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 GODY, A.T. Office of Nuclear Reactor Regulation (Post 941001)
 RECIPIENT NAME RECIPIENT AFFILIATION
 BOUKNIGHT, J.A. Florida Power & Light Co.

SUBJECT: Responds to 950130 ltr from attorneys for Florida Municipal Power Agency re petition to FERC to order util to provide "network transmission svc" as specified in FMPAs request.

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February 6, 1995

Mr. Anthony T. Gody
Chief, Inspection Program Branch
Directorate for Inspection and Support Programs
Office of Nuclear Reactor Regulation
U.S. Nuclear Regulatory Commission
One White Flint North
11555 Rockville Pike
Rockville, MD 20852

Re: Florida Power & Light Company
(St. Lucie Plant, Unit No. 2),
Docket No. 50-389A, Operating
License No. NPF-16

Dear Mr. Gody:

This responds to a letter dated January 30, 1995, to you from attorneys for Florida Municipal Power Agency. The rhetoric of FMMPA's letter, which at times borders on hysteria, cannot obscure the indisputable facts:

- FMMPA petitioned to FERC to order FPL to provide "network transmission service" as specified in FMMPA's request.

- The FERC granted FMMPA's request and ordered FPL to provide the service requested by FMMPA at a rate prescribed in the FERC's order. The service has been available at the prescribed rate to FMMPA since May 11, 1994 under the FERC order which provided that:

The rate is effective as of the date of this order, with service to commence on the date requested by FMMPA. FMMPA v. FPL Co., 67 F.E.R.C. ¶ 61,167, at 61,486 (1994).

FMMPA has not yet elected to take this service.

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U. S. DEPARTMENT OF AGRICULTURE
BUREAU OF PLANT INDUSTRY
WASHINGTON, D. C.



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TO THE HONORABLE SECRETARY OF AGRICULTURE
WASHINGTON, D. C.

FROM THE DIRECTOR OF THE BUREAU OF PLANT INDUSTRY

SUBJECT: [Illegible]

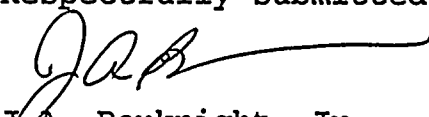
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J.A. Bouknight, Jr.
February 6, 1995
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• In complaining that FPL did not make some earlier unilateral filing with the FERC, FMPPA neglects to inform you that, subsequent to the effective date of the St. Lucie Unit No.2 antitrust license conditions, it entered into a series of contracts with FPL for transmission service. Subsequent to that, in 1989, FMPPA presented the request for "network" transmission service that led to the recent FERC proceedings. In 1989, FMPPA did not merely request that FPL provide transmission service priced on a "network" basis. It also asked FPL to release it from the contractual obligations that it had undertaken. NRC license conditions do not relieve a party of contractual obligations that it has undertaken after the license conditions took effect. United States v. Pacific Gas and Electric Co., 714 F. Supp. 1039, 1052. (N.D. Cal. 1989). FPL was never under any obligation to make a unilateral filing with the FERC, under any provision of the Federal Power Act, that had the effect of releasing FMPPA from its contractual obligations.

The dispute between FPL and FMPPA is about the appropriate price for transmission service. FMPPA wants fewer costs allocated to the transmission service that FPL provides to FMPPA, which means that more transmission costs must be allocated to the other citizens of Florida. The FERC has decided the cost allocation question. FMPPA is dissatisfied with the result, and asks this Commission to second guess the FERC's ratemaking decision. This Commission should decline the invitation.

Respectfully submitted,


J.A. Bouknight, Jr.
Attorney for Florida Power
& Light Company

JAB/ar

cc: Joseph Rutberg, Esquire
Robert Jablon, Esquire



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