NUCLEAR REGULATORY COMMISSION

[DOCKET NO. 50-389A]

FLORIDA POWER AND LIGHT COMPANY

(ST. LUCIE UNIT 2); EXEMPTION

Florida Power and Light Company (FPL) is holder of a Construction Permit for St. Lucie Unit 2. Operating License information for St. Lucie 2, as required by 10 CFR Section 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 of whether significant antitrust changes had occurred subsequent to the previous antitrust review at the construction permit stage could not be provided because the construction permit (CP) antitrust review had not been completed. The CP antitrust review, in fact, continued nearly 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.

In view of the short time period between completion of the CP antitrust review and the anticipated October 1982 operating license (OL) issuance date, FPL has requested, pursuant to 10 CFR section 50.12, an exemption from so much of section 50.30 of the Commission's regulations as would require: (1) further submittal of antitrust information in connection

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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, FPL has requested an exemption from a formal "no significant changes" determination in view that there is no statutory requirement for such a determinaton.

Under section 105(c)(2) of the Atomic Energy Act of 1954, 42 U.S.C. section 2135(c)(2), the NRC must forward to the Attorney General, for his antitrust advice, a copy of an operating license application <u>if the Commission determines</u> 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 in connection with the construction permit. Thus there is no statutory requirement that the Commission must make a negative finding that there have been <u>no</u> significant antitrust changes. Still, the statute indicates that some review of the changes is in order. Part 2.101(e) of the Commission's rules codifies the notice requirements and procedures for such a review.

The rule anticipates that the Regulatory Guide 9.3 antitrust information will be submitted concurrently with the health, safety and environmental parts of the OL application and that the antitrust review will be conducted concurrently with the other reviews. In any event, the rule envisions a substantial time frame between completion of the CP antitrust

review and issuance of the OL application. Thus, in this unusual instance wherein the CP antitrust review was not completed until two years after the OL application was submitted, a waiver of the rules is in order. The Staff has been closely involved with the St. Lucie CP antitrust proceeding, and has current information regarding the situation in Florida. Moreover, as a result of the extended antitrust proceeding at the construction permit stage, additional municipal utilities have become coholders of the construction permit for St. Lucie and are currently undergoing antitrust review. The Staff is of the opinion that the Regulatory Guide 9.3 information would add very little to its knowledge of the factual situation. Therefore, Staff is not requiring formal submittal of this antitrust information called for by Regulatory Guide 9.3. The Staff will however, on the basis of its current information, make a review as to whether there have been "significant changes" since completion of the construction permit antitrust proceedings. If the Staff finds that additional information details are needed to complete its review, it may request the needed specific information from the applicant.

Further, Staff has determined that this exemption from part 2.101(e) of the Commission's rules will not endanger life or property or the common defense and security. Accordingly, the Commission has determined, pursuant to 10 CFR section 50.12, that an exemption is authorized by law and hereby grants the following exemption:

> It will not be necessary for applicant to furnish the antitrust information responsive to Regulatory Guide 9.3 and receipt of such information will, therefore, not be noticed in the Federal Register.

The NRC staff has determined that granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR section 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Maryland this 20th day of August 1980.

FOR THE NUCLEAR REGULATORY COMMISSION

Harold R. Denton, Director
Office of Nuclear Reactor Regulation

The NRC staff has determined that [illegible] not result in any significant environmental impact and that [illegible] to 10 CFR section 51.5(d)(4) an environmental [illegible] negative declaration and environmental impact [illegible] in connection with this action.

Dated at Bethesda, Maryland this 20th day of August 1980.

FOR THE NUCLEAR REGULATORY COMMISSION

Harold R. Denton, Director
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