demonstrated above, the settlement conditions affect Petitioner only in that they do not go as far as Petitioner would like in addressing what Petitioner contends is a situation inconsistent with the antitrust laws -- a "situation" which is not alleged to bear any nexus to activities under the license. The requirement of such a nexus is jurisdictional,^{11/} and Petitioner's failure to allege any such nexus is fatal to the substance of its allegations.

Fourth, as explained above, Petitioner's claim that it is a small power producer is unsubstantiated and questionable at best.

^{11/} Louisiana Power & Light Co. (Waterford Steam Electric Generating Station, Unit 3), CLI-73-25, 6 AEC 619 (1973).

For each of these reasons, it would not be appropriate for antitrust proceedings to be initiated at any time or under any procedural circumstances on the basis of the statements contained in the Petition.

IV. There Is No Basis For The Antitrust Allegations Contained In The Petition

For the reasons stated in Sections I, II and III above, the Petition should be denied, and this Board should have no occasion to reach the question whether the Petition alleges a situation inconsistent with the antitrust laws. In any event, leaving aside the "nexus" question, the allegations contained in the Petition fail on their face to show a situation inconsistent with the antitrust laws, and what little is alleged in the Petition is demonstrably without merit.

Petitioner's effort to allege a situation inconsistent with the antitrust laws apparently is contained in paragraphs (13)-(16) of the Petition.^{12/} Paragraphs (14)-(16) elaborate

^{12/} The Petition indicates, in paragraph (17), that the situation described in paragraphs (13)-(16) is "more fully analyzed in the accompanying brief." Apparently, aside from complaints about the scope of the injunction contained in the settlement conditions, this full analysis consists of (a) a pejorative sentence supported by a quotation from a FERC opinion in an unrelated proceeding (Brief, p.9), (b) a citation to a Fifth Circuit opinion finding that FPL was party to territorial agreement in the mid-1960's, and (c) a list of allegations which certain Cities have made, and FPL has denied, in a civil antitrust suit pending in the U.S. District Court in Miami. (Brief, p.14). Petitioner does not assert that it has any evidence which would support any of these allegations.

Petitioner's contention that the injunction contained in the settlement license conditions is not broad enough; nowhere in these paragraphs is there any allegation of improper conduct on FPL's part. Paragraph (13) charges that FPL "possesses monopolistic control over the provision of transmission services in southern and eastern Florida." FPL denies that allegation, and avers that it cannot credibly be maintained in any event by one which asserts that it is a small power producer, and thus would be entitled under PURPA to the assurance of access to transmission facilities, regardless of their ownership.

Moreover, the Petition does not state how any situation inconsistent with the antitrust laws would affect competition in any relevant market. The one specific reference to competition appears at page 17 of the Brief: "FP&L, of course, would rather buy electric power from qualified PURPA facilities than compete with those facilities for sales to FP&L's other customers." The fallacy of this assertion is demonstrated by the footnote on the same page of the Brief, which acknowledges that an electric utility is required by FERC rules to purchase electricity from small power producers at the utility's avoided cost. Thus a utility cannot under the law profit or

reduce the costs which its customers must pay as a result of making any such purchase. Contrary to Petitioner's glib assertion, FPL has no incentive to "compete" to make purchases under these circumstances.

Finally, Petitioner implies that FPL seeks to withhold transmission service so that FPL will not lose wholesale sales to municipal utilities. To the contrary, FPL has sought relief from the obligation to make additional wholesale sales, on the ground, inter alia, that the cost of providing such service exceeds incremental revenues derived by FPL. The proceeding in which that relief was denied to FPL is that referenced in the footnote on page 9 of the Brief. Apparently, Petitioner, in its haste to capture a quote out of that context, failed to acquaint itself with the subject matter of the FERC proceeding.

In summary, the Petition does not allege a situation inconsistent with the antitrust laws, and what is said about the alleged competitive relationship between FPL and the Petitioner is confused and inconsistent, even within the four corners of Petitioner's filing. There is no dispute between Petitioner and FPL which has competitive implications. Nor has anyone who actually controls a small power production facility complained of FPL's dealings with it. This Petition is prompted by Petitioner's apparent desire to escape from its contractual obligations to Dade County and to take some-

thing that does not rightfully belong to it, but to which FPL is entitled under its own contract with Dade County. The idea of asserting antitrust claims is but an afterthought.

Conclusion

For the reasons given above, FPL urges that the Petition be denied.

Respectfully submitted,



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Attorneys for Florida Power &
Light Company

DATED: May 6, 1981

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

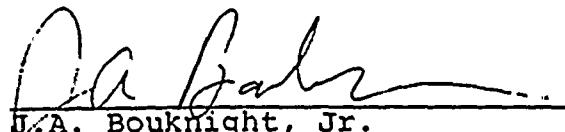
In the Matter of)
FLORIDA POWER & LIGHT COMPANY) Docket No. 50-389-OL
(St. Lucie Nuclear Power Plant,)
Unit No. 2)

NOTICE OF APPEARANCE OF J.A. BOUKNIGHT, JR.

Notice is hereby given that the undersigned attorney herewith enters an appearance in the captioned matter on behalf of Florida Power & Light Company. In accordance with Section 2.713, 10 CFR Part 2, the following information is provided:

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Respectfully submitted,


J.A. Bouknight, Jr.

DATED: May 6, 1981

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
FLORIDA POWER & LIGHT COMPANY) Docket No. 50-389-OL
(St. Lucie Nuclear Power Plant,)
Unit No. 2)

NOTICE OF APPEARANCE OF DOUGLAS G. GREEN

Notice is hereby given that the undersigned attorney herewith enters an appearance in the captioned matter on behalf of Florida Power & Light Company. In accordance with Section 2.713, 10 CFR Part 2, the following information is provided:

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Respectfully submitted,


Douglas G. Green

DATED: May 6, 1981

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

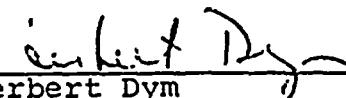
In the Matter of)
FLORIDA POWER & LIGHT COMPANY) Docket No. 50-389-OL
(St. Lucie Nuclear Power Plant,)
Unit No. 2))

NOTICE OF APPEARANCE OF HERBERT DYM

Notice is hereby given that the undersigned attorney herewith enters an appearance in the captioned matter on behalf of Florida Power & Light Company. In accordance with Section 2.713, 10 CFR Part 2, the following information is provided:

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Respectfully submitted,


Herbert Dym

Dated: May 6, 1981