REGULATORY INFORMATION DISTRIBUTION SYSTEM (RIDS)

ACCESSION NBR:8205110151 DOC.DATE: 82/05/05 NOTARIZED: NO DOCKET #
FACIL:50-389 St. Lucie Plant, Unit 2, Florida Power & Light Co. 05000389
AUTH.NAME AUTHOR AFFILIATION
UHRIG,R.E. Florida Power & Light Co.
RECIP.NAME RECIPIENT AFFILIATION
DENTON,H.R. Office of Nuclear Reactor Regulation, Director

SUBJECT: Requests exemption from 10CFR50.30 re submittal of antitrust info in connection w/inssuance of OL & addl consideration of info per 10CFR2.101.Also requests exemption from requirement for formal no significant change determination.

DISTRIBUTION CODE: B001S COPIES RECEIVED:LTR 1 ENCL 0 SIZE: 3
TITLE: PSAR/FSAR AMDTS and Related Correspondence

NOTES:

	RECIPIENT ID CODE/NAME		COPIES LTTR	COPIES ENCL	RECIPIENT ID CODE/NAME		COPIES LTTR	COPIES ENCL
	A/D LICENSNG		1	0	LIC BR #3 BC		1	0
	LIC BR #3 LA		1	0	NERSES,V.	01	1	
INTERNAL:	ELD		1	0	IE FILE		1	
	IE/DEP EPDS	35	1		IE/DEP/EPLB	36	3	3
	MPA		1	0	NRR/DE/CEB	11	1	1
	NRR/DE/EQB	13	3	3	NRR/DE/GB	28	2	2
	NRR/DE/HGEB	30	2	2	NRR/DE/MEB	18	1	1
	NRR/DE/MTEB	17	1		NRR/DE/QAB	21	1	1
	NRR/DE/SAB	24	1		NRR/DE/SEB	25	1	1
	NRR/DHFS/HFEB	40	1		NRR/DHFS/LQB	32	1	1
	NRR/DHFS/OLB	34	1		NRR/DHFS/PTRB	20	1	1
	NRR/DSI/AEB	26	1		NRR/DSI/ASB	27	1	1
	NRR/DSI/CPB	10	1		NRR/DSI/CSB	09	1	1
	NRR/DSI/ETSB	12	1		NRR/DSI/ICSB	16	1	
	NRR/DSI/PSB	19	1		NRR/DSI/RAB	22	1	
	NRR/DSI/RSB	23	1		NRR/DST/LGB	33	1	1
	REG FILE	04	1		RGN2		2	2
EXTERNAL:	ACRS	41	10	10	BNL(AMDTS ONLY)		1	1
	FEMA-REP DIV	39	1	1	LPDR	03	1	1
	NRC PDR	02	1	1	NSIC	05	1	1
	NTIS		1	1				

TOTAL NUMBER OF COPIES REQUIRED: LTTR 57 ENCL ~~52~~ 0

P.O. BOX 529100 MIAMI, FL 33152

FLORIDA POWER & LIGHT COMPANY

May 5, 1982
L-82-184

Harold R. Denton, Director
Office of Nuclear Reactor Regulation
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Re: St. Lucie Unit 2, Docket No. 50-389;
Request Pursuant to 10 CFR § 50.12 from
Certain Requirements of 10 CFR 50.30

Dear Mr. Denton:

Under section 105(c)(2) of the Atomic Energy Act of 1954, 42 U.S.C. § 2135(c)(2), the NRC must forward to the Attorney General, for his antitrust advice, a copy of an operating license application if the Commission determines that such review is advisable "on the ground that significant changes in the licensee's activities or proposed activities have occurred subsequent to the previous review by the Attorney General and Commission...in connection with the construction permit for the facility." Operating License information for St. Lucie 2, as required by 10 C.F.R. § 50.30(d), was submitted to the Commission on March 24, 1980. At that time, however, information identified in Regulatory Guide 9.3 as being pertinent to a determination concerning whether or not an operating license ("OL") antitrust review would be advisable "on the ground that significant changes...occurred subsequent to the previous review...at the construction permit stage" (emphasis added) could not be provided due to the fact that the construction permit ("CP") antitrust review had not yet been completed.

The CP antitrust review, in fact, continued throughout almost the entire period of construction and was only recently completed with the issuance, on March 24, 1982, of a Memorandum and Order by the presiding Atomic Safety and Licensing Board. Although it is now, therefore, possible to assemble and submit the information identified in Regulatory Guide 9.3 as being relevant to the question of whether or not "significant changes... have occurred subsequent to the previous antitrust review conducted... at the construction permit stage," it is also clear -- from a practical standpoint -- that no such "significant changes" could have developed in the six weeks since the completion of the CP proceeding. On this basis, and in view of the closeness of the anticipated October 1982 operating license issuance date, Florida Power & Light Company ("FPL") requests, pursuant to 10 C.F.R. § 50.12, a specific exemption from so much of Section 50.30 of the Commission's regulations as would require: (1) further submittal of antitrust information in connection with the issuance of an operating license for St. Lucie 2; and (2) additional, formal consideration of such information by the Commission in making the "significant changes" determination. In the alternative, because the Commission is already aware of FPL's activities and cognizant of the fact that there are no significant changes, and since there is no statutory requirement for the

B001 1/0

Commission to make a formal "no significant changes" determination, FPL requests an exemption from the NRC regulatory requirement for such a determination.

A brief review of the St. Lucie 2 antitrust proceeding is helpful in understanding the unique chronology and circumstances of the case which, in turn, underlie this request. In May of 1973, FPL submitted the antitrust portions of its application for permission to build St. Lucie 2 to the Commission. In accordance with Section 105 (c) (1) of the Atomic Energy Act, 42 U.S.C. § 2135 (c) (1), a copy of the application was transmitted to the Attorney General requesting his advice on possible antitrust implications. Although the Attorney General did not recommend an antitrust hearing, such a proceeding was commenced in response to a petition filed by a group of Florida cities.

Once commenced, the construction permit antitrust proceeding stretched over almost the entire period of plant construction, beyond the submission of OL information, and -- as indicated above -- was only just completed in late March of this year. Included among the participants were the Attorney General and the NRC Staff. As a result of the proceeding, which extended almost 5 years beyond the issuance of the CP, all parties reached settlements. (See generally Atomic Safety and Licensing Board Memoranda and Orders dated April 24, 1981 and March 24, 1982.) Based on related agreements, an ownership interest has already been transferred to Orlando and detailed license conditions, developed in conjuction with the Attorney General and NRC Staff and approved by the Licensing Board on April 24, 1981, have been attached. (See Construction Permit CPRR-144, Amendment 2 (Nov 14, 1980), and Amendment 3 (May 26, 1981). In accordance with these conditions, FPL has contracted to transfer an ownership share in the unit to the Florida Municipal Power Agency ("FMPA"), subject to the Commission's approval. */

Because of its involvement in the antitrust process the Commission is now in a position, without the need for additional information or evaluation, to make its operating license "significant changes" determination. As a result of the construction permit antitrust proceeding, the Commission is -- and has been on a continuing basis over a number of years -- fully appraised of all information relevant to antitrust matters pertaining to FPL and Orlando, the current construction permit holders. Insofar as FMPA is concerned, we understand that the Commission will conduct an additional review in connection with the application for an amendment to the construction permit to add FMPA as a permittee.

---

*/ An application for amendment of the construction permit providing for the transfer of an ownership interest to FMPA will be submitted to the Commission in the near future.

Owing to these circumstances, the assembling of the specific information itemized in Reg. Guide 9.3, and its formalized consideration by the NRC Staff, would serve no useful purpose. All relevant information is currently possessed by the Staff, and it is now fully equipped to proceed to a determination. Further, it is clear that since the CP antitrust proceeding only ended six weeks ago, there could not have been, from a practical standpoint, any "significant changes" since that time.

Based on the foregoing, FPL requests, pursuant to 10 C.F.R. § 50.12, a specific exemption from so much of Section 50.30 of the Commission's regulations as would require:

(1) the further submittal of antitrust information in connection with the issuance of an operating license for St. Lucie 2; and

(2) the additional consideration of such information under the formal procedures described in 10 C.F.R. § 2.101

In the alternative, because the Commission is already cognizant of the relevant information and aware of the fact that there are no significant changes, and since there is no statutory requirement for a formal "no significant changes" determination, FPL requests an exemption from the NRC regulatory requirement for such a determination.

Very truly yours,

Robert E. Uhrig
Vice President
Advanced Systems and Technology

REU/RAK/mm