

5/8/81

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION



BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

Docket No. 50-389A

APPLICATION FOR ISSUANCE OF SUBPOENAS

Florida Power & Light Company (FPL), pursuant to 10 C.F.R. § 2.720, hereby applies, for issuance of the attached Subpoenas, which request production of documents by Parsons & Whittemore, Inc., and certain of its subsidiaries. Parsons & Whittemore, Inc., and a subsidiary, Resources Recovery (Dade County), Inc. filed in this docket on April 24, 1981, a "Petition for Leave to Intervene and Request for Hearing" (Petition). FPL, for the reasons set forth below, believes the documents sought by the subpoenas may be dispositive of Petitioner's standing to intervene in this proceeding.

Petitioner has asserted an interest in this proceeding based on representations that it lawfully owns and controls a solid waste processing facility in Dade County, Florida, as well as an electric generator run on steam produced by the solid waste facility.

FPL's attempts to determine the facts underlying Petitioner's assertions have been considerably hindered because FPL has not had access to certain documents, including contracts and amendments thereto, which are relevant to whether

DS03
55
0/1

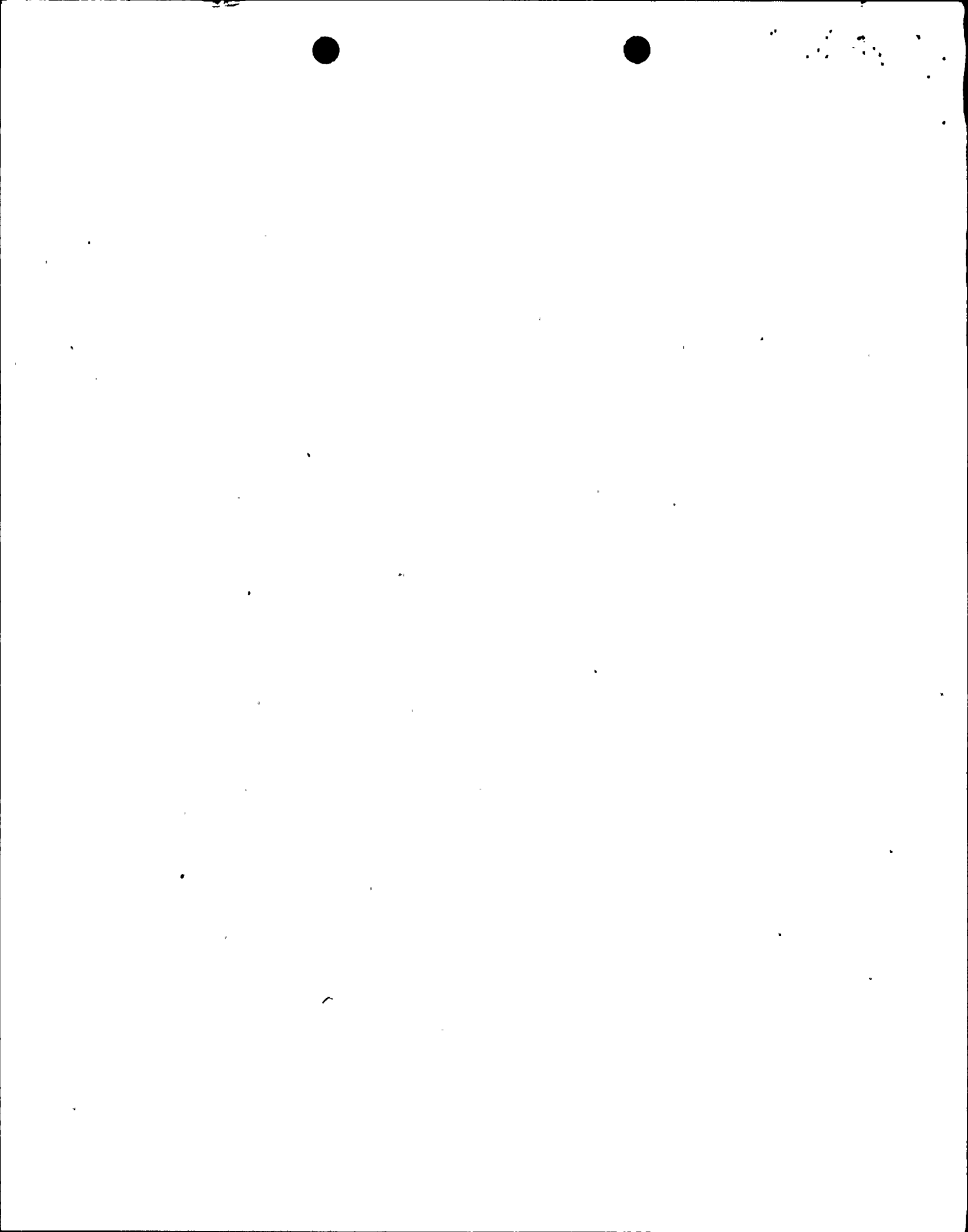
8107060447 810508
PDR ADCK 05000389
M PDR



Petitioner can indeed substantiate the assertions on which it bases its claim of interest in this proceeding. However, in a pleading filed in response to a second filing by the same Petitioner in Docket No. 50-389-OL, which response was served on the Board and parties in this docket, FPL was able to bring to the NRC's attention the existence of certain agreements which are inconsistent with any ownership or control by Petitioner of the solid waste facility, thus raising serious questions as to Petitioner's interest.

Some of the contracts involved appear to be contracts between and among Petitioner, its various subsidiaries and/or affiliates, and Metropolitan Dade County, Florida. Disputes under those contracts led to the recent filing of suit by Dade County against Petitioner in the U. S. District Court for the Southern District of Florida. A copy of that Complaint is Attachment A.

FPL's counsel of record in this proceeding and its in-house counsel only this week obtained and examined that Complaint and thus became aware that there apparently exist additional contracts between and among Petitioner, its subsidiaries, and Dade County. It appears that, if the Complaint's allegations with respect to the content of these additional contracts are true, these contracts also belie claims of interest upon which Petitioner asserts the right to intervene in this proceeding. In this regard, paragraph 27 of the attached



Complaint is especially pertinent.*/

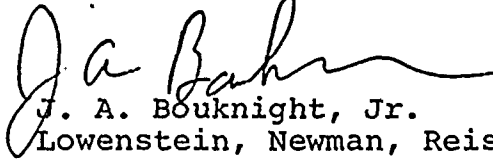
FPL applies for these Subpoenas because it believes that the contracts and related documents are clearly relevant to and may be decisive of the issue of Petitioner's standing. So that the Board may have the benefit of information yielded by subpoena response, FPL has contemporaneously moved for an extension of time to answer the Petition or, in the alternative, for permission to make a supplemental filing which will permit FPL to bring such information before the Board.

This Board has the authority to permit evidentiary inquiry into the question of Petitioner's standing to intervene prior to the granting of intervention. Florida Power & Light Company (St. Lucie Plant, Unit No. 2), CLI-78-12, 7 NRC 929, 948-49 (1978); Consumers Power Company (Midland Plant, Units 1 and 2) LBP-78-27, 8 NRC 275 , 277 n. 1 (1978). Moreover, the matters brought to the NRC's attention thus far show that there is good reason to believe that the material requested in these Subpoenas will aid the Board in making the findings concerning the Petition required by

*/ The attached Complaint indicates that many of the documents referred to therein are included in the court papers as exhibits to various pleadings. However, as the Order attached hereto as Attachment B reveals, these materials were released from the court's files with permission of the court.

10 C.F.R. § 2.714(d). Therefore, FPL requests that the Board issue the attached Subpoenas.

Respectfully submitted,



J. A. Bouknight, Jr.
Lowenstein, Newman, Reis
& Axelrad
1025 Connecticut Avenue, N. W.
Washington, D. C. 20036

Herbert Dym
Covington & Burling
888 16th Street, N. W.
Washington, D. C. 20006

Attorneys for Florida Power &
Light Company

DATED: May 8, 1981

Subpoena to Keeper of Records,
Parsons & Whittemore, Inc.
Page 2

10 C.F.R. 2.720(f)

On motion made promptly, and in any event at or before the time specified in the subpoena for compliance by the person to whom the subpoena is directed, and on notice to the party at whose instance the subpoena was issued, the presiding officer or, if he is unavailable, the Commission may (1) quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or (2) condition denial of the motion on just and reasonable terms.

SCHEDULE TO SUBPOENA

Instructions

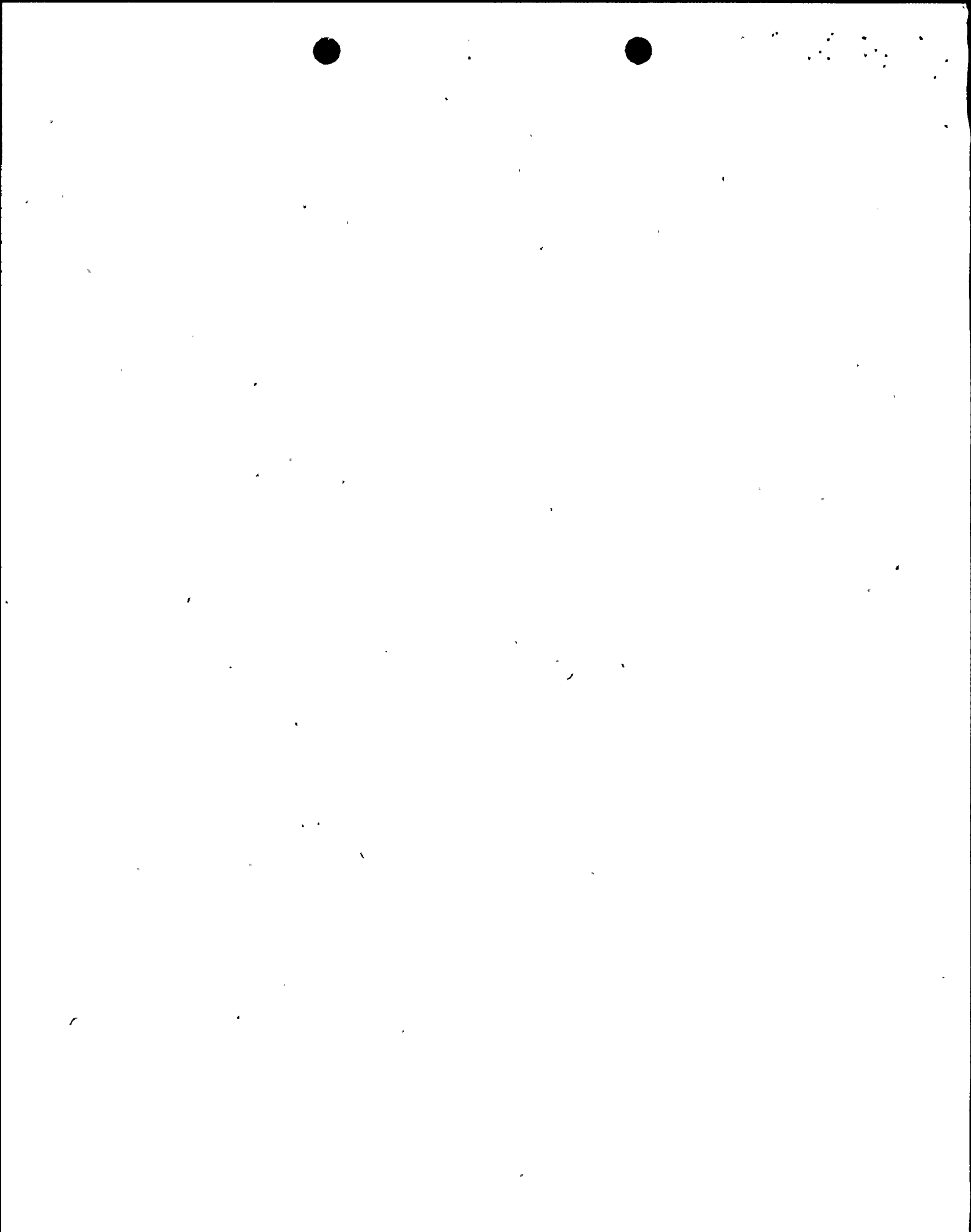
1. The period of time for which documents are requested includes the entire period from January 1, 1970 to the date on which documents are made available for inspection and copying to Florida Power & Light Company (FPL) or its representatives.
2. FPL requests that the Keeper of the Records identify the specific request or requests to which each document is responsive. Where possible, the Keeper of the Records is requested to maintain the integrity of its filing and recordkeeping systems by producing together documents responsive to this subpoena which are found together in the Keeper of the Records' files.
3. If you claim that any document requested hereunder is privileged, with respect to each such document, please provide the following:
 - (a) date;
 - (b) type of document;
 - (c) identity of author and addresses;
 - (d) present location and custodian;
 - (e) any other description necessary to enable the custodian to locate the particular document;
 - (f) the basis for the claimed privilege; and
 - (g) a detailed description of the nature of any judicial protection alleged to be necessary to protect the privilege or confidential nature of any such document.
4. "Documents" as used in this Subpoena, means, without limiting the generality of its meaning, all or original (or copies where originals are unavailable) and non-identical copies (whether different from originals by reason of notation made on such copies or otherwise) of all written, recorded or graphic matters, however produced or reproduced, whether or not now in existence, of correspondence, telegrams, notes or sound recordings of any type of conversation, meeting or conference, minutes of directors' or committee meetings, memoranda, inter-office communications, studies, analyses, notes, books, records, reports, summaries and results of

investigations and tests, reviews, contracts, agreements, pamphlets, diaries, calendar or diary entries, maps, graphs, charts, statistical records, computer data or papers similar to any of the foregoing, however denominated, including preliminary versions, drafts or revisions of any of the foregoing and any supporting, underlying or preparatory material.

5. "Person", as used in this Schedule, refers to, without limiting the generality of its meaning, every natural person, corporate entity, partnership, association, joint venture, cooperative, municipality, commission, governmental body or agency.
6. "Solid Waste Facility" as used in this Schedule, means the solid waste processing facility in Dade County, Florida, referred to in each of: (1) Petition for Leave to Intervene and Request for Hearing filed by Parsons & Whittemore, Inc. and Resources Recovery (Dade County) Inc. in NRC Docket No. 50-389A, (2) Petition for Leave to Intervene and Request for Hearing filed by Parsons & Whittemore, Inc. and Resources Recovery (Dade County) Inc. in NRC Docket No. 50-389 and (3) the Briefs filed in support of the foregoing petitions, together with any facilities or properties owned, leased or built by Metropolitan Dade County, FPL, or any subsidiary of Parsons & Whittemore, Inc., which touch, are intended to operate in conjunction with, or are otherwise ancillary to the solid waste facility referenced in such pleadings, whatever the stage of planning or construction of such solid waste facility or ancillary facilities.

Description of Documents

1. All contracts and amendments to such contracts between or among any of Parsons & Whittemore, Inc., Resources Recovery (Dade County), Inc., Resources Recovery (Dade County) Construction Corporation, Inc., Metropolitan Dade County, Florida, and other persons affiliated with any of the foregoing entities, which relate to or affect the Solid Waste Facility.
2. All documents that affect or relate to the contracts and amendments in description 1, including all correspondence, and any documents pertaining to litigation or arbitration involving such contracts or amendments. Documents which pertain solely to the technical aspects of design, construction or operation of the Solid Waste Facility need not be produced.



RETURN ON SERVICE

Received this subpoena at on
. and on at
. served it on the within named
. by delivering a copy to h
and tendering to h the fee for one day's attendance
and the mileage allowed by law.

Dated 19 By

Service Fees

Travel \$

Services \$

.

Total. \$

Subscribed and sworn to before me, a
this day of, 19

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 Nuclear Power Plant,)
Unit No. 2))

SUBPOENA

TO: Keeper of Records
Resources Recovery (Dade County), Inc.

Registered Agent: United Corporate Services
801 N.E. 167 Street
N. Miami Beach, Florida 33162

YOU ARE HEREBY COMMANDED, pursuant to the Atomic Energy Act, as amended, and 10 C.F.R. §2.720, to make available for inspection and copying at Lowenstein, Newman, Reis & Axelrad, Suite 1214, 1025 Connecticut Avenue, N.W., Washington, D.C., on May 19, 1981 at 9:30 A.M., the document(s) described in the attached schedule. This subpoena applies to all files, records, and documents in the custody or control of Resources Recovery (Dade County), Inc.

BY ORDER OF THE ATOMIC SAFETY
AND LICENSING BOARD

By _____

., 19 . .

J.A. Bouknight, Jr.
Attorney for Florida Power & Light Company
LOWENSTEIN, NEWMAN, REIS & AXELRAD
1025 Connecticut Avenue, N.W.
Washington, D.C. 20036
(202) 862-8400

Subpoena to Keeper of Records,
Resources Recovery (Dade County), Inc.
Page 2

10 C.F.R. 2.720(f)

On motion made promptly, and in any event at or before the time specified in the subpoena for compliance by the person to whom the subpoena is directed, and on notice to the party at whose instance the subpoena was issued, the presiding officer or, if he is unavailable, the Commission may (1) quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or (2) condition denial of the motion on just and reasonable terms.

*

SCHEDULE TO SUBPOENA

Instructions

1. The period of time for which documents are requested includes the entire period from January 1, 1970 to the date on which documents are made available for inspection and copying to Florida Power & Light Company (FPL) or its representatives.
2. FPL requests that the Keeper of the Records identify the specific request or requests to which each document is responsive. Where possible, the Keeper of the Records is requested to maintain the integrity of its filing and recordkeeping systems by producing together documents responsive to this subpoena which are found together in the Keeper of the Records' files.
3. If you claim that any document requested hereunder is privileged, with respect to each such document, please provide the following:
 - (a) date;
 - (b) type of document;
 - (c) identity of author and addresses;
 - (d) present location and custodian;
 - (e) any other description necessary to enable the custodian to locate the particular document;
 - (f) the basis for the claimed privilege; and
 - (g) a detailed description of the nature of any judicial protection alleged to be necessary to protect the privilege or confidential nature of any such document.
4. "Documents" as used in this Subpoena, means, without limiting the generality of its meaning, all or original (or copies where originals are unavailable) and non-identical copies (whether different from originals by reason of notation made on such copies or otherwise) of all written, recorded or graphic matters, however produced or reproduced, whether or not now in existence, of co-correspondence, telegrams, notes or sound recordings of any type of conversation, meeting or conference, minutes of directors' or committee meetings, memoranda, inter-office communications, studies, analyses, notes, books, records, reports, summaries and results of

investigations and tests, reviews, contracts, agreements, pamphlets, diaries, calendar or diary entries, maps, graphs, charts, statistical records, computer data or papers similar to any of the foregoing, however denominated, including preliminary versions, drafts or revisions of any of the foregoing and any supporting, underlying or preparatory material.

5. "Person", as used in this Schedule, refers to, without limiting the generality of its meaning, every natural person, corporate entity, partnership, association, joint venture, cooperative, municipality, commission, governmental body or agency.
6. "Solid Waste Facility" as used in this Schedule, means the solid waste processing facility in Dade County, Florida, referred to in each of: (1) Petition for Leave to Intervene and Request for Hearing filed by Parsons & Whittemore, Inc. and Resources Recovery (Dade County) Inc. in NRC Docket No. 50-389A, (2) Petition for Leave to Intervene and Request for Hearing filed by Parsons & Whittemore, Inc. and Resources Recovery (Dade County) Inc. in NRC Docket No. 50-389 and (3) the Briefs filed in support of the foregoing petitions, together with any facilities or properties owned, leased or built by Metropolitan Dade County, FPL, or any subsidiary of Parsons & Whittemore, Inc., which touch, are intended to operate in conjunction with, or are otherwise ancillary to the solid waste facility referenced in such pleadings, whatever the stage of planning or construction of such solid waste facility or ancillary facilities.

Description of Documents

1. All contracts and amendments to such contracts between or among any of Parsons & Whittemore, Inc., Resources Recovery (Dade County), Inc., Resources Recovery (Dade County) Construction Corporation, Inc., Metropolitan Dade County, Florida, and other persons affiliated with any of the foregoing entities, which relate to or affect the Solid Waste Facility.
2. All documents that affect or relate to the contracts and amendments in description 1, including all correspondence, and any documents pertaining to litigation or arbitration involving such contracts or amendments. Documents which pertain solely to the technical aspects of design, construction or operation of the Solid Waste Facility need not be produced.

RETURN ON SERVICE

Received this subpoena at on
. and on at
. served it on the within named
. by delivering a copy to h
and tendering to h the fee for one day's attendance
and the mileage allowed by law.

Dated 19 By

Service Fees

Travel \$

Services \$

.

Total. \$

Subscribed and sworn to before me, a
this day of, 19

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 Nuclear Power Plant,)
Unit No. 2))

SUBPOENA

TO: Keeper of Records
Resources Recovery (Dade County)
Construction Corp.

Registered Agent: United Corporate Services
801 N.E. 167 Street
N. Miami Beach, Florida 33162

YOU ARE HEREBY COMMANDED, pursuant to the Atomic Energy Act, as amended, and 10 C.F.R. §2.720, to make available for inspection and copying at Lowenstein, Newman, Reis & Axelrad, Suite 1214, 1025 Connecticut Avenue, N.W., Washington, D.C., on May 19, 1981 at 9:30 A.M., the document(s) described in the attached schedule. This subpoena applies to all files, records, and documents in the custody or control of Resources Recovery (Dade County) Construction Corp.

BY ORDER OF THE ATOMIC SAFETY
AND LICENSING BOARD

By _____

., 19 . . .

J.A. Bouknight, Jr.
Attorney for Florida Power & Light Company
LOWENSTEIN, NEWMAN, REIS & AXELRAD
1025 Connecticut Avenue, N.W.
Washington, D.C. 20036
(202) 862-8400

Subpoena to Keeper of Records,
Resources Recovery (Dade County) Construction Corp.
Page 2

10 C.F.R. 2.720(f)

On motion made promptly, and in any event at or before the time specified in the subpoena for compliance by the person to whom the subpoena is directed, and on notice to the party at whose instance the subpoena was issued, the presiding officer or, if he is unavailable, the Commission may (1) quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or (2) condition denial of the motion on just and reasonable terms.

SCHEDULE TO SUBPOENA

Instructions

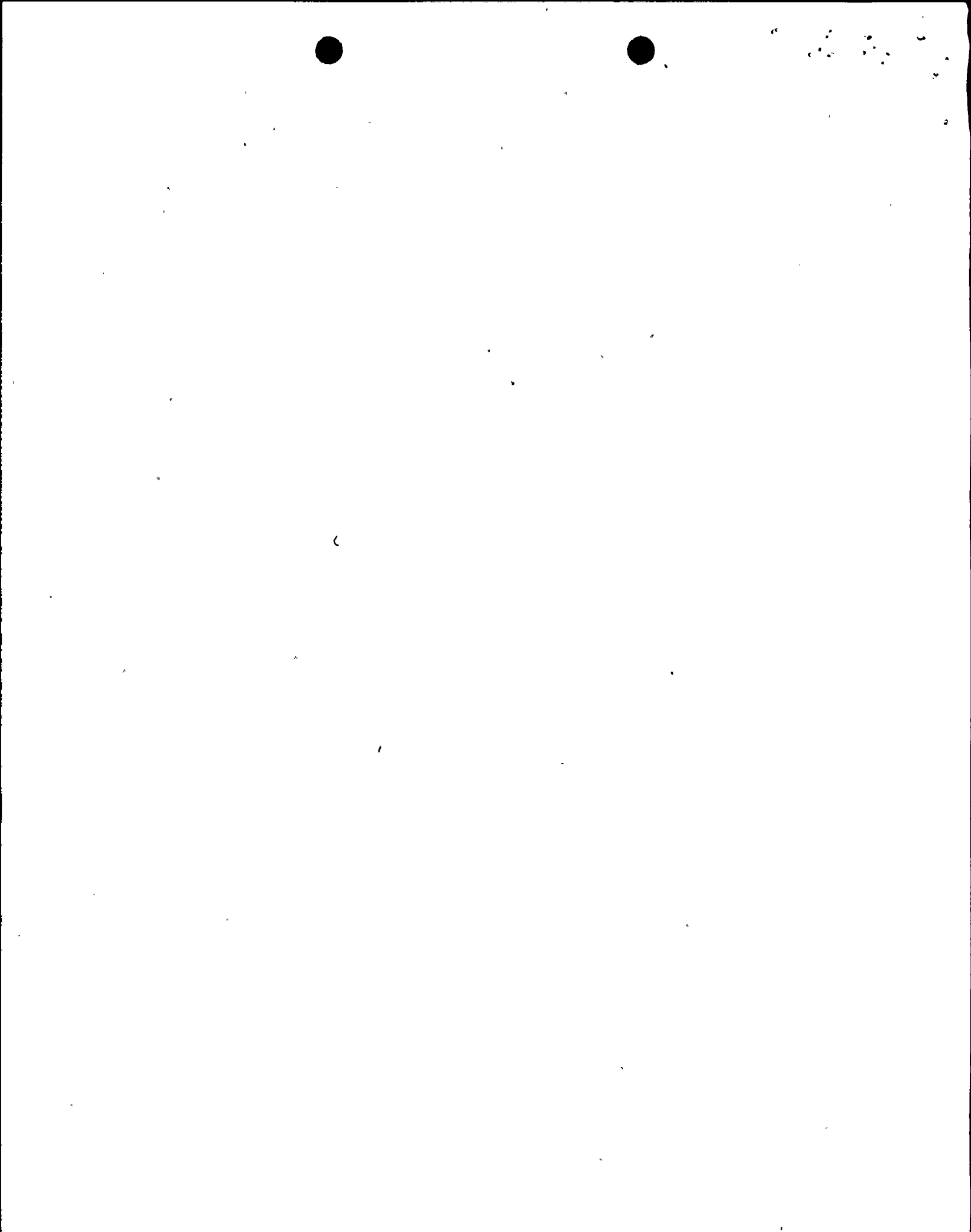
1. The period of time for which documents are requested includes the entire period from January 1, 1970 to the date on which documents are made available for inspection and copying to Florida Power & Light Company (FPL) or its representatives.
2. FPL requests that the Keeper of the Records identify the specific request or requests to which each document is responsive. Where possible, the Keeper of the Records is requested to maintain the integrity of its filing and recordkeeping systems by producing together documents responsive to this subpoena which are found together in the Keeper of the Records' files.
3. If you claim that any document requested hereunder is privileged, with respect to each such document, please provide the following:
 - (a) date;
 - (b) type of document;
 - (c) identity of author and addresses;
 - (d) present location and custodian;
 - (e) any other description necessary to enable the custodian to locate the particular document;
 - (f) the basis for the claimed privilege; and
 - (g) a detailed description of the nature of any judicial protection alleged to be necessary to protect the privilege or confidential nature of any such document.
4. "Documents" as used in this Subpoena, means, without limiting the generality of its meaning, all or original (or copies where originals are unavailable) and non-identical copies (whether different from originals by reason of notation made on such copies or otherwise) of all written, recorded or graphic matters, however produced or reproduced, whether or not now in existence, of co-correspondence, telegrams, notes or sound recordings of any type of conversation, meeting or conference, minutes of directors' or committee meetings, memoranda, inter-office communications, studies, analyses, notes, books, records, reports, summaries and results of

investigations and tests, reviews, contracts, agreements, pamphlets, diaries, calendar or diary entries, maps, graphs, charts, statistical records, computer data or papers similar to any of the foregoing, however denominated, including preliminary versions, drafts or revisions of any of the foregoing and any supporting, underlying or preparatory material.

5. "Person", as used in this Schedule, refers to, without limiting the generality of its meaning, every natural person, corporate entity, partnership, association, joint venture, cooperative, municipality, commission, governmental body or agency.
6. "Solid Waste Facility" as used in this Schedule, means the solid waste processing facility in Dade County, Florida, referred to in each of: (1) Petition for Leave to Intervene and Request for Hearing filed by Parsons & Whittemore, Inc. and Resources Recovery (Dade County) Inc. in NRC Docket No. 50-389A, (2) Petition for Leave to Intervene and Request for Hearing filed by Parsons & Whittemore, Inc. and Resources Recovery (Dade County) Inc. in NRC Docket No. 50-389 and (3) the Briefs filed in support of the foregoing petitions, together with any facilities or properties owned, leased or built by Metropolitan Dade County, FPL, or any subsidiary of Parsons & Whittemore, Inc., which touch, are intended to operate in conjunction with, or are otherwise ancillary to the solid waste facility referenced in such pleadings, whatever the stage of planning or construction of such solid waste facility or ancillary facilities.

Description of Documents

1. All contracts and amendments to such contracts between or among any of Parsons & Whittemore, Inc., Resources Recovery (Dade County), Inc., Resources Recovery (Dade County) Construction Corporation, Inc., Metropolitan Dade County, Florida, and other persons affiliated with any of the foregoing entities, which relate to or affect the Solid Waste Facility.
2. All documents that affect or relate to the contracts and amendments in description 1, including all correspondence, and any documents pertaining to litigation or arbitration involving such contracts or amendments. Documents which pertain solely to the technical aspects of design, construction or operation of the Solid Waste Facility need not be produced.



RETURN ON SERVICE

Received this subpoena at on
. and on at
. served it on the within named
. by delivering a copy to h
and tendering to h the fee for one day's attendance
and the mileage allowed by law.

Dated 19 By

Service Fees

Travel \$

Services \$

.

Total. \$

Subscribed and sworn to before me, a
this day of, 19

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

- (1) Application for Issuance of Subpoenas;
- (2) Subpoena to Keeper of the Records, Parsons & Whittemore, Inc.;
- (3) Subpoena to Keeper of the Records, Resources Recovery (Dade County), Inc.;
- (4) Subpoena to Keeper of the Records, Resources Recovery (Dade County) Construction Corp.;

all dated May 8, 1981, were served upon the following persons, by hand * or by deposit in the United States Mail, first class postage prepaid, this 8th day of May, 1981.

*Ivan W. Smith, Esquire
Chairman
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Dr. Peter A. Morris
Atomic Safety and Licensing
Board Panel
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

*Robert M. Lazo, Esquire
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Dr. Oscar H. Paris
Atomic Safety and Licensing
Board Panel
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Michael A. Duggan, Esquire
College of Business Administration
University of Texas
Austin, Texas 78712

Docketing and Service Station
Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

William D. Paton, Esquire
Counsel for NRC Staff
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Jerome Saltzman, Chief
Antitrust & Indemnity Group
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Elizabeth S. Bowers, Chairman
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Richard S. Salzman, Esquire
Atomic Safety and Licensing Appeal
Board Panel
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

*Joseph Rutberg, Esquire
Lee Scott Dewey, Esquire
Fredric D. Chanania, Esquire
Counsel for NRC Staff
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

*Ann P. Hodgdon, Esquire
Office of the Executive Legal
Director
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Thomas Gurney, Sr., Esquire
203 North Magnolia Avenue
Orlando, Florida 32802

Robert E. Bathen
Fred Saffer
R. W. Beck & Associates
P. O. Box 6817
Orlando, Florida 32803

George Spiegel, Esquire
Robert Jablon, Esquire
Daniel Guttman, Esquire
Spiegel & McDiarmid
2600 Virginia Avenue, N. W.
Washington, D. C. 20037

William C. Wise, Esquire
Suite 500
1200 18th Street, N. W.
Washington, D. C. 20036

William H. Chandler, Esquire
Chandler, O'Neal, Avera,
Gray & Stripling
Post Office Drawer 0
Gainesville, Florida 32602

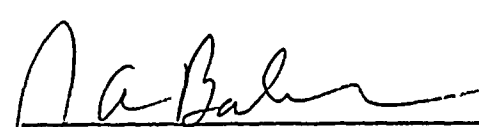
Janet Urban, Esquire
U.S. Department of Justice
P. O. Box 14141
Washington, D. C. 20044

Donald A. Kaplan, Esquire
Robert Fabrikant, Esquire
Antitrust Division
U.S. Department of Justice
Washington, D. C. 20530

Charles R. P. Brown, Esquire
Brown, Paxton and Williams
301 South 6th Street
P. O. Box 1418
Fort Pierce, Florida 33450

Helen Shea Wells
93 El Mar Drive
Jensen Beach, Florida 33457

*George R. Kucik, Esquire
Marc Gary, Esquire
Ellen E. Sward, Esquire
Arent, Fox, Kintner, Plotkin
& Kahn
1815 H Street, N. W.
Washington, D. C. 20006



J. A. Bouknight, Jr.
Lowenstein, Newman, Reis &
Axelrad
1025 Connecticut Avenue, N.W.
Washington, D.C. 20036

DATED: May 8, 1981

(202) 862-8400

